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## **INVISIBLE VICTIMIZATION: A STUDY OF SEXUAL HARASSMENT AND SEXUAL ASSAULT ON MEN**

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### *Abstract*

The acts of sexual harassment and sexual assault are basic human rights violation throughout the globe. The general perception that the society carries about sexual violence is that, women are the victims and men are the perpetrators. This patriarchal perception has burdened the society with the preconceived and primitive notion of masculinity. This preconceived norm of the society brings any form of sexual violence against men under the radar of invisibility. The patriarchal norms and societal stigma restrain men from reporting any incident of sexual harassment and sexual assault against them. The normative approach towards the penal laws in India defines men as strong and invulnerable. This stereotype leads to victimization of men, and the stigma is so stuck in the minds of people that even if any incident of sexual violence against any men takes place, the victim is ridiculed and made fun of. As a consequence, majority of such incidents remain unreported.

This research paper looks into male victimization from the perspective of a victim and not from the point of masculinity. This study will look into patterns, causes and socio-legal consequence of these offences against men. This research will aim to relate the theories of victimization which includes the Routine Activity Theory and the Neutralization Theory. This study particularly examines the Indian legal system that lack gender neutral approach, in contrary, many developed countries and developing countries have adopted a gender-neutral approach in their penal statutes. Even the International Criminal law and International Humanitarian law have recognized gender-neutral term. This Research paper includes a small-scale empirical survey with the purpose of understanding the ground realities in the society. The survey reports are analysed by linking them with the theories of victimization.

*Keywords: Victimology, Victimization, Male Victims, Sexual Harassment, Sexual Assault, Gender-neutral Law, Routine Activity Theory, Neutralization Theory, Invisible Victimization.*

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## **1. INTRODUCTION**

Sexual harassment and sexual assault are very serious violation of basic human rights and personal liberty. The traditional criminal justice administration systems have believed in a type of gendered framework where men are the perpetrators. This notion is reflected in majority incidents. In majority of the cases women get sexually assaulted and sexually harassed in a society but the criminal justice administration system fails to address the sexual assault and victimization of men. The invisibility of the male victims hides under the pressure of societal conception of masculinity. This makes men invulnerable. Sexual abuse on men becomes a case of social ridicule as a repercussion to this concept of invulnerability.

In India the Criminal Justice Administration system have failed to recognize the act of sexual abuse on men. There have been several reforms in the existing criminal laws of India but despite multiple amendments on the rape laws in India, the legislation fails to admit the reality that men can also become victims of sexual assault and victimization. The Protection of children from Sexual Offences (POCSO) Act have recognised gender neutrality in the laws. If male children can become victims of sexual assault and sexual violence then it would be contradictory to rely on the norm of masculinity, that men cannot be victims of sexual assault and abuse.

## **2. RESEARCH QUESTIONS**

1. What are the forms and patterns of sexual harassment and assault experienced by men in India?
2. How do existing Indian laws exclude or inadequately protect male victims?
3. Which theories of victimology can explain the phenomenon of male victimization?
4. What policy reforms can promote a gender-neutral approach to justice?

## **3. REVIEW OF LITERATURE**

The existing literature that refers to victimization of men have undergone significant transformations. This change of gender specific laws to a gender-neutral approach in some legal frameworks has aided in including male victims of sexual abuse in the society at large. There are various nations that do not follow gender neutral approach towards the domestic laws. This creates a significant gap in the existing legal frameworks throughout the globe that follows gender specific penal statute. Sandra Walklate in his research work challenged

the term 'ideal victim' in the criminal justice system. Walklate argues that the concept of victimhood does not belong to any particular legal category, whereas it is a socially constructed identity that is shaped by cultural and political forces. It is very essential to understand the reason behind the marginalization of men victims of sexual violence. The traditional concept of victim which includes only women vulnerability within it, excludes any other form of victimization on any gender.<sup>3</sup>

R. W. Connell in his research work critically examined the concept of the hegemonic masculinity. This framework aided in understanding the reason of denial of male victimization in the society. Connell challenges the normative approach of the society by challenging the deeply embedded social hierarchies on masculinity in the society.<sup>4</sup> Stemple and Meyers did an analysis of a federal survey data in the United States and it revealed that male victimization in the society is more prevalent in the society than the perception that exists in the society about violence against men. The gender stereotype and the perception of masculinity that exists in the society, obscures the unfortunate realities. Stemple and Meyers have raised the need of gender-neutral approach in formulation of policies.<sup>5</sup>

Similarly, Christopher T Conner in the one of the book reviews of Aliraza Javaid, significantly highlighted the problem of underreported incidents of male victimization. The reasons of this problem are societal misconceptions and orthodox stereotype which state that men can never be victims of sexual violence and assault. In the book review the author demonstrates that incorporation of qualitative interviews and autoethnographic elements explains how the societal burden of masculinity leads to secondary victimization within the criminal justice system.<sup>6</sup> Philip NS Rumney in his research paper further corroborated the fact that male victims of sexual violence frequently face inadequate support system from law enforcement agencies.<sup>7</sup>

George J Severs has illustrated in his research work that how the criminal justice system gave recognition to male rape victims in England and Wales. Gender neutral laws emerged in England and Wales only after undergoing significant cultural and institutional shifts.<sup>8</sup> Research works on International Humanitarian Literature has expanded the scope of documenting the instances of sexual violence against men in conflict zones. The social

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<sup>3</sup> Sandra Walklate, *Imagining the Victim of Crime* (Open University Press 2007)

<sup>4</sup> R.W. Connell, *Masculinities* (2nd edn. Polity Press 2005).

<sup>5</sup> Lara Stemple and Ilan H Meyer, 'The Sexual Victimization of Men in America' (2014) 104 AJPH e19.

