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**REVISITING VICTIMHOOD: EXAMINING LEGAL
FRAMEWORKS AND CHALLENGES IN ADDRESSING
GENDER BASED VIOLENCE AGAINST MEN**

Under the Guidance and Supervision of

Dr. Sandeep M.N.

The National University of Advanced Legal Studies, Kochi

Submitted by

Fathima Fida N

Register No: LM0124009

LLM (Constitutional and Administrative Law)

CERTIFICATE

This is to certify that Miss. Fathima Fida N, Reg. No. LM0124009 has submitted her Dissertation titled **“REVISITING VICTIMHOOD: EXAMINING LEGAL FRAMEWORKS AND CHALLENGES IN ADDRESSING GENDER BASED VIOLENCE AGAINST MEN”** in partial fulfillment of the requirement for the award of the Degree “Master of Laws in Constitutional and Administrative Law” to The National University of Advanced Legal Studies, Kochi, under my guidance and supervision. It is also affirmed that the dissertation submitted by her is bona fide and genuine.

Date:

Place: Ernakulam

Dr. Sandeep M.N.

Guide and Supervisor

NUALS, Kochi

DECLARATION

I, Fathima Fida N, do hereby declare that this LL.M. Dissertation titled **“REVISITING VICTIMHOOD: EXAMINING LEGAL FRAMEWORKS AND CHALLENGES IN ADDRESSING GENDER BASED VIOLENCE AGAINST MEN”**, researched and submitted by me to the National University of Advanced Legal Studies, Kochi in partial fulfillment of the requirement for the award of Degree “Master of Laws in Constitutional and Administrative Law”, under the guidance and supervision of Dr. Sandeep M.N., is an original, bona-fide and legitimate work and it has been pursued for an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this University or any other University.

Date:

Fathima Fida N

Place: Ernakulam

Reg. No.: LM0124009

LL.M (Constitutional and Administrative Law)

NUALS, Kochi.

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Fathima Fida N

PREFACE

The discourse surrounding gender-based violence has traditionally focused on violence against women, often sidelining the experiences of male victims. While such focus has been vital in addressing systemic gender inequality, it has led to a significant gap in acknowledging and addressing instances where men are subjected to similar forms of violence. This dissertation seeks to critically engage with this overlooked dimension by exploring the legal, social, and institutional challenges faced by male victims of gender-based violence in India.

This work stems from the recognition that victimhood should not be constrained by gender binaries. Through a detailed examination of statutory provisions under Indian law, such as the Bharatiya Nyaya Sanhita, 2013, the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, this dissertation analyses the extent to which existing legal frameworks are inclusive or exclusionary of male victimhood. Furthermore, by conducting a comparative analysis with jurisdictions such as the United States, the United Kingdom, Canada, Norway, Sweden, and Australia, the study identifies potential models of reform and best practices that can be contextualised within the Indian legal landscape.

This research would not have been possible without the support of my academic mentor, whose insights and feedback greatly enriched the quality of this work. I also acknowledge the contribution of prior scholarship in this field, as well as the testimonies and data that brought to light the real-world implications of legal silence on this issue.

This dissertation does not aim to displace or diminish the importance of protections afforded to women. Rather, it advocates for a broader, gender-neutral legal approach that recognises and redresses violence, irrespective of the gender of the victim. It is my hope that this work will contribute meaningfully to the academic discourse and legislative efforts aimed at making the Indian legal system more equitable and inclusive.

LIST OF ABBREVIATION

Abbreviation / Symbol	Full Form / Meaning
&	And (ampersand)
§ & S.	Section (used in legal citations)
AIIMS	All India Institute of Medical Sciences
Anr.	Another
Art. & A.	Article
BNS	Bharatiya Nyaya Sanhita
CCS	Centre for Civil Society
CDC	Centers for Disease Control and Prevention
CCTV	Closed-Circuit Television
CrPC	Code of Criminal Procedure
CRC	Convention on the Rights of the Child
DV	Domestic Violence
Dr	Doctor
DV Act / PWDVA	Protection of Women from Domestic Violence Act, 2005
Ed	Edition
EEOC	Equal Employment Opportunity Commission (USA)
Eg	Example
Etc.	Et cetera
FBI	Federal Bureau of Investigation
FIR	First Information Report
GBV	Gender-Based Violence
HC	High Court
ICC	Internal Complaints Committee
ICMR	Indian Council of Medical Research
ICPD	International Conference on Population and Development
IPC	Indian Penal Code, 1860

IPV	Intimate Partner Violence
LGBTQ / LGBTQI+	Lesbian, Gay, Bisexual, Transgender, Queer (and others)
MAKAAM	Mahila Kisan Adhikaar Manch
NCRB	National Crime Records Bureau
NFHS	National Family Health Survey
NGO	Non-Governmental Organization
NISVS	National Intimate Partner and Sexual Violence Survey
Ors.	Others
POSH	Prevention of Sexual Harassment (Act), 2013
PWDVA	Protection of Women from Domestic Violence Act, 2005
SEWA	Self Employed Women's Association
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
USA	United States of America
UCR	Uniform Crime Reporting (System)
V.	Versus
VAWA	Violence Against Women Act (USA)
WHO	World Health Organization

LIST OF CASES

1. Sudesh Jhaku v K C Jhaku 1998 Cri LJ 2428.
2. Criminal Justice Society of India v. Union of India & Ors
3. Dr. N.G. Dastane v. Mrs. S. Dastane, AIR 1975 SC 1534
4. Sushil Kumar Sharma v. Union of India, [(2005) 6 S.C.C. 281]
5. Preeti Gupta v. State of Jharkhand, [(2010) 7 S.C.C. 667]
6. Arnesh Kumar v. State of Bihar, [(2014) 8 SCC 273]
7. Rajesh Sharma v. State of U.P., [(2017) 8 S.C.C. 746]
8. Social Action Forum for Manav Adhikar v. Union of India, [(2018) 10 S.C.C. 443]
9. Chandan Kumar v. State of Bihar, (2021) 10 S.C.C. 733 (India)]
10. Tukaram v. State of Maharashtra, (1979) 2 S.C.C. 143
11. Mukesh v. State (NCT of Delhi), (2017) 6 S.C.C
12. Kuldeep Singh Sengar v. State of U.P., 2019 SCC OnLine All 7078,
13. State of Jammu & Kashmir v. Arun Kumar Sharma & Ors., Criminal Appeal No. 01/2019, J&K High Ct. (2019)
14. State of Maharashtra v. Rovenia, 2022 SCC OnLine Dis Crt (Bom) 15
15. Santhanaganesh v. State, 2024 SCC OnLine Mad 6373
16. Vishaka v. State of Rajasthan, [(1997) 6 SCC 241]
17. Susmita Pandit v. State of West Bengal, 2024 SCC OnLine Cal 7116
18. Sonu v. State, 2023 SCC OnLine Del 1955
19. Janshruti (People's Voice) v. Union of India, 2025 SCC OnLine SC 909
20. Shivanand Mallappa Koti Vs. State Of Karnataka, 2007 ALL SCR 1796
21. Rajesh Sharma & Ors. v. State of Uttar Pradesh & Anr., (2018) 10 SCC 472
22. Mohammed Zakir v. Shabana, Criminal Petition No. 2351 of 2017 Karnataka HC
23. Binu Tamta & Anr. v. High Court of Delhi & Ors., Miscellaneous Application No. 2308/2023 in W.P.(C) No. 162/2013, (2023, November 7)
24. Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57 (1986)
25. Oncale v. Sundowner Offshore Servs., Inc., 523 U.S. 75 (1998)
26. Bostock v. Clayton Cnty., 140 S. Ct. 1731 (2020)

27. Tony Finn v. British Bung Co. Ltd., Case No. 1801189/2021, Employment Tribunal (UK 2022),
28. Navtej Singh Johar v. Union of India, (2018) 10 S.C.C. 1

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CHAPTER 1- INTRODUCTION

1.1 BACKGROUND AND CONTEXT

Gender-based violence against men remains a significant yet understudied phenomenon that challenges traditional notions of victimhood. While much attention has been devoted to violence against women, the experiences of male victims encompassing sexual violence, domestic abuse, and cruelty are often overlooked. Although the majority of adulthood sexual violence does involve a male perpetrator and a female victim, there is substantial evidence that members of all genders can be victims and perpetrators of sexual violence¹, yet societal perceptions and legal frameworks fail to address their plight adequately.

In India, existing legal protections primarily focus on safeguarding women's rights, leading to a systemic neglect of male victims. Although special enactments, such as the Protection of Women from Domestic Violence Act of 2005 and Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and organizations like The National Commission for Women, SEWA, Snehalaya, Azad Foundation, MAKAAAM are dedicated to protecting women from violence, the rights and experiences of men in similar contexts are frequently underreported. When incidents are reported, male victims often struggle with societal stereotypes that define masculinity as inherently strong and resilient. This perception minimizes the gravity of their experiences and discourages them from reporting incidents. When male victims do seek help, they may encounter trivialization of their trauma, compounded by myths suggesting that “real men” cannot be rape victims or that male sexual assault is not as serious as female assault. These myths create a stigmatizing environment that discourages reporting and perpetuates a lack of support for male survivors²

The Constitution of India itself indeed provides for protective discrimination for women and children under Article 15(3), but this provision was never intended to make the plight of others seem insignificant. While it is undeniable that women are

¹ Harshad Pathak, Beyond the Binary: Rethinking Gender Neutrality in Indian Rape Law, 11. AsJCL, pp. 367–397 (2016)

² Jessica A. Turchik & Katie M. Edwards, *Myths About Male Rape: A Literature Review*, 13 Psychol. of Men & Masculinity 211 (2011).

disproportionately vulnerable to various forms of violence, this reality should not diminish the importance of acknowledging and addressing the challenges faced by men³.

1.2 RESEARCH QUESTION

1. What types of gender-based violence do men experience in India?
2. How do existing legal frameworks in India address gender-based violence against men?
3. How do legal frameworks for gender-based violence against men in India compare to those in other countries?
4. What reforms are necessary to improve legal protections for male victims of gender-based violence in India?

1.3 RATIONALE AND SIGNIFICANCE OF THE STUDY

The issue of gender-based violence in India is often approached from a predominantly female perspective, leading to a lack of recognition and understanding of the types of violence that men may experience. The power to enact laws for the Protective discrimination of women is given under the Indian constitution, but the question is, isn't this focus inadvertently leading to the overlooking of issues like violence against men? Current legal frameworks in India do not adequately address the experiences of male victims, resulting in insufficient legal protection and recourse. Even though the criminal laws of India have been replaced by new laws, victimhood remains the same, especially regarding the provisions dealing with rape, sexual harassment, stalking, and cruelty. Apart from that, the provision penalizing sodomy, that is, Section 377, has now completely disappeared from the legal framework. Women have special enactments like the Protection of Women from Domestic Violence Act of 2005, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, to protect them from domestic violence and sexual harassment that they may encounter

³ Imam MA. *Reservation Policy and Social Justice in India: A Constitutional Perspective*. 9(2) RESEARCH REVIEW International Journal of Multidisciplinary, 144-51(2024).

at their workplace. It is admitted that women are more vulnerable to these kinds of violence, but that does not mean that men are never subjected to these kinds of violence. An investigation conducted in 2022 by India's National Crime Record Bureau shows that the rate of suicide among married men is three times that of married women. In 2022, as many as 83713 married men committed suicide, while the women's figure stood at 30771⁴. The number of cases involving male victims is not officially recorded. This is because no statutes consider these acts of violence against males a crime. Additionally, There is a need for a comparative analysis of international legal frameworks to identify effective practices that can enhance the protection of all victims, regardless of gender. This situation underscores a gap in both the legal provisions available and the broader discussion surrounding male victimization in the context of gender-based violence

1.4 SCOPE AND DELIMITATION

This research will focus on gender-based violence against men, specifically examining the legal frameworks in place and the challenges that hinder justice for male victims. By exploring these issues, this dissertation aims to contribute to a more nuanced understanding of gender-based violence that recognizes the experiences of all victims, regardless of gender and also looks into the possibility of recommendations. The study will primarily focus on gender-based violence against men in India while also drawing comparisons with legal frameworks in other jurisdictions, such as the United States, the UK, Canada, Norway, Sweden, and Australia. It will examine various forms of violence that men experience, including but not limited to sexual violence, domestic violence, and cruelty. A critical analysis will be conducted of the Indian legal framework, including the Indian Penal Code, which has now been transformed into Bharatiya Nyaya Sanhita, the Criminal Law Amendment Act of 2013, Protection of Women from Domestic Violence Act of 2005, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, the Indian Evidence Act now replaced by, Bharathiya Sakshya Adhiniyam, and related laws. For a comparative

⁴ NCRB Report 2022, Suicidal Deaths in India (2022) ncrb.gov.in.
<https://ncrb.gov.in/sites/default/files/ADSI2022%20FULL%20REPORT.pdf> (Accessed: 19 Nov 2024)

analysis, the legal frameworks of other countries, such as the United States of America and Canada, as well as relevant international treaties and covenants, will also be reviewed. Furthermore, examining judicial precedents that have either acknowledged or dismissed male victimization is essential to understanding judicial attitudes toward gender-based violence against men. Various instances of false allegations made by females and the remedies available to men for the harassment they suffer as a result will also be examined to understand the broader impact of such allegations on the legal and social perception of male victimization.

1.5 CITATION STYLE

The citation style that will be used is Bluebook 21st Edition.

1.6 THEORETICAL FRAMEWORK AND LITERATURE REVIEW

A. THEORETICAL FRAMEWORK

1. Gender Neutrality in Law

The theory of gender neutrality advocates that laws should apply equally to all individuals, regardless of gender. This theory challenges traditional legal frameworks that tend to be gender-specific, often prioritizing the protection of female victims in cases of violence. In the context of gender-based violence against men, gender-neutrality theory emphasizes that legal protections should extend to men to ensure equality under the law. Scholars argue that gender-neutral laws reduce bias, promote justice, and acknowledge that any individual, regardless of gender, can be a victim of violence.

2. Masculinity Theory and Social Constructs of Victimhood

Masculinity theory analyzes societal expectations and stereotypes surrounding masculinity, which can hinder the recognition of men as victims of violence. Traditionally, masculinity is associated with strength, resilience, and stoicism, creating a cultural reluctance to acknowledge male vulnerability. This theoretical perspective helps explain why male victims of gender-based violence may face social stigma, shame, and a lack of institutional support. By understanding these

social constructs, this research will assess how cultural perceptions of masculinity impact legal outcomes and the willingness of male victims to report incidents.

3. Victimology and the Concept of Victimhood

Victimology explores the social and legal identity of individuals who have suffered harm due to criminal acts. It examines how societal attitudes, biases, and stereotypes shape the recognition and treatment of victims. In traditional victimology, men are often seen as perpetrators rather than victims, particularly in cases involving intimate partner violence. This framework will help analyze the societal and judicial responses to male victimization, highlighting the gap in legal recognition and support for men who experience gender-based violence.

4. Human Rights Theory and Equality Before the Law

Human rights theory is foundational to this study as it advocates for equal protection under the law for all individuals, aligning with Article 7 of the Universal Declaration of Human Rights (UDHR), which states that everyone has the right to protection without discrimination. Applying human rights theory underscores the argument for reforming Indian laws to protect male victims and provide them with equal access to justice. This theory also supports the call for reforms in legislation to address the needs of male victims, recognizing their right to safety and justice.

5. Intersectionality in Gender-Based Violence

Intersectional theory emphasizes the need to understand the interconnected social factors influencing gender-based violence. While commonly applied to issues of race, class, and gender among women, intersectionality is also relevant in understanding male victimization. Men from certain socioeconomic backgrounds, LGBTQ+ identities, or marginalized communities may experience unique forms of violence or barriers to reporting. This perspective will help in examining the role of intersectional factors in male victimization and legal frameworks that often fail to consider these complexities.

This theoretical framework offers a comprehensive foundation for understanding the limitations of India's current legal framework and the need for gender-neutral reforms. By applying these theories, the research will identify the cultural and structural barriers that prevent male victims from obtaining justice and propose legal reforms for inclusive protection under the law.

B. LITERATURE REVIEW

I. Arthur S Chancellor, *INVESTIGATING SEXUAL ASSAULT CASES*, CRC Press (1st ed. 2021)

Arthur S. Chancellor's "Investigating Sexual Assault Cases" highlights the often-overlooked issue of male victims in the context of sexual violence, emphasizing that sexual assault can affect individuals of any gender, age, or background. The book discusses the historical stigma surrounding male victimization, where societal beliefs equate male sexual penetration with a loss of masculinity, leading to significant underreporting and misunderstanding of male sexual assault cases. Chancellor notes that estimates suggest 9-20% of males may experience sexual assault in their lifetime, yet many incidents remain unreported due to fears of disbelief and societal biases. The text also addresses the psychological impact on male victims, who may grapple with shame, confusion regarding their sexual identity, and emotional trauma similar to that experienced by female victims. Furthermore, it underscores the need for law enforcement and support services to recognize and adequately respond to the unique challenges faced by male victims, advocating for more inclusive definitions and approaches to sexual violence that transcend traditional gender norms.

Chapter 8 of the book delves into the topic of nontraditional victims of sexual assault, challenging the conventional perception of offenders. Typically, society imagines sexual offenders as adult males targeting female victims. However, this chapter highlights the existence of a broader range of offenders, categorized as nontraditional or special, who also engage in sexual assault, one of them being female sexual offenders. In addition, the book also talks about the complex issue of false allegation in sexual assault cases. *Investigating Sexual Assault Cases*, by Arthur S Chancellor, aims to fill gaps in existing literature by

offering a new approach that focuses on understanding and supporting victims better.

II. Anant Kumar, *Domestic Violence against Men in India: A Perspective*, 22:3, Journal of Human Behaviour in the Social Environment, 290-296 (2012)

The article “Domestic Violence against Men in India: A Perspective” explores the often-overlooked issue of violence against men, particularly by women, in the context of changing gender dynamics in India. The paper emphasizes that while much research has focused on violence against women, the experiences of male victims have been largely ignored. It acknowledges the societal stigma that prevents men from reporting their victimization, as expressing vulnerability is often seen as a sign of weakness in a patriarchal society.

The author discusses how shifts in power relations, such as women's increasing economic independence, can lead to situations where men may feel threatened and become victims of violence. This change in dynamics is predicted to escalate as women become more empowered and assertive in their relationships. The article presents statistics indicating that various forms of violence, including economic, emotional, physical, and sexual violence, are prevalent against men. A study cited in the paper found that economic violence was the most common, followed by emotional and physical violence.

The paper highlights several reasons why men do not report violence. These include societal expectations of masculinity, fear of losing patriarchal status, and concerns about family dynamics. Men often feel ashamed to disclose their suffering, which leads to a lack of support systems for male victims. It stresses the importance of recognizing violence against men as a public health issue. It calls for the development of appropriate interventions, such as helplines and legal safeguards, to support male victims. The author argues that societal perceptions must change to address this issue effectively. In summary, this article sheds light on the critical yet under-researched topic of domestic violence against men in India, advocating for greater awareness and support for male victims in a society that often overlooks their plight.

III. Charles E. Corry, Martin S. Fiebert & Erin Pizzey, *Controlling Domestic Violence Against Men*. (2002)

Domestic violence is often viewed through a gendered lens, but it affects both men and women. The paper “Controlling Domestic Violence Against Men” highlights several key points regarding this issue in England. Research indicates that 25%-30% of intimate violence is exclusively female-on-male. This challenges the common perception that men are always the aggressors in domestic situations. Current laws, such as primary aggressor laws, often lead to the arrest of men, ignoring the fact that many domestic assaults involve mutual combat. This can encourage further abuse from women, as they may feel empowered by the legal system. Studies show that women are more likely to use weapons in assaults compared to men. About 80% of women use weapons, while only 25% of men do. This suggests that the dynamics of violence in relationships are more complex than typically portrayed. Women often cite reasons for their violence that include resolving arguments or responding to crises rather than purely self-defense. This indicates that the motivations behind domestic violence are varied and not solely based on self-protection.

The paper argues for a gender-balanced approach to domestic violence, emphasizing that current systems often exacerbate the problem rather than solve it. Acknowledging the experiences of both men and women is crucial for effective intervention.

IV. Harshad Pathak, *Beyond the Binary: Rethinking Gender Neutrality in Indian Rape Law*, 11. AsJCL, pp. 367–397 (2016)

The article “Beyond the Binary: Rethinking Gender Neutrality in Indian Rape Law” critiques the existing gender-specific definitions of rape in India and argues for a more inclusive, gender-neutral approach. The article emphasizes that all individuals are entitled to equal protection under the law, regardless of gender. It references the Universal Declaration of Human Rights (UDHR), which states that everyone has rights without discrimination based on sex or other status. This suggests that the law should protect all individuals equally, including those who do not fit into traditional gender categories. The article highlights that the Indian Penal Code (IPC) still adheres to a binary view of

gender, which limits the definition of rape to specific gender roles. The 2012 Bill proposed a gender-neutral definition but faced backlash, as many believed it trivialized the issue of male-perpetrated violence against women. Critics, including feminist scholars, argue that such a move could undermine the seriousness of rape as a patriarchal crime.

A significant argument against gender neutrality in rape law is the fear of countercomplaints. Critics argue that if women are recognized as potential perpetrators, it could lead to false accusations and discourage genuine victims from coming forward. This concern is particularly relevant in patriarchal societies like India, where the legal system may not adequately protect women. The article notes that India's legislative response to gender neutrality has been inconsistent and reactionary. There has been little consideration of the views of sexual minorities, and past judicial decisions have not effectively addressed the complexities of gender in rape law.

The author advocates for a human-rights-based approach to defining rape, which would eliminate gender as a factor in identifying victims and perpetrators. This approach aligns with the constitutional framework that guarantees equal rights to all individuals and emphasizes the state's duty to provide a safe environment for everyone.

V. Turchik J. A., & Edwards K. M., *Myths about male rape: A literature review*, 13(2), psychology of Men & Masculinity, 211–226 (2012)

The paper critically analyzes the literature surrounding male rape myths, focusing on their prevalence, historical context, development, and current manifestations. It highlights how these myths are perpetuated across various institutions such as medicine, media, law, military, and incarceration settings. Male rape myths have deep historical roots and are often tied to societal norms regarding masculinity and gender roles. The review discusses how these myths have evolved and continue to influence perceptions of male victims. The review emphasizes that male rape myths are not just individual beliefs but are embedded within institutional frameworks. For instance, the legal system has historically defined rape in ways that exclude male victims, perpetuating the myth that “men cannot be raped”. Additionally, media representations often reinforce stereotypes about male victims and perpetrators

Research cited in the review indicates that a significant percentage of both male and female college students endorse various male rape myths. For example, studies found that between 4% to 49% of male students and 2% to 27% of female students accepted these myths. This suggests that these beliefs are widespread and not limited to a small group of individuals. The review calls for more interdisciplinary research to understand better the impact of male rape myths on victim disclosure, treatment-seeking behaviours, and legal outcomes

VI. Malik, Jagbir Singh; Nadda, Anuradha. A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India. Indian Journal of Community Medicine 44(1):p 35-38, Jan–Mar 2019

This paper is a study on gender-based violence against men in rural Haryana, India. It presents a compelling examination of a topic often overlooked in discussions about domestic violence. It reveals that a significant 52.4% of men have experienced some form of violence, primarily from their wives or intimate partners, with emotional abuse being the most prevalent at 51.6% and physical violence reported by 6% of participants. This finding challenges the common perception that domestic violence predominantly affects women, highlighting the need for a more inclusive understanding of the issue.

The research identifies critical socioeconomic factors contributing to this violence, such as unemployment and low family income, which resonate with findings from other studies. The cultural context in India complicates the recognition of male victimization, as societal norms often dismiss the idea of men being victims, which can hinder their willingness to report abuse.

C. CONTRIBUTION TO THE LITERATURE

This study makes a significant contribution to understanding gender-based violence by focusing on an often-overlooked group: male victims. Most existing research and laws focus on women, leaving men's experiences underrepresented. By addressing this gap, the study aims to provide a more inclusive view of gender-based violence.

One of the key contributions is shedding light on the limitations of Indian laws, which are primarily designed to protect women. This research highlights how these laws leave

male victims without adequate support. By comparing India's legal framework with that of other countries like the United States and Canada, the study identifies best practices and suggests reforms to create gender-neutral protections.

The study also challenges societal stereotypes that portray men as strong and invulnerable. These stereotypes discourage male victims from reporting incidents or seeking help. By exploring these cultural biases, the research emphasizes the need for a shift in societal attitudes to recognize and support male victims.

Finally, this research offers practical solutions by proposing reforms to existing laws and policies. It advocates for more inclusive legislation, better support systems, and increased awareness to ensure justice for all victims of gender-based violence, regardless of gender. In doing so, it opens the door for future studies to explore this under-researched topic further.

1.7 RESEARCH OBJECTIVES

- To identify the types of gender-based violence experienced by men in India.
- To identify the existing legal frameworks in India regarding gender-based violence
- To critically evaluate the existing legal frameworks in India regarding gender-based violence against men.
- To conduct a comparative analysis of international legal frameworks and best practices from other jurisdictions that effectively address gender-based violence against men
- To propose targeted reforms to existing laws that promote gender-neutral protections for all victims of violence
- To contribute to the academic discourse on gender-based violence by filling existing gaps in the literature regarding male victimization

1.8 HYPOTHESIS

The current legal frameworks in India inadequately address gender-based violence against men, necessitating specific reforms to ensure protection under the law.

1.9 RESEARCH METHODOLOGY

This study will employ a **doctrinal research methodology**, analyzing existing legal frameworks, statutes, and case law related to gender-based violence against men. This approach will facilitate a comprehensive examination of the legal provisions in India and their effectiveness in addressing male victimization.

The primary sources include statutes, regulations, case laws, and international treaties. Secondary sources are mainly articles from journals and websites, research works that were both primary and secondary, and research reports.

1.10 STRUCTURE OF THE DISSERTATION

Chapter 1: Introduction

This chapter will provide an overview of the topic of gender-based violence against men, establishing the context for the study. It will outline the significance of the issue in India, any prevalent stereotypes surrounding male victims, and the general societal attitudes towards gender-based violence. The chapter will define key terms and concepts, introduce the research questions, and present the objectives of the study. It may also discuss the methodological approach and the relevance of this research in contributing to existing literature.

Chapter 2: Gender-Based Violence Against Men in India

This chapter will focus specifically on the occurrences and nature of gender-based violence directed towards men in India. This section will explore various forms of violence, such as sexual abuse, intimate partner violence, especially emotional abuse, and cruelty, and discuss cultural, social, and economic factors contributing to this violence. Additionally, it will examine the underreporting of such incidents and the stigma that male victims face, further complicating the discourse on gender-based violence.

Chapter 3: Critical Analysis of the Existing Indian Legal Framework

In this chapter, an in-depth critique of the current Indian legal framework addressing gender-based violence will be conducted. It will review specific laws and provisions, such as the Protection of Women from Domestic Violence Act, the Indian Penal Code, and any relevant judicial interpretations. The limitations

and gaps in the legal approach towards male victims will be evaluated, along with the challenges that arise in seeking justice. This chapter will also discuss existing institutional responses and the effectiveness of support systems for male victims.

Chapter 4: Gender Based Violence Against Men - A Comparative Analysis

This chapter will engage in a comparative analysis of how different countries address gender-based violence against men. It will examine international laws and best practices, contrasting them with the Indian legal framework. By analyzing case studies from various jurisdictions, this section will highlight innovative approaches and potential reforms that could be adopted in India. The chapter will also explore the impact of cultural and societal norms on the legal treatment of male victims across different countries.

Chapter 5: Findings and Suggestions

The concluding chapter will summarize the main findings of the preceding chapters, reiterating the importance of acknowledging and addressing gender-based violence against men. It will offer evidence-based recommendations for legal, policy, and societal reforms aimed at creating a more inclusive understanding of gender-based violence. Additionally, it will suggest areas for future research and advocacy, with the goal of fostering a comprehensive approach to tackling all forms of gender-based violence, regardless of the victim's gender.

1.11 LIMITATIONS OF THE STUDY

One of the significant challenges in researching gender-based violence against men is the limited availability of reliable data. Male victims often do not report incidents due to societal stigma, fear of trivialization, or beliefs that their experiences will not be taken seriously. This can result in underreporting and a scarcity of quantitative data, leading to challenges in accurately assessing the prevalence and nature of such violence.

The legal framework regarding gender-based violence in India is primarily oriented towards protecting women. Consequently, there may be ambiguities in how existing laws apply to male victims, leading to inconsistencies in interpretation and enforcement. This can create difficulties in analyzing the effectiveness of legal protections available to men.

Societal attitudes toward masculinity and victimhood can significantly impact the research. The stigmatization of male victims of violence may affect not only their willingness to report incidents but also the responses they receive from law enforcement and social services, complicating the analysis of how effectively these systems serve male victims.

The reliance on judicial precedents to understand attitudes toward male victimization may be limited. There may be fewer recorded cases involving male victims, and those that do exist may not provide a comprehensive view of the judicial landscape. Additionally, outcomes may vary significantly based on regional social norms and judicial biases.

Identifying necessary reforms based on current legal frameworks might be challenging due to the entrenched nature of gender norms and legal biases. Resistance to change from various stakeholders, including policymakers and societal groups, may hinder the implementation of proposed recommendations.

While drawing comparisons with legal frameworks in countries like the United States and Canada can enrich the research, the cultural and legal differences may limit the applicability of certain findings. Ensuring that comparisons are meaningful while accounting for these differences will be crucial.

CHAPTER 2- GENDER-BASED VIOLENCE AGAINST MEN IN INDIA

2.1 GENDER-BASED VIOLENCE

Gender-based violence (GBV) is any act of violence that results in physical, sexual, or psychological harm, primarily directed at individuals due to their gender.⁵ GBV is a pervasive phenomenon affecting individuals globally.⁶ It includes various forms of violence, like intimate partner violence, sexual abuse, trafficking, and exploitation. While GBV predominantly affects women, it is essential to recognize that men can also be victims.⁷

Gender-based violence against men is often overlooked, with societal assumptions positioning men solely as perpetrators. However, men experience various forms of abuse, including verbal, physical, and emotional, yet remain silent victims due to stigma and lack of legal protections.⁸ Societal perceptions often discourage men from seeking help, as they are expected to embody strength and resilience.⁹

Usually, when we use the term “violence,” people associate it with men and almost automatically think about men as offenders and women as victims. Women have almost the same tendency to use violence against men as men against women. There are research showing that women are able to perform acts of violence. If we take into consideration physical aggression, studies show that as many women self-report perpetrating as do men. Cercone, Beach and Arias studies on collage samples, found that men and women commit similar rates of physical aggression¹⁰.

The abuse experienced by boys and men is often labeled as torture, mutilation, or degrading treatment, overlooking its gendered and sexual aspects. Acts of sexual

⁵ Kadri A.K.R., Kolawole I.O., Ohaeri B.M. and Babarimisa O. (2024) Gender Based Violence: A Silent Epidemic, Knowledge and Patterns in Ibadan, Oyo State, International Journal of Public Health, Pharmacy and Pharmacology, 9 (1), 39-48

⁶ Gayatri Pradhan, *A Sociological Review of Gender-Based Violence across the Globe*, 6 International Journal For Multidisciplinary Research (2024).

⁷ Sherifat Hussain-Abubakar, *Gender-Based Violence and Its Effect on Mental Health* (2024).

⁸ Navpreet Kaur & Shobha Gulati, *Domestic Violence against Men in India: A Critical Analysis with Special Reference to Indian Laws* (2024).

⁹ Mandlenkosi Richard Mphatheni & Ntsika Edward Mlamla, *Gender-Based Violence against Men and Boys: A Hidden Problem*, 11 African journal of gender, society and development 59 (2022).

¹⁰ Cercone, J. J., Beach, S. R. H., & Arias, I. (2005). Gender Symmetry in Dating Intimate Partner Violence: Does Similar Behavior Imply Similar Constructs? *Violence and Victims*, 20(2), 207–218. <https://doi.org/10.1891/vivi.2005.20.2.207>

violence against men include anal and oral rape, gang rape, forced sterilization, genital mutilation, castration, physical trauma to the genitals, forced nudity, and being forced to masturbate or rape others. Some men are even made to witness sexual violence against their family members or friends. These abuses can happen in many settings, such as prisons, military camps, refugee shelters, and even private homes, particularly during times of crisis or conflict. Despite the severity of these crimes, they often go unrecognized, leaving male victims without proper support or justice.¹¹

The Centers for Disease Control and Prevention (CDC), conducts timely National Intimate Partner and Sexual Violence Survey (NISVS)¹², according to its recent data, approximately 44.2% of men in the United States have experienced contact sexual violence, physical violence, and/or stalking by an intimate partner at some point in their lives. Additionally, nearly one in four men has faced some form of contact sexual violence, underscoring the pervasiveness of such experiences among male populations. The survey also reports that about one in 17 men has been a victim of stalking during their lifetime¹³. A retrospective joint study of cases of IPV identified during forensic examinations at the Department of Forensic Medicine and Deontology, Medical University-Sofia, Bulgaria, and the Forensic unit at the Medical Institute of the Ministry of Internal Affairs was conducted for the period 2017-2021. 553 of the victims, out of 3027 cases of domestic violence, were male. It was indicated that in just over 50% of them, the perpetrator of the crime was the intimate partner¹⁴. Similarly, research by Carmo and Grams analyzed 4,746 victims of partner violence, revealing that 11.5% (535 individuals) were men, while the remaining victims were women¹⁵. The most frequently reported forms of violence included scratching (20%), punching (16.7%), and hitting with blunt objects (16.6%). In Drijber's research, 67% of participants reported experiencing both physical violence, such as pushing, kicking, biting, or

¹¹ Carlson ES. The hidden prevalence of male sexual assault during war: observations on blunt trauma to the male genitals. *Br J Criminol.* 2005;46(1):16-25

¹² Ctrs. for Disease Control & Prevention, *National Intimate Partner and Sexual Violence Survey (NISVS): 2024 Data Brief – Updated Release* (May. 2024), <https://www.cdc.gov/intimate-partner-violence/about/intimate-partner-violence-sexual-violence-and-stalking-among-men.html>

¹³ M. A. Straus and R. J. Gelles (Eds.), *Physical violence in American families: Risk factors and adaptations in violence in 8,145 families* (pp. 49-73)(1990)

¹⁴ Kiryakova, Teodora & Alexandrov, Alexandar. (2022). FORENSIC ASPECTS OF DOMESTIC VIOLENCE: MEN AS VICTIMS OF INTIMATE PARTNER VIOLENCE. *Science & Research.* volume 6. 5-12.

¹⁵ Carmo R, Grams A, Magalhães T. Men as victims of intimate partner violence. *J Forensic Leg Med.* 2011 Nov;18(8):355-9. doi: 10.1016/j.jflm.2011.07.006. Epub 2011 Aug 12. PMID: 22018167.

hitting, and psychological violence, including insults, social exclusion, or stalking.¹⁶ A 2012 survey by the Polish Institute of Public Opinion found that men were more likely than women to report emotional abuse, with 22% stating they had been insulted and 12% experiencing social isolation from family and friends. Additionally, 10% of male respondents had experienced physical violence from their partner, while 20% had suffered psychological abuse. Notably, the survey indicated that men (22%) and women (21%) were equally likely to experience both physical and psychological abuse.¹⁷ (Research Statement, 2012: Domestic Violence and Conflicts. Warsaw: Public Opinion Research Centre)

2.2 GENDER-BASED VIOLENCE AGAINST MEN- INDIAN SCENARIO

2.2.1 RAPE

Rape as defined by FBI's Uniform Crime Record (UCR) Summary Reporting System (SRS) is "*the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim*"¹⁸. Earlier, it was defined narrowly as "*the carnal knowledge of a female, forcibly and against her will.*" Recognizing the need for a more inclusive and accurate understanding of rape, the definition was eventually revised.

Legal definitions of rape vary across countries, but it is universally recognized as a serious crime and a violation of human rights. While traditionally seen as a male-on-female crime, rape can affect individuals of any gender, including men and transgender persons. Many legal systems now advocate for gender-neutral definitions to ensure all victims receive justice, like the USA, Canada, and Sweden¹⁹.

¹⁶ DRIJBER, B. C., REIJNDERS, U. J., & CEELLEN, M. (2013) Male victims of domestic violence. *Journal of Family Violence*. 28 (2). Pp. 173–178.

¹⁷ Przemoc i konflikty w domu (2012) Komunikat z badań. Warszawa: Centrum Badań Opinii Publicznej.

¹⁸ FBI, Uniform Crime Reporting: Rape, FBI.Gov, <https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/violent-crime/rape> (last visited May 20, 2025)

¹⁹ Criminal Code, R.S.C. 1985, c. C-46, s. 271 (Can.), 18 U.S.C. §§ 2241–2244 (2024), Swedish Criminal Code (Brottsbalken), ch. 6, § 1

The idea that a man can be raped is often met with disbelief and denial. Indian society, along with its legal and medical systems, largely rejects the notion of male victimization in sexual crimes. Several stereotypes reinforce this dismissal, including:

- Women cannot rape men.
- Women do not rape men.
- Men are not similarly affected by rape.
- Rape is about power and dominance, making men unlikely victims.
- Gender-neutral rape laws will have unintended consequences, such as false accusations.

These assumptions perpetuate a culture of silence around male rape victims, making it difficult to advocate for legal reforms and support mechanisms.

Despite increasing discussions on gender-neutral rape laws, many critics argue that women cannot rape men. These claims are rooted in several stereotypes and misconceptions widely accepted in Indian society. One of the most common arguments is the belief that men must be sexually aroused to engage in intercourse, making rape by a woman “physically impossible.” Dr. Anand Kumar from the Department of Reproductive Biology at AIIMS²⁰ reinforces this notion, stating, “*It is physically impossible for a woman to rape a man. Arousal implies consent.*”²¹ This assumption disregards scientific research proving that arousal can be an involuntary physiological response to fear, stress, or coercion, rather than a sign of consent.

Another argument often made is that female-on-male rape is extremely rare or non-existent. Feminist lawyer Flavia Agnes has publicly dismissed the possibility, stating, “*To presume that women can rape men is rather outrageous. While women can sexually harass men, they can’t sexually assault them. There have been no such cases anywhere.*”²² This perspective relies on the lack of reported cases rather than acknowledging the societal stigma that prevents male

²⁰ Dr. Anand Kumar, MD, Faculty head of All India Institute of Medical Science

²¹ Jai Vipra, *A Case for Gender-Neutral Rape Laws in India*, CCS Working Paper No. 286, Centre for Civil Society (2013), https://ccs.in/sites/default/files/working_papers/286_case-for-gender-neutral-rape-laws-in-india_jai-vipra.pdf.

²² Agnes, Flavia. 2002. Law, Ideology and Female Sexuality. *Economic and Political Weekly*: 844-847

victims from coming forward. The absence of data does not necessarily indicate that such crimes do not occur; rather, it reflects the shame and disbelief that male survivors face when they try to report their experiences.

While these arguments are widely accepted, they fail to consider scientific and legal perspectives that challenge these misconceptions. The belief that male arousal equals consent is not supported by medical research, and the notion that women cannot exert sexual control over men ignores real-world cases. Research has consistently disproved the assumption that male arousal equates to consent. Case studies were conducted on 11 men who were sexually assaulted by women and found that, despite experiencing humiliation, fear, and terror, the men still had erections, and some even ejaculated²³. Their physical response occurred even under threats of violence, proving that arousal does not imply willingness or consent. Similarly, in 2003, examination of multiple studies led to the conclusion that physiological arousal and orgasm do not necessarily indicate consensual participation in sexual activity, making the assumption that physical arousal proves consent invalid²⁴. Further supporting this, in 1983, a lab experiment was conducted where men were shown erotic material while being threatened with electric shocks. The study revealed that anxiety actually increased sexual arousal, demonstrating that arousal can be an involuntary physiological response to fear or stress²⁵. These findings highlight the need to separate biological reactions from the concept of consent, reinforcing that sexual violence can occur regardless of a victim's physical response.

Another argument is that while women can physically rape men, they rarely do. Some argue that such incidents are so uncommon that they do not warrant legal recognition. However, despite the lack of extensive research on male rape compared to female rape, available statistics indicate that male sexual victimization is far more prevalent than commonly assumed.

²³ Phillip M. Sarrel & William H. Masters, Sexual Molestation of Men by Women, 11 Arch. Sex. Behav. 117 (1982), <https://link.springer.com/article/10.1007/BF01541979>.

²⁴ Roy J. Levin & W. van Berlo, Sexual Arousal and Orgasm in Subjects Who Experience Forced Sexual Stimulation, Biological and Psychological Perspectives, 10 J. Clinical Forensic Med. 28 (2003), [https://doi.org/10.1016/S1353-1131\(02\)00139-8](https://doi.org/10.1016/S1353-1131(02)00139-8).

²⁵ David H. Barlow, Donald K. Sakheim & James G. Beck, Anxiety Increases Sexual Arousal, 92 J. Abnormal Psychol. 49 (1983), <https://doi.org/10.1037/0021-843X.92.1.49>.

In 1996, Jaspal Singh, J of the Delhi High Court in *Sudesh Jhaku v. KC Jhaku*²⁶, quoted a passage from an article in the *California Law Review* to justify his opinion on the offence of rape to be redefined in gender-neutral terms:

Men who are sexually assaulted should have the same protection as female victims, and women who sexually assault men or other women should be as liable for conviction as conventional rapists. Considering rape as a sexual assault rather than as a special crime against women might do much to place rape law in a healthier perspective and to reduce the mythical elements that have tended to make rape laws a means of reinforcing the status of women as sexual possessions²⁷.

The National Intimate Partner and Sexual Violence Survey (2016-17)²⁸, a large-scale telephone survey measuring the extent of sexual and other violence among adults in the United States, found that about 1 in 26 men (3.8%) in the United States reported experiencing completed or attempted rape in their lifetime, amounting to an estimated 4.5 million male victims. Additionally, the survey highlights that 1 in 9 men (10.7%) have been made to penetrate someone else without consent, totaling approximately 12.6 million victims.

These figures challenge the misconception that men are rarely victims of sexual violence. The survey also shows that sexual coercion (10.9%) and unwanted sexual contact (23.3%) are widespread among men, with an estimated 27.5 million men reporting unwanted sexual experiences. Furthermore, the report notes that more than half of male rape victims (57.3%) were assaulted by acquaintances, and 26.8% of male rape victims were first assaulted at age 10 or younger, demonstrating that male sexual victimization often begins early in life. Supporting these findings, Hartwick, Desmarais, and Hennig (2007)²⁹ studied

²⁶ *Sudesh Jhaku v K C Jhaku* 1998 Cri LJ 2428.

²⁷ Camille E LEGRAND, "Rape and Rape Laws: Sexism in Society and the Law" (1973) 61(3) *California Law Review* 919 at 941

²⁸ Kathleen C. Basile et al., *The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Sexual Violence*, Nat'l Ctr. for Injury Prevention & Control, Ctrs. for Disease Control & Prevention (2022), https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf.

²⁹ Cailey Hartwick, Serge Desmarais & Karl Hennig, *Characteristics of Male and Female Victims of Sexual Coercion*, 17 *Can. J. Hum. Sexuality* 31 (2007), <https://www.researchgate.net/profile/Karl->

261 male and 257 female university students and found that 38.8% of men had experienced sexual coercion, compared to 47.9% of women. The study defined coercion broadly, including verbal pressure as a tactic used against both men and women.

Similarly, Krahé, Scheinberger-Olwig, and Bieneck (2003) conducted two studies among heterosexual men and documented that, women employed aggressive sexual strategies, including physical force, exploiting a man's incapacitated state, and verbal pressure, to coerce them into sexual activity³⁰. Their research revealed that unwanted sexual contact included kissing, petting, sexual intercourse, and oral sex, with kissing/petting being the most frequently reported, followed by sexual intercourse and oral sex. Additionally, the prevalence of non-consensual sex was significantly higher when the perpetrator was someone known to the respondent rather than a stranger, contradicting the assumption that male victims are only assaulted in rare, extraordinary cases.

Coming to India, while people often talk about sexual violence against women, the rape of men is rarely discussed. Many believe it is uncommon or even impossible. Because of this, society, the legal system, and even human rights groups often ignore male victims. This silence makes it harder for survivors to get help, leaving them to deal with their pain alone, without support from the law, society, or even their families.

There are only limited statistics with regard to male victimization. However, a survey of 222 Indian men conducted by Jai Vipra as part of a Centre for Civil Society (CCS) research paper titled “A Case for Gender-Neutral Rape Laws in India” (2013)³¹ found that 16.1% had been coerced or forced into sex by a woman, while 2.1% had experienced coercion or forced sex by another man. These findings indicate that male rape is not an anomaly but a significant issue

[Hennig/publication/233417186_Characteristics_of_male_and_female_victims_of_sexual_pressure/link/s/54ec8bcc0cf2465f532f9c90/Characteristics-of-male-and-female-victims-of-sexual-pressure.pdf](https://hennig/publication/233417186_Characteristics_of_male_and_female_victims_of_sexual_pressure/link/s/54ec8bcc0cf2465f532f9c90/Characteristics-of-male-and-female-victims-of-sexual-pressure.pdf).

³⁰ Krahé, Barbara & Scheinberger-Olwig, Renate & Bieneck, Steffen, Men's Reports of Nonconsensual Sexual Interactions with Women: Prevalence and Impact. Archives of sexual behavior. 32, (2003) 165-75.

³¹ Supra note 21 at 18

that remains underreported due to stigma, lack of legal protection, and societal denial.

Moreover, interviews with police and medical professionals reveal that while cases of male rape exist, they are rarely reported or taken seriously. A forensic doctor at AIIMS confirmed seeing 10–20 cases of male rape victims in the past 3–4 years, with male-on-male sexual violence being particularly common in prisons and the armed forces. However, due to societal stereotypes that assume men cannot be raped, many victims refrain from coming forward, fearing ridicule or disbelief³².

Even though male rape is rarely talked about, several cases have surfaced in India, showing that it happens more often than people realize. In 2022, a 25-year-old man in Jalandhar, Punjab, was allegedly kidnapped and gang-raped by four women, sparking discussions about the need for gender-neutral rape laws³³. In Karnataka (2021), a 24-year-old man was raped by another man, highlighting the lack of legal protection for male victims³⁴. In 2019, a 36-year-old man in Vashi, Mumbai, was gang-raped by five people and had to undergo emergency surgery due to severe injuries, yet the case received little attention³⁵. More recently, in 2024, a 20-year-old college student in Ahmedabad, Gujarat, was repeatedly raped by seven men over 16 months, leaving him deeply traumatized³⁶. These cases are just a few examples, and many more remain unreported because victims fear shame, disbelief, or a lack of legal support. The reality is that male rape is not as rare as people assume, but it is often ignored due to deeply ingrained gender norms.

³² Ibid

³³ *Four Women Rape a Man in Jalandhar: Gender-Neutral Laws Are Crying Need of Hour*, Firstpost (Nov. 5, 2022), <https://www.firstpost.com/opinion-news-expert-views-news-analysis-firstpost-viewpoint/four-women-rape-a-man-in-jalandhar-gender-neutral-laws-are-crying-need-of-hour-11747931.html>.

³⁴ *24-Year-Old Man Allegedly Raped by Another Man in Karnataka, Accused Held*, New Indian Express (Oct. 10, 2021), <https://www.newindianexpress.com/states/karnataka/2021/Oct/10/24-year-old-man-allegedly-raped-by-another-man-in-karnataka-accused-held-2370064.html>.

³⁵ *36-Year-Old Man Gang-Raped by Five in Vashi; Undergoes Emergency Surgery*, Mumbai Mirror (Sept. 2019), <https://mumbaimirror.indiatimes.com/mumbai/crime>.

³⁶ *20-Year-Old College Student Gang-Raped by 7 for 16 Months in Gujarat*, Times of India (Mar. 2024), <https://timesofindia.indiatimes.com/city/ahmedabad/20-year-old-college-student-gang-raped-by-7-for-16-months-in-gujarat/articleshow/118957103.cms>.

One big reason people overlook male rape is the way society views men. Men are expected to be strong, in control, and dominant. The idea that a man can be overpowered and sexually assaulted challenges these beliefs. Because of this, male victims are often laughed at or blamed instead of being helped. Many do not report their assault because they fear being mocked or not believed.

Even the way these cases are discussed reflects society's discomfort. When women are attacked, people use direct terms like "rape" or "assault." However, when men are victims, softer words like "mistreated" or "abused" are often used instead. This shows a deep bias in how we understand sexual violence and reinforces the silence around male victims. In *Criminal Justice Society v. Union of India & Ors.*, a PIL seeking gender-neutral sexual violence laws was dismissed by the Supreme Court as an "imaginative proposal," reflecting judicial reluctance to expand provisions like Section 354D to include male victims. The Court emphasized that it could not direct Parliament to collect data or amend the Indian Penal Code, noting that such legislative changes fall outside judicial purview³⁷. While Chief Justice Dipak Misra acknowledged that gender-based crimes can be committed by both men and women, he reaffirmed that it is Parliament's responsibility to enact the necessary legal reforms.

2.2.2 DOMESTIC VIOLENCE

Domestic violence has been a persistent issue since the dawn of civilization. While most of the narrative focuses on violence against women, it is crucial to recognize that men can also be victims of domestic violence. Even though the focus on the women's plight and their protection is much needed for the deeply rooted gender inequality to be curtailed, by doing that, one thing has been overlooked: men too can be the victim of domestic violence; men too can be subjected to cruelty.³⁸ Domestic violence against men includes physical, verbal, emotional, financial, and legal abuse, highlighting the need for inclusive

³⁷ *Criminal Justice Society of India v. Union of India & Ors.*, W.P. (C) No. 1262/2018

³⁸ Shalini Shivajirao Ghumare, Domestic Violence - A curse to a Man in a male dominated society, 9 IJCR 2021 754-760

campaigns addressing all victims, regardless of gender.³⁹ In the case of *Dr. N.G. Dastane v. Mrs. S. Dastane*, the Supreme Court stated that physical cruelty may be caused by a man because he is physically stronger than the woman, but it can be vice versa. But in the case of mental cruelty, women are more capable of causing mental abuse to men.⁴⁰

While there is a lot of research on spousal violence against women, very few focus on male victimization and female perpetrators of domestic violence. The researchers worldwide have been trying to get men involved in stopping violence against women since the Cairo conference in 1994 (ICPD, 1994), but the issue of violence against men themselves has been mostly ignored. Even though the Indian literature in this context is very few, the available ones suggest that spousal violence against men does occur, and that too a considerable number, highlighting a significant yet often overlooked issue in discussions about domestic violence.

A study conducted by Save Family Foundation and My Nation on domestic violence against men in India between April 2005 and March 2006 surveyed 1,650 married men aged 15-49 years across India, using random sampling and WHO multi-country study methodology. The report suggested that 98% of respondents experienced domestic violence more than once, of which 32.79% were subjected to economic violence like withholding money or taking away earnings, 25.21% were subjected to physical violence like beating, slapping, kicking, 22.18% were subjected to emotional violence like insults, threats, controlling behaviour, and 17.82% were subjected to sexual violence like Withholding sex, sexual coercion. Respondents came from diverse backgrounds, mostly upper-middle and middle-class. Well-educated and high-earning men also reported significant rates of violence.⁴¹

A study conducted by Malik and Nadda in 2019, published in the *Indian Journal of Community Medicine*, examined gender-based violence against men in rural

³⁹ Sabelinah Tshoane et al., *Domestic Violence against Men: Unmuting the Reality of the Forgotten Gender*, 10 Cogent Social Sciences (2024).

⁴⁰ *Dr. N.G. Dastane v. Mrs. S. Dastane*, AIR 1975 SC 1534

⁴¹ Save Family Foundation & My Nation, *Domestic Violence Against Men Study Report 2005-2006* (2006)

Haryana, India (Malik & Nadda, 2019)⁴². The research, supported by the Indian Council of Medical Research (ICMR), was a community-based, cross-sectional analysis that aimed to ascertain the prevalence, characteristics, and sociodemographic factors related to this form of violence. Carried out over a year from 2012 to 2013, the study involved 1,000 married men aged 21 to 49, who were chosen through multistage random sampling from households in the Rohtak district. Data were gathered through face-to-face interviews with a standardized questionnaire, ensuring participants' privacy and informed consent. The findings revealed that 52.4% of men had experienced gender-based violence, with 51.5% reporting spousal violence at least once in their lives. Additionally, 10.5% of participants reported experiencing recent spousal violence within the past 12 months.

The study also detailed the types of spousal violence faced by men in rural Haryana. Emotional violence was the most common form, affecting 51.6% of the participants, while physical violence was reported by 6% and sexual violence by 0.4%. Among the physical violence incidents, slapping was the most frequent (98.3%). Regarding emotional abuse, 85% of those affected reported being criticized, and 29.7% experienced insults in public. The main reasons for such violence included the husband's unemployment (60.1%), disagreements (23%), and the perpetrator's addiction (4.3%). Key risk factors identified included lower family income, education limited to middle school, nuclear family structures, and the perpetrator being under the influence of alcohol. Additionally, bidirectional physical violence was linked to cases where the spouse was a breadwinner with a college education. These results underscore the intricate relationship between socioeconomic factors and gender-based violence against men in this area.

Another study was conducted by Aparajita Chattopadhyay, Santosh Kumar Sharma, Deepanjali Vishwakarma, and Suresh Jungari using NFHS-4 data to highlight that violence against men should not be overlooked⁴³. Although women face higher instances of domestic violence, men can also be victims,

⁴² Jagbir Singh Malik & Anuradha Nadda, *A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India*, 44 Indian J. Community Med. 35 (2019)

⁴³ 6 Aparajita Chattopadhyay, Santosh Kumar Sharma, Deepanjali Vishwakarma and Suresh Jungari, 'Prevalence and Risk Factors of Physical Violence Against Husbands: Evidence from India' Journal of Biosocial Science (2023)

frequently arising from power imbalances or societal issues. Even though there are extensive legal protections for women, assistance for male victims remains limited. Data from the NFHS shows that the factors contributing to violence are similar for both genders. The prevalence of male partner violence in India was found to be higher than in the USA, Canada, and the UK (19.3%), based on the Partner Abuse State of Knowledge project (PASK)⁴⁴. The research revealed that 29 out of every 1,000 men in India face spousal violence, with a rising trend observed from 2005 to 2016. Interestingly, southern states, which are generally more developed, report higher instances of violence against men. This could be attributed to improved reporting mechanisms or a cultural acceptance of violence.

Behavioral traits, particularly those that justify violence, have a greater impact on the occurrence of spousal violence than socioeconomic factors. This highlights that merely improving economic conditions is not enough to tackle domestic violence; instead, significant change requires alterations in social attitudes and behaviors. Women who accept violence are also more inclined to engage in it themselves, indicating that both genders may internalize patriarchal values. Additionally, childhood experiences and marital dynamics significantly influence this issue. Women who witnessed violence in childhood, live with controlling or alcoholic partners, or find themselves in fearful marriages are more prone to exhibit violent behavior. These trends align with social learning theory and previous studies linking such experiences to negative health and relationship outcomes. On the other hand, household composition and financial status have minimal effects on male victimization. The structure of the family or the employment status of the husband does not significantly change the risk. Nevertheless, education, especially when the wife has completed secondary schooling, can provide some protective advantages, although this is not uniform across all areas. Interestingly, women's economic participation adds another layer of complexity. Those who earn a cash income are more likely to perpetrate violence against their husbands compared to those who work without pay. While economic empowerment is often promoted as a remedy for gender-based

⁴⁴ Deshpande S (2019). Sociocultural and legal aspects of violence against men. *Journal of Psychosexual Health*. <https://doi.org/10.1177/2631831819894176>

violence, the data indicates that the impact is complicated, with some women who are economically active experiencing or instigating more violence.⁴⁵

Data from the National Family Health Survey (NFHS-5, 2019–21)⁴⁶ shows that 3.1% of married women aged 18–49 have reported hurting their husbands at some point. While this is lower than the rate of men hurting their partners, it still indicates that women can also be violent in their relationships. The breakdown reveals that 2.7% admitted to slapping their husbands, 0.5% to pushing or shaking them, 0.3% to punching or kicking, and 0.2% to threatening them with a knife or weapon. The survey also found a strong connection between women's own experiences of being abused and their likelihood of hurting their husbands. Among women who have faced physical violence from their partners, 10.0% said they have also been violent, with 8.8% having done so in the last year. In contrast, only 1.0% of women who have never been physically abused by their partners admitted to hurting their husbands, and just 0.9% did so in the past year.