<sup>6</sup> Christopher T Conner, Review of Aliraza Javaid (2018).

<sup>7</sup> Philip NS Rumney, 'Policing Male Rape and Sexual Assault' (2008).

<sup>8</sup> George J Severs, 'Male Rape: Survivors, Support and the Law' (2024).

stigma on male victimization and absence of legal recognition in several states has created a legal gap in the systems. This gap not only limited to access to justice and remedy but also restricts development in the support mechanisms.<sup>9</sup>

Julie Stubbs in her research article stated that criminal law should play a significant role in the reinforcement of gender norms that are existing in the society at large. The legal reforms must address the structural inequalities in the criminal justice system.<sup>10</sup> The Federal Bureau of Investigation has adopted a gender-neutral definition of rape by incorporating the term 'person' instead of woman. Their criminal justice system has undergone a significant shift by adopting an inclusive approach.<sup>11</sup>

Nikunj Kulshrestha in one of the research works in India has focused on the need of a gender inclusive approach on the criminal justice system.<sup>12</sup> Pulatsya Shukla and Pragya Srivastava in their research work emphasised on the fact that Indian Penal Code, 1860 which is replaced by the Bharatiya Nyaya Sanhita, 2023, explicitly excludes male and transgender victims of sexual violence.<sup>13</sup> The absence of legitimate laws in the society and exclusion of specific genders from the ambit of victimhood compromises the procedural fairness in the legal frameworks.<sup>14</sup> The UNODC in its handbook has acknowledged the fact that gender-sensitive approach is very crucial in order to address diverse experiences of male victims of sexual violence.<sup>15</sup>

Despite conducting several research works on the victimization of men in the society, several significant gaps remain in the criminal justice system in terms of male victimization, thus it provides the justification for the need of further research in addressing the issue.

## **4. THEORITICAL FOUNDATIONS**

### **4.1 Victimological Perspectives on Male Victimization**

Victimology is a branch of criminology. It studies the relationship between victims and the offenders. It also focuses on the systematic response of victims to victimization. The

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<sup>9</sup> Wynne Russell, 'Sexual Violence against Men and Boys' (2007) 27 *Forced Migration Review* 22.

<sup>10</sup> Julie Stubbs, 'Sexual Assault, Criminal Justice and Law and Order' (2003).

<sup>11</sup> Office of Public Affairs, 'An Updated Definition of Rape' (2012).

<sup>12</sup> Nikunj Kulshreshtha, 'Gender Inclusivity in Rape Law in India' (2025).

<sup>13</sup> Pulatsya Shukla and Pragya Srivastava, 'Gender Neutrality in Rape Laws' (2023).

<sup>14</sup> Anisha Bano, Himadri Shekhar Dey and Sachin Datt, 'Gender-Neutral Criminal Law in India: A Critical Review of Scholarly Literature on Legal Protection for Male Victims in Matrimonial Offences' (2025) 6(12) *International Journal of Research Publication and Reviews*.

<sup>15</sup> UNODC, *Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism* (2019).

theoretical foundation of victimology emerged in the mid twentieth century. The primitive concept of victimology has been dominated by its inclination towards feminist criminology. The patriarchal bias was very evident in the study of victimology. Sandra Walklate states in the book *Imagining victims of crime* that this discipline should transform by questioning the primitive structure that define victimhood and not merely by incorporating new victims to old framework.<sup>16</sup>

#### **4.2 Routine Activity Theory (RAT)**

The Routine Activity theory in Victimology was propounded by Lawrence Cohen and Marcus Felson. They have recognized three factors that establishes the Routine Activity Theory. Three elements, a motivated offender, a suitable target and the absence of capable guardian constitute The Routine Activity Theory. This theory was developed to explain crimes related to property but this framework has become significantly essential to understand patterns of Victimization.<sup>17</sup>

If the theory of Routine Activity is put in application to realistic scenario in cases of male victimization in places like offices, prisons, military institutions or boarding schools, it creates a commonality between the potential offenders and victims under conditions of authority. The male victims face the burden of the heavy societal norm of masculinity and it restricts the male victims from reporting the abuse. It because of the societal norm that male victims qualify under the ambit of suitable targets under the Routine Activity Theory.<sup>18</sup>

In environments like corporate offices, armed forces men may face certain kind of harassments from authoritative positions. The application of the concept of capable guardian as per the RAT theory can be related to the absence of appropriate legislation that protects men from sexual abuse. This creates an institutional indifference in the implementation of law. These indifferences discourage complaints and reports of such abuse on men. These indifferences ridicule the victims. Thus, Routine Activity Theory explains how daily routines and misuse of authoritative power creates opportunities for crime and makes male victimization nearly invisible from the society.<sup>19</sup>

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<sup>16</sup>Sandra Walklate, *Imagining the Victim of Crime* (Open University Press 2007).

<sup>17</sup> Lawrence E Cohen and Marcus Felson, 'Social Change and Crime Rate Trends: A Routine Activity Approach' (1979) 44 *American Sociological Review* 588.

<sup>18</sup> *ibid.*

<sup>19</sup> *Understanding, Policing and Overcoming Male Sexual Victimization* (Palgrave Macmillan 2015) 56–64;

### 4.3 Neutralization Theory

The Neutralization Theory was propounded by Gresham M Sykes and David Matza in the year of 1957. The Neutralization theory states that how offenders rationalize their deviant behaviours through various means. This rationalization of these acts is a technique of Neutralization. The rationalization of these deviant behaviours allows the offenders to maintain an image that is socially acceptable even after harming someone. Many offenders do not reject the societal morality, whereas they temporarily suspend their moral responsibility through rationalization and neutralization that removes the feeling of guilt from their mind. These techniques become significant in context of victimization of men in the society. The patriarchal norms within the society exempts men from the ambit of vulnerability. Thus, men usually deny any act of abuse against them. Denial of injury is a very common technique of neutralization of any sexual abuse on men. Men victims of sexual abuse are frequently asked to “man up” and treat the abuse on them as insignificant. These societal burdens and stereotypes on men do not allow them to report such incidents. Often the normalization of sexual abuse on men takes place in places like prisons, military establishments, offices where there exists hierarchical domination.<sup>20</sup>

The Neutralization theory also explains the role of the “Condemnation of the Condemners”. This concept states that if there is any criticism on the act done by the perpetrator then he attacks any such criticism and allegation and they do not accept the responsibility of their doings. In cases where male victims, who complain against any act of abuse, are often mocked and are tagged with the notion of being weak and not manly. The male victims of abuse are burdened with this kind of responses from the society and thus the victimization of sexual abuse on men becomes gradually invisible.<sup>21</sup>

The neutralization and rationalization of the men victims of sexual abuse in the society sometimes lands them into psychiatric clinics for psychologic support and counselling. The burden of masculinity and male dominance in the society expects men to be invincible and not vulnerable. This imposes the fear of societal ridicule among men. This theory not only explains the behaviour of perpetrators but it also states that how the norms of society are responsible for the concealment of crime against men. Thus, the Neutralization Theory states that the offenders are not responsible for the silence about the victimization of men in the society but also the society plays a significant role in silencing the problem the male

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<sup>20</sup> Gresham M Sykes and David Matza, ‘Techniques of Neutralization: A Theory of Delinquency’ (1957) 22 *American Sociological Review* 664.

<sup>21</sup> Ibid.

victimization.<sup>22</sup>

#### **4.4 Theoretical Integration: Towards a Gender-neutral Framework**

The Neutralization Theory and the Routine Activity Theory, highlights several angles of victimization on men. The victimizations can be both situations based and also psychological. If both the theories are integrated and linked with the sexual abuse on men, then it will give us a better understanding of the invisibility of sexual abuse on men. The Routine Activity Theory provides the appropriate setting for commission of any act of sexual abuse on men by putting them under the ambit of suitable targets and the absence of laws can be related to the absence of capable guardian. On the other hand, The Neutralization rationalizes any act of abuse on men. Victimology as a subject broadens the ambit of the word “Victim”.

There must be a gender-neutral approach under which victims irrespective of gender should be included in the broader definition within legal frameworks. The main objective is to restructure the exclusion of these victims. As Robert Elias states in his article that a society is one that acknowledges every victim and not merely those, the society expects to exist.<sup>23</sup>

### **5. LEGAL FRAMEWORK: INDIAN AND INTERNATIONAL PERSPECTIVE**

#### **5.1 The Bharatiya Nyaya Sanhita and Its Gendered Construction**

Section 63 of the Bharatiya Nyaya Sanhita, 2023 defines rape as a sexual act, which is penetrative sexual act without consent, by a man on a woman under specified circumstances. The detailed definition of rape is defined under this section of the act. Despite of multiple amendments of the provision of rape, the definition of the term victim remains unchanged and static. The term victim exclusively stands for woman and this gendered based segregation for an offence like rape has excluded male victims and transgender victims from getting any legal recognition.<sup>24</sup>

Justice Verma Committee discussed a gendered neutral approach in the 2023 report. The report mentioned the fact that India was one of the 48 countries who voted in favour of the adoption of UDHR by the United Nations General Assembly on December 10, 1948.

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<sup>22</sup> Ibid.

<sup>23</sup> Robert Elias, *Victims of the System: Crime Victims and Victimology* (Transaction Publishers 1986).

<sup>24</sup> Bharatiya Nyaya Sanhita, 2023, s 63.

The preamble of the UDHR recognized the inherent dignity and of the equal and inalienable rights of all members of the human race is the basis of freedom, justice and peace around the world. The basis of the declaration was to promote equality among human race, irrespective of the gendered discrimination that exists in the society. The Justice Verma committee referred to several other penal laws around the world but none of the suggestions were taken into consideration and were rejected on the basis of normativity of the Indian society.<sup>25</sup> Section 74 to Section 79 of The Bharatiya Nyaya Sanhita 2023 states punishment for offences like use of criminal force or assault on woman. These provisions of the law have significantly addressed the sexual harassment and abuse against woman. This provisions also criminalizes acts of stalking and voyeurism against any woman. Section 79 states the punishment for use of criminal force with the intention of outraging any woman's modesty. If the interpretation of the term modesty expressly ties this with female honour. This gender bias in the law makes the provisions inapplicable for men.<sup>26</sup>

### **5.2 The POCSO (Protection of Child from Sexual Offences) Act, 2012**

The POCSO (The Protection of Child from Sexual Offences) Act came into effect from the year 2012. This particular act came with the concept of Gender-neutral laws for minor in India. This act has come out from the normative approach towards penal laws. The definition of the word child has been widened with the incorporation of the concept of Gender-neutral laws for minor in POCSO Act.<sup>27</sup> Despite the progress made in the POCSO framework, the definition of the offence of Rape and Sexual Harassment under the Criminal major acts in Indian legal framework remains gender specific and fails to address the wider range of victims, who remain under the radar of invisibility in the society.

### **5.3 Judicial Approach in India**

Section 377 of the Indian Penal Code, 1860 defined the act of unnatural offences. These were the offences that were known to be against the order of the nature. This provision of the statute stated that whoever voluntarily have carnal intercourse with any man, woman or animal must be punished with imprisonment for life or imprisonment for ten years and also liable to fine.<sup>28</sup> This provision of law infringed the fundamental rights of the LGBTQ+

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<sup>25</sup> Justice J S Verma Committee, *Report on Amendments to Criminal Law* (Government of India 2013).