Apart from these research studies, in recent months, several alarming incidents across India have highlighted severe cases of domestic violence against men. In March 2025, in Auraiya, Uttar Pradesh, a 25-year-old man was allegedly murdered by a contract killer hired by his wife and her lover just 15 days after their marriage; all three individuals have been arrested⁴⁷. Similarly, in Bengaluru, Karnataka, a woman and her mother were apprehended for the murder of her husband, whom they allegedly sedated with sleeping pills, lured to a secluded location, and then killed by slitting his throat⁴⁸. In Jaipur, Rajasthan, a woman and her lover were arrested after being caught on CCTV transporting her husband's body on a motorcycle; the husband had reportedly

⁴⁵ Id

⁴⁶ International Institute for Population Sciences (IIPS) & ICF, National Family Health Survey (NFHS-5), India, 2019–21 (2021).

⁴⁷ Deccan Chronicle, *Man Killed by Contract Killer Hired by Wife, Her Lover in UP's Auraiya*, **Deccan Chron.** (Mar. 19, 2025, 1:10 PM), <https://www.deccanchronicle.com/news/crime/man-killed-by-contract-killer-hired-by-wife-her-lover-in-ups-auraiya-1868870>.

⁴⁸ India Today, *Bengaluru Woman, Her Mother Murder Man by Spiking His Food, Slitting His Throat*, **India Today** (Mar. 25, 2025), <https://www.indiatoday.in/cities/bengaluru/story/bengaluru-woman-murders-husband-spikes-food-with-sleeping-pills-mother-helps-in-killing-police-arrest-both-2698652-2025-03-25>.

discovered their affair prior to his murder⁴⁹. Earlier, in January 2025, a court in Bareilly, Uttar Pradesh, sentenced a woman to life imprisonment for murdering her husband to continue her relationship with her 17-year-old lover⁵⁰. In another gruesome case from Karnataka, a woman allegedly strangled her husband, disfigured his face with a stone, and dismembered his body to dispose of it⁵¹. Additionally, in February 2025, the Supreme Court provided relief to a husband after determining that his wife had filed false cases of domestic violence and cruelty to coerce him into agreeing to a divorce⁵², highlighting concerns about the misuse of protective laws.

2.2.3 FALSE ALLEGATIONS OF DOMESTIC VIOLENCE AND CRUELTY

The Protection of Women from Domestic Violence Act (PWDVA), enacted in 2005, was designed to protect women from domestic abuse. However, studies indicate that this law has often been misused as a tool for revenge or personal gain. For example, some women have used the PWDVA to get back at their partners, turning it into a “weapon” instead of a “shield.”⁵³ Similarly, Section 498A of the Indian Penal Code (IPC), which criminalizes matrimonial cruelty, is often misused. This law, originally designed to help women facing dowry harassment, has been exploited to falsely accuse husbands and their families.⁵⁴ The misuse of these legal provisions is due to the weak checks and balances in the legal system. For instance, because Section 498A is non-bailable and cannot

⁴⁹ NDTV, *Jaipur Woman, Lover Kill Husband, CCTV Shows Them Carrying Body on Bike*, **NDTV** (Mar. 18, 2025), <https://www.ndtv.com/jaipur-news/jaipur-woman-lover-kill-husband-cctv-shows-them-carrying-body-on-bike-7966260>.

⁵⁰ Times of India, *Woman Sentenced to Life for Murdering Husband to Be with Minor Lover*, **Times of India** (Jan. 18, 2025), <https://timesofindia.indiatimes.com/city/bareilly/love-or-lust-woman-sentenced-to-life-for-murdering-husband-to-be-with-minor-lover-/articleshow/117074566.cms>.

⁵¹ Hindustan Times, *Belagavi Woman Kills Husband, Smashes Face with Stone, Chops Body*, **Hindustan Times** (Jan. 10, 2025), <https://www.hindustantimes.com/india-news/karnataka-belagavi-woman-kills-husband-smashes-his-face-with-stone-chops-body-101735837045103.html>.

⁵² Dhananjay Mahapatra, *Husband Gets Relief in Supreme Court: Wife Filed False Cases of Domestic Violence and Cruelty to Force Divorce*, **Econ. Times** (Feb. 27, 2025), <https://economictimes.indiatimes.com/wealth/save/husband-gets-relief-in-supreme-court-wife-filed-false-cases-of-domestic-violence-and-cruelty-to-force-husband-to-agree-for-divorce/articleshow/117602778.cms>.

⁵³ Ritu Singh, Kusha Pant & Amit Kumar Mishra, *Domestic Violence Act “Shield or Weapon of an Indian Women”: Two Sides of a Coin*, 9 *Indian journal of positive psychology* 164 (2018),

⁵⁴ B. Suresh Kumar Shetty, P.P. Jagadish Rao & Aditi Suresh Shetty, *Legal Terrorism in Domestic Violence - An Indian Outlook*, 80 *Medico-legal Journal* 33 (2012), Henrique Fernandes Antunes, *Section 498A of Indian Penal Code: A Legal Instrument for Social Change* 89 (2022)

be settled outside of court, it has become simpler for false claims to be made without enough proof, resulting in the unfair treatment of innocent people. False allegations under Section 498A of the Indian Penal Code and the Protection of Women from Domestic Violence Act (PWDVA) have serious ramifications, often resulting in the arrest of entire families, this includes not just the accused individuals but also their elderly parents and minor children. Such arrests often occur without a thorough investigation, leading to grave injustices and evoking significant distress within families⁵⁵. The consequences of these allegations are profound, causing irreparable damage to family relationships and reputations. The stigma of being accused can lead to social ostracization, financial instability, and mental health issues for those wrongfully implicated. Furthermore, when the legal system fails to adequately address the misuse of these laws, it intensifies the existing problem. Victims of false allegations often find themselves trapped in a judicial process that neither effectively validates their claims nor provides a clear path to justice⁵⁶. To compound this issue, many individuals facing such allegations resort to settling cases out of court. In these instances, compromises can appear as a more practical solution than enduring a lengthy legal battle, despite the merit of the case being often disregarded in the process. This trend not only highlights the inadequacies within the legal framework but also raises serious questions about the protection of the innocent in a system designed to safeguard against domestic violence.

Madhu Kishwar, an eminent academic and gender rights advocate, has explored this issue in depth in her essay *"Laws Against Domestic Violence: Underused or Abused?"*⁵⁷. Her analysis provides a crucial perspective on how legal remedies, when left unchecked and unregulated, can result in unintended harm. Kishwar's work documents how the wide latitude granted under Section 498A has facilitated its use in blackmail and extortion, rather than in addressing genuine cases of domestic abuse.

⁵⁵ Id

⁵⁶ Shalu Nigam, *Is Domestic Violence a Lesser Crime? Countering the Backlash against Section 498A*, IPC, Social Science Research Network (2016)

⁵⁷ Madhu Kishwar, *Laws Against Domestic Violence: Underused or Abused*, 8 **Manushi** 17 (2003),

Interestingly, even women's rights activists interviewed by Kishwar admit that many women misuse 498A either out of revenge or on the advice of unscrupulous lawyers. Some even encourage women to file such cases as a bargaining tool. Several case studies were mentioned to illuminate how the threat of arrest under 498A is often used as leverage to extract financial or property settlements from the husband and his family. In one case, a woman threatened to press charges unless her husband paid ₹10 lakh. In another, a demand was made to transfer ownership of the family home to the wife's name in exchange for not initiating police action. These instances demonstrate how the provision's stringent nature, particularly the presumption of guilt and immediate arrest provisions, can enable coercion rather than justice.

Furthermore, the misuse extends beyond the couple to include extended family members. Kishwar highlights cases where elderly in-laws, minor siblings, and even distant relatives were named in complaints, often resulting in arrest and detention without preliminary investigation. In one notable case, a 70-year-old woman and her paralyzed husband were jailed based on vague allegations made by their daughter-in-law. Such practices not only overburden the judicial system but also erode public trust in protective laws. These examples reflect a broader pattern wherein the presumption of female victimhood is exploited, leading to false accusations and protracted legal harassment.

Over the years, the Supreme Court of India has consistently acknowledged the potential misuse of Section 498A of the Indian Penal Code, beginning with *Sushil Kumar Sharma v. Union of India*⁵⁸, where the Court emphasized that while the provision was enacted to protect women from cruelty, it was "being misused as a weapon" rather than a shield, and warned against its use as a tool for harassment of the husband and his relatives; in *Preeti Gupta v. State of Jharkhand*⁵⁹, the Court went further to note the alarming trend of false and exaggerated allegations implicating not only the husband but also his distant and elderly relatives, and urged the legislature to revisit and reform the law; building on these concerns, The Supreme Court in *Arnesh Kumar v. State of Bihar*⁶⁰, expressed concern over the "rampant misuse" of Section 498A,

⁵⁸ *Sushil Kumar Sharma v. Union of India*, [(2005) 6 S.C.C. 281]

⁵⁹ *Preeti Gupta v. State of Jharkhand*, [(2010) 7 S.C.C. 667]

⁶⁰ *Arnesh Kumar v. State of Bihar*, [(2014) 8 SCC 273]

describing it as “legal terrorism.” It said the provision was being used to settle personal scores, and often, innocent people, including aged parents, were being dragged into criminal litigation. The judgment referred to NCRB data from 2012, stating that nearly 200,000 people were arrested under 498A and 93.6% were released on bail, supporting the claim that a large number of cases ended in acquittals, implying many were false; this concern culminated in *Rajesh Sharma v. State of U.P.*⁶¹, where the Court sought to institutionalize scrutiny of such complaints through Family Welfare Committees, though this mechanism was later modified in *Social Action Forum for Manav Adhikar v. Union of India*⁶², which upheld the spirit of judicial caution while reiterating the primacy of statutory procedures; most recently, in *Chandan Kumar v. State of Bihar*⁶³, the Supreme Court reaffirmed the principles laid down in *Arnesh Kumar*, again expressing concern about false accusations and the need to prevent arrests based solely on unverified allegations, reinforcing a consistent judicial narrative on balancing protection with fairness in matrimonial litigation.

2.2.4 SEXUAL HARASSMENT

Sexual harassment is when someone makes unwanted sexual comments, advances, or actions that disrespect a person and make them feel uncomfortable. It can happen in places like workplaces, schools, or online, and can be done by anyone to anyone, regardless of gender. It includes different types like talking inappropriately, unwanted touching, or creating a threatening atmosphere⁶⁴. Unlike the typical portrayal of male perpetrators and female victims, harassment of men may be perpetrated by other men or by women. In both instances, the stigma is compounded by societal expectations of masculinity, which associate victimhood with weakness and vulnerability. Sexual harassment is about power. It is the abuse of power, not sex, that lies at its core. It happens when someone uses their position or influence to threaten or control others, usually those who are in weaker situations⁶⁵.

⁶¹ *Rajesh Sharma v. State of U.P.*, [(2017) 8 S.C.C. 746]

⁶² *Social Action Forum for Manav Adhikar v. Union of India*, [(2018) 10 S.C.C. 443]

⁶³ *Chandan Kumar v. State of Bihar*, (2021) 10 S.C.C. 733 (India)]

⁶⁴ Siniša Franjić, *Briefly About Sexual Offenses*, 3 Law and Economy 7 (2024).

⁶⁵ Savita Bhatti, *Sexual Harassment: A Matter of Power*, 38 *Econ. & Pol. Wkly.* 33 (2003)

Even though there is a lack of literature and case studies as sexual harassment against men, several real-life incidents in India have illustrated that men too face harassment in both professional and domestic settings. A marketing firm named Keltra, based in Kochi, Kerala, was exposed in April 2025 for subjecting male employees to degrading punishments under the pretext of performance motivation. News reports claim that workers who didn't reach sales goals were made to crawl with belts around their necks, mimic the urination of dogs, and even hold each other's genitalia while they were undressed. Licking food after it had been eaten and spat out was one of the cruelest forms of punishment. The owner of the company, Hubail, who imposed these sanctions, had previously been charged with sexually harassing female employees, exposing a troubling pattern of predatory conduct that transcended gender boundaries⁶⁶. This incident illustrates the extent to which toxic power dynamics and lack of legal accountability can create an abusive work environment, particularly for men who have little recourse under current legal frameworks.

In 2023, another instance surfaced when a male intern from Bengaluru accused his male team lead of sexual harassment. Though the Internal Complaints Committee (ICC) initiated an investigation, the complainant found his ability to seek legal redress severely restricted by the gender-specific language of India's Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act). The intern had limited access to justice since the Act does not recognize male victims, highlighting the legal gap that male and non-binary people encounter⁶⁷.

In April 2023, Chennai's Kalakshetra Foundation became the center of multiple allegations of sexual harassment, including from male students. After a former student filed a complaint, Hari Padman, an assistant professor at Kalakshetra's Rukmini Devi College of Fine Arts, was taken into custody⁶⁸. Widespread

⁶⁶ Chilling abuse at Kochi firm: Crawling, coercion, sexual harassment in the name of sales targets, Mathrubhumi (April 5, 2025) https://english.mathrubhumi.com/news/kerala/kochi-firm-workplace-abuse-1.10485220?utm_source=chatgpt.com

⁶⁷ 'Touched me inappropriately': Bengaluru firm intern alleges harassment, India today (Sep 25, 2023), <https://www.indiatoday.in/cities/bengaluru/story/bengaluru-firm-intern-alleges-sexual-harassment-by-manager-2438339-2023-09-20>

⁶⁸ The Times of India, *Kalakshetra Professor Hari Padman Accused of Sexual Abuse Arrested in Chennai*, TIMES OF INDIA (Apr. 3, 2023),

student demonstrations calling for action preceded the arrest. Meanwhile, four male students accused repertory members Sanjit Lal and Sai Krishnan of molestation and harassment, including groping and sending sexually explicit messages⁶⁹. However, two of the complaints were dismissed by the institution's Internal Committee, citing the gender-specific nature of the redressal mechanism.

2.3 CONCLUSION

Understanding the multifaceted nature of gender-based violence in India reveals that men, too, are affected in meaningful and often overlooked ways. Issues such as domestic abuse, false accusations under laws related to cruelty, sexual harassment, and sexual violence are not experienced by women alone. While statistical data may show a lower number of reported male victims compared to female victims, this disparity should not undermine the reality or seriousness of the abuse that men face. The cases that do come to light often reflect deep-rooted social stigma, institutional neglect, and legal invisibility, making it harder for male victims to seek justice or even speak out.

The lack of gender-neutral provisions in several Indian laws further compounds the problem, reinforcing the notion that only women can be victims of certain forms of violence. This narrow legal and social perspective creates significant gaps in protection and support for male survivors. Addressing gender-based violence in its entirety requires moving beyond binary understandings of victimhood and acknowledging that vulnerability to abuse is not confined to one gender. Recognizing and responding to the experiences of male victims is not about diluting the struggles of women, but about building a truly inclusive and just legal framework that serves all individuals affected by violence. Therefore, a serious and nuanced engagement with the issue is essential to ensure that no victim is left unheard or unprotected, regardless of gender.

<https://timesofindia.indiatimes.com/city/chennai/kalakshetra-professor-hari-padman-accused-of-sexual-abuse-arrested-in-chennai/articleshow/99225677.cms>.

⁶⁹ The News Minute, *Male Students Accuse Two Kalakshetra Employees of Molestation, Sexual Harassment*, THE NEWS MINUTE (Apr. 4, 2023), <https://www.thenewsminute.com/article/male-students-accuse-two-kalakshetra-employees-molestation-sexual-harassment-175429>.

CHAPTER 3- CRITICAL ANALYSIS OF THE EXISTING INDIAN LEGAL FRAMEWORK

3.1 INTRODUCTION

The legal framework in India addressing gender-based violence comprises a range of statutes aimed at preventing and responding to various forms of abuse, including sexual harassment, domestic violence, and sexual assault. These legal provisions have evolved over time, shaped by historical contexts, socio-cultural dynamics, and judicial interpretation. While the primary focus of these laws has traditionally been on protecting women, ongoing discourse in legal and academic circles has raised questions regarding the inclusivity and scope of such protections. This chapter undertakes a critical examination of this legal framework from the standpoint of male victims of gender-based violence. By analysing key legislations such as the Indian Penal Code, 1860 (IPC), Bharatiya Nyaya Sanhita, 2013, The Protection of Women from Domestic Violence Act, 2005 (DV Act), and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), the chapter highlights how the language, intent, and application of these laws often result in gender-exclusive protections.

3.2 BHARATIYA NYAYA SANHITA 2013⁷⁰

The main criminal law in India that regulates offenses, including those related to gender-based violence, is the Bharatiya Nyaya Sanhita, 2013 (IPC). Rape (Section 63), sexual harassment (Section 75), voyeurism and stalking (Sections 77 and 78, respectively), and cruelty by a husband or his family (Section 85) are among the specific provisions intended to address gender based violence. Although these clauses are important legal protections, male and non-binary victims are frequently denied access to legal recourse because of their gender-specific wording and structure. In this sense, the BNS's framework reflects a protective paradigm of criminal law that places a high priority on women's safety but has major shortcomings in guaranteeing gender-neutral

⁷⁰ Bharatiya Nyaya Sanhita, No. 45 of 2023

justice for all victims of domestic and sexual abuse. All the sections mentioned above will be dealt with in detail in the coming paragraphs.

3.2.1 RAPE

Most recently, with the enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS), India's new criminal code, replacing the colonial-era Indian Penal Code, there was widespread anticipation that the long-overdue reforms around sexual violence laws would finally reflect a more inclusive and contemporary understanding of gender and victimhood. However, that expectation was only partially met.

Under Section 63 of the BNS, the offence of rape is retained with a definition that closely mirrors the one found in Section 375 of the IPC. While it continues to include the broader range of acts introduced by the 2013 Criminal Law (Amendment) Act, such as non-penile penetration, oral sex, and use of objects or other body parts, the fundamental framing of the offence remains gender-specific. It still defines rape as an act committed by a man against a woman, which effectively sidelines male, transgender, and non-binary individuals from being acknowledged as victims under this section.

Section 63⁷¹ of BNS starts with the sentence: "A man is said to commit rape if he..." This opening line immediately establishes a gender-specific framework for the offence

⁷¹ 63. Rape- A man is said to commit "rape" if he—

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:

(i) against her will;

(ii) without her consent;

(iii) with her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt;

(iv) with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married;

(v) with her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent;

(vi) with or without her consent, when she is under eighteen years of age;

(vii) when she is unable to communicate consent.

Explanation 1- For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2- Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

of rape under Indian law. By expressly identifying the perpetrator as “a man” and, through the language of the section, implicitly recognizing only women as victims, the provision constructs rape as a crime that can only be committed by men against women. This gendered formulation continues throughout the section, which outlines a series of acts, such as penetration of the penis, insertion of objects or other body parts, manipulation causing penetration, and oral acts, that are criminalized only when perpetrated by a man upon a woman.

The term “rape” was introduced into the Indian legal system for the very first time in the 1860s, when the Indian Penal Code (IPC) was being drafted. The original definition of rape was quite limited, recognized only as penile-vaginal penetration and, crucially, only when perpetrated by a man against a woman. An important turning point in the development of Indian rape law was the 1979 Mathura rape case *Tukaram and Anr v. State of Maharashtra*⁷². Widespread outrage was caused by the Court’s reasoning, which implied that a lack of resistance or silence amounted to voluntary participation. The Criminal Law (Amendment) Act of 1983⁷³, which included significant revisions, was the result of extensive public complaints and an open letter addressed by four law professors, Upendra Baxi, Lotika Sarkar, Vasudha Dhagamwar, and Raghunath Kelkar, to the Chief Justice of India, questioning the rightness and conscience of the judgement.⁷⁴

Significant amendments were made by the act, and sections 376-B, 376-C, and 376-D were added in IPC to address custodial rape. Despite these modifications, the concept of rape remained narrow and only applied to women. The 172nd Report of the Law Commission of India (2000)⁷⁵ marked one of the earliest institutional recognitions of the need to reform the legal definition of rape to make it gender-neutral. Acknowledging that young boys are increasingly subjected to forced sexual assaults, the Commission noted that such acts inflict trauma and psychological harm comparable to that

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1- A medical procedure or intervention shall not constitute rape.

Exception 2- Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape.”⁷¹

⁷² *Tukaram v. State of Maharashtra*, (1979) 2 S.C.C. 143

⁷³ Criminal Law (Amendment) Act, No. 43 of 1983

⁷⁴ U.N. Research Inst. for Soc. Dev., *India: Gender and Development – Chapter 3*, UNRISD (2016), <https://www.unrisd.org/indiareport-chapter3> (last visited Apr. 24, 2025)

⁷⁵ Law Comm’n of India, *172nd Report on Review of Rape Laws*, ¶ 3.1.1 (2000)

experienced by female victims. It emphasized that both boys and girls are frequently victims of oral sexual acts and other forms of sexual abuse, including in contexts such as tourist destinations. The Commission explicitly supported replacing the term ‘rape’ with ‘sexual assault’ to better reflect the reality that sexual violence is not confined to penile-vaginal penetration, and that it may involve other forms of non-consensual penetration, including by objects or other parts of the body like fingers or toes. The proposal also recommended expanding the scope of Section 375 IPC accordingly, aligning it with similar reforms in various Western jurisdictions, specifically with that of the Criminal Code of Western Australia. These observations and recommendations, though not enacted at that time, laid a vital foundation for the constitutional and human rights-based argument for gender-neutral rape laws in India, recognizing male and other non-female victims as legitimate bearers of the right to bodily integrity and protection under the law.

A significant change to the Act came after the 2012 Nirbhaya gang rape case⁷⁶, which revealed serious shortcomings in India's criminal justice system's response to sexual violence and garnered previously unheard-of levels of public attention. The Justice J.S. Verma Committee was established in response to suggest extensive reforms, under the chairmanship of former Chief Justice of India, Justice J.S. Verma. The committee, also comprising Justice Leila Seth and senior advocate Gopal Subramaniam, was given a mandate to review and suggest amendments to criminal laws dealing with sexual violence. Within just 29 days, it produced a comprehensive 631-page report recommending sweeping reforms, including broader definitions of sexual assault, gender neutrality in laws, police accountability, and enhanced victim rights⁷⁷. Nonetheless, the Criminal Law (Amendment) Act, 2013, maintained the gender-specific character of the law because of the prevalent public conversation about women's protection.

Unlike its earlier, narrower version, the proposed amendment to Section 375 IPC incorporates multiple forms of sexual violence beyond traditional penile-vaginal penetration. The first part of the section reads as follows,

⁷⁶ *Mukesh v. State (NCT of Delhi)*, (2017) 6 S.C.C. 1

⁷⁷ Justice J.S. Verma, Justice Leila Seth & Gopal Subramaniam, *Report of the Committee on Amendments to Criminal Law*, Government of India (Jan. 23, 2013)

“A man is said to commit the offence of rape if he engages in certain acts involving sexual penetration under specific circumstances. These acts include: penetration, to any extent, of his penis into the vagina, mouth, urethra, or anus of another person, or causing the other person to do so with him or any other person; insertion, to any extent, of any object or any body part (other than the penis) into the vagina, urethra, or anus of another person, or causing the other person to do so; manipulation of any part of the other person's body so as to cause such penetration, or causing the person to do so; and application of his mouth to the vagina, anus, or urethra of another person, or making the person do so with him or any other person.”⁷⁸

Although the Justice Verma Committee Report did acknowledge that men and non-binary individuals can also be victims of sexual violence, the actual wording of the proposed amendment to Section 375 IPC still defined rape as something only a man can commit. So even though the acts listed, like oral, anal, and object penetration, were expanded, and the term “person” was used to describe the victim, the law still started with “a man is said to commit rape,” which keeps it gender-specific.

On one hand, the Committee was clearly trying to widen the understanding of what rape can involve and who it can affect. But on the other hand, the language used didn't completely break away from the idea that only men can be perpetrators. It seems like the intention was progressive, but the final draft stuck to traditional ideas.

After the Justice Verma Committee submitted its recommendations in January 2013, the Indian government passed the Criminal Law (Amendment) Act, 2013⁷⁹. While the Act did adopt several key proposals from the Verma Committee Report, not all of the Committee's recommendations were implemented.

Although the Committee had suggested making the rape law partially gender-neutral to include victims of any gender, the final law kept the gender-specific language, defining rape as an act committed by a man against a woman. This omission was particularly significant because the Verma Committee Report had used the term “person” to describe the victim, indicating a more inclusive approach; the 2013 Act continued to use “woman,” reflecting the legislative focus on addressing violence against women. While the Committee itself did not call for gender neutrality with respect to the accused,

⁷⁸ Id

⁷⁹ Criminal Law (Amendment) Act, No. 13 of 2013

it consciously used the term “person” for victims, pointing out the need for a broader, more inclusive understanding of who can be affected by sexual violence. The 2013 Amendment, however, reverted to the gender-specific term “woman” in its final wording, limiting the law’s applicability and effectively excluding male and non-binary survivors from the protection of rape laws under Section 375 IPC.

The Criminal Law (Amendment) Act, 2018⁸⁰, was passed in reaction to great public anger over the terrible Unnao and Kathua rape incidents, both of which involved young girls and underlined the critical need for more rigorous legal responses to sexual abuse⁸¹. The 2018 Amendment made substantial modifications in response, with a focus on tougher penalties for rape. Despite all the progressive changes made in this amendment, the law stuck to a gender-specific framework. The definition of rape in Section 375 of the IPC is still limited to what a male does to a woman, so excluding a wide variety of victims who don't fall into that category. Recognizing this major gap, a Private Member’s Bill, The Criminal Law (Amendment) Bill, 2019, was introduced in the Rajya Sabha by MP K.T.S. Tulsi, pushing for a much-needed shift towards gender neutrality⁸².

This Bill aimed to replace words like “man” and “woman” with “any person” in key sections like 375, 376C, and 376D of the IPC, basically making the law applicable regardless of gender, both in terms of who commits the crime and who suffers from it. It also proposed changes to Sections 354A to 354D, which deal with offences like sexual harassment, voyeurism, stalking, and disrobing, all of which currently assume that only women can be victims. The Bill wanted to correct that by making these sections gender-neutral too.

One of the more interesting additions was a new section, 375A, which would criminalize acts like groping or sexually threatening behaviour even if they don’t meet the standard definition of rape⁸³. This was an attempt to plug the gaps left in the law

⁸⁰ Criminal Law (Amendment) Act, No. 22 of 2018

⁸¹ Kuldeep Singh Sengar v. State of U.P., 2019 SCC OnLine All 7078, State of Jammu & Kashmir v. Arun Kumar Sharma & Ors., Criminal Appeal No. 01/2019, J&K High Ct. (2019)

⁸² The Criminal Law (Amendment) Bill, Bill No. XVI of 2019, Rajya Sabha (India), available at <https://sansad.in/getFile/BillsTexts/RSBillTexts/Asintroduced/crimnal-E-12719.pdf?source=legislation> (last visited May 15, 2025).

⁸³ The Criminal Law (Amendment) Bill, Bill No. XVI of 2019 § 11

when it comes to everyday sexual aggression that still causes trauma but often goes unpunished.

In order to ensure that transgender people are not excluded from the safeguards provided by the law, it also examined redefining “gender” and “modesty” under Sections 8, 10, and 8A of the IPC. Additionally, the Bill suggested amending the Indian Evidence Act and the Code of Criminal Procedure in order to make all of these modifications practical.

Moreover, the Bill grounded its proposals in constitutional principles, notably Article 14, which guarantees equality before the law, and Article 21, which ensures the right to life and personal liberty. It also drew persuasive support from the Supreme Court’s observations in *Criminal Justice Society v. Union of India & Ors.*⁸⁴, wherein the Court acknowledged the legitimacy of calls for gender-neutral rape laws and urged Parliament to give serious consideration to such reform.

Although the 2019 Bill didn’t become the law, it was a solid step in the right direction. It recognised what our current laws refuse to, that men and transgender individuals can be victims of sexual violence too. And if we’re serious about justice and equality, then our laws have to reflect that. Given India’s international obligations under the *Universal Declaration of Human Rights (1948)* and the core values of our own Constitution, updating rape laws to be truly inclusive isn’t just desirable, it’s long overdue.

Despite years of public discourse, academic debate, judicial observations, and even the introduction of a Private Member’s Bill seeking gender-neutrality in sexual offence laws, the BNS, which came into force on July 1st, 2023, does not move away from this binary approach. It does not adopt the term “person” in place of “woman” or “man,” nor does it create parallel provisions for other genders who may be victims of similar offences. This is particularly striking given that one of the key objectives of the BNS was to decolonize and modernize India’s criminal justice system.

Earlier, IPC’s failure to address gender-neutrality means that male and transgender survivors continue to be excluded from seeking justice under the primary rape provision, thereby forcing them to rely on other, less specific or less stringent sections of the law, like Sections related to “unnatural offences” that is Section 377 or general

⁸⁴ Criminal Justice Society of India v. Union of India & Ors., W.P. (C) No. 1262/2018

assault, which do not carry the same legal weight or social recognition. But there is no provision as to unnatural offences in the newly enacted BNS, which means men on men rape can no longer be prosecuted even under Section 377.

In essence, while the BNS represents a massive legislative overhaul in terms of language and structure, it misses a crucial opportunity to align India's rape laws with contemporary understandings of gender and human rights. The absence of gender-neutral language in such a foundational statute suggests that deep-rooted societal and institutional biases continue to shape how sexual violence is legislated.

As calls for inclusivity and equality in law grow louder, it becomes increasingly clear that legislative reform cannot stop at symbolic modernization. For India's criminal justice system to be truly progressive and just, it must recognize that any person, regardless of gender identity, can be a victim of sexual violence, and the law must provide them equal protection, dignity, and access to justice.

3.2.2 ASSAULT WITH INTENT TO OUTRAGE MODESTY

Section 74 of the Bharatiya Nyaya Sanhita (BNS) reads as “*Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished...*”⁸⁵. At first glance, the use of “Whoever” suggests that the perpetrator could be of any gender. However, later in the same section, “he” is used in reference to the offender, potentially implying a male-only perpetrator. This creates an ambiguity with regard to the gender of the offender, whether the offence under this section can be prosecuted against a man only, or a woman can also be brought under this section. In case of the victim, on the other hand, the section is clear as it can only be a woman.

In this regard, Section 2(10) of BNS should be looked into, as the section clarifies that the pronoun he or its derivatives includes female and transgender. If this definition is applied to Section 74, then the word ‘he’ used to refer to the offender in the section will be implied to have included females as well as transgender individuals. This principle has been judicially affirmed.

⁸⁵ Bharatiya Nyaya Sanhita, § 74 (2013)

In *State of Maharashtra v. Rovena @ Aadnya Amit Bhosle*⁸⁶, a Mumbai court held that Section 354 IPC (now Section 74 BNS) is gender-neutral in terms of the perpetrator. A female accused was charged under this section for allegedly assaulting another woman. The court relied on Section 8 IPC (now Section 2(10)) to conclude that the use of “he” does not restrict the offence. The court further clarified that a woman is just as capable as a man of assaulting or using criminal force against another woman, and there is no inherent reason to believe that a woman cannot possess the intention or knowledge that such an act would outrage the other woman’s modesty. Hence, under 74 BNS, both men and women can be held liable, making it clear, as regards the offender, the language of the section is gender neutral.

Under the Indian Penal Code, 1860, Section 354 IPC (the predecessor to Section 74 BNS) was placed under the chapter “*Offences Affecting the Human Body*”. Because of this placement, it can be interpreted that Section 354 does not specifically address sexual offences. In the *Rovena* case itself, the Court had observed that Section 354 does not constitute a sexual offence, as it falls under the chapter titled ‘*Offences Against the Human Body*.’ According to the Court, the offence under this provision is not the act of outraging a woman's modesty per se, but rather the act of assault or use of criminal force against a woman carried out with the intention or knowledge that such conduct would outrage her modesty. However, with the enactment of the Bharatiya Nyaya Sanhita, Section 74 has now been placed under the chapter “Offences Against Women and Children”. While the ingredients of the offence remain the same, the reclassification signals a shift in legislative emphasis, from general physical assault to a gendered violation of dignity and modesty.

3.2.3 SEXUAL HARASSMENT

Section 75 of BNS, which essentially replaced Section 354A, deals with the offence of “sexual harassment”. It defines the offense as a man committing any one of the four acts such as (i) physical contact or advances with “unwelcome and explicit sexual overtures”, (ii) a demand or request for sexual favours, (iii) showing pornography against the will of a woman, or (iv) making “sexually coloured remarks”⁸⁷. In effect, Section 63 mirrors the definition, which is given under Section 354A.

⁸⁶ *State of Maharashtra v. Rovena*, 2022 SCC OnLine Dis Crt (Bom) 15

⁸⁷ Bharatiya Nyaya Sanhita, § 75 (2013)

Section 75(1)(i) penalizes any unwanted physical contact or sexual advances by a man towards another person, such as groping, patting, or hugging with sexual intent. In practice, courts have treated this broadly, for example, unwelcome touching, hugging, or trying to kiss have been held to fall under “explicit sexual overtures.”⁸⁸ Under this Sub-section, there is no mention of the gender of the victim, but as the offence is now placed under the chapter titled Offences Against Women, it is implied that the victim is a woman. Even before, when the offence was placed under the chapter, offence against the human body, it was inferred that the offence was one committed against a woman, as that was the legislative intent behind the 2013 amendment. By its terms, therefore, a female perpetrator cannot be charged under 75(1)(i), and a male victim of a female’s unwanted sexual contact cannot invoke this provision. In a recent decision, the Kerala High Court clearly held that Section 354A (now 75 of BNS) of the IPC, on sexual harassment, cannot be applied to women accused of harassing other women⁸⁹. The case was about a domestic dispute where charges were framed against two female relatives, but the Court quashed the charges under 354A. Justice A. Badharudeen pointed out that the wording of the section specifically uses “a man”, which shows the legislature intended only men to be liable under it. So, even if there was some form of harassment, the law doesn’t allow women to be prosecuted under this section. The case shows how the law, as it stands, only recognises one kind of perpetrator and one kind of victim, making no space for situations where women might be the aggressors or where men or other genders may be the victims.

Sub-section (ii) criminalizes a demand or request for sexual favors. Again, the wording “Any man who commits... a demand or request for sexual favours” assumes a male perpetrator. Like Sub-section (i), sub-section (ii) is effectively limited to women as victims: in practice, a woman soliciting sex from a man would not fall under 75(1)(ii). The clause overlaps with the Vishakha/POSH definition of workplace harassment, and it remains gender-specific. Male victims of unwanted solicitation by women have no remedy under Section 75.

Sub-section (iii) covers “showing pornography against the will of a woman”. The text explicitly specifies a woman as the victim, further emphasizing the female-victim framing of 75(1)(iii). If a man forcibly shows porn to a woman, he can be charged; if

⁸⁸ Santhanaganesh v. State, 2024 SCC OnLine Mad 6373

⁸⁹ Lailu M Hussain and Anr v State of Kerala, CrI.M.C.Nos.7541 & 10135 of 2023

he shows it to a man, the section does not apply. A transgender woman complaining of such harassment successfully argued for inclusion, and the Delhi High Court ruled in 2018 that denying a trans woman recourse under 354A (75 BNS) would violate her equality and dignity rights. The police thereafter registered the FIR under 354A(i) on the transgender student's complaint. But for cis-gendered men, 354A(iii) offers no protection at all.

Sub-section (iv) punishes "making sexually coloured remarks", essentially lewd comments or gestures of a sexual nature. This offence is treated as less grave, punishable up to one year. Like the other clauses, it begins with "Any man who commits... making sexually coloured remarks". Thus, a man doing this can be convicted, but a woman making such remarks does not fall under 75(1)(iv).

Despite the chance to revise penal laws from the colonial era and rectify long-standing gaps in gender sensitivity and inclusivity, it has mainly kept the same gendered framework for handling sexual harassment, as Section 354A of the Indian Penal Code. The section was inserted by an amendment in 2013, criminalizing the offence of sexual harassment. Drawing from the Supreme Court's landmark decision in *Vishaka v. State of Rajasthan*,⁹⁰ which first established guidelines for workplace sexual harassment in the absence of statutory provisions, Section 354A was intended to fill this legislative vacuum.

Sexual harassment was first defined by the Supreme Court in its ruling on *Vishaka v. State of Rajasthan* as any unwanted sexually determined behavior, whether explicitly stated or implied, such as physical contact and advances, requests for sexual favors, sexually suggestive remarks, the display of pornography, and any other unwanted sexually suggestive verbal, nonverbal, or physical conduct. Even though this definition had a gender neutral tone, by placing the offense particularly in relation to a woman's vulnerability at work, the Court's later clarification reduces its reach. According to the ruling, "such behaviors turn into discrimination when a woman has a reasonable fear that objecting to them will hurt her chances of getting a job, interfere with her ability to get hired or promoted, or foster a hostile work environment."⁹¹ The goal of gender neutrality in workplace sexual harassment protection is undermined by this qualifying

⁹⁰ *Vishaka v. State of Rajasthan*, [(1997) 6 SCC 241]

⁹¹ *Id*

statement, which restricts the definition's wider applicability and leaves out similarly situated male or other non-female victims.

A Calcutta HC has also noted that “the offence under S.354A is gender specific and only a man can be prosecuted”⁹². This confirms that even if the victim were another woman, it cannot bind a female perpetrator.

The 172nd Law Commission Report (2000) and the Justice Verma Committee Report (2013) both acknowledged that men can also be victims of sexual violence. Despite recognising the need for gender-neutral reforms, these insights were not meaningfully incorporated into the legislative framework. Provisions like Section 75 BNS, while progressive in addressing workplace sexual harassment, continue to operate within a gender-specific paradigm, where only women are recognised as victims and only men as perpetrators. This legal asymmetry fails to reflect the lived realities of male and other gendered victims, thereby undermining the constitutional principles of equality and dignity.

Without extending the definition of sexual harassment to include male or queer victims, Section 75 of the BNS, which supersedes Section 354A of the IPC, still defines it solely in terms of a man engaging in certain behaviors towards a woman.

This replication indicates a missed legislative opportunity. The 172nd Law Commission Report and the Justice Verma Committee, two previous expert committees that had highlighted the lack of protection for male and other non-female victims in sexual crime laws, may have been incorporated into the new code. By failing to address these problems, Section 75 of the BNS perpetuates a gender-binary and exclusionary framework, indirectly supporting the perception that only women can be sexually harassed and only men can perform such crimes.

3.2.4 VOYEURISM

The Bharatiya Nyaya Sanhita (BNS) 2023, the new Indian criminal code, essentially carries forward Section 354C with minimal changes. Voyeurism is now codified as Section 77 of the BNS. The text of Section 77 of BNS reads almost identically, except that “Any man” is replaced by “Whoever”:

⁹² Susmita Pandit v. State of West Bengal, 2024 SCC OnLine Cal 7116

“Whoever watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed... or disseminates such image shall be punished...”⁹³.

Whereas the old law, which is Section 354C, reads as “Any man who watches, or captures the image of a woman engaging in a private act... in circumstances where she would usually have the expectation of not being observed or disseminates such image”.⁹⁴ By its plain text it applies only if the subject of the image is a *woman* and the offender is a “man”. In other words, male victims are excluded, and female perpetrators go unpunished under this provision. Section 354C is not a gender-neutral provision and cannot be used by male victims since it envisages only a woman being captured in the midst of a private act.

However, according to Section 77 of BNS, the offender can be any person, whereas the old law applied only to men. However, the victim is still specified as “a woman”. The definitions of “private act” and the punishment ranges remain unchanged. In short, BNS §77 preserves Section 354C’s core structure: it criminalizes secretly filming or observing a woman in a private act, or non-consensually sharing such images. The only textual change is using “whoever” instead of “any man” as the perpetrator. All other elements are the same. Thus, under BNS, the law can also make female perpetrators of voyeurism liable, unlike IPC 354C, which, by its terms, caught only male offenders.

In examining the rationale behind the criminalization of voyeurism, the Delhi High Court observed that, “The objective behind introducing the present offence was to curb sexual crime against women and to protect their privacy and sexual integrity. The law has to ensure that all citizens are able to enjoy a peaceful life with peace of mind, having an assurance that their privacy is respected, and such kind of trespass and mischief will attract the criminality of voyeuristic behaviour of the perpetrator of the crime. The sexual integrity of every person has to be respected, and any violation of the same should be dealt with a stern hand.”⁹⁵ Interestingly, while the initial statement foregrounds women as the intended beneficiaries of the provision, the rest of the Court’s reasoning is framed in gender-neutral language, referring broadly to “every person” and

⁹³ Bharatiya Nyaya Sanhita, § 77 (2023)

⁹⁴ Indian Penal Code, § 354B (1860)

⁹⁵ Sonu v. State, 2023 SCC OnLine Del 1955

“all citizens.” This reflects a subtle but important recognition that the right to privacy and sexual autonomy is not confined to women alone.

Section 354C, which came through the 2013 amendment, created a new crime of voyeurism, which carried forward through Section 77 BNS, but only in terms of female victims. Excluding men has no clear constitutional justification: by protecting *only* women’s privacy, the law arguably conflicts with Article 21’s guarantee of privacy for “every member of society.”⁹⁶ In effect, the section denies men the right to invoke voyeurism even when their privacy and sexual integrity are violated. This gap has been noted as an “avoidable constitutional problem”; the offence extends protection to one class (women) but not to another, despite everyone’s privacy being protected under Article 21⁹⁷.

Even now, with the implementation of BNS, the law still limits the victim to a woman. Male or non-female victims are not covered even under BNS. The phrase “image of a woman” should have been broadened to “image of a person” to truly cover all privacy violations, and the most important thing is that the offence is given under the chapter, “Offences against Women”. As with Section 354C, BNS Section 77 therefore affords legal remedy only to women who suffer privacy invasions; men or other genders have no parallel voyeurism offence protecting them.

3.2.5 STALKING

Section 78 of BNS, which replaces Section 354D, defines stalking in almost exactly the same terms as the latter. It begins as “*Any man who – (i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or (ii) monitors the use by a woman of the internet, e-mail or any other form of electronic communication – commits the offence of stalking.*”⁹⁸ The provisos and penalties mirror the old law: first-time conviction brings up to 3 years’ imprisonment and a fine; a repeat offence brings up to 5 years’ imprisonment and a fine. Importantly, Section 78 is placed under Chapter V of

⁹⁶ Shubham Priyadarshi, *A Coin Without Another Side: Voyeurism and Under-Inclusiveness*, SCC Online Blog (June 19, 2023), <https://www.scconline.com/blog/post/2023/06/19/a-coin-without-another-side-voyeurism-and-under-inclusiveness/>.

⁹⁷ Id

⁹⁸ Bharatiya Nyaya Sanhita, § 78 (2023)

the Act, which talks about Offences Against Women and Children, explicitly continuing to frame stalking as an offence against women.

The most striking feature of Section 78 is its gender specificity: it is an offence only when a man stalks a woman. By definition, male victims or any non-female victims are excluded. In other words, a woman who stalks a man, or any person who stalks a male or non-female target, or a woman who stalks a woman, cannot be prosecuted under this law. This one-sided framing has drawn criticism on equality grounds. It effectively says certain crimes occur *only* against women, undermining Article 14 and 15 of the Constitution.

Section 354D was inserted into the IPC by the 2013 Criminal Law (Amendment) Act in the aftermath of the 2012 Delhi rape case to criminalize stalking along with sexual harassment and voyeurism. Stalking is defined as, “*Any man who (i) follows a woman and contacts, or attempts to contact such woman repeatedly despite a clear indication of disinterest by such woman; or (ii) monitors the use by a woman of the internet, e-mail or any other form of electronic communication, commits the offence of stalking.*”⁹⁹ By closely examining both old and new provisions, one can clearly see there is absolutely no difference. Both section makes stalking an offence only when a man stalks a woman. It explicitly assumes a male perpetrator and a female victim. The proviso carves out exemptions for lawful investigations or justified conduct¹⁰⁰.

Criminal Justice Society v. Union of India & Ors., a PIL sought gender-neutral sexual violence laws in 2020, the Supreme Court dismissed it as an “imaginative proposal” – indicating the court’s reluctance to broaden statutes like 354D to include male victims. The judges stated that “We cannot direct the Parliament to collect data regarding it” and that the Parliament was responsible for altering the Indian Penal Code, not the Judiciary. In addition, Chief Justice Deepak Misra acknowledged that gender-based crimes can be committed by both men and women, but said the judiciary was not responsible for establishing the laws and procedures necessary to address these problems¹⁰¹.

⁹⁹ Indian Penal Code, § 354D (1860)

¹⁰⁰ *Id*

¹⁰¹ *Achin Gupta v. State of Haryana*, (2025) 3 SCC 756

3.2.6 CRUELTY

The Bharatiya Nyaya Sanhita (BNS) 2023 replaces IPC Section 498A with Section 85 BNS. Section 85 BNS states: “Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment, up to three years, and also liable to fine.”¹⁰² In effect, BNS 85 is a verbatim reproduction of IPC 498A, the only change being that the Explanation has been moved into a separate provision (Section 86 BNS). In BNS, Section 86 similarly defines “cruelty” in terms virtually identical to the old Explanation: wilful conduct likely to drive a woman to suicide or cause grave injury to her (mental or physical), or harassment to coerce dowry demands¹⁰³.

Section 498A of the Indian Penal Code was inserted by the Criminal Law (Second Amendment) Act, 1983, to curb dowry-related cruelty to married women. The law’s stated objective was “to protect women being subjected to cruelty by the husband or his relatives. Section 498A was designed as a non-bailable, cognizable offence targeted at protecting married women from domestic abuse and dowry harassment, which is now replaced by Section 85 of BNS. Upon enactment, it was hailed as a “salutary” legal tool to tackle the “grave suffering inflicted upon married women as a result of dowry-related offences and cruelty”¹⁰⁴.

The transition from IPC 498A to BNS 85 has not effected any substantive departure in law. The gender-specific object of the law, protecting married women from cruelty, is retained, as underscored by its placement in the “Offences against Women” chapter. In practical effect, BNS has not broadened or narrowed the scope of protection; rather, it has reaffirmed the IPC regime. The only notable innovation in BNS is structural and conceptual (placing 85 under “Women and Children” offences). Otherwise, the legislative framework for cruelty-on-women cases remains unchanged. Consequently, all the judicial interpretations and controversies that applied to 498A carry over to Section 85 of BNS.

Over the years, judicial experience has reflected concerns about the statute’s overbreadth and occasional misuse. In *Shivanand Mallappa Koti v. State of Karnataka*

¹⁰² Bharatiya Nyaya Sanhita, § 85 (2023)

¹⁰³ Id

¹⁰⁴ *Janshruti (People’s Voice) v. Union of India*, 2025 SCC OnLine SC 909

(2007), the Supreme Court reiterated that Section 498A was introduced in 1983 to address “widespread and deeply entrenched exploitation of women through traditional practices such as the dowry system”¹⁰⁵. But the Court also noted repeated reports of “irrespective” arrests of entire families on vague allegations, leading to a “total collapse” of marriages. In *Arnesh Kumar v. State of Bihar* (2014), the Court explicitly acknowledged that “Section 498A...is misused as [a] weapon rather than [a] shield by disgruntled wives”¹⁰⁶. To prevent abuse, the Supreme Court laid down strict procedural safeguards for 498A cases: arrests were to be the exception (not the rule) and subject to prior judicial authorization¹⁰⁷. Similar guidelines in *Rajesh Sharma v. State of U.P.* (2017) emphasized that 498A should not be “used to imprison husbands at the whims of complainants” and directed courts to consider bail liberally in borderline cases¹⁰⁸. These rulings reflect a consistent judicial effort to ensure that 498A remains focused on genuine cruelty, without turning it into a blunt instrument for harassment.

In practice, courts have grappled with balancing the law’s protective purpose against reports of false or exaggerated claims. The Supreme Court in *Janshruti (People’s Voice) v. Union of India*, a PIL filed to challenge the Constitutionality of Section 498A, has held that possible “isolated instances of misuse” do not invalidate a statute enacted for a salutary social purpose. As the Court explained, “for every instance of misuse, there are hundreds of genuine cases,” and the mere allegation of misuse “cannot be a ground for forming an opinion, while exercising writ jurisdiction”. It is sufficient to note that such statements, if made, must be evaluated on a case-by-case basis by the proper judicial forum and a strong emphasis was laid down by the court on taking a case-by-case approach because these kinds of issues frequently entail complex and multi-layered issues. Consequently, the Court refused to strike down or narrow the provision, observing that laws addressing entrenched disadvantages often entail “positive discrimination” under Article 15(3) of the Constitution.

The Court noted that while some complainants have indeed filed “false or exaggerated” dowry-cruelty cases to extort settlements, such misconduct must be addressed case-by-case and punished under the general penal provisions, such as Sections 182, 211 IPC, for false charges, rather than by diluting the 498A offense itself. Thus, judicial

¹⁰⁵ *Shivanand Mallappa Koti Vs. State Of Karnataka*, 2007 ALL SCR 1796

¹⁰⁶ *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273

¹⁰⁷ *Id*

¹⁰⁸ *Rajesh Sharma & Ors. v. State of Uttar Pradesh & Anr.*, (2018) 10 SCC 472

interpretation has aimed to preserve the core protective object of 498A, shielding women from domestic cruelty while simultaneously requiring prosecutorial and judicial caution to prevent abuse.

Section 498A of IPC and Section 85 of BNS are both expressly gendered: the victim is “a woman” married to the accused, and the only offenders are the husband or his relatives. This reflects the law’s context as a special measure for women’s protection. The law’s gendered design has significant implications for male victims of domestic cruelty. By its terms, a husband subjected to cruelty by his wife or her relatives cannot invoke Section 498A IPC or Section 85 BNS, and no analogous offence exists in either the IPC or the BNS. Male victims must rely on general criminal statutes, e.g., assault or abetment of suicide if extreme, or seek civil remedies, whereas female victims benefit from both 498A and the Protection of Women from Domestic Violence Act, 2005, which itself defines “aggrieved person” as a female. Critics argue that this asymmetry can leave male victims without adequate protection or support, and they call for gender-neutral reforms. For example, the NGO petition in Janshruti urged making 498A gender-neutral and introducing safeguards (like preliminary enquiry) against misuse.

The courts’ response to such calls, however, has been that any expansion of protection to men lies with Parliament. The Bench explicitly refused to legislate from the bench, noting that gender-neutral drafting is “exclusively” for the legislature to consider. Thus, while courts recognize that false allegations under 498A can unjustly injure husbands and their families, they have held that such grievances must be addressed through case-appropriate inquiries or by Parliament, not by nullifying the women’s protections.

As said earlier, just like 498A, Section 85 of BNS as well explicitly criminalizes cruelty only against women by their husbands or in-laws. Any domestic violence or cruelty by a wife falls outside its ambit. In other words, the new law preserves the gender-specific framing of its predecessor. This continuity was highlighted by the Supreme Court in 2024 when it reviewed the BNS. Justices Pardiwala and Misra observed that Sections 85 and 86 BNS were “to all intents and purposes, verbatim” reproductions of 498A,

and the Court even “asked the Centre to consider making necessary changes in sections 85 and 86 of the BNS to avoid misuse”¹⁰⁹. However, it did not itself alter the provisions.

3.3 DOMESTIC VIOLENCE ACT, 2005¹¹⁰

The Protection of Women from Domestic Violence Act, 2005, the long title and preamble of the Act make clear that it was enacted to protect women. Its stated object is “to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family”. The Statement of Objects and Reasons likewise emphasizes a civil remedy to protect “the woman from being victims of domestic violence,”. In other words, the Act was conceived exclusively as a women’s protection law complementing criminal provisions like Section 498A IPC. As the Supreme Court noted in *Hiral P. Harsora v. Harsora*, the Legislature recognized that domestic abuse is “widely prevalent,” and existing criminal law gave limited relief to women¹¹¹. From this outset, the Act’s focus on women is explicitly clear.

The Act’s definitions and remedies reinforce its gender-specific design. Section 2(a) defines an “aggrieved person” as “any woman” who has been in a domestic relationship and who alleges domestic violence by the respondent. By definition, no man can be an aggrieved person under this Act¹¹². Correspondingly, Section 2(q) originally defined “respondent” as “any adult male person” in a domestic relationship with the aggrieved¹¹³. A narrow proviso did allow a female aggrieved to sue certain female relatives of her husband, but the core definition assumed the abuser is male. Thus, the Act explicitly assumes a female victim and a male perpetrator. Only after *Hiral P. Harsora* (2016) did the Supreme Court delete the words “adult male” as declaring it unconstitutional¹¹⁴. However, the Court did not alter the definition of “aggrieved person” it remains limited to women. As a result, even today, the statute treats domestic violence as an inherently gendered phenomenon: women can be victims (aggrieved

¹⁰⁹ **Press Trust of India**, *Consider Changes in Law to Avoid Misuse of Cruelty Against Women* *Clauses: Supreme Court*, NDTV (May 9, 2024), <https://www.ndtv.com/india-news/consider-changes-in-law-to-avoid-misuse-of-cruelty-against-women-clauses-supreme-court-5583477>.

¹¹⁰ The Protection of Women from Domestic Violence Act, No. 43 of 2005,

¹¹¹ *Hiral P. Harsora and Ors. Vs. Kusum Narottamdas Harsora and Ors.*, MANU/SC/1269/2016

¹¹² The Protection of Women from Domestic Violence Act, § 2(a) (2005)

¹¹³ The Protection of Women from Domestic Violence Act, § 2(q) (2005)

¹¹⁴ Supra note 111

persons), and post-Harsora abusers may be of either sex, but men cannot claim the status of aggrieved person.

Domestic violence itself is defined very broadly in Section 3. Any act or omission of the respondent that harms or injures the aggrieved person in health, safety, life, limb, or well-being counts as domestic violence¹¹⁵. This includes “physical abuse, sexual abuse, verbal and emotional abuse, and economic abuse”. The Act even provides a separate explanation for defining the above-mentioned kinds of abuse. In practice, all reliefs under Chapters IV to V of the Act are available only to the aggrieved woman. For example, an aggrieved woman may apply for a protection order restraining the respondent from further abuse, for a residence order securing her right to stay in the shared household, for monetary relief (maintenance and damages), for custody orders of minor children, and for compensation. These remedies are enforced by the Magistrate via civil orders. In short, the Act creates a suite of civil protections available exclusively to women victims of domestic violence. The remedies available under Act are;

- Protection Orders (Sec 18): The Magistrate can prohibit the respondent from committing any act of domestic violence or contacting the aggrieved¹¹⁶.
- Residence Orders (Secs 17 & 19): Every woman has the right to reside in the shared household and not be evicted; the court can enforce this right¹¹⁷.
- Monetary Relief (Secs 20, 22): The court may order the respondent to pay maintenance to the aggrieved woman and compensation for her losses (loss of earnings, medical expenses, etc.)¹¹⁸.
- Custody Orders (Sec 21): Temporary custody of children can be granted to the aggrieved woman, with appropriate visitation rights to the respondent¹¹⁹.

¹¹⁵ The Protection of Women from Domestic Violence Act, § 3 (2005)

¹¹⁶ The Protection of Women from Domestic Violence Act, § 18 (2005)

¹¹⁷ The Protection of Women from Domestic Violence Act, § 17 (2005), The Protection of Women from Domestic Violence Act, § 19 (2005)

¹¹⁸ The Protection of Women from Domestic Violence Act, § 20 (2005), The Protection of Women from Domestic Violence Act, § 22 (2005)

¹¹⁹ The Protection of Women from Domestic Violence Act, § 21 (2005)

- Other Rights: The Act further mandates legal aid, medical examination, and counseling for the aggrieved woman, underscoring the notion of the woman as the protected party.

Each of these protections explicitly presupposes a female victim. No similar provision exists for male victims under this Act or any other Act.

Because “aggrieved person” is defined as a woman and remedies are framed for her benefit, male victims are entirely excluded from the Act’s protections. A man who suffers domestic abuse from his wife or partner has no recourse under the DV Act. Domestic violence is thus treated as a one-way problem, violence by men against women. Academics have noted this gulf: one recent comparative study observes that Indian laws like the DV Act “exclusively protect women, leaving men without legal recourse”¹²⁰. In fact, male victims of domestic violence in India remain largely invisible and stigmatized, and it is due to a lack of legal support¹²¹. The DV Act’s very title and wording (“Protection of Women from Domestic Violence”) make clear it was never intended to cover male victims.