<sup>26</sup> *State of Punjab v Major Singh* AIR 1967 SC 63.

<sup>27</sup> Protection of Children from Sexual Offences Act 2012 (India).

<sup>28</sup> *Indian Penal Code 1860* (India), s 377.

Communities throughout the state of India. Section 377 made same sex relationships punishable under the law. The Apex court in the case of *Navtej Singh Johar versus Union of India, 2018* gave a landmark judgement by decriminalizing same sex relationships. Though this particular provision that criminalized same sex relationships was struck down, but the Hon'ble Supreme Court kept rest of the provision intact with the purpose of prohibiting non-consensual sexual act of penetration against any adult or minor.<sup>29</sup> The Indian judiciary recognized the act of rape against any adult irrespective of the gender of the victim and that was the sole reason of not striking down the entire provision of section 377 of Indian Penal code, 1860.

Even after the significant development of decriminalizing same sex consensual relationship, the judgement did not extend to the redefine nonconsensual acts as Rape and Sexual Assault, thus it kept male victims under the grey area. A non-consensual act of sexual intercourse between a man and a woman falls under the definition of rape. The Supreme Court gave recognition to same sex relationship but failed to acknowledge the issue of non-consensual sexual intercourse by a man on a man. This gap in legislations pushes male victims of sexual assault and rape towards the invisible sphere of the society, keeping them in the ambiguity.

#### **5.4 Constitutional Dimensions**

The Constitution of India is the supreme law of that land that guarantees equality before law and right to life and personal liberty. The criminal major and minor acts derive its source from the Constitution but the laws excluded the male victims. The absence of laws that protects male victims of rape and sexual assault clearly infringes the basic right to life and right to dignity guaranteed under the Constitution of India.

#### **5.5 Comparative Jurisdictions**

The sexual offences Act, 2003 restructured the definition of rape and sexual assault with a gender-neutral approach in United Kingdom. UK has transformed the laws by incorporating the term 'person' which brings men, women and any third gender under its purview. This act incorporated a specific provision of rape by penetration.<sup>30</sup> The United States has also adopted gender neutral rape laws. The federal and the state laws have

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<sup>29</sup> *Navtej Singh Johar v Union of India* (2018) 10 SCC 1.

<sup>30</sup> Sexual Offences Act 2003 (UK), s 1.

acknowledged a gender inclusive framework. The Federal Bureau of Investigation revised the definition of rape in USA in the year of 2012. The transformation of rape laws has set an example in respect of adoption of gender-neutral rape laws<sup>31</sup> Mexican jurisdictions has also incorporated gender neutral approach in lawmaking.<sup>32</sup> Countries like Canada, Ireland, Sweden, Scotland, Norway, Germany, Netherlands, and Australia have adopted a gender-neutral approach towards rape laws.

### **5.6 International Recognition of Rape and Crime against Humanity**

In the twentieth century, the International Humanitarian law had a conception of rape as an offence that is solely committed on woman by men. But this conception changed as soon as conflict took place in Former Yugoslavia and Rwanda. The International Criminal Court in Rwanda, in the matter of *Prosecutor versus Akayeshu* in 1998 formulated a new definition of rape. The use of the term 'person' in the tribunal's judgement, concluded rape as a crime against any individual irrespective of gender. This judgement further clarified that the offence of rape is a crime against human dignity and bodily integrity.<sup>33</sup> This was further incorporated in the Rome Statute of the International Criminal Court. The Article 7 and Article 8 of the Rome Statute of 1998 defined Rape in gender neutral terms.<sup>34</sup>

The United Nations Security council in one of its resolutions in the year of 2013 has marked a significant shift from women centric approach of these laws against sexual violence to a victim inclusive framework.<sup>35</sup> The Universal Declaration of Human Rights (UDHR), 1948 and the International Covenant on Civil and Political Rights (ICCPR), 1966 has stated that every individual must have protection from any kind of degrading treatment that hurts the individual's dignity. The United Nations Office on Drugs and Crime (UNODC) and the World Health organization (WHO) both the organization highlighted the offences of Sexual violence against men constitute grave violations of human rights.<sup>36</sup> Though India is not a party to the Rome Statute but the principles that were followed in formulation of the statute is based on customary international laws and general principles recognized by civilian nations.

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<sup>31</sup> Violence Against Women Reauthorization Act 2013, Pub L No 113-4, 127 Stat 54 (US).

<sup>32</sup> *Federal Penal Code of Mexico* (Código Penal Federal), arts 265–266.

<sup>33</sup> *Prosecutor v Akayesu* (Judgment) ICTR-96-4-T (2 September 1998).

<sup>34</sup> Rome Statute of the International Criminal Court 1998 arts 7(1)(g) and 8(2)(b)(xxii).

<sup>35</sup> UNSC Res 2106 (24 June 2013) UN Doc S/RES/2106.

<sup>36</sup> United Nations Office on Drugs and Crime, *Handbook on Gender Dimensions of Criminal Justice* (2014).

## 6. SOCIO-PSYCHOLOGICAL DIMENSIONS OF MALE VICTIMIZATION

### 6.1 Masculinity and the Denial of Victimhood

The concept of masculinity makes the invisibility of male victims prominent. From the primitive approach, men are groomed to be assertive, dominant and emotionally resilient. If the victimization of men is admitted in the society, it would be contrary to the norms which leads to shame and self-doubt in the society. The theory of Masculinity by R.W. Connell explains that the dominant men individuals oppress themselves and avoids being portrayed as weak and submissive.<sup>37</sup> In the traditional legal framework, portraying men as victims of sexual violence contradicts the ideal of masculinity in the society.

The burden of masculinity in the society on men puts them under contrasting situation and the society makes a presumption on them that men automatically possess the strength to resist any form of sexual violence. Similarly, if a man becomes a victim of sexual violence, it is assumed by the society that the man was unable to match the ideals of masculinity. This cultural burden of masculinity discourages men in general to take any legal and psychological assistance. This stigma in the society reinforces the invisibility of men victims of sexual violence. The concept of spoiled identity states that an individual's social legitimacy is undermined by the stigma associated with the society regarding the victimization of men. There exists an illegitimate expectation from men, by the society that a male should be 'man enough' to withstand any form of sexual violence. As a result, men in the society do not express the injustice that takes place with them.<sup>38</sup>

### 6.2 Social Stigma and Public Perception

The societal disbelief and cultural ridicule among the society on men are very crucial reasons of male victimization. The society do trust the fact that men can face sexual violence by a woman or any individual. The myth that men always want sexual intercourse is generally perceived by the society at large and this perception on men trivializes any consensual act that takes place against them in the society.<sup>39</sup> This wrong perception on men is often reflected in institutional responses. The police department, healthcare, professionals and even some counsellors disregard and do not consider complaints of

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<sup>37</sup> R W Connell, *Masculinities* (University of California Press 1995).

<sup>38</sup> Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Prentice Hall 1963).

<sup>39</sup> Lara Stemple and Ilan Meyer, 'The Sexual Victimization of Men in America: New Data Challenge Old Assumptions' (2014) 104 *American Journal of Public Health* e19.

sexual harassment on men. There exist reports from the UK and US that men who report any form of sexual violence against them are subjected to derogatory remarks, and they often get to listen that they should have enjoyed the act.<sup>40</sup>

### 6.3 Psychological Consequences

Any form of sexual violence against any individual brings up severe multifaceted consequences. There are research studies that indicate high rates of PTSD (Post Traumatic Stress Disorder), instances of depression and anxiety, instances of substance abuse experienced by men in the society at large.<sup>41</sup> A very common feature of trauma on men is the insecurity of self-blaming or blaming their own self for any instance of sexual violence. In situations where the offender is female, in such cases the men victim struggles to reconcile the societal narrative on male masculinity and may experience cognitive dissonance.<sup>42</sup> The absence of any valid law for protection of men from sexual violence repeats secondary victimization on them. The secondary victimization takes place through institutional mechanisms existing in the society. These disbeliefs, ridicules and ignores the secondary victimization men in the society.<sup>43</sup>

### 6.4 Intersectional Vulnerabilities

There exist certain groups in the society who face serious vulnerability because of their sexual orientation and socio-economic status. Men who belong to the LGBTQ+ Community get affected due to sexual violence against them but they avoid to report such incidents in due to the constant fear of homophobic backlash in the society.<sup>44</sup> The absence of penal laws for this vulnerable section of the society violates their basic human dignity that was guaranteed by the world's first international declaration of Human Rights.

## 7. EMPIRICAL OBSERVATIONS

For the purpose of understanding ground realities by going beyond the doctrinal study, I have conducted a survey to understand the awareness among persons of different age

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<sup>40</sup> Sarah Weare, *Sexual Violence Against Men in the Criminal Justice System* (Routledge 2021).

<sup>41</sup> A Javaid, 'Male Rape, Masculinities, and Sexualities' (2015)55 *International Journal of Law, Crime and Justice*.

<sup>42</sup> William H George and Candice A Martinez, 'Victim Blaming in Male Sexual Assault: Cultural Masculinity and Trauma' (2002) 8(2) *Psychology of Men & Masculinity* 94.

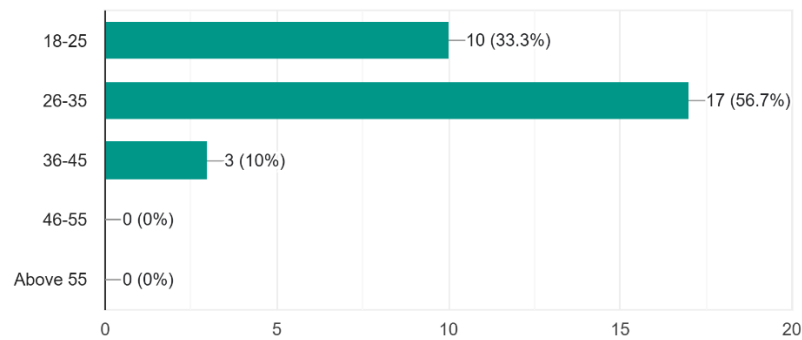
<sup>43</sup> Sandra Walklate, *Understanding Criminology: Current Theoretical Debates* (4th edn, Open University Press 2011).

<sup>44</sup> UNDP, *LGBT Rights and Human Development in India* (2018)

groups irrespective of gender. The survey was conducted by circulation of google forms with a set of questions that specifically dealt with sexual violence against men. The survey form was filled by 30 individuals, among whom 20 are men and rest of them are women. The responses collected were analysed and linked with the theories of victimization.