No Supreme Court ruling has altered the definition of “aggrieved person”. Consequently, even after Hiral P. Harsora eliminated the “adult male” limitation for respondents, a man could not become an aggrieved person under the Act. In practice, every reported instance of a man seeking DV relief has run up against this bar. For example, in *Mohammed Zakir v. Shabana* (Karnataka High Court, April 2017), the petitioner – a husband claiming abuse by his wife – argued that after Harsora any aggrieved person (male or female) could invoke the Act. Justice Byrareddy agreed *prima facie*, holding that if Section 2(q) is read without “adult male,” “any person, whether male or female, aggrieved and alleging violation of the Act could invoke” its provisions¹²². The High Court noted that the complaint “could not have been trashed on the ground that the Act could only be in respect of women”. This effectively meant a husband might be allowed to sue his wife under the DV Act. In a rare reported case, a Jammu magistrate similarly issued notice on a husband’s DV complaint against his wife, explicitly citing Harsora and Zakir: “as per these judgments, the husband can file

¹²⁰ Asha, Dr. Ayushi Agarwal, Inclusive Justice and Sustainable Legal Protections Against Domestic Violence: A Comparative Study of UK, Canada, and Australia, *JIER*, Vol 5 Issue 2(2025)

¹²¹ *Id*

¹²² *Mohammed Zakir v. Shabana*, Criminal Petition No. 2351 of 2017 Karnataka HC

a case against wife” under the Act¹²³. In that case the court took cognizance of the husband’s Section 12 application, observing there were “sufficient grounds to proceed”.

However, neither of these developments created a binding new law for male victims. In *Zakir v. Shabana* itself, the Karnataka judge ultimately withdrew his order (on appeal), and the Supreme Court remitted the case to trial without definitively holding that the Act applies to men¹²⁴. Thus no High Court or Supreme Court decision has firmly established a right for male victims under the DV Act. Courts have instead reaffirmed that the Act is an exclusively female-oriented remedy. For example, in late 2024 the Supreme Court reiterated that the DV Act is a “piece of civil code which is applicable to every woman in India”¹²⁵. In *Suchitra Mohanty v. Karnataka High Court* the Bench held that the statute’s scope is “to protect women victims of domestic violence occurring in a domestic relationship,” a phrase that explicitly excludes men.

In contrast, some courts outside the DV Act context have emphasized gender-neutral justice. A recent Delhi High Court decision dealing with assault (not the DV Act) stressed that “men who are victims of violence at the hands of their wives often face unique difficulties,” and warned against treating abuse differently based on gender. That court urged a “gender-neutral approach”, insisting that “men and women are treated alike” by the law¹²⁶. Beyond a few court observations pushing for neutrality, there’s no proper law like the DV Act that lets a male victim get protection or maintenance from an abusive partner.

3.4 THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

The POSH Act, 2013 was enacted to implement the Supreme Court’s Vishaka guidelines (1997) and ensure a “safe and secure working environment for women”. Its long title explicitly provides “protection against sexual harassment of women at

¹²³ Notice to Wife in Complaint Filed by Husband for Domestic Violence, Daily Excelsior (Dec. 4, 2021), <https://www.dailyexcelsior.com/notice-to-wife-in-complaint-filed-by-husband-for-domestic-violence/>.

¹²⁴ *Mohammed Zakir vs Shabana* CRIMINAL APPEAL NO(S).926/2018)

¹²⁵ Suchitra Kalyan Mohanty, *Domestic Violence Act Caters to Women of All Religions: SC*, The New Indian Express (Sept. 27, 2024), <https://www.newindianexpress.com/nation/2024/Sep/27/domestic-violence-act-caters-to-women-of-all-religions-sc>

¹²⁶ *Jyoti Alias Kittu V The State Govt. Of Nct Of Delhi*, BAIL APPLN. 262/2025 , Delhi HC

workplace” and “prevention and redressal of complaints”¹²⁷. The Act thus explicitly identifies women as the sole class of complainants and frames sexual harassment as a gendered wrong. The Act, both in how it was drafted and in its overall aim, clearly focuses on stopping gender-based violence against women in the workplace, like threats or a hostile environment. But the way it's structured, it leaves out men altogether.

Section 2(a) defines an “aggrieved woman” as any woman of any age, employed or not, including domestic workers, who alleges sexual harassment¹²⁸. This definition expressly excludes all males, only a woman can be the complainant. In other words, the Act does not contemplate a male “aggrieved person.” But to the contrast, the “respondent” is defined simply as “a person” against whom the woman has complained, thus in theory allowing a male or female harasser¹²⁹. But this formulation only emphasizes that the Act focuses on protecting women, not on who the harasser may be. “Sexual harassment” is defined under Section 2(n) by reference to the Vishakha judgment, as unwelcome sexual conduct such as physical advances, demands for sexual favors, sexual remarks, showing pornography, or other sexually determined conduct¹³⁰. Additionally, the illustrations in Section 3(2) speak of the female worker’s status or safety – e.g., threats affecting “the woman’s employment or hostile environment affecting “her” health. Thus even the concept of harassment is depicted from a woman’s perspective. In short, the Act’s definitions embed gender specificity and only women are “aggrieved,” and harassment is described as against her.

According to Section 4 of the Act, every employer is supposed to establish an Internal Complaints Committee to receive complaints, inquire into and report its findings to the employer or the District Officer appointed under Section 5 of the Act. Section 9 talks about Complaint, according to which only an aggrieved woman may file a complaint within a period of three months from the date of the incident. The Act does not allow a man to initiate an ICC complaint.

¹²⁷The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013

¹²⁸ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, § 2(a) (2013)

¹²⁹ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, § 2(m) (2013)

¹³⁰ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, § 2(n) (2013)

Additionally, Section 27 dealing with the Cognizance of the court provides that courts may take cognizance of any offense under this Act only upon a complaint by an aggrieved woman or a person authorized by the ICC/Local Committee¹³¹. In effect, no man can file a criminal complaint for POSH violations. Section 27 thus legally bars male victims from bringing any POSH-based prosecution or seeking a remedy in court.

Indian courts have consistently understood POSH as women-centric. In a recent landmark order, the Supreme Court rejected calls to make the Act gender-neutral. It refused to replace “aggrieved woman” with “aggrieved person”¹³² stating that extending the Act to men “would dilute the whole purpose” of protecting women at work. The Court expressly noted that the POSH framework was “primarily intended to protect ‘aggrieved women’ framed with regard to Article 15(3)”.

To date, no Indian court has recognized a male complainant under the POSH Act. Attempts by employers or litigants to argue for male coverage have not succeeded. Legal commentators and advocacy groups have sharply criticized POSH’s exclusion of men. A Nishith Desai Associates report explains that the Act’s safeguards “are not applicable to ‘men’ victims,” although employers may voluntarily extend policies¹³³. Similarly, Economic Times commentary by employment experts calls POSH an archaic woman-centric law that by design ignores men and other genders¹³⁴. The journalist notes that male harassment victims routinely approach police only to be told “the Act specifically applied only to women”.

¹³¹ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, § 27 (2013)

¹³² Binu Tamta & Anr. v. High Court of Delhi & Ors., Miscellaneous Application No. 2308/2023 in W.P.(C) No. 162/2013, (2023, November 7)

¹³³ Nishith Desai Assocs., *Prevention of Sexual Harassment at Workplace* (2018), https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Papers/Prevention_of_Sexual_Harassment_at_Workplace.pdf

¹³⁴ Sridhar Rajagopalan, *Let’s Not Delay the Process of Converting Archaic POSH Law into a Gender-Neutral Law*, **Economic times** (Dec. 26, 2023), <https://hr.economictimes.indiatimes.com/news/workplace-4-0/diversity-and-inclusion/lets-not-delay-the-process-of-converting-archaic-posh-law-into-a-gender-neutral-law/106294098.ETHRWorld.com+3ETHRWorld.com+3ETHRWorld.com+3>

3.5 EQUALITY AND PROTECTIVE DISCRIMINATION UNDER THE INDIAN CONSTITUTION.

Indian Constitution guarantees not only to its citizens, but to everyone, equality before law and equal protection of law. While Article 14 protects the right to equality, Article 15 prohibits individuals from being discriminated against on the basis of sex, religion, caste, race, and place of birth.¹³⁵ In this light, gender-specific laws that exclude male victims of sexual or domestic violence seem to be in violation of constitutional provisions and warranting to be held ultra vires under Article 13 of the Constitution. But the Constitution itself has created a protective umbrella for such legislation.

Article 15(3) of the Constitution allows the State to make special provisions for women and children, even if they depart from strict formal equality. This protective discrimination is intended to address systemic inequality and historical subjugation. Laws such as the Protection of Women from Domestic Violence Act, 2005, or the gender-specific definition of rape under Section 375 IPC (now Section 63 of the Bharatiya Nyaya Sanhita, 2023), Sections 354A, 354C, 354D dealing with sexual harassment, voyeurism and stalking, Section 498A of IPC dealing with cruelty (Sections 75, 77, 78, 85 respectively of the BNS), Protection of Women from Sexual Harassment Act, 2013 are examples of such legislative accommodations.

While safeguarding the rights of women is undeniably important, it is equally essential to ensure that justice is not delivered at the cost of excluding men from its ambit. The assumption that harm occurs only to women and that men are always the perpetrators is a reductive and flawed understanding of reality. What is concerning is that our legal framework currently offers no formal recourse for male victims; justice appears to be a one-way street, available only to females, leaving others unrecognized and unprotected.¹³⁶

It can be argued that the current provision is valid because it fits under Article 15(3) of the Constitution, which allows special laws for women and children. However, this argument is not entirely correct. While it's true that Article 15(3) is an exception to the general rule of non-discrimination under Article 15, it does not give the government

¹³⁵ INDIA CONST. arts. 14 & 15

¹³⁶ Paridhi Malik & Sushant Dabral, *The Unheard Cries of Gender Neutrality*, 2 Int'l J. Legal Res. & Analysis 7 (2024)

unlimited power. Article 15(3) is still part of the larger section of the Constitution that focuses on equality¹³⁷. Therefore, any law or action taken under it must still aim to promote fairness and reduce inequality as much as possible¹³⁸.

The offence of rape, as defined under Section 375 of the Indian Penal Code (now replaced by Section 63 of the Bharatiya Nyaya Sanhita, 2023), remains the sole penal provision addressing acts of extreme sexual assault that violate the bodily integrity of a victim. Notably, there exists no alternate statutory mechanism to redress such grievous violations when the victim is male. In this context, the argument that “the case for treating crimes of like heinousness similarly appears to be stronger than that calling for a distinction to be made between penetration of the female body and penetration of the male body, whatever the sex of the actor”¹³⁹ gains constitutional relevance. The same goes for the other offences enumerated above, which can be termed as gender based violence.

While it is not the intent here to challenge the constitutionality of these sections solely on the grounds of gender specificity, their current form reveals significant inadequacies in fulfilling the State’s broader constitutional obligations under Articles 14 and 21. The absence of any penal provision recognising male victims of these offences raises serious concerns about the equal protection of law, a right that the Constitution guarantees to all persons, regardless of gender.

¹³⁷ Gautam Bhatia, *The Transformative Constitution* (1st Edn., HarperCollins Publishers, 2019) p. 7.

¹³⁸ Shubham Priyadarshi, “Maintaining Equality in Claiming Maintenance” (LiveLaw, 1-12-2022) (accessed on 19-5-2023)

¹³⁹ Jocelynn A SCUTT, “Reforming the Law of Rape: The Michigan Example” (1976) 50 *Australian Law Journal* 615 at 617

CHAPTER 4- GENDER BASED VIOLENCE AGAINST MEN - A COMPARATIVE ANALYSIS

4.1 INTRODUCTION

Gender-based violence (GBV) has long been conceptualized and legislated around the experiences of female victims, often sidelining the reality that men, too, face serious violations of their bodily autonomy, dignity, and personal safety. While the gendered nature of most violence cannot be denied, the assumption that only women are victims and only men are perpetrators has led to significant blind spots in many legal systems, particularly in countries where laws are drafted with gender-specific language. This chapter critically examines how selected international jurisdictions have addressed this gap by enacting gender-neutral legal provisions that recognize and protect male victims of gender-based violence across a variety of contexts.

This chapter explores the legal treatment of male victims under five broad categories of GBV: rape and sexual assault, workplace sexual harassment, voyeurism, stalking, and domestic violence. It analyzes the statutory language and judicial interpretations, such as those of the United States, the United Kingdom, Canada, Norway, Sweden, and Australia. These jurisdictions have, to varying degrees, adopted inclusive legal definitions that focus on the nature of the act and the lack of consent, rather than the gender of the victim or perpetrator.

By contrasting these developments with the Indian legal framework, particularly the provisions under the Bharatiya Nyaya Sanhita, 2023 (BNS), this chapter reveals both the advances made in foreign jurisdictions and the limitations that persist in India. The objective of this chapter is not to diminish the experiences of female survivors but rather to advocate for the legal recognition of all victims, regardless of gender, within a human rights-based framework. A truly equitable legal system must recognize that GBV is not confined by gender, and that the law must be equally protective and responsive to all who suffer from it.

The United States, the United Kingdom, Canada, Norway, Sweden, and Australia were chosen for this study based on two main factors. First, these countries represent a mix of legal systems, common law, and civil law, which allows for a broader understanding of how different legal traditions influence the development and reform of gender-based violence laws, and how all have taken clear steps toward adopting gender-neutral laws

on gender-based violence. Second, these countries offer accessible, high-quality legal materials, including statutes, case law, and parliamentary records, all available in English. This made it possible to carry out detailed and reliable legal analysis. Countries from regions like Asia, Africa, and Latin America were not included due to certain limitations. These include the narrow scope of a single dissertation chapter, language barriers, limited access to translated legal texts, and the fact that many of these jurisdictions are still in the early stages of debating gender-neutral reforms. As a result, the selected countries provide a more practical and meaningful basis for comparative analysis. The focus is on how different legal systems have addressed inclusivity in GBV laws, rather than comparing all regions globally.

4.2 RAPE

4.2.1 UNITED STATES OF AMERICA

At the federal level, the U.S. Criminal Code defines sexual offences in gender-neutral terms. United States Code, Sections 2241–2244 prohibit “sexual abuse,” “aggravated sexual abuse,” and related crimes, applying to “*another person*” without regard to gender¹⁴⁰. U.S.C. Section 2242 makes it a crime to “knowingly ... cause another person to engage in a sexual act by... placing that other person in fear,” or to engage in sex with someone incapable of consent¹⁴¹. This language plainly includes male victims. Likewise, federal laws against sexual abuse of minors or in prisons use broad terms (“another person”) and do not specify the victim’s sex¹⁴².

Federal enforcement is generally limited to special cases, which means, since the United States Criminal Code (Title 18 of the U.S. Code) is federal law, the federal government may investigate and prosecute only those crimes expressly defined in that code and occurring within its jurisdiction, such as offenses on federal land (e.g., national parks or post offices) or crimes involving federal custody (e.g., transporting a kidnapped person across state lines or escaping from a federal prison). The Violence Against Women Act (VAWA) 1994, while its initial framing and implementation predominantly focused on women as victims, the 2013 reauthorization¹⁴³ marked a

¹⁴⁰ 18 U.S.C. §§ 2241–2244 (2018 ed)(Supp. V 2024)

¹⁴¹ 18 U.S.C. § 2242 (2024)

¹⁴² Supra note 140

¹⁴³ Reauthorization is when Congress reviews and extends an existing law’s authority, often updating its provisions or funding, before it expires

pivotal shift by introducing express anti-discrimination protections¹⁴⁴. United States Code now provides that *“No person in the United States shall, on the basis of actual or perceived race, colour, religion, national origin, sex, gender identity, sexual orientation, or disability, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity funded in whole or in part with funds made available under [VAWA]”*¹⁴⁵. This amendment effectively made it unlawful for any VAWA-funded service provider to deny assistance or resources to victims on the basis of their gender, gender identity, or sexual orientation, thereby legally affirming the rights of male and LGBTQ+ survivors to access the same protections previously extended mainly to women¹⁴⁶.

In addition to this foundational non-discrimination clause, various grant programs under VAWA, including the STOP (Services, Training, Officers, Prosecutors) Grant Program, Transitional Housing Assistance, and the Legal Assistance for Victims Program, have adopted gender-neutral definitions of “victim”, ensuring that access is no longer limited by gender. Although VAWA refers to women in its title, the statute makes clear that the protections are for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation¹⁴⁷.

At the state level, nearly all U.S. jurisdictions have repealed archaic gendered rape statutes. Today 47 out of 50 states (and DC) define “rape” or “sexual assault” in gender-neutral terms. For example, California Penal Code Section 261 makes it a crime for *“a person”* to have intercourse without consent¹⁴⁸; Illinois statute prohibits *“any person”* from forcing another into penetration¹⁴⁹. Similarly, New York Penal Law Section 130.35 uses the term “person” throughout and specifically recognizes that both men and women may be victims or perpetrators¹⁵⁰. Florida Statute Section 794.011 also

¹⁴⁴ Pub. L. No. 113-4, 127 Stat. 54 (Mar. 7, 2013).

¹⁴⁵ 34 U.S.C. § 12291(b)(13)(A) (2024)

¹⁴⁶ Pub. L. No. 113-4, § 3(4), 127 Stat. 54, 57 (2013), after enforcement, 42 U.S.C. § 13925(b)(13) (Supp. V 2013), Office on Violence Against Women, VAWA 2013 Nondiscrimination Provision: Making Programs Accessible to All Victims of Domestic Violence, Sexual Assault, Dating Violence, and Stalking, U.S. Dep’t of Justice (Apr. 9, 2014), <https://www.justice.gov/archives/ovw/blog/vawa-2013-nondiscrimination-provision-making-programs-accessible-all-victims-domestic>

¹⁴⁷ U.S. Dep’t of Justice, Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence (Dec. 2015), <https://www.justice.gov/crt/file/799316/dl?inline=>.

¹⁴⁸ Cal. Penal Code § 261 (West 2023)

¹⁴⁹ 720 Ill. Comp. Stat. 5/11-1.20 (2023)

¹⁵⁰ N.Y. Penal Law § 130.35 (McKinney 2023)

describes sexual battery as an act by a “person” against “another person,” and defines penetration in neutral terms¹⁵¹. In Texas, Penal Code Section 22.011 criminalizes sexual assault committed by “a person” against “another person,” allowing for the prosecution of sexual violence regardless of gender¹⁵².

These provisions reflect a growing legislative trend across the United States to move away from the historical, gendered definitions of rape, aligning more closely with international human rights standards and offering a sharp contrast to Indian legal provisions such as Section 375 of the IPC or Section 63 of the Bharatiya Nyaya Sanhita, both of which define rape in inherently gender-specific terms, recognizing only women as victims and only men as perpetrators. All but three jurisdictions in the United States now have gender-neutral rape laws, with Georgia, Mississippi, and Idaho being the three exceptions¹⁵³. Georgia’s law, for instance, still defines rape as a man’s carnal knowledge of a female¹⁵⁴. In practice, courts routinely interpret state rape statutes to include male victims where the statute uses neutral language. For example, several states have convicted female defendants of rape or sexual assault against men by treating forced oral/anal penetration as non-consensual sexual acts. For instance, the case of Cierra Ross in Chicago garnered national attention when she was convicted of aggravated criminal sexual abuse and armed robbery after forcing a man at gunpoint to engage in sexual acts¹⁵⁵. This case underscores the application of gender-neutral statutes to female perpetrators and male victims.

4.2.2 UNITED KINGDOM (England, Wales and Northern Ireland)

England & Wales (and similarly Northern Ireland) reformed rape law from 2004 to 2008. The Sexual Offences Act 2003 (England & Wales) defines rape as:

“A person (A) commits an offence if— (a) he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis, (b) B does not consent to the penetration, and (c) A does not reasonably believe that B consents.”¹⁵⁶

¹⁵¹ Fla. Stat. § 794.011 (2023)

¹⁵² Tex. Penal Code Ann. § 22.011 (West 2023)

¹⁵³ John C. Thomas & Jonathan Kopel, Male Victims of Sexual Assault: A Review of the Literature, 13 Behav. Sci. 304 (2023), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10135558/>.

¹⁵⁴ GA Code § 16-6-1 (2024).

¹⁵⁵ CBS News Chicago, Woman Charged With Raping Man, Bond Set At \$75K, CBS News (Sept. 5, 2013), <https://www.cbsnews.com/chicago/news/woman-charged-with-raping-man-bond-set-at-75k/>

¹⁵⁶ Sexual Offences Act 2003, c. 42, § 1 (UK)

This definition requires the perpetrator to have a penis, but imposes no requirement on the victim's gender (the victim is simply "another person"). Thus, a male victim raped by a man is included as rape. A female perpetrator, however, cannot satisfy the requirement, "with his penis" part of the section but can be brought under forced sexual penetration by a woman (e.g. with a finger or object), which is charged under section 2 (Assault by Penetration) or section 3 (Sexual Assault) of the Act, and "Causing a person to engage in sexual activity" (section 4) if the victim is made to penetrate someone. The law in Northern Ireland (Sexual Offences (NI) Order 2008, Art. 5) is virtually identical in requiring a penis for "rape".

Sections 2, 3, and 4 of the Sexual Offences Act 2003 expand on the concept of sexual assault beyond the narrow definition of rape provided in Section 1, addressing other forms of non-consensual penetration and sexual activity. Section 2 criminalizes assault by penetration, which involves intentionally penetrating another person's vagina or anus with a part of the body or an object, without consent and without reasonable belief in consent. This provision recognizes that sexual violence can occur through means other than penile penetration and applies to all genders, thus offering protection to a broader spectrum of victims, including male and transgender individuals. Section 3 deals with sexual assault, defined as intentionally touching another person in a sexual manner without their consent or reasonable belief in consent. This section covers a wide range of unwanted sexual contact that falls short of penetration but still constitutes a serious violation of bodily autonomy. Section 4 focuses on causing a person to engage in sexual activity without consent, which includes compelling another individual to participate in sexual acts through threats, coercion, or deception. Together, these sections reflect a comprehensive approach to sexual offences that transcends gender binaries, aiming to protect all individuals from various forms of sexual violence, and they mark a significant departure from older, more gender-specific statutes. For a male victim assaulted by a woman (without penis), English law would normally prosecute as assault by penetration.

Although the definition of rape under Section 1 of the Sexual Offences Act 2003 requires penile penetration, meaning a woman cannot be the principal offender, female offenders can still be held criminally liable as accomplices. If a woman aids, abets, counsels, or procures the rape (for example, by restraining the victim or facilitating the

assault), she can be convicted as an aider and abettor to rape¹⁵⁷. This principle was affirmed in *R v Cogan and Leak* [1976] QB 217¹⁵⁸. Other common law jurisdictions, such as Canada and the United States, adopt gender-neutral definitions of sexual offences, allowing women to be prosecuted either as principal offenders or as accomplices under general criminal liability provisions. In India, by contrast, Section 63 of BNS retains a gender-specific definition of rape, where only a man can commit rape and only a woman can be a victim. However, Indian law does recognize a woman's liability for abetment under Sections 109 and 34 of the IPC. The Supreme Court in *Priya Patel v. State of M.P.* (2006)¹⁵⁹ acknowledged that while a woman cannot be charged as the principal offender under Section 375 (63 BNS), she may still face punishment for abetting the offence. In this particular case, the High Court held that although a woman cannot be the principal offender in the crime of rape, if she facilitates the commission of rape by others, Explanation I to Section 376(2) of the Indian Penal Code (70(1) BNS) becomes applicable, and she can be prosecuted for gang rape¹⁶⁰.

The Crown Prosecution Service guidance emphasizes that victims of any gender should be treated equally. Courts apply the same sentencing guidelines, and no differentiation by the victim's sex is made. Even though punishable under different sections, the maximum imprisonment that could be awarded for both female and male perpetrators is the same, which is life imprisonment¹⁶¹. In 2019 the UK Court of Appeal reaffirmed that women can be prosecuted for rape if they have a penis (i.e. trans women), and more generally stressed that the emphasis is on consent, not gender.

The Indian rape law (63 BNS) only criminalizes a "man" raping a "woman". Thus, the UK's inclusive approach (male victims included) has no parallel in India. In England & Wales, a man rape by another man is prosecute-able as "rape"; a woman raping a man would be handled as an assault offence. In India, by contrast, a woman forcing a

¹⁵⁷ Crown Prosecution Service, Rape and Sexual Offences, Chapter 7: Key Legislation and Offences (2024), <https://www.cps.gov.uk/legal-guidance/rape-and-sexual-offences-chapter-7-key-legislation-and-offences> (last visited May 24, 2025).

¹⁵⁸ *R v. Cogan and Leak*, [1976] Q.B. 217 (Eng.)

¹⁵⁹ *Priya Patel v. State of M.P.*, (2006) 6 SCC 263 (India)

¹⁶⁰ *Id*

¹⁶¹ Sentencing Council, 'Sentencing Guidelines –Causing a Person to engage in Sexual Activity without Consent' <https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/causing-a-person-to-engage-in-sexual-activity-without-consent/> accessed 18 May 2025

man is not “rape” at all, and a male, on male case can only be charged under Section 377, which is no longer a part of criminal law after the implementation of BNS.

4.2.3 CANADA

Canada abolished “rape” as a distinct offence in 1983¹⁶², replacing it with three levels of sexual assault, based on its severity. The law is explicitly gender-neutral. Section 271 provides: “Everyone who commits a sexual assault is guilty of...”¹⁶³ The offence of sexual assault under this section is not defined in isolation but is understood in conjunction with Section 265, which outlines the general elements of assault. Section 265(1) provides that a person commits an assault when they apply force intentionally to another person without that person's consent, attempt or threaten to apply such force, or cause someone to believe on reasonable grounds that they are about to be assaulted. When this basic assault occurs in a “circumstance of a sexual nature,” it becomes sexual assault under Section 271¹⁶⁴. Level 1 sexual assault involves assaults of a sexual nature that violate the sexual integrity of the victim but cause minimal or no bodily harm¹⁶⁵. Level 2 involves sexual assault with a weapon, threats to a third party, or causing bodily harm¹⁶⁶, while Level 3 covers aggravated sexual assault, which results in wounding, maiming, disfiguring, or endangering the life of the victim¹⁶⁷. These classifications enable the legal system to distinguish the degree of violence and harm in each case and assign proportionate penalties. Importantly, the legislature clarified that “women and men could be victims of sexual assault” under the new regime¹⁶⁸. The 1983

¹⁶² An Act to amend the Criminal Code and the Canada Evidence Act, S.C. 1980-81-82-83, c. 125 (Can.)

¹⁶³ 271. Everyone who commits a sexual assault is guilty of

- (a) an indictable offence and is liable to imprisonment for a term of not more than 10 years or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or
- (b) an offence punishable on summary conviction and is liable to imprisonment for a term of not more than 18 months or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.

¹⁶⁴ Department of Justice Canada, Sexual Assault and Other Sexual Offences, https://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rr14_01/p10.html (last visited May 18, 2025).

¹⁶⁵ *Criminal Code*, R.S.C. 1985, c. C-46, s. 271 (Can.)

¹⁶⁶ *Criminal Code*, R.S.C. 1985, c. C-46, s. 272 (Can.)

¹⁶⁷ *Criminal Code*, R.S.C. 1985, c. C-46, s. 273 (Can.)

¹⁶⁸ Department of Justice Canada, *Male Survivors of Sexual Abuse and Assault: Their Experiences*, https://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rr13_8/p0.html (last visited May 18, 2025).

amendments made the sexual assault provisions “gender-neutral offences” and explicitly recognized men (and spouses) as potential victims.

The Criminal Code imposes no different sentences based on victim gender; sentencing jurisprudence focuses on the gravity of the offence. The four-year mandatory minimum for aggravated sexual assault, for example, applies irrespective of who the victim is.

4.2.4 NORWAY

Norway’s current Penal Code (enacted in 2015, came into force in 2018) abolished any gender distinctions in sexual offences. Section 291 of the Penal Code provides in relevant part:

*“A penalty of imprisonment ... shall be applied to any person who ... (b) engages in sexual activity with a person who is unconscious or for other reasons incapable of resisting the act...”*¹⁶⁹.

Section 291 define sexual assault and rape in terms of “any person” performing sexual activity with ‘another person’ by means of violence, threats, or exploiting a person’s inability to resist. The law does not limit the definition of rape to female victims or male perpetrators. In addition to the general rape provision, Section 292 provides for aggravated rape, which includes situations involving severe violence, multiple perpetrators, or particularly vulnerable victims.¹⁷⁰ Section 292(a) specifies “insertion of the penis into the vagina or anus” as an aggravating factor. The penalty for rape ranges from a minimum of three years to a maximum of fifteen years, depending on the severity. Overall, the Norwegian law is fully gender-neutral: any offender (male or female) can be guilty if the victim does not consent. If a male is forced by a female, it still qualifies as sexual assault under these sections. The basic offence (sexual assault) carries up to 10 years¹⁷¹; insertion of penis into someone’s vagina/anus without consent triggers 15 years¹⁷². The maximum punishment is for aggravated sexual assault, which is 21 years¹⁷³. These penalties apply regardless of the genders involved.

¹⁶⁹ *Penal Code* (Norway), § 291, Act of 20 May 2005 No. 28(2005)

¹⁷⁰ *Id* 292

¹⁷¹ *Supra* note 169

¹⁷² *Supra* note 170

¹⁷³ *Penal Code* (Norway), § 293, Act of 20 May 2005 No. 28(2005)

4.2.5 SWEDEN

Sweden's Sexual Offences Act, after the amendment of 2018, embraces a consent-based, gender-neutral model. Before 2018, rape was defined on the basis of violence or helplessness with penetration. The 2018 reform shifted rape into any sexual intercourse without consent, and any sexual act without consent. In practice, all non-consensual penetrative acts are criminal.

The Act defines rape in explicitly gender-neutral terms. It criminalizes not only vaginal, anal, or oral intercourse, but also "other sexual acts that in view of the seriousness of the violation is comparable to sexual intercourse," when performed without voluntary participation¹⁷⁴. Notably, the provision recognizes various scenarios in which consent cannot be freely given, such as unconsciousness, sleep, fear, intoxication, illness, or abuse of a position of dependency, without prescribing the gender of either the perpetrator or the victim. This allows for the legal recognition of male victims of sexual violence, whether the perpetrator is male or female.

The Act also criminalizes sexual acts that are not considered equivalent to intercourse. Sexual assault and negligent sexual assault are also framed in non-gendered language, reinforcing the idea that all non-consensual sexual contact, regardless of the sex of the individuals involved, can be criminally sanctioned¹⁷⁵. Importantly, the legislative text avoids the presumption that men are always capable of giving or withholding consent through "active resistance," and instead prioritizes the voluntariness of participation, which is assessed through both words and conduct. This approach challenges patriarchal notions of male invulnerability and reflects a modern understanding of sexual autonomy.

4.2.6 AUSTRALIA

Australia's legal approach to sexual offences is shaped by a combination of federal legislation and state/territory criminal codes, with an explicit move towards gender-neutral language and protections. At the federal level, the Criminal Code Act 1995 (Cth) governs sexual offences that fall under Commonwealth jurisdiction (federal jurisdiction

¹⁷⁴ *Swedish Criminal Code* (Brottsbalken), ch. 6, § 1 (translated), available at <https://www.government.se/government-policy/judicial-system/the-swedish-criminal-code/>.

¹⁷⁵ Id § § 2 & 3

of Australia), including those occurring in certain federal contexts such as on military bases, in territories, or involving Commonwealth officers. The Code defines sexual offences broadly, and in a gender-neutral manner, criminalizing acts such as sexual intercourse or other sexual acts without consent, regardless of the victim's gender. Section 272.1 criminalizes sexual intercourse without consent, while Section 272.2 addresses sexual assault, both framed to protect all individuals equally, thereby encompassing male victims as well as female¹⁷⁶.

At the state and territory levels, each jurisdiction has similarly revised its legislation to adopt gender-neutral definitions of rape and sexual assault. For instance, New South Wales' Crimes Act 1900 defines sexual assault without specifying the gender of either the perpetrator or the victim¹⁷⁷. Victoria's Crimes Act 1958 and South Australia's Criminal Law Consolidation Act 1935 explicitly recognize that rape can involve any non-consensual penetration, with no gender distinction.¹⁷⁸ Queensland, the Criminal Code Section 349 makes it an offence for "a person" to have sexual intercourse with another "without the consent" of that person¹⁷⁹. These reforms ensure that male victims receive equal recognition and protection under the law, a crucial step given the stigma and underreporting of male sexual victimization. No jurisdiction retains an explicitly gendered "rape" definition.

A 2010 Australian Law Reform Commission report explains: "The penetrative sexual offence is no longer gender-specific... [and] generally includes penetration of the genitalia by a penis, object, part of a body or mouth"¹⁸⁰. Thus, whether the assailant or the victim is male or female, the law criminalizes forced penetration.

The comparative analysis of rape laws across jurisdictions including the United States, the United Kingdom, Canada, Norway, Sweden, and Australia reveals a marked global trend toward the adoption of gender-neutral legal frameworks. These jurisdictions, despite their differing legal systems, largely recognize that sexual violence can affect

¹⁷⁶ Criminal Code Act 1995 (Cth) §§ 272.1, 272.2 (Austl.).

¹⁷⁷ Crimes Act 1900 (NSW) §§ 61I, 61J

¹⁷⁸ Crimes Act 1958 (Vic) §§ 38, 39; Criminal Law Consolidation Act 1935 (SA) § 48.

¹⁷⁹ *Criminal Code Act 1899* (Qld) s 349 (Austl.)

¹⁸⁰ Australian Law Reform Commission, *Rape: The Penetrative Sexual Offence*, in *Family Violence: A National Legal Response*, Report No. 114, ¶ 25.11 (2010), <https://www.alrc.gov.au/publication/family-violence-a-national-legal-response-alrc-report-114/25-sexual-offences-3/rape-the-penetrative-sexual-offence/>.

individuals regardless of gender and have enacted statutes that criminalize non-consensual sexual acts without limiting the scope of victimhood to women alone. In contrast, Indian rape law, as codified under Section 63 and related provisions of the Bharatiya Nyaya Sanhita, 2023 (previously Section 375 of the Indian Penal Code), continues to retain a gender-specific definition that recognizes only women as victims and only men as perpetrators. This exclusionary framework not only fails to acknowledge the lived experiences of male victims but also reinforces patriarchal notions of masculinity and invulnerability. While India has taken incremental steps toward addressing sexual violence, the absence of gender neutrality in its rape laws starkly contrasts with the inclusive legislative reforms seen in the aforementioned jurisdictions.

4.3 SEXUAL HARASSMENT AT WORK PLACE

4.3.1 UNITED STATES OF AMERICA

At the federal level, Title VII of the Civil Rights Act of 1964¹⁸¹ prohibits employment discrimination on the basis of sex. Over time, U.S. courts have interpreted this provision to include both quid pro quo harassment and hostile work environment claims, recognizing such conduct as a form of unlawful sex discrimination. A landmark judgment in *Meritor Savings Bank v. Vinson* laid the groundwork, with the Supreme Court holding that hostile environment sexual harassment violates Title VII, even where there is no economic harm, thus protecting individuals regardless of their gender.¹⁸² This principle was taken a step further in *Oncale v. Sundowner Offshore Services*, where the Court expressly held that Title VII also extends to same-sex harassment, clearly affirming that male victims are equally protected, whether the harasser is male or female.¹⁸³ The scope of protection under Title VII has only broadened since then; in *Bostock v. Clayton County*, the Supreme Court affirmed that discrimination based on sexual orientation or gender identity also constitutes discrimination “because of sex,” thereby bringing LGBTQ+ individuals, including gay and transgender men within the protective umbrella of the statute.¹⁸⁴ Together, these cases make it clear that Title VII is

¹⁸¹ Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e–2000e-17 (2018)

¹⁸² *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57 (1986)

¹⁸³ *Oncale v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75 (1998)

¹⁸⁴ *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731 (2020)

not confined to the protection of women but operates as a gender-neutral safeguard against sexual harassment in the workplace.

The U.S. Equal Employment Opportunity Commission (EEOC) enforces Title VII. Its enforcement guidance stresses that harassment is actionable “if it is based on [the victim’s] sex” and creates a hostile work environment or affects employment conditions. By regulation, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are prohibited when they are sufficiently severe or pervasive¹⁸⁵. Men have successfully sued under this standard. Empirical data confirm that a significant minority of sexual-harassment charges involve male complainants. One study found that in 2015 about 17% of EEOC sexual-harassment charges named male victims.¹⁸⁶

Most U.S. states have analogous laws. For example, California’s Fair Employment and Housing Act (Gov’t Code S. 12940) forbids harassment based on any protected trait, including sex.¹⁸⁷ The California Civil Rights Department reminds employers that FEHA requires preventive training on sexual harassment and permits individuals of any sex to file claims. New York, Massachusetts, and other states likewise ban gender-based harassment in employment. Notably, many state laws also impose affirmative duties on employers. California requires employers with five or more workers to conduct annual harassment prevention training; failure to train may constitute evidence of liability¹⁸⁸. These obligations apply identically regardless of the victim’s gender.

In practice, employment discrimination suits sometimes have identified male plaintiffs, for example, when refusing a female coworker’s advances or enduring same-sex harassment. The *Oncale* decision itself involved a male worker harassed by male coworkers on an offshore platform.

4.3.2 UNITED KINGDOM

In the UK, workplace sexual harassment is prohibited under the Equality Act 2010 (“EqA”). Section 26 of the EqA deems a person to have harassed another “if the person

¹⁸⁵ 29 C.F.R. § 1604.11

¹⁸⁶ Rager & Yoon, 17.1 Percent of EEOC Sexual Harassment Claims Involve Men as Victims, Rager & Yoon – Employment Lawyers (Mar. 29, 2019), <https://ragerlawoffices.com/17-1-percent-of-eEOC-sexual-harassment-claims-involve-men-as-victims/>

¹⁸⁷ Cal. Gov’t Code § 12940 (West 2024)

¹⁸⁸ *Id*

engages in unwanted conduct related to [a protected characteristic] and the conduct has the purpose or effect of violating [the victim's] dignity or creating an intimidating, hostile...environment".¹⁸⁹ One protected characteristic is "sex," so harassment on the basis of sex is unlawful, whether the victim is male or female. The Act also prohibits harassment related to sexual orientation, gender reassignment, or other traits, but the core protection for "related to sex" catches traditional sexual harassment.

A similar prohibition exists under the Protection from Harassment Act 1997 (a general civil/criminal law against stalking and harassment), but that is rarely invoked for workplace cases. The crux of employment law liability remains the EqA. In short, UK law on its face fully covers male victims of sexually harassing conduct by coworkers, supervisors, customers, etc.

Reported UK cases illustrate that tribunals accept claims by male plaintiffs. For instance, in *Tony Finn v. British Bung Company*, a male employee successfully claimed sexual harassment by his supervisor¹⁹⁰. Employment Judges routinely find harassment where circumstances show hostility or humiliation, whether the complainant is a woman or a man. The key point is that UK law affords men the same right to redress as women.

4.3.3 CANADA

Canada's framework combines federal and provincial human-rights laws. The Canadian Human Rights Act (R.S.C. 1985, c. H-6) prohibits employer discrimination "in matters related to employment" on various prohibited grounds including sex. The Act expressly deems sexual harassment to be harassment on a prohibited ground¹⁹¹. Likewise, each province and territory has a Human Rights Code or Charter forbidding discrimination based on sex. For example, Ontario's Human Rights Code guarantees everyone "equal rights...without discrimination because of sex," which has been read to outlaw sex-based harassment in employment¹⁹². These laws are gender-blind: they protect all individuals regardless of sex.

¹⁸⁹ Equality Act 2010, c. 15, § 26 (UK)

¹⁹⁰ *Tony Finn v. British Bung Co. Ltd.*, Case No. 1801189/2021, Employment Tribunal (UK 2022),

¹⁹¹ Canadian Human Rights Act, R.S.C. 1985, c. H-6, § 14(2) (Can.)

¹⁹² Ontario Human Rights Comm'n, *Sexual and Gender-Based Harassment: Know Your Rights Brochure*, ONT. HUM. RTS. COMM'N, <https://www3.ohrc.on.ca/en/sexual-and-gender-based-harassment-know-your-rights-brochure> (last visited May 18, 2025)

Canada has also enacted specific harassment-prevention legislation. Notably, Bill C-65 (Workplace Harassment and Violence Prevention Act, 2018) amended the Canada Labour Code for federally regulated workplaces. It requires employers to adopt workplace harassment policies, investigate complaints of harassment (including sexual harassment), and train employees. These provisions apply to any employee in federal industries (e.g., banking, telecom, Parliament), irrespective of gender. C-65 also extends protections to contract workers and unpaid interns in federal workplaces.

Where a person feels harassed at work, they may file a human-rights complaint with the Canadian Human Rights Commission (federal) or the provincial counterpart (e.g. Ontario Human Rights Commission). In federally regulated workplaces, Bill C-65 provides recourse under the Labour Code to authorities like the Canada Industrial Relations Board or arbitration. Provincial laws allow victims to apply to human-rights tribunals (e.g. Ontario Human Rights Tribunal). Remedies typically include compensation for injury to dignity and assurances of no retaliation.

4.3.4 NORWAY

Norwegian law prohibits gender-based harassment as part of its broad equality protections. The Equality and Anti-Discrimination Act (*Likestillings- og diskrimineringsloven*) bans harassment and sexual harassment on the grounds of gender¹⁹³. The Working Environment Act also addresses harassment generally¹⁹⁴. Importantly, the law defines sexual harassment expansively: it covers any “unwanted sexual attention” that is degrading, humiliating, or hostile¹⁹⁵. Examples range from crude comments to groping or even non-physical acts. Crucially, this definition and prohibition do not distinguish the victim’s gender; a man being subjected to such conduct is as protected as a woman.

Norwegian law places explicit duties on employers. Employers must “organise and lead the work so that none of their employees become the victim of harassment”. This “duty to prevent and stop harassment” is an ongoing obligation: employers must investigate

¹⁹³ Equality and Anti-Discrimination Act § 10 (2017) (Nor.), <https://lovdata.no/dokument/NLE/lov/2017-06-16-51>.

¹⁹⁴ Working Environment Act, § 13-1 (2005) (Nor.), <https://lovdata.no/dokument/NLE/lov/2005-06-17-62/%C2%A713-1>.

¹⁹⁵ Altinn, *Ban on Harassment in the Workplace*, <https://info.altinn.no/en/start-and-run-business/working-conditions/employment/ban-on-harassment-in-the-workplace/> (last updated May 26, 2024)

allegations and take remedial action. If harassment nonetheless occurs, employers must follow up (for example, by sanctioning the harasser or supporting the victim). Thus, Norway requires a proactive stance. Failure to meet these duties can result in penalties¹⁹⁶.

4.3.5 SWEDEN

Sweden's Discrimination Act (Diskrimineringslagen, 2008:567) categorizes sexual harassment as a form of sex discrimination and forbids it in working life. Section 3 of the Swedish Discrimination Act imposes a clear and proactive duty on employers to respond when they become aware that an employee has alleged harassment or sexual harassment in the workplace. It establishes that when an employer becomes aware that an employee believes they have been subjected to harassment or sexual harassment in connection with their work, by another individual working or undertaking a traineeship at the same workplace, the employer has a duty to examine the situation and, where appropriate, implement reasonable preventive measures to stop further incidents. This obligation equally applies to cases involving individuals who are trainees, temporary hires, or borrowed labor.

The section starts with "If an employer becomes aware that an employee considers that he or she has been subjected...". The section clearly states that he or she has been subjected, which means that the complainant could either be a male or a female. Basically, the law regulating sexual harassment in Sweden is framed gender neutrally as opposed to Indian laws.

4.3.6 AUSTRALIA

Australia's federal Sex Discrimination Act 1984 (Cth) prohibits sexual harassment in employment. Section 28A makes it unlawful to subject a person to sexual harassment in work-related situations. The Act defines sexual harassment as unwanted sexual advances or other sexual conduct that a reasonable person would find hostile or offensive, and applies irrespective of the genders involved. Federal courts and tribunals have long recognized that a man can claim sexual harassment. In *Kordas v Ruba & Jo*

¹⁹⁶ Working Environment Act, § 2-2 (2005) (Nor.),

Pty Ltd t/a Aztec Hair & Beauty [2017], the complainant was a male employee who successfully pursued sexual harassment claim against his employer¹⁹⁷

Complaints under the SDA are typically lodged with the Australian Human Rights Commission (AHRC) and go through conciliation; unresolved matters can be taken to the Federal Court or Federal Circuit Court. The Fair Work Act 2009 also plays a role: it implies a duty for employers to provide a safe workplace and allows stop-bullying orders. In practice, sexual harassment claims often cite both statutes (with the SDA covering discrimination, plus the FW Act or tort claims covering general duty of care). Importantly, no part of the law excludes men, a male employee in Australia harassed by a female coworker or a male coworker or subordinate may bring an SDA claim.

All Australian states and territories have anti-discrimination laws that forbid sexual harassment in employment. For example, Victoria's Equal Opportunity Act 2010 makes it unlawful to "sexually harass" someone and imposes a positive duty on organizations to eliminate it. Section 92 of Victoria's Equal Opportunity Act 2010 (Vic) outlines a comprehensive and gender-neutral definition of sexual harassment. It starts with "A person is considered to have sexually harassed another..."; it uses "person" consistently, which means that men and individuals of diverse gender identities can be both complainants and respondents. South Australia, Queensland, New South Wales, and others have similar provisions. None of them differentiates by gender.

Workplace sexual harassment laws in countries like the United States, the United Kingdom, Canada, Norway, Sweden, and Australia reflect a clear commitment to gender neutrality, ensuring protections for all individuals regardless of sex or gender identity. The U.S., through Title VII of the Civil Rights Act and supporting case law like *Oncale v. Sundowner Offshore Services*, recognizes same-sex harassment and explicitly includes male victims. Similarly, the U.K.'s Equality Act 2010, particularly Section 26, prohibits harassment related to sex in a neutral manner, with case law affirming that men too can be protected victims. Canada's federal and provincial laws, including the Canadian Human Rights Act and Ontario's Human Rights Code, adopt inclusive definitions that cover sexual harassment across gender lines. Scandinavian countries such as Norway and Sweden embed anti-harassment obligations within their broader anti-discrimination frameworks, placing proactive duties on employers and

¹⁹⁷ Kordas v Ruba & Jo Pty Ltd t/a Aztec Hair & Beauty [2017] NSWCATAD 156

ensuring protection for male and LGBTQ+ individuals. Australia's federal Sex Discrimination Act and state-based legislation like Victoria's Equal Opportunity Act also provide comprehensive, gender-neutral protections. In contrast, India's legal framework, specifically the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, remains focused solely on female victims. While this has been a critical step in acknowledging women's workplace rights, the absence of protection for male and gender-diverse individuals reflects a significant gap in the Indian legal system, highlighting the need for reform in line with international standards.

4.4 VOYEURISM

4.4.1 UNITED STATES

At the Federal level, the Federal Video Voyeurism Prevention Act of 2004, criminalizes "video voyeurism." It makes it an offense to "capture an image of the private area of an individual," defined as the naked or undergarment-clad genitals, pubic region, buttocks, or for females breasts below the nipple, "without the knowledge and consent of the person," when the person has a reasonable expectation of privacy¹⁹⁸. In other words, secretly photographing or filming another's genitals, buttocks or female breasts (unless covered) in a setting where privacy is expected violates Section 1801. The statute requires intent to intrude on privacy, but does not itself require a sexual purpose. Violation of Section 1801 is a criminal misdemeanor punishable by a fine or up to one year imprisonment (and up to five years if the victim is a minor). The definition is gender-neutral, using the term "individual" and covering male and female bodies equally, as the term "private area" includes male and female genitals and buttocks.

All U.S. states criminalize voyeurism or similar conduct in one form or another. Many use terms like "invasion of privacy," "peeping tom," or "video voyeurism" in state penal codes. For example, California Penal Code Section 647(j)(1) prohibits anyone who "look[s] through a hole or opening into the interior of any bathroom, bedroom, or other such place" or "view[s] by any means the interior of any such place where there is a reasonable expectation of privacy," with intent to invade privacy¹⁹⁹. This is a

¹⁹⁸ 18 U.S. Code § 1801

¹⁹⁹ Cal. Penal Code § 647(j)(1) (West 2024)

misdemeanor (up to 6 months jail) for unauthorized viewing of another where they expect privacy. California law also has Section 647(i) criminalizing “peeking while loitering”. Texas Penal Code Section 21.17 makes it a crime for a person, with intent to arouse or gratify their sexual desire, to “observe... another person without the other person’s consent while the other person is in a dwelling or structure in which the other person has a reasonable expectation of privacy”²⁰⁰. That offense is generally a Class C misdemeanor, which shall be punished with a fine, but will become a Class B if repeated, or a state jail felony if the victim is under 14. Similarly, New York Penal Law Section 250.45, the offence of voyeurism is termed as “Unlawful Surveillance in the Second Degree”, which bans the intentional surreptitious use of an imaging device to view, record, or broadcast another person dressing or undressing or exposing intimate parts where the person has a reasonable expectation of privacy, without knowledge or consent²⁰¹. That offense is a Class E felony.

In summary, state statutes typically require: (1) a private space or act (e.g. bedroom, bathroom, hotel room, changing room) where privacy is expected; (2) surreptitious observing or recording of intimate parts or private activity; (3) absence of consent; and often (4) intent of sexual gratification or abuse, and in nowhere requires the gender of the victim to be female or the accused to be male. Both men and women can come under the title of either complainant or accused.

4.4.2 UNITED KINGDOM

In England and Wales, voyeurism is criminalized in the Sexual Offences Act 2003. Section 67(1) provides that “a person (A) commits an offence if: (a) for the purpose of obtaining sexual gratification, he observes another person (B) doing a private act; and (b) he knows that B does not consent to being observed for that purpose.” A “private act” is defined (in S. 68) to include, for example, sexual intercourse, masturbation, or being naked in a place where B would expect privacy. Subsection (2) criminalizes operating equipment to enable someone to view B’s private act for gratification; (3) criminalizes recording a private act for later viewing; and (4) criminalizes installing equipment to facilitate offences under (1). In effect, non-consensual looking or recording of sexual or nude acts for sexual gratification is an offence²⁰². From the

²⁰⁰ Tex. Penal Code § 21.17(a)–(d) (West 2024)

²⁰¹ N.Y. Penal Law § 250.45(1) (McKinney 2023)

²⁰² Sexual Offences Act 2003, c.42, §§ 67–68 (Eng.)

definition, it is clear that in the UK, voyeurism can only be committed by a man, as it uses “he” to suggest the person who is committing the act, but the victim could be either male or female, as no gender has been specified for the victim. Whereas in Indian, since the enactment of BNS, whoever is used for describing the accused and women for the victim, which means the accused could either be a man or a woman, but the victim can only be a woman

Voyeurism Offences Act 2019 (England & Wales). Before 2019, “upskirting” was prosecuted as outraging public decency or sexual offences. The 2019 Act inserted a new Section 67A into the SOA 2003, creating specific offences for photographing or operating equipment under another’s clothing without consent. Section 67A(1) makes it an offence if “A operates equipment beneath the clothing of another person (B), without B’s consent, with intention to view, or enable another to view, B’s genitals or buttocks (with or without underwear), in circumstances where they would not otherwise be visible, for the purpose of obtaining sexual gratification or causing humiliation, distress or alarm.”²⁰³ Likewise, 67A(2) criminalizes making a recording of a person’s genitals/buttocks under clothing for those purposes. These offences carry up to 2 years’ imprisonment. This amendment is in gender neutral terms as there is no suggestion as to the gender of either victim or accused.

4.4.3 CANADA

Canada’s Criminal Code defines voyeurism broadly. Section 162(1) makes it an offense for “everyone who surreptitiously observe, including by mechanical or electronic means, or make a visual recording of a person who is in circumstances that give rise to a reasonable expectation of privacy,” if at the time (a) the person is in a place where they can reasonably be expected to be nude or exposing genitals or breasts, (b) the person is nude or exposing genitals or engaged in explicit sexual activity and the observation is done for the purpose of observing that state, or (c) the observation/recording is done for a sexual purpose²⁰⁴.

Section 162 of the Canadian Criminal Code, is a gender-neutral provision that offers equal protection to all individuals, regardless of sex or gender identity. The language of the section carefully avoids specifying the gender of either the victim or the perpetrator.

²⁰³ Section 67A added by Voyeurism (Offences) Act 2019 (Eng.)

²⁰⁴ Criminal Code, R.S.C. 1985, c. C-46, § 162 (as amended 2025).

Phrases like “everyone” “a person,” “his or her,” and references to “genital organs or anal region or her breasts” ensure inclusivity, addressing the privacy and bodily autonomy of all individuals, including men, women, and gender-diverse persons.

Crucially, the provision does not rely on any gendered assumptions about the nature of the offense or the individuals involved. The focus is placed squarely on the violation of a “reasonable expectation of privacy” and the “sexual purpose” behind such observation or recording. Whether the individual being recorded is male, female, or non-binary, the law applies equally, and any such conduct, if done surreptitiously and without consent, is punishable.

4.4.4 NORWAY

Norwegian law does not have an offence named “voyeurism” in its penal code. Instead, is established through Sections 266, 267, and 267a of the Straffeloven (Norwegian Penal Code). Section 266 penalizes any public communication that violates another's right to privacy, with a penalty of fines or imprisonment up to one year. The language of the statute is non-gendered; it refers broadly to “anyone” (“den som”) who commits such an act, and similarly protects “another” (“noen andre”) without specifying sex or gender. The provision is designed to protect individuals from reputational and emotional harm arising from public disclosures of private matters. Section 267 criminalizes the unauthorized sharing of images, films, or audio recordings of a clearly private or offensive nature, including intimate body parts, sexual activity, or humiliating situations. The law specifies that even in vulnerable or exposed situations, such as someone being subjected to violence or distress, is protected. Section 267a enhances penalties for gross or aggravated violations of Section 267, where factors such as the scope of material, systematic conduct, revenge motives, breach of trust, and psychological impact on the victim are taken into account. The section provides for imprisonment up to two years for gross offenses. In all these provisions, the legal language is gender neutral, as reference in all instances is made to a “person”

4.4.5 SWEDEN

Sweden passed a specific “intrusive photography” law in 2013. Criminal Code (Brottsbalken) chapter 4, section 6a states that “a person, unlawfully, with technological aid, and in secret, documents on film or in photographs someone inside a home or in a

toilet, changing room or similar facility” is guilty of “intrusive photography”²⁰⁵. This covers, for example, secretly filming someone in a bathroom, shower, dressing room, or inside their home. If justified by purpose, it may be excused (e.g. law enforcement with warrant). The law was prompted by “upskirting” and modern camera misuse. It is gender-neutral and protects any person in those private locations.

No separate “sexual gratification” requirement is stated; the emphasis is on “*without permission, in secret*” in a private space. For broader voyeurism (e.g. outside home or body parts), Sweden does not have a single statute; other offences (like exhibitionism, sexual coercion, or privacy torts) could apply.

4.4.6 AUSTRALIA

Australia has no single national “voyeurism” statute; jurisdiction is shared between the Commonwealth and the states. Federally, in 2018, the Criminal Code Act 1995 (Cth) was amended to prohibit the non-consensual distribution of intimate images²⁰⁶. Division 474 now includes offences such as s 474.21, which criminalizes “publication of an intimate image with intent to cause harm” and s 474.22, “threat to publish an intimate image”, punishable by up to 3 years’ imprisonment²⁰⁷. These target “revenge porn”, intentional online sharing of nude or sexual images without consent and require intent to cause serious emotional or reputational harm. While these offences cover the distribution of images, Australia relies on state laws for the act of spying or filming.

Each state/territory criminalizes the secret observation or filming of sexual or private acts. For example, Crimes Act 1900 Sections 91J–91L²⁰⁸ of New South Wales defines voyeurism offences. Section 91J makes it an offence to observe a person who is “engaged in a private act” without consent and with the intent of sexual gratification or exposure. Sections 91K and 91 L specifically prohibit filming the private act or genitals/underpants of another person without consent, for sexual gratification. Each of these is punishable by up to 2 years’ imprisonment.

²⁰⁵ Brottsbalken [Swedish Penal Code] 4:6a (Swed.), English translation available at Government Offices of Sweden, <https://www.government.se/government-policy/judicial-system/the-swedish-criminal-code/>

²⁰⁶ *Criminal Code Amendment (Intimate Images) Act 2018 (WA)*, available at: <https://www.parliament.wa.gov.au/parliament/Bills.nsf/BillProgressPopup?openForm&ParentUNID=D68AED6CEC73FFB482582B90017A6C3>

²⁰⁷ Criminal Code Act 1995 (Cth) ss 474.21–474.22

²⁰⁸ Crimes Act 1900 (NSW) ss 91J–91L (Austl.).