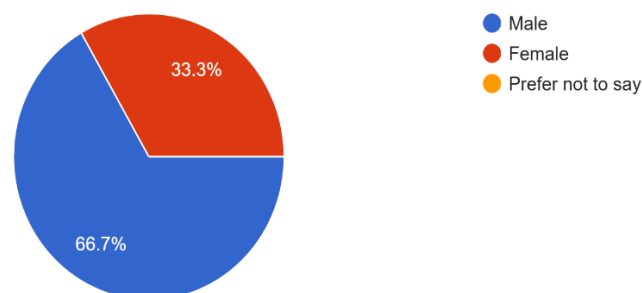
#### Age

30 responses



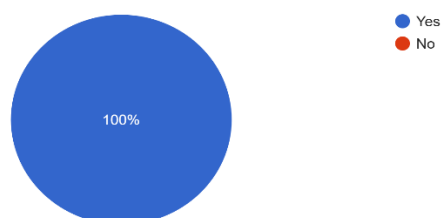
#### Gender

30 responses



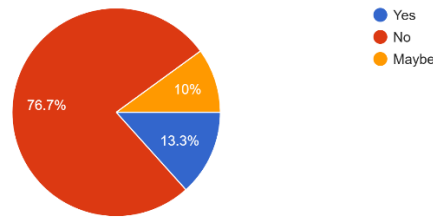
Are you aware that men can also be victims of sexual harassment or sexual assault?

30 responses



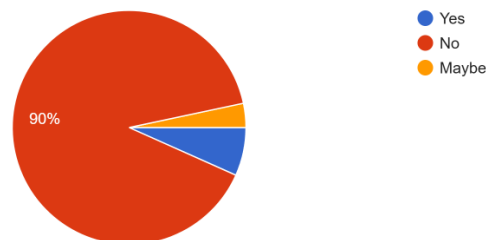
Every response from the survey gave positive answers when they were asked whether they are aware of the concept of male victimization.

In your opinion, do male victims receive adequate recognition in society?  
30 responses



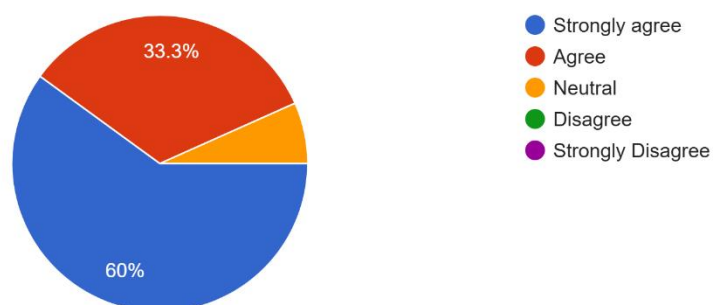
As per 76.7 % of the population in the survey, male victims of sexual violence do not receive adequate legal recognition in the society, where as 13.3 % of the population disagreed on it.

Do you think existing laws sufficiently protect male victims of sexual harassment or sexual assault?  
30 responses



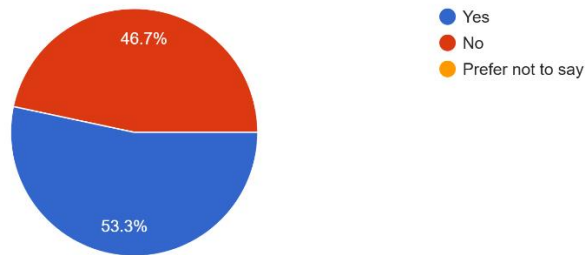
As per the responses 90 % of the population of the survey agreed that there is absence of legitimate penal laws that protects male victims of sexual assault. Rest of the 10 % may not be aware about the existing legal system.

Do you believe social stigma discourages men from reporting sexual harassment or assault?  
30 responses

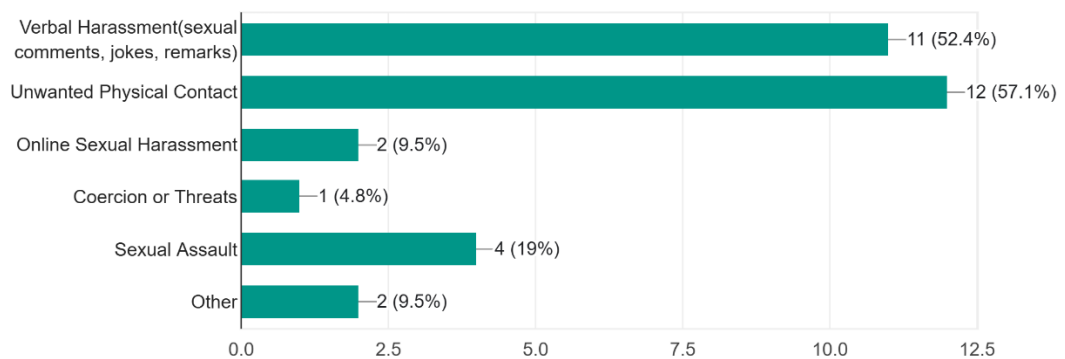


This is a very significant question that is raised throughout the doctrinal part of the research work. Majority of the population strongly agrees that the societal stigma restrains male victims of sexual violence from reporting such incidents.

Have you experienced any form of sexual harassment?  
30 responses

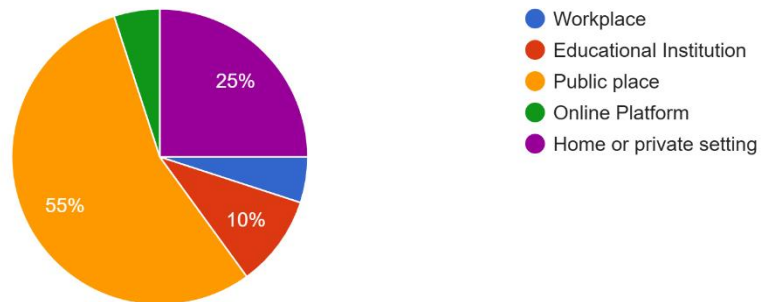


If yes, what type of harassment did you experience? (You may select more than one)  
21 responses