In Queensland, *Criminal Code 1899 (Qld)* s. 227A (1) forbids “observing or visually recording” another’s “private act” (e.g. undressing or showering) in which the person expects privacy, without consent, for the purpose of observation²⁰⁹. Subsection (2) makes it an offence to record another’s “genital or anal region” without consent (an explicit “upskirting” ban)²¹⁰. Both are misdemeanors with a maximum 3-year term. Other states or territories also have similar provisions, and all these provisions are framed in gender neutral terms.

In foreign jurisdictions such as the United Kingdom, Canada, Norway, Sweden, Australia, and various states in the United States, the legal provisions relating to voyeurism and non-consensual dissemination of intimate images are largely gender-neutral. These frameworks allow for the recognition of male victims and do not exclude the possibility of female perpetrators, thereby ensuring a more inclusive approach to such offences. However, in contrast, the Indian legal framework under the Bharatiya Nyaya Sanhita, 2023 (BNS), Section 77, continues to define voyeurism as an offence only when committed against a woman. This gender-specific drafting excludes male victims from the scope of legal protection.

4.5 STALKING

4.5.1 UNITED STATES

U.S. federal law criminalizes stalking when it involves interstate activity or federal jurisdiction. According to Section 2261A of United States Code, a person who “travels in interstate or foreign commerce...with the intent to...harass, intimidate, or place under surveillance” another, and in the course of such travel engages in conduct placing the victim in reasonable fear of death or serious bodily injury, is guilty of stalking²¹¹. The statute does not mention gender; it applies to “that person”, i.e., any person. Federal courts apply this gender-neutral statute to all victims equally.

All U.S. states have anti-stalking or harassment statutes, often inspired by California’s early law. For instance, California Penal Code Section 646.9 makes it a crime when any person “willfully, maliciously, and repeatedly follows or...harasses another person” and

²⁰⁹ Criminal Code Act 1899 (Qld) ss 227A (1) (Austl.).

²¹⁰ Id ss 227A (2)

²¹¹ 18 U.S.C. § 2261A

makes a credible threat, placing that person in fear for their safety²¹². The text uses neutral terms with regard to accused as well as victims, like “any person”, “another person,” “their safety, hence male stalking victims can and do obtain relief under Section 646.9, and also female perpetrators can also be punished under this section. Other states also prohibit stalking in gender neutral terms. For example, Texas’s harassment laws and New York’s intrusion statutes²¹³ under stalking or harassment headings apply to any person regardless of gender. Penalties may vary, but all statutes are written in gender-neutral terms, and gender is not a statutory element.

4.5.2 UNITED KINGDOM (ENGLAND & WALES)

In the UK, the offence of stalking is codified under Section 2A of the Protection from Harassment Act 1997, which was inserted by the Protection of Freedoms Act 2012. The text of Section 2A is overtly gender-neutral. It does not specify or imply any particular gender for either the perpetrator or the victim. Terms such as “a person”, “another person”, and “whose course of conduct” are used uniformly throughout the statute. For example:

“A person is guilty of an offence if (a) the person pursues a course of conduct in breach of section 1(1), and (b) the course of conduct amounts to stalking.”²¹⁴ In practice, the Crown Prosecution Service (CPS) prosecutes stalking against any victim regardless of gender.

Section 2A(3) outlines various behaviours that may constitute stalking, including following, contacting, monitoring online activity, loitering, and interfering with property. These behaviours are comprehensive and framed without gender implications. Section 2A must also be read alongside Section 4A, which introduces the more serious offence of “stalking involving fear of violence or serious alarm or distress”. Both sections are drafted in gender-neutral terms.

4.5.3 CANADA

Canada does not have an offence named “stalking” per se, but stalking behaviour is criminalized as *criminal harassment*. Under Criminal Code s.264(1)-(2), it is an offence when any “person” engages in prohibited conduct that causes another to

²¹² Cal. Penal Code § 646.9

²¹³ N.Y. Penal Law §§ 120.45–120.6

²¹⁴ Protection from Harassment Act 1997, c. 40 s 2A(1)(UK)

“reasonably...fear for their safety or the safety of anyone known to them”²¹⁵. These provisions are gender-neutral as the words used to address the victim or accused are “person”, “other person” and apply whether the victim is male or female. Notably, the Code defines nothing in gendered terms: the offender and victim may be of any gender.

The Code does not distinguish stalking as a separate offence category, but all of s.264 falls under “criminal harassment.”²¹⁶ Upon conviction, a person is liable to up to 10 years’ imprisonment (indictable), or, in lesser cases, summary conviction penalties²¹⁷.

Statutory reviews by the Department of Justice have noted that while most victims are women, male victims do bring forward complaints under s.264²¹⁸. Thus, Canada’s approach ensures all stalking victims can seek redress, regardless of gender.

4.5.4 NORWAY

In Norway, the Penal Code (Straffeloven) criminalizes stalking under Section 266 and 266A. According to Section 266, “Anyone who, through frightening or bothersome behavior or other reckless conduct, stalks a person or otherwise violates another person's peace, shall be punished with a fine or imprisonment for up to 2 years.”²¹⁹ The language of the provision is entirely gender-neutral, with no reference to the sex or gender of either the perpetrator or the victim. This neutrality ensures that male victims of stalking are afforded the same legal protection as women, and that female offenders can be prosecuted under the same standards.

Section 266A builds on Section 266 by introducing a higher penalty threshold (up to 4 years) for cases involving repetition or patterned behavior, which is characteristic of persistent stalking. The inclusion of specific verbs like “threatens, follows, observes, contacts” as well as “other comparable actions” emphasizes the range and seriousness of behaviors criminalized²²⁰. As with S. 266, S. 266A is drafted using neutral terms like “anyone who stalks another person”, ensuring that protection extends to all victims, regardless of gender.

²¹⁵ Criminal Code, R.S.C. 1985, c. C-46, s. 264 (Can.).

²¹⁶ Canada. Dept. of Justice, *Stalking is a Crime Called Criminal Harassment*, <https://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/stalk-harc/har.html> (last visited May 19, 2025).

²¹⁷ Supra 215

²¹⁸ Supra 216

²¹⁹ Straffeloven [Penal Code] § 266 (Nor.), translated in Lovdata (official legal database of Norway), <https://lovdata.no>.

²²⁰ Id § 266A

4.5.5 SWEDEN

Sweden's Penal Code addresses stalking via the offence of unlawful harassment ("olaga förföljelse"), inserted in 2018 (effective 2019). Chapter 4, Section 4b provides that if a person commits any of a specified list of crimes (including assault, threats, illegal coercion, harassment, damage, or violation of a contact ban) and each act is part of a repeated violation of the victim's integrity, then the offender is guilty of unlawful harassment (olaga förföljelse)²²¹. In other words, repetitive harassment or intimidation of the same person (regardless of gender) elevates the conduct to a separate stalking offence. The Swedish statute is wholly gender-neutral; it refers to "personens integritet" ("the person's integrity") and penalizes "den som...döms" (anyone convicted of such conduct)²²². It protects men and women equally.

4.5.6 AUSTRALIA

In Australia, stalking is criminalized under state statutes. Each Australian state and territory has enacted stalking-related offences, typically under domestic violence or anti-harassment legislation. For instance, Queensland incorporated stalking laws in its Criminal Code (after 2000 amendment), which includes a comprehensive "unlawful stalking" chapter (Ch. 33A) covering any conduct intended to harass, intimidate, or alarm someone²²³. New South Wales moved stalking into the Crimes (Domestic and Personal Violence) Act (2007), making non-domestic stalking (persistent harassment causing fear) an offence with up to 3–7 years' imprisonment²²⁴. Victoria and South Australia similarly have stalking offences in their Crimes Acts²²⁵. All statutes are drafted in neutral language (terms used are "person to be stalked", "course of conduct", etc.), and offenders of any gender can be prosecuted; victims of any gender can be protected.

Every jurisdiction examined criminalizes stalking or conduct of a similar nature, and the majority do so using gender-neutral language. In the United States, penalties are

²²¹ European Institute for Gender Equality, *Sweden – Stalking*, EIGE, https://eige.europa.eu/gender-based-violence/regulatory-and-legal-framework/legal-definitions-in-the-eu/sweden-stalking?language_content_entity=en.

²²² Brottsbalken [Swedish Penal Code] 4:4b (Swed.), English translation available at Government Offices of Sweden, <https://www.government.se/government-policy/judicial-system/the-swedish-criminal-code/>

²²³ Criminal Code 1899 (Qld) s 359B- 359F, available at AustLII:

²²⁴ Crimes Act 1900 (NSW) § 13

²²⁵ Crimes Act 1958 (VIC) § 21A.

imposed based solely on the conduct of the perpetrator, regardless of gender. Similarly, Canada's *Criminal Code* s. 264(1) and the UK's offences under the *Protection from Harassment Act 1997* refer broadly to actions committed against "another person," thereby applying equally to all victims. Norway's *Penal Code* Section 266a and Sweden's provision on *olaga förföljelse* (unlawful persecution) also protect "any person" whose peace is disturbed by such behaviour. Australian state and territory legislation follows the same approach, criminalizing stalking irrespective of the gender of either party. Although statistical evidence suggests that women are more frequently victimized, none of these jurisdictions limit the protection of the law to female victims alone.

By contrast, India's legal framework on stalking, codified under Section 78 of the Bharatiya Nyaya Sanhita, 2023 and formerly Section 354D of the IPC, retains a gender-specific formulation. It explicitly criminalizes stalking committed by a man against a woman, thereby excluding male victims from equivalent legal redress. Currently, there is no analogous statutory provision penalizing women who stalk men. This stands in stark contrast to international approaches, where gender neutrality underpins legislative frameworks to ensure that all victims, regardless of sex, are equally protected. From a comparative standpoint, Indian law offers a narrower scope of protection. While it rightly addresses violence against women, a serious and prevalent issue- it fails to acknowledge or provide for male victimization in similar contexts.

4.6 DOMESTIC VIOLENCE

4.6.1 UNITED STATES OF AMERICA

Under U.S. federal law (notably the Violence Against Women Act, VAWA), domestic violence is broadly defined. The Justice Department describes domestic violence as "a pattern of abusive behavior in any relationship...used by one partner to gain or maintain power and control" over another²²⁶. VAWA (1994, reauthorized through 2022) established federal crimes such as crossing state lines to injure an "intimate partner" or to violate a protection order²²⁷. These federal crimes define "intimate partner" to include spouses, ex-spouses, cohabitants, dating partners, and others, with no reference

²²⁶ U.S. Dep't of Just., Off. on Violence Against Women, Domestic Violence, <https://www.justice.gov/ovw/domestic-violence> (last visited May 19, 2025).

²²⁷ 18 U.S. Code § 2261

to gender²²⁸In short, at the federal level, domestic violence crimes and definitions are gender-neutral. The federal definitions apply equally to female abusers and male victims.

Each U.S. state has its own domestic-violence statutes and protective-order mechanisms. Generally, these laws are written in gender-neutral terms. For example, California Code Family Code Section 6211 defines “domestic violence” in terms of acts against anyone who is or was “a spouse, cohabitant, or intimate partner”²²⁹. California Penal Code Section 273.5 also criminalizes the willful infliction of corporal injury resulting in a traumatic condition on an intimate partner²³⁰. The law is notably gender-neutral, applying equally to any person who inflicts injury on a partner. California Family Code Section 6320, which authorizes emergency protective orders, applies without regard to the sex of the victim or perpetrator. California’s court self-help guide confirms a DV restraining order can be sought by “*someone who has abused you or your children*”²³¹, with no gender limitation. Similarly, Texas family law (Family Code ch. 71)²³² and Penal Code ch. 22 (assault)²³³ cover DV acts by or against any person in specified relationships. Across states, the language of protection orders is neutral: anyone who has been the victim of qualifying abuse “can file for a restraining order”²³⁴.

4.6.2 UNITED KINGDOM

The Domestic Abuse Act 2021 is the statute in England that, for the first time, provided a definition for domestic abuse. This definition explicitly covers “*physical, emotional, psychological, financial or sexual abuse*” and controlling/coercive behavior in an intimate or familial relationship²³⁵. The Act’s language is gender-neutral; it refers simply to “a person” as victim or perpetrator. Separate older statutes like the Family Law Act 1996 still operates, which allows victims to seek injunctions for non-

²²⁸ 18 U.S. Code § 2266 (7)

²²⁹ Cal. Fam. Code § 6211 (West 2024)

²³⁰ Cal. Penal Code § 273.5 (West 2024).

²³¹ Cal. Cts., Self-Help Guide: Domestic Violence Restraining Orders, <https://selfhelp.courts.ca.gov/DV-restraining-order> (last visited May 19, 2025).

²³² Tex. Fam. Code Ann. § 71.004 (West 2023).

²³³ Tex. Penal Code Ann. § 22.01 (West 2023).

²³⁴ WomensLaw.org, Male Victims: Can I File for a Restraining Order Against My Abusive Partner?, <https://www.womenslaw.org/about-abuse/abuse-specific-communities/male-victims/ending-abuse/can-i-file-restraining-order> (last visited May 19, 2025).

²³⁵ Domestic Abuse Act 2021, c. 17, § 1 (UK)

molestation²³⁶ and occupation orders²³⁷ against any “associated person” (including spouses, cohabitants, or others) for domestic abuse. Criminal statutes such as the Protection from Harassment Act 1997 (amended to cover stalking) are also used in DV contexts, and general offences like assault, etc. also apply to domestic cases.

The government now explicitly recognizes male victims. For example, official guidance affirms that services “take domestic abuse very seriously” for everyone in a family²³⁸. domestic abuse policies apply equally to male survivors.

Scotland has its own laws. The Domestic Abuse (Scotland) Act 2018 makes “abusive behaviour” a crime when used by one member of a couple to coerce or control another; it is deliberately gender-neutral²³⁹. The Scottish Act defines “abusive behaviour” broadly (including economic abuse and continuous emotional abuse) and applies to cohabitants, spouses, or those in a sexual relationship. Protection orders exist under the Family Law (Scotland) Act 1985 like exclusion orders²⁴⁰ for private law contexts, with no gender qualification. As in England, Scottish policy acknowledges male victims, and the law does not distinguish by gender.

All UK domestic violence statutes use neutral terms (e.g. “person” or “victim” with no reference to male/female). England’s 2021 Act was explicitly designed to be inclusive of men and LGBT victims. For example, the statutory definition applies to any victim over 16 in an intimate or familial relationship. At the same time, parliamentary speeches and guidance often highlight that women and girls are disproportionately affected. A recent analysis notes that the “gender-neutral” definition of the 2021 Act may risk downplaying systemic female victimhood, suggesting the law offers theoretical protection to male victims but may not always do so effectively²⁴¹. To date, however, there is no legal bar to men obtaining DV injunctions or claiming rights under these statutes, and court guidance expressly treats all victims equally under domestic-abuse provisions.

²³⁶ Family Law Act 1996, c. 27, § 42 (UK).

²³⁷ Family Law Act 1996, c. 27, §§ 33–38 (UK)

²³⁸ Federal Circuit and Family Court of Australia, *Family Violence: Overview*, <https://www.fcfcfa.gov.au/fl/fv/overview>.

²³⁹ Domestic Abuse (Scotland) Act 2018, asp 5, § 1 (Scot.)

²⁴⁰ Family Law (Scotland) Act 1985, c. 37, § 18 (Scot.)

²⁴¹ Kofo Boboye, *A Gender-Neutral Law for Gender-Based Violence?*, LSE L. Rev. Blog (Jan. 15, 2024), <https://blog.lse.lawreview.com/2024/01/15/a-gender-neutral-law-for-gender-based-violence/>.

4.6.3 CANADA

Canada has no specialized “domestic violence” offense; instead, general criminal laws govern acts of family violence. Any assault, sexual assault, homicide, harassment or related crime is prosecutable whether the victim is male or female²⁴². The Criminal Code does include family-related provisions: for instance, Section 718.2 specifies that abuse of a spouse or family member is an aggravating factor in sentencing²⁴³. Section 742.1 restricts conditional (house-arrest) sentences for domestic offences²⁴⁴. Notably, Canada’s criminal statutes make no distinction of victim gender; any person who “abuses” a spouse or parent can be charged under the same assault or sexual-offence provisions.

Many provinces have enacted civil family violence laws to supplement criminal sanctions. These generally allow courts or police to grant emergency protection (exclusion) orders and restraining orders to keep an abuser from the home or victim. For example, Alberta’s Protection Against Family Violence Act²⁴⁵, Nova Scotia’s Domestic Violence Intervention Act²⁴⁶, and similar laws in other provinces all empower quick intervention orders. These civil statutes are gender-neutral in wording and open to any victim of family violence²⁴⁷.

4.6.4 NORWAY

Norway treats domestic violence under general criminal law, with aggravating provisions for close-relationship abuse. Section 282 of the Norwegian Penal Code titled “Abuse in close relationships” criminalizes repeated or severe abuse of a spouse, cohabitant, or other close relative²⁴⁸. Specifically, it provides that “any person who by threats, force...violence or other degrading treatment seriously or repeatedly abuses” a present/former spouse or cohabitant (or certain relatives) is punishable by up to six years’ imprisonment. This language is fully gender-neutral: it criminalizes any person

²⁴² Department of Justice Canada, *Family Violence Laws*, <https://www.justice.gc.ca/eng/cj-jp/fv-vf/laws-lois.html> (last visited May 19, 2025).

²⁴³ Criminal Code, R.S.C. 1985, c. C-46, s. 718.2(a)(ii) (Can.)

²⁴⁴ Id s. 742.1

²⁴⁵ Protection Against Family Violence Act, R.S.A. 2000, c. P-27 (Can.)

²⁴⁶ Domestic Violence Intervention Act, S.N.S. 2001, c. 29 (Can.)

²⁴⁷ Supra note 242

²⁴⁸ *Straffeloven* [Penal Code] § 282 (Nor.), translated in *The Penal Code*, Lovdata, https://lovdata.no/dokument/NLE/lov/2005-05-20-28/KAPITTEL_2-10#%C2%A7282 (last visited May 19, 2025).[Lovdata+2](#)

abusing a spouse or partner. Thus, a husband who assaults his wife is guilty, but so is a wife who injures her husband. There is no special spousal exemption. In practice, Norwegian prosecutors apply s.282 equally to all domestic violence, and they can issue restraining orders (visit bans) to protect victims of any sex.

Norway also authorizes civil protection orders under the Norwegian Act on Certain Types of Personal Injuries. A judge may issue a restraining order (visit or contact ban) to protect a person from being followed, contacted, or assaulted by another. These civil measures likewise use neutral language (“if there is risk that a person will commit a crime against another, a restraining order may be issued”²⁴⁹). Consequently, men can obtain contact bans against abusive wives or partners.

4.6.5 SWEDEN

Sweden’s approach is unique. Rather than a general “family violence” offense, Swedish law integrates domestic abuse into various crimes. Most notably, Chapter 4 Section 4a(2) of the Swedish Penal Code criminalizes a “gross violation of a woman’s integrity” (grov kvinnofridskränkning)²⁵⁰. This special provision applies only when the victim is a woman: it targets repeated or severe criminal acts (assault, threats, etc.) committed within an intimate or family relationship that violate a woman’s dignity. In effect, it functions like an aggravated domestic abuse charge against a female partner. There is no analogous “gross violation of a man’s integrity.” For other offences (ordinary assault, rape, etc.), any victim (male or female) is protected under Chapter 3 and Chapter 6. Thus, an attack by a husband on his wife may be charged under grov kvinnofridskränkning (if repetitive/serious) or ordinary assault. If a wife assaults her husband, prosecutors can charge assault but cannot invoke §4a(2)’s harsher scheme.

Sweden’s Visitationsförbudslagen (Prohibition of Visits Act 1988) allows for restraining orders (“kontaktförbud”). This is a gender-neutral law forbidding one person from visiting or contacting another if the person is likely to commit violence. However,

²⁴⁹ Id s 57

²⁵⁰ *Brottsbalken* [BrB] [Penal Code] 4 kap. 4a § 2 st. (Swed.), translated in *The Swedish Penal Code* (Ds 1999:36), https://www.riksdagen.se/sv/dokument-och-lagar/dokument/departementsserien/the-swedish-penal-code_gnb436/html/

police and prosecutors have historically used it primarily to protect women²⁵¹. Still, restraining orders are legally available to men as well.

4.6.6 AUSTRALIA

The Commonwealth's Family Law Act 1975 (Cth) addresses domestic or family violence in the context of marriage, parenting, and property disputes. It defines "family violence" broadly under Section. 4AB as behaviour by one person "that coerces or controls a member of the person's family...or causes the family member to be fearful," including physical, sexual, emotional or economic abuse²⁵². This definition is gender-neutral as it uses terms like "a person" and "a member of the person's family", and is used primarily to inform child custody and maintenance orders. Part VII of the Act provides for personal protection orders (now largely replaced by injunctions) to restrain violent spouses²⁵³, which is also gender neutral in terms.

Every Australian state and territory enacts its own domestic/family violence protection legislation, typically enabling police or courts to issue emergency or court-based orders (often called Apprehended Violence Orders (AVOs) or similar against a "person" for violence committed against family or household members²⁵⁴. For example, New South Wales' Crimes (Domestic and Personal Violence) Act 2007²⁵⁵ and Victoria's Family Violence Protection Act 2008²⁵⁶ empower courts to impose exclusions, contact prohibitions, and behavioural conditions on any accused abuser. These statutes uniformly use inclusive language: orders may be made "if a person has been subject to domestic violence by another person"²⁵⁷. The regime is supplemented by criminal laws (state criminal codes) that punish specific acts (assault, stalking, kidnapping, etc.) and allow courts to treat DV context as an aggravating factor (e.g. QLD Criminal Code explicitly mentions domestic context as weighty). In summary, Australia's system is

²⁵¹ *Lag (1988:688) om kontaktförbud* [Restraining Orders Act] (Swed.), available at https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/lag-1988688-om-kontaktforbud_sfs-1988-688/ (last visited May 19, 2025)

²⁵² *Family Law Act 1975* (Cth) s 4AB (1975)

²⁵³ *Id* ss 68B, 114

²⁵⁴ Baker McKenzie, *Legal Provisions | Australia | Fighting Domestic Violence*, RESOURCE HUB, <https://resourcehub.bakermckenzie.com/en/resources/fighting-domestic-violence/oceania/australia/topics/1legal-provisions> (last visited May 19, 2025)

²⁵⁵ *Crimes (Domestic and Personal Violence) Act 2007* (NSW)

²⁵⁶ *Family Violence Protection Act 2008* (Vic)

²⁵⁷ *Id* s 5

broadly similar to Canada and the U.S.; state- and federal-level protections are open to male victims.

In the U.S., UK, Canada, Norway, and Australia, domestic violence laws are generally written without regard to the sex of victim or abuser. They allow any person, male or female, to seek protection if abused. Sweden is an outlier in criminal law by retaining an offense explicitly limited to violence against women. By contrast, India's legal framework explicitly targets only violence against women, offering no equivalent relief to men. This comparative analysis highlights that while many countries now recognize male victims in domestic-violence law, India's principal remedies (PWDVA 2005 and BNS Sections 85 & 86) remain gender-specific, reflecting a highly gendered approach to domestic violence.

4.7 CONCLUSION

The comparative analysis in this chapter demonstrates that international legal systems are increasingly moving towards gender-neutral and inclusive definitions of gender-based violence. Jurisdictions such as the United States, the United Kingdom, Canada, Norway, Sweden, and Australia have taken significant steps to redefine offences like rape, sexual harassment, voyeurism, stalking, and domestic violence in ways that encompass male victims and female perpetrators. These reforms are reflected in the statutory language, using terms like "a person" or "another individual" that explicitly acknowledge the reality of male victimization.

In sharp contrast, India's current legal landscape continues to rely heavily on gender-specific provisions, which conceptualize the victim exclusively as a woman and the perpetrator as a man. This leaves a significant portion of male and LGBTQI+ victims without adequate legal recourse or recognition.

The findings of this chapter underscore the urgent need for Indian law to align with evolving global standards by adopting gender-neutral definitions and inclusive protections across all forms of GBV. Justice should not depend on the gender of the victim; every person who suffers such harm deserves legal support and recognition. Reforming these laws is necessary to break harmful gender stereotypes, acknowledge the real experiences of male and non-binary victims, and move toward a legal system that offers equal protection and dignity to everyone.

When comparing the countries discussed in this chapter, it can be seen that those with gender-neutral laws, like the United Kingdom, Canada, Australia, Sweden, Norway, and the United States, have some important things in common. These countries usually have strong legal protections for equality written into their constitutions or laws. They also collect proper data that includes not just women, but also male and LGBTQI+ survivors of gender-based violence. Another key factor is that their legal reforms were often supported by a wide range of advocacy groups, including women's rights organisations, LGBTQI+ activists, and those working for men's rights, who came together to push for change.

In contrast, countries like India still follow gender-specific laws, where the victim is legally assumed to be a woman and the perpetrator a man. These laws are often based on older systems, such as colonial-era penal codes, and influenced by cultural beliefs that only women can be victims of sexual violence. In such countries, there's very little research or data on male or LGBTQI+ victims, which makes it harder for the legal system to acknowledge or support them.

Even so, both types of countries, those with gender-neutral laws and those without, face similar influences when it comes to legal reform. International agreements like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), recommendations from courts or law commissions, and changing public opinions about gender roles all play a role in shaping the law. There exists a common challenge across both gender-neutral and gender-specific legal systems: the underreporting of gender-based violence by male and LGBTQI+ survivors. Even in countries where inclusive laws exist, social stigma, fear of disbelief, and entrenched gender norms continue to discourage many from coming forward. In gender-specific systems, the lack of legal recognition further silences these victims, making their experiences statistically and socially invisible. In effect, the real progress happens when legal reforms are supported by facts, public awareness, and the efforts of people and organisations working for justice.

CHAPTER 5- FINDINGS AND SUGGESTIONS

5.1 INTRODUCTION

This dissertation was undertaken to explore a sensitive yet often ignored issue, gender-based violence (GBV) against men in India. In most discussions around GBV, the focus is usually on women, and rightly so, because women have historically faced, and continue to face, high levels of violence and discrimination. However, this strong focus on protecting women has also led to the neglect of another reality: that men, too, can be victims of violence based on gender. These experiences are usually kept hidden due to shame, social stigma, and a legal system that does not fully recognize male victims. This study aimed to bring more attention to this issue and to examine whether the Indian legal system offers fair and equal protection to male victims of such violence.

The main objective of this research was to revisit the idea of “victimhood” in the context of gender-based violence. It aimed to look beyond the traditional view that only women can be victims and to explore the different kinds of violence that men face, such as sexual violence, domestic abuse, emotional cruelty, and workplace harassment. This study also closely examined the Indian legal system, including major laws like the Bharatiya Nyaya Sanhita (BNS), the Domestic Violence Act of 2005, and the POSH Act of 2013, to understand whether these laws provide protection for male victims or exclude them based on gender.

To get a better understanding of how India’s legal system compares with others, the research also included a comparative study of countries like the USA, UK, Canada, Sweden, Norway, and Australia. These countries have moved towards gender-neutral laws that recognize all victims, regardless of whether they are male, female, or of another gender. By comparing their legal frameworks with India’s, the study aimed to find out whether India could learn from their approaches and make its own laws more inclusive.

Through Chapter 2, the forms and realities of gender-based violence (GBV) as experienced by men in India were critically examined. While GBV is usually discussed

in the context of violence against women, this chapter brought attention to how men also suffer various forms of abuse, such as sexual violence, domestic abuse, emotional trauma, and cruelty, often in silence. The chapter challenged the traditional image of men solely as perpetrators and showed, through domestic and international studies, that men, too, can be victims, though their pain often goes unnoticed and unaddressed.

One of the key findings was that male victims face a serious lack of legal protection. The Indian legal system has no gender-neutral provisions for crimes like rape or sexual harassment. As a result, men who experience these crimes often have no specific legal remedy and may even be ridiculed or ignored when they attempt to seek justice. The chapter discussed how cultural expectations of masculinity, where men are expected to be strong, unemotional, and in control, prevent many men from reporting abuse or even recognizing themselves as victims.

The chapter also explored societal myths such as “men can’t be raped” or “only women can be sexually harassed,” which are deeply rooted in Indian culture and law. It provided real-life examples and statistical data from India and other countries to show that male victimization is not only possible but happening frequently, though underreported. Examples from Indian courts, hospitals, and news reports revealed that male rape and abuse are occurring but are rarely acknowledged. The few existing studies and surveys, such as those by Save Indian Family Foundation and Jai Vipra’s research for the Centre for Civil Society, showed clear evidence of men being victims of rape, coercion, domestic violence, and psychological abuse.

Another alarming phenomenon is the misuse of Section 85, BNS, which was originally enacted to protect women from cruelty in marriage. Although essential to addressing genuine cases of dowry-related abuse, Section 498A (now 85 BNS) has increasingly been cited in false or exaggerated complaints, often as a tool of retaliation in matrimonial disputes. The Supreme Court itself has recognized this trend in *Sushil Kumar Sharma v. Union of India*²⁵⁸, stating that the provision had become a weapon rather than a shield in some cases. The Law Commission and the Malimath Committee have also acknowledged this misuse, recommending safeguards against arbitrary arrests. The criminalization of familial discord without due investigation leads to harassment of innocent men and their families, erodes trust in the justice system, and

²⁵⁸ Supra note 58 at 30

dilutes the impact of the law for genuine victims. This misuse, in itself, constitutes a form of gender-based violence against men, where legal instruments become tools of coercion and psychological abuse.

Chapter 3 focused on critically analyzing the Indian legal system to evaluate how well it addresses gender-based violence against men. The findings clearly showed that India's legal framework is highly gender-specific, designed primarily to protect women and, in doing so, often excludes male victims from receiving legal protection or justice.

The chapter began by examining the Bharatiya Nyaya Sanhita (BNS), 2023, which replaced the colonial-era Indian Penal Code. It revealed that laws relating to rape (Section 63), sexual harassment (Section 75), voyeurism and stalking (Sections 77 and 78), and domestic cruelty (Section 85) all assume a male perpetrator and a female victim. For example, Section 63 states that "*a man is said to commit rape if...*", this framing clearly leaves no legal room for recognizing a male victim or a female perpetrator, and entirely ignores transgender and non-binary individuals.

The exclusion continues across other provisions. Stalking (Section 78) and sexual harassment (Section 73) only criminalize actions committed by men against women, thereby ignoring scenarios where men are victims, whether of female perpetrators or same-sex violence. Voyeurism and cruelty are similarly defined in gendered terms. This statutory structure reflects a protective discrimination framework, permitted under Article 15(3) of the Indian Constitution, which allows the state to make special provisions for women. While this was necessary to address systemic patriarchal violence, it has inadvertently marginalized male victims by denying them equivalent protection under the law.

The Protection of Women from Domestic Violence Act, 2005 (PWDVA), a crucial civil law to address intimate partner abuse, defines an "aggrieved person" strictly as a woman. Consequently, male victims of domestic abuse are denied relief, including residence orders, protection orders, or maintenance. Although there were judicial observations, such as in *Mohammed Zakir v. Shabana* (Karnataka High Court, 2017), which momentarily opened the door for male victims to seek relief under PWDVA, these were later overturned or diluted, reaffirming the Act's exclusive applicability to women.

Similarly, the POSH Act (2013), intended to prevent workplace harassment, legally bars male victims from filing complaints. Another deeply contested provision is Section 498A of the IPC (now Section 85 BNS), which criminalizes cruelty by husbands or their relatives. While designed to combat dowry harassment, its alleged misuse has become a contentious issue. Numerous reports and judgments, including *Sushil Kumar Sharma v. Union of India*²⁵⁹, have highlighted how false allegations under this section have led to the harassment of innocent men and their families. Although courts have attempted to introduce safeguards, such as requiring preliminary inquiries or limiting automatic arrests, there is still no parallel legal remedy for men suffering domestic cruelty.

At the constitutional level, these statutory provisions present a conflict with Articles 14 and 21, which guarantee equality before the law and the right to life and personal liberty. While protective discrimination is constitutionally permitted, it cannot justify the complete legal invisibility of male victims.²⁶⁰ Justice cannot be conditional upon the gender of the victim, especially when empirical studies, case law, and lived experiences confirm the existence of male vulnerability to gender-based violence

Even though reforms were suggested in past reports, like the Justice Verma Committee Report (2013), to make rape laws gender-neutral, these recommendations were not fully implemented. The Verma Committee used gender-neutral terms such as “person” to describe victims, but the actual amendments in law continued to use the word “woman”, keeping the framework exclusionary. A Private Member’s Bill introduced in 2019 by MP K.T.S. Tulsi aimed to fix this by replacing gendered words like “man” and “woman” with “any person,” but it was never passed into law.

Judicial interpretations have also mostly stayed within this gendered framework. For instance, courts have routinely dismissed Public Interest Litigations (PILs) seeking gender-neutral laws, such as in the *Criminal Justice Society v. Union of India*²⁶¹ In this case, the Supreme Court declined to intervene, stating that it is Parliament’s job to make such changes.

²⁶⁰ Paridhi Malik & Sushant Dabral, *The Unheard Cries of Gender Neutrality*, 2 Int’l J. Legal Res. & Analysis 7 (2024)

²⁶¹ *Supra* 37 at 23

The chapter concluded that while Indian laws have evolved to better protect women from violence (which is important and necessary), they have failed to evolve in a way that offers similar recognition or protection to male victims. This gap in the law not only causes male victims to suffer in silence but also creates an unequal justice system that does not truly serve all citizens.

Chapter 4 provided a comprehensive comparative study of how other countries address gender-based violence (GBV), especially in relation to male victims, and how their legal systems differ from India's. The purpose of this chapter was to show that while India still operates within a gender-specific legal model, many other countries have moved toward gender-neutral laws that recognize and protect victims of all genders.

The chapter began by explaining how GBV laws in India often assume that women are the sole victims of these offences. This kind of narrow approach not only ignores male victims but also reinforces harmful gender stereotypes. In contrast, countries like the United States, United Kingdom, Canada, Sweden, Norway, and Australia have made significant legal reforms to ensure that their laws protect all victims, regardless of gender.

For example, in the United States, both federal and state laws define rape and sexual assault using gender-neutral terms like "any person." The Violence Against Women Act (VAWA) was amended in 2013 to include protections for male and LGBTQ+ victims, ensuring that services cannot be denied based on gender or identity.

In the United Kingdom, although the legal definition of rape still requires the perpetrator to have a penis, other offences like assault by penetration, sexual assault, and causing a person to engage in sexual activity without consent apply to all genders. Courts there treat male and female victims equally, and sentencing guidelines do not change based on the gender of the victim.

In Canada, rape was completely removed from the law books in 1983 and replaced with three levels of gender-neutral sexual assault. These laws focus on consent and the nature of the act, not the gender of the people involved. This change was important in giving male and non-binary victims equal legal standing.

Sweden and Norway have also adopted modern, inclusive laws. Sweden's law now defines rape as any non-consensual sexual act, regardless of gender or the way the act

is committed. Norway's Penal Code clearly states that any person can be a victim or a perpetrator of sexual violence, and the law gives equal protection to all individuals.

Australia, too, has reformed its laws across federal and state levels to make them gender-neutral. Laws in places like New South Wales and Victoria use phrases like “a person who engages in sexual intercourse without consent” rather than specifying male or female. This means both female perpetrators and male victims are legally recognized.

The same standard goes for other offences that are termed as gender-based violence. These jurisdictions have gender neutral laws with regard to sexual harassment at work place, voyeurism, stalking and domestic violence in addition to gender neutral rape laws.

The chapter made it clear that India has fallen behind in this global trend. While other countries have updated their laws to reflect the reality that anyone can be a victim of GBV, India's laws still reflect outdated gender norms. The exclusion of men from legal recognition is not only unfair but also goes against the principles of equality and personal liberty guaranteed under Article 14 and Article 21 of the Indian Constitution. Furthermore, India's continued use of gendered language in the law contradicts international human rights standards, including those set by the Universal Declaration of Human Rights.

5.2 FINDINGS

1. Gender-based violence (GBV) against men exists in India, taking forms such as rape, domestic abuse, sexual harassment, emotional cruelty, and coercion, but it is widely underreported and socially ignored.
2. Societal expectations of masculinity prevent male victims from coming forward. Men are expected to be strong and invulnerable, which leads to stigma, shame, and silence when they face abuse.
3. Real-life cases of male rape and abuse in India exist, including instances of male-on-male and female-on-male sexual assault, but these are rarely acknowledged or seriously pursued by law enforcement or the judiciary.
4. Indian legal provisions are predominantly gender-specific, with laws such as the Bharatiya Nyaya Sanhita (Section 63), the Protection of Women from Domestic

Violence Act, 2005, and the POSH Act, 2013 recognizing only women as victims and men as perpetrators.

5. Section 63 of the Bharatiya Nyaya Sanhita (rape law) remains gender-specific and continues to exclude male and transgender victims, despite past recommendations for reform by the Justice Verma Committee and Law Commission.
6. Section 74 of BNS, which deals with assault or use of criminal force with the intent to outrage the modesty of a woman, and Section 77 of BNS, which deals with voyeurism, are gender-neutral with respect to the offender, but when it comes to the victim, they are gender specific.
7. Sections 75 and 78 of the BNS, which deal with sexual harassment and stalking, respectively, are both gender specific. The section is only applicable if the victim is a woman and the offender is a man.
8. The legal framework lacks any special or parallel provisions for male victims of domestic violence, leaving them without recourse under the current laws. Cruelty defined under Section 85, also applies to female victims only
9. Judicial reluctance to engage with the issue of male victimization is evident in cases such as *Criminal Justice Society v. Union of India*, where a PIL for gender-neutral rape laws was dismissed.
10. No official data is maintained or published by the National Crime Records Bureau (NCRB) on male victims of sexual or domestic violence, making the problem invisible in state records and policymaking.
11. Independent surveys and case studies (e.g., Save Family Foundation, CCS research) indicate that significant numbers of men report experiencing violence, coercion, and abuse, despite lacking formal recognition.
12. There are no government-supported institutional services for male victims, such as shelters, dedicated helplines, or legal aid, limiting access to recovery and justice.

13. Comparative analysis with countries like the USA, UK, Canada, Sweden, Norway, and Australia shows that those jurisdictions have adopted gender-neutral laws that protect all victims regardless of gender.
14. International legal frameworks focus on the nature of the act and the absence of consent, rather than the gender of the victim or perpetrator, reflecting a more inclusive and rights-based approach.
15. India has not adopted similar gender-neutral frameworks, despite multiple suggestions, and continues to lag behind in aligning its laws with international human rights standards.
16. The removal of Section 377 in the BNS eliminates even indirect protection for male-on-male sexual violence, further narrowing legal options for male victims.
17. The current legal and social approach in India reinforces a limited understanding of victimhood, excluding men and other gender identities from equal recognition and protection under the law.

5.3 SUGGESTIONS

1) Make Rape Laws Gender-Neutral

- Section 63 of the Bharatiya Nyaya Sanhita (BNS) be amended to redefine rape in terms of *non-consensual acts*, irrespective of the gender of the victim or perpetrator.
- Instead of using terms like ‘man’ or ‘woman’, use terms like ‘person’, ‘whoever’, or ‘any person’ in the section to address the offender as well as the victim.

2) Reform Laws on Sexual Harassment, Voyeurism, and Stalking

- Amend Sections 75 (sexual harassment), 77 (Voyeurism), and 78 (stalking) of the BNS to be gender-neutral for both victims and perpetrators.
- Ensure that laws account for female-on-male, male-on-male, female on female and transgender victimization.

3) Make Domestic Violence Protections Inclusive

- The Protection of Women from Domestic Violence Act, 2005²⁶² may be amended, or an alternative remedy for men and transgender persons may be introduced, ensuring equitable legal remedies for all survivors of domestic abuse.
- Expand Section 85 of the BNS (cruelty) to include male and LGBTQ+ victims of domestic abuse.

4) Similarly, the Sexual Harassment of Women at Workplace (POSH) Act should be amended so that *any* employee (man or woman) can file a complaint of workplace sexual abuse or an alternative remedy for men must be made available

5) Introduce stringent legal consequences for false allegations to deter the potential misuse of gender-neutral legal provisions. Although existing provisions in the BNS (Sections 229–231) and BNSS (Section 273) address false evidence and false reporting, they do not adequately cover the specific and serious harm caused by false allegations of sexual offences. These provisions are procedural and general in nature. Therefore, to prevent the misuse of gender-neutral laws and protect the integrity of sexual offence legislation, a dedicated section criminalizing knowingly filing false complaints of sexual offences should be introduced, with both criminal and civil consequences.

Moreover, under the existing provisions of the BNS, any prosecution for false accusations, such as under Sections 230 or 231, requires the initiation of a separate criminal trial, which is procedurally time-consuming and often impractical for the acquitted person. To address this inefficiency, it would be more expedient if, at the time of acquittal itself, the court is empowered to record a finding on the falsity or maliciousness of the accusation and take cognizance of such conduct, either by initiating prosecution or recommending further action. This approach would enhance judicial efficiency and ensure timely accountability for false complaints without burdening the courts with a wholly separate trial.

²⁶² Supra note 110 at 50

6) Consider institutional checks to vet domestic-violence complaints. In *Rajesh Sharma v. Uttar Pradesh* (2018), the Supreme Court ordered creation of “Family Welfare Committees” to examine such cases before formal action²⁶³. It also directed police to seek supervisory permission before making arrests and to ensure allegations have credible proof²⁶⁴. Legislating similar mechanisms (or at least local adoption) would reduce arbitrary detentions and false implication of entire families.

7) Reinstate Protection from Male-on-Male Sexual Violence

- Reintroduce post Navtej Singh judgment²⁶⁵, Section 377, to specifically criminalize male-on-male sexual violence, ensuring that decriminalization of consensual same-sex relations does not lead to gaps in addressing coercive acts.

8) Establish Gender-Neutral Definitions in All Offences Related to Modesty and Dignity

Revise Sections 74 and 79 to ensure protections extend to all individuals, regardless of gender, whose modesty is outraged, and also reinstate the section under the chapter offence against the body instead of offence against woman. Although Section 3(10) clarifies the use of pronouns, the simultaneous use of “whoever” and “he” to describe the offender creates unnecessary ambiguity and should be avoided.

9) Judicial and Law Enforcement Reforms

A. Judicial Sensitization

- Mandate gender-sensitivity training for judges, especially on issues of male and LGBTQ+ victimization.
- Encourage the judiciary to revisit dismissed PILs and take a proactive stance on expanding protections through judicial interpretation.

B. Police Training and Accountability

²⁶³ *Rajesh Sharma v The State of Uttar Pradesh* (2018) 10 SCC 472

²⁶⁴ Id

²⁶⁵ *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1

- Implement mandatory training for police officers on handling male and LGBTQ+ GBV cases with empathy and professionalism.
- Establish internal accountability mechanisms for dismissing or ridiculing complaints from male victims.

10) Institutional and Policy Reforms

A. Data Collection and Reporting

- Direct the National Crime Records Bureau (NCRB) to begin systematic documentation of crimes against male and transgender victims, including rape, domestic abuse, and sexual harassment.
- Disaggregate data by gender identity to enable informed policy.

B. Establish Support Systems for Male Victims

- Set up government-funded shelters, counseling centers, helplines, and legal aid services specifically for male and LGBTQ+ victims of GBV.
- Encourage states to replicate these mechanisms at the local level.

C. Launch Awareness Campaigns

- Run nationwide campaigns to destigmatize male victimhood and break the silence around abuse against men.
- Promote masculinity that embraces vulnerability, emotional expression, and help-seeking.

11) Review and incorporate elements from gender-neutral laws in countries like the UK, USA, Canada, and Australia, which emphasize consent rather than gender.

12) Fund Independent Research

- Support academic and civil society research on the prevalence and impact of GBV on men and non-binary individuals.
- Establish a dedicated National Commission on Gender-Neutral Victim Rights to monitor progress, hear complaints, and recommend continual legal reforms.

13) Policymakers should also keep in mind jurisprudence on protective discrimination.

The Supreme Court's recent ruling upholding 498A under Article 15(3)²⁶⁶ suggests that benign discrimination in favor of women is allowed. But going forward, any legislation that confers benefits or shelters on the basis of gender must be calibrated to its purpose. For example, if a "gender-neutral" domestic violence law is deemed infeasible, legislators might alternatively specify that men may seek civil relief in certain ways or that some protective orders are gendered but without depriving the other spouse of relief.

In light of the findings and proposed reforms, it becomes clear that the Indian legal system must evolve to reflect the lived realities of all survivors of gender-based violence, irrespective of gender. The proposed reforms, ranging from legislative amendments to institutional support systems, are all necessary and achievable within the existing constitutional and international human rights framework. These reforms are not aimed at diluting protections for women but at expanding the scope of justice to include all individuals who suffer harm, irrespective of gender. Ultimately, any legal system committed to the principles of fairness, dignity, and non-discrimination must ensure that the law recognizes and protects every victim of violence.

²⁶⁶ Supra note 104 at 49

BIBLIOGRAPHY

I. Journal Articles

- 1) Harshad Pathak, Beyond the Binary: Rethinking Gender Neutrality in Indian Rape Law, 11 AsJCL, pp. 367–397 (2016)
- 2) Jessica A. Turchik & Katie M. Edwards, Myths About Male Rape: A Literature Review, 13 Psychol. of Men & Masculinity 211 (2011)
- 3) Imam MA. Reservation Policy and Social Justice in India: A Constitutional Perspective. 9(2) RESEARCH REVIEW International Journal of Multidisciplinary, 144-51 (2024)
- 4) Kadri A.K.R., Kolawole I.O., Ohaeri B.M. and Babarimisa O. (2024) Gender Based Violence: A Silent Epidemic, Knowledge and Patterns in Ibadan, Oyo State, International Journal of Public Health, Pharmacy and Pharmacology, 9 (1), 39-48
- 5) Gayatri Pradhan, A Sociological Review of Gender-Based Violence across the Globe, 6 International Journal For Multidisciplinary Research (2024)
- 6) Sherifat Hussain-Abubakar, Gender-Based Violence and Its Effect on Mental Health (2024)
- 7) Navpreet Kaur & Shobha Gulati, Domestic Violence against Men in India: A Critical Analysis with Special Reference to Indian Laws (2024)
- 8) Mandlenkosi Richard Mphatheni & Ntsika Edward Mlamla, Gender-Based Violence against Men and Boys: A Hidden Problem, 11 African journal of gender, society and development 59 (2022)
- 9) Cercone, J. J., Beach, S. R. H., & Arias, I. (2005). Gender Symmetry in Dating Intimate Partner Violence: Does Similar Behavior Imply Similar Constructs? Violence and Victims, 20(2), 207–218
- 10) Carlson ES. The hidden prevalence of male sexual assault during war: observations on blunt trauma to the male genitals. Br J Criminol. 2005;46(1):16-25
- 11) Kiryakova, Teodora & Alexandrov, Alexandar. (2022). Forensic Aspects of Domestic Violence: Men as Victims of Intimate Partner Violence. Science & Research. volume 6. 5-12

- 12) Carmo R, Grams A, Magalhães T. Men as victims of intimate partner violence. *J Forensic Leg Med.* 2011 Nov;18(8):355-9
- 13) DRIJBER, B. C., REIJNDERS, U. J., & CEELLEN, M. (2013) Male victims of domestic violence. *Journal of Family Violence.* 28 (2). Pp. 173–178
- 14) Phillip M. Sarrel & William H. Masters, Sexual Molestation of Men by Women, 11 *Arch. Sex. Behav.* 117 (1982)
- 15) Roy J. Levin & W. van Berlo, Sexual Arousal and Orgasm in Subjects Who Experience Forced Sexual Stimulation, Biological and Psychological Perspectives, 10 *J. Clinical Forensic Med.* 28 (2003)
- 16) David H. Barlow, Donald K. Sakheim & James G. Beck, Anxiety Increases Sexual Arousal, 92 *J. Abnormal Psychol.* 49 (1983)
- 17) Cailey Hartwick, Serge Desmarais & Karl Hennig, Characteristics of Male and Female Victims of Sexual Coercion, 17 *Can. J. Hum. Sexuality* 31 (2007)
- 18) Krahé, Barbara & Scheinberger-Olwig, Renate & Bieneck, Steffen, Men's Reports of Nonconsensual Sexual Interactions with Women: Prevalence and Impact. *Archives of sexual behavior.* 32, (2003) 165-75
- 19) Shalini Shivajirao Ghumare, Domestic Violence - A curse to a Man in a male dominated society, 9 *IJCRT* 2021 754-760
- 20) Sabelinah Tshoane et al., Domestic Violence against Men: Unmuting the Reality of the Forgotten Gender, 10 *Cogent Social Sciences* (2024)
- 21) Jagbir Singh Malik & Anuradha Nadda, A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India, 44 *Indian J. Community Med.* 35 (2019)
- 22) Aparajita Chattopadhyay, Santosh Kumar Sharma, Deepanjali Vishwakarma and Suresh Jungari, 'Prevalence and Risk Factors of Physical Violence Against Husbands: Evidence from India' *Journal of Biosocial Science* (2023)
- 23) Deshpande S (2019). Sociocultural and legal aspects of violence against men. *Journal of Psychosexual Health*
- 24) Ritu Singh, Kusha Pant & Amit Kumar Mishra, Domestic Violence Act “Shield or Weapon of an Indian Women”: Two Sides of a Coin, 9 *Indian journal of positive psychology* 164 (2018)
- 25) B. Suresh Kumar Shetty, P.P. Jagadish Rao & Aditi Suresh Shetty, Legal Terrorism in Domestic Violence - An Indian Outlook, 80 *Medico-legal Journal* 33 (2012)

- 26) Henrique Fernandes Antunes, Section 498A of Indian Penal Code: A Legal Instrument for Social Change 89 (2022)
- 27) Siniša Franjić, Briefly About Sexual Offenses, 3 Law and Economy 7 (2024)
- 28) Savita Bhatta, Sexual Harassment: A Matter of Power, 38 Econ. & Pol. Wkly. 33 (2003)

II. . Books and Book Chapters

- 1) Arthur S Chancellor, *INVESTIGATING SEXUAL ASSAULT CASES*, CRC Press (1st ed. 2021)
- 2) M. A. Straus and R. J. Gelles (Eds.), Physical violence in American families: Risk factors and adaptations in violence in 8,145 families (pp. 49-73) (1990)
- 3) Agnes, Flavia. 2002. Law, Ideology and Female Sexuality. Economic and Political Weekly: 844-847

III. Reports and Surveys

- 1) NCRB Report 2022, Suicidal Deaths in India (2022) ncrb.gov.in
- 2) Ctrs. for Disease Control & Prevention, National Intimate Partner and Sexual Violence Survey (NISVS): 2024 Data Brief – Updated Release (May. 2024)
- 3) Kathleen C. Basile et al., The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Sexual Violence, Nat'l Ctr. for Injury Prevention & Control, Ctrs. for Disease Control & Prevention (2022)
- 4) Przemoc i konflikty w domu (2012) Komunikat z badań. Warszawa: Centrum Badania Opinii Publicznej
- 5) International Institute for Population Sciences (IIPS) & ICF, National Family Health Survey (NFHS-5), India, 2019–21 (2021)
- 6) Save Family Foundation & My Nation, Domestic Violence Against Men Study Report 2005-2006 (2006)
- 7) U.N. Research Inst. for Soc. Dev., India: Gender and Development – Chapter 3, UNRISD (2016)
- 8) Law Comm'n of India, 172nd Report on Review of Rape Laws, ¶ 3.1.1 (2000)
- 9) Justice J.S. Verma, Justice Leila Seth & Gopal Subramaniam, Report of the Committee on Amendments to Criminal Law, Government of India (Jan. 23, 2013)

IV. Newspaper and Online News Articles

- 1) Four Women Rape a Man in Jalandhar: Gender-Neutral Laws Are Crying Need of Hour, Firstpost (Nov. 5, 2022)
- 2) 24-Year-Old Man Allegedly Raped by Another Man in Karnataka, Accused Held, New Indian Express (Oct. 10, 2021)
- 3) 36-Year-Old Man Gang-Raped by Five in Vashi; Undergoes Emergency Surgery, Mumbai Mirror (Sept. 2019)
- 4) 20-Year-Old College Student Gang-Raped by 7 for 16 Months in Gujarat, Times of India (Mar. 2024)
- 5) Deccan Chronicle, Man Killed by Contract Killer Hired by Wife, Her Lover in UP's Auraiya, Deccan Chron. (Mar. 19, 2025)
- 6) India Today, Bengaluru Woman, Her Mother Murder Man by Spiking His Food, Slitting His Throat, India Today (Mar. 25, 2025)
- 7) NDTV, Jaipur Woman, Lover Kill Husband, CCTV Shows Them Carrying Body on Bike, NDTV (Mar. 18, 2025)
- 8) Times of India, Woman Sentenced to Life for Murdering Husband to Be with Minor Lover, Times of India (Jan. 18, 2025)
- 9) Hindustan Times, Belagavi Woman Kills Husband, Smashes Face with Stone, Chops Body, Hindustan Times (Jan. 10, 2025)
- 10) Dhananjay Mahapatra, Husband Gets Relief in Supreme Court: Wife Filed False Cases of Domestic Violence and Cruelty to Force Divorce, Econ. Times (Feb. 27, 2025)
- 11) Chilling abuse at Kochi firm: Crawling, coercion, sexual harassment in the name of sales targets, Mathrubhumi (April 5, 2025)
- 12) 'Touched me inappropriately': Bengaluru firm intern alleges harassment, India today (Sep 25, 2023)
- 13) The Times of India, Kalakshetra Professor Hari Padman Accused of Sexual Abuse Arrested in Chennai, TIMES OF INDIA (Apr. 3, 2023)
- 14) The News Minute, Male Students Accuse Two Kalakshetra Employees of Molestation, Sexual Harassment, THE NEWS MINUTE (Apr. 4, 2023)

V. Statutes, Bills, and Legal Codes

- 1) Bharatiya Nyaya Sanhita, No. 45 of 2023 (India).

- 2) Criminal Law (Amendment) Act, No. 43 of 1983 (India).
- 3) Criminal Law (Amendment) Act, No. 13 of 2013 (India).
- 4) Criminal Law (Amendment) Act, No. 22 of 2018 (India).
- 5) The Criminal Law (Amendment) Bill, Bill No. XVI of 2019 (India).
- 6) Indian Penal Code, No. 45 of 1860 (India).
- 7) Protection of Women from Sexual Harassment at Workplace Act, No. 14 of 2013 (India).
- 8) Protection of Women from Domestic Violence Act, No. 43 of 2005 (India)
- 9) 18 U.S.C. §§ 2241–2244 (U.S.).
- 10) Title VII of Civil Rights Act 1964(US)
- 11) California Penal Code (Cal. Penal Code).
- 12) California Family Code, 2024
- 13) New York Penal Law (N.Y. Penal Law).
- 14) Criminal Code, R.S.C. 1985, c. C-46 (Can.).
- 15) Canadian Human Rights Act, 1985 (Can)
- 16) Protection Against Family Violence Act 2001 (Can)
- 17) Domestic Violence Intervention Act 2001 (Can)
- 18) Sexual Offences Act 2003 (U.K.).
- 19) Equality Act 2010 (UK)
- 20) Domestic Abuse Act 2021, (UK)
- 21) Family Law Act 1996 (UK)
- 22) Swedish Criminal Code (Brottsbalken) (Swed.).
- 23) Norwegian Penal Code (Nor.).
- 24) Equality and Anti- Discrimination Act, 2017 (Nor)
- 25) Working Environment Act, 2005 (Nor)
- 26) Crimes Act 1900 (NSW) (Austl.).
- 27) Criminal Code Act 1995 (Cth) (Austl.).
- 28) Family Law Act 1975 (Cth) (Austl.).
- 29) Crimes (Domestic and Personal Violence) Act 2007 (NSW)
- 30) Family Violence Protection Act 2008 (Vic)

VI. Working Papers and Blogs

- 1) Jai Vipra, A Case for Gender-Neutral Rape Laws in India, CCS Working Paper No. 286, Centre for Civil Society (2013)

- 2) Shubham Priyadarshi, A Coin Without Another Side: Voyeurism and Under-Inclusiveness, SCC Online Blog (June 19, 2023)
- 3) Shalu Nigam, Is Domestic Violence a Lesser Crime? Countering the Backlash against Section 498A, IPC, Social Science Research Network (2016)
- 4) Madhu Kishwar, Laws Against Domestic Violence: Underused or Abused, 8 Manushi 17 (2003)

VII. Websites

- 1) ncrb.gov.in
- 2) cdc.gov
- 3) UNRISD

APPENDIX

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