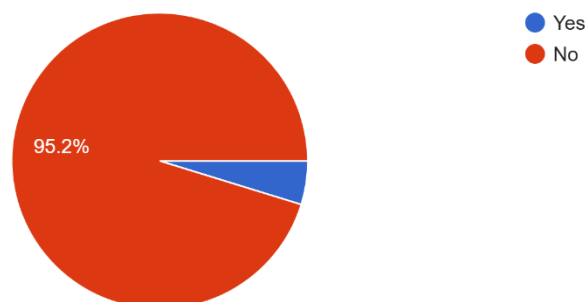
The above chart clearly indicates that sexual assault and harassment take place in the society in several unknown forms. 21 of the responders in the survey stated that they have experience sexual harassment and assault in several forms. It can be in the form of verbal harassment, physical harassment or undergoing through mental agony. 57.1 % of the population responded that they encountered unwanted physical contact, which is a serious form of sexual harassment. 57.1% of the population responded that they have been victims of sexual harassment due to sexual comments, jokes and remarks passed on them. 9.5 % of the responders have faced sexual harassment through online platforms. 4.8 % of the respondents were assaulted under coercion and threat.

Where did the incident occur?  
20 responses



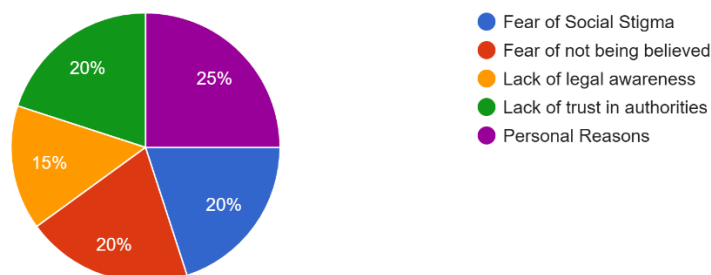
Almost 55 % of the responses have encountered sexual harassment and assault, the victims mentioned that the incident occurred in public places. Majority of the responders agreed that public places acts as a hotspot to crimes like sexual harassment and assault. In a contrary note public place should be the safest place in the society.

Did you report the incident to any authority?  
21 responses



Majority of the responders did not report the incident to any authority. This indicates a basic flaw of the criminal justice administration system in India.

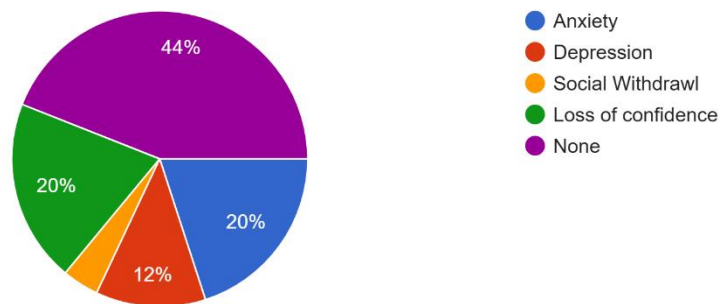
If you did not report the incident, what were the reasons?  
20 responses



This response from the chart clearly depicts the absence of legal recognition to male victims. There are multiple reasons that explains the unreported incidents in the society. As per the observation in the survey fear of social stigma, fear of not being believed, lack of legal awareness, lack of trust in authorities etc. contributes to the unreported incidents that hides under burden of masculinity in the society.

Have you experienced psychological effects after the incident?

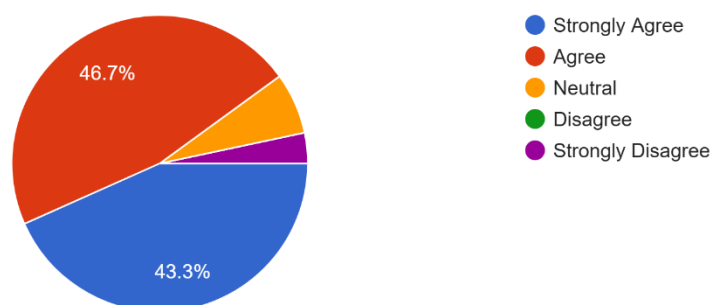
25 responses



Majority of the responders faced psychological effects after they encountered sexual harassment and sexual assault. 56 % of the responders suffered anxiety, depression, social withdrawal, loss of confidence among them. These psychological effects often result in severe anxiety that can also lead to PTSD (Post Traumatic Stress Disorder) in the victims.

Do you think society often trivialises sexual harassment experienced by men?

30 responses

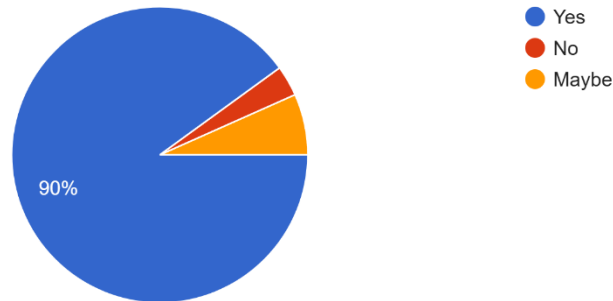


Majority of the responses indicated the problem that society trivialises the victimization faced by men. The societal stigma on male victimization makes the male population vulnerable. This perception of the society burdens the male victims with the patriarchal norms and even if any men face any act of sexual violence against him, the victimization becomes invisible to the society. This is how the society plays a significant role in

secondary victimization of male victims.

Do you think sexual harassment laws should be gender-neutral?

30 responses



All the responders answered this question about the gender-neutral approach in penal laws. 90% of the responses agreed with the gender-neutral approach. The laws relating to sexual violence against anyone acts as a deterrent in the society. Thus, the legislation must consider the increasing rate of sexual violence against men. A gender-neutral approach for the offence of Rape, Sexual Harassment, Sexual Assault is the need of the hour in the society.

## 8. CONCLUSION AND SUGGESTIONS

The researchers have examined the existing gaps in the legislations that leads to systematic victimization of men in the society. The deeply embedded patriarchal norms in the society hides any form of sexual violence against men. The societal stigma and burden of masculinity lead to unreported instances of sexual harassment and sexual assault against men. India is a male dominated society that lacks legitimate laws for men. The absence of proper laws that address any form of sexual violence against men have severe consequences. This creates a legal gap in the existing legislations. The Bharatiya Nyaya Sanhita was adopted in 2023, even after so many changes in the penal statute, the legislation has expressly ignored male victimization in the society. In its landmark judgment in *Navtej Singh Johar v. Union of India*, the Supreme Court read down Section 377 of the Indian Penal Code, thereby decriminalizing consensual same-sex relations between adults. But the rest of the provision was kept intact, with the intention of addressing non-consensual sexual act against men, which was termed as unnatural offences. The Bharatiya Nyaya Sanhita, 2023 excluded the rest of the provision of section 377 that was kept intact by the Apex Court, thereby keeping male victims of sexual assault in a grey area. In contrary, the

POCSO Act, 2012 has adopted a gender-neutral approach by incorporating the new and updated definition of the word 'child' under the Indian laws. This reflects the fact that India has already acknowledged the possibility of male victimization in context of child abuse.

It can be observed that the research questions that were formulated at the beginning of this study have been answered significantly in terms of doctrinal research, comparative legal research and empirical evidence from the survey that was undertaken. The first research question concerning the forms and pattern of sexual harassment and sexual assaults faced by men is that men face various kinds of harassment, which include verbal harassment, physical harassment, coerced behaviour, cyber harassment, and psychological harassment, it was found that many people had actually gone through or had knowledge regarding these experiences in the public space, workplace, and institutions. From the survey results, it was observed that these acts go mostly unreported because of fear and shame.

Regarding the second research question on the inadequacy of Indian laws, a significant gap was found with regards to the legal protection provided to male victims of sexual offences. While Articles 14 and 21 of the Constitution of India guarantee equality and personal liberty, the existing criminal law has failed to acknowledge male victims of rape and sexual assault. It was found through a comparative study conducted during this research that a number of countries, such as the United Kingdom, Canada, Australia, and the United States and so many, have already adopted gender-neutral legislation for sexual offences. Furthermore, sexual violence regardless of the gender of the victim has been acknowledged under the Rome Statute of the International Criminal Court and the case law of the International Criminal Tribunal for Rwanda.

The last research question concerning the theories of victimology was answered using the implementation of two victimological theories, the Routine Activity Theory and the Neutralization Theory. Routine Activity Theory helped us to understand the mechanism of victimizing males in the environment when motivated offenders meet appropriate victims without any competent guardianship present. The survey data completely supported this theory, especially when considering such factors as institutional neglect, the absence of legal protection, and no responsive measures for reporting incidents.

Similarly, the Neutralization Theory addressed the issues regarding the rationalization of victimization by society. The findings from the empirical observations suggested that societal expectation of masculinity makes it impossible for men to report their abusive experiences, out of fear of being ridiculed and disbelieved. Denial of harm, condemnation of condemners and trivialization of abuse were evident through the surveys conducted.

Sexual harassment jokes, forceful behaviour, and other non-consensual acts performed against males reflect how the society plays its part in making secondary victimization possible. According to the neutralization theory, not only the perpetrators but society as well is involved in justifying silence through ridicule and disbelief.

On the issue of policy reform, the final question brought out the need for gender inclusivity in the laws and institutions that govern such matters. The results indicated strong approval of gender-neutral laws for sexual violence. Therefore, it is safe to conclude that the acknowledgement of men as victims will not weaken any rights that women have but rather reinforce equality and human dignity of all individuals regardless of gender. The phenomenon of male victimization is not simply a problem in law but an ongoing crisis from both social and psychological perspectives. Legal insensitivity makes the victim silent, restrain the victim from reporting and causes serious psychological ramifications like anxiety, depression, social isolation, and PTSD. Through the findings, it becomes evident that it is necessary for the criminal justice system to overcome gender binaries and embrace a victim-oriented approach through the framework of constitutional morality, human dignity, and substantive equality. A progressive law cannot recognize some individuals' rights to be considered victims based on their gender. As such, gender-sensitive provisions and institutional sensitization in sexual offenses law become critical for justice in modern-day India.

The most urgent reform that needs to be made in the criminal justice system in India is the introduction of gender-neutral terms in laws regarding rape, sexual assault, and sexual harassment under the *Bharatiya Nyaya Sanhita*, 2023. Every person irrespective of their gender should be considered a victim. This kind of reform will bring the laws of India parallel with international human rights laws. The police force, health care facilities, universities, the workplace, and correctional facilities should acknowledge that men can be victims of abuse. There should be procedures formulated when handling complaints from males.

Specialized counselling centres, mental health programs, and rehabilitation centres must be created for the benefit of male sexual violence victims. It is important that campaigns to raise public awareness about the misconceptions concerning masculinity and being a victim must be organized. People should also be educated regarding bodily autonomy and consent in order to understand that any individual may become a victim regardless of their gender. Judges, police officers, prosecutors and doctors must receive gender-sensitization training. Institutional disbelief and mockery are among the reasons why such individuals do not

report incidents Additionally, extensive empirical researches must be undertaken to explore the extent, nature, and psychological ramifications of sexual victimization of men in India. Collaboration across disciplines of law, psychology, criminology and sociology will play a crucial role in achieving reform through evidence-based policy-making. While developing preventive measures, policymakers need to consider the Routine Activity Theory and Neutralization Theory. Enhancing institutional guardianship, making reports on sexual violence easily available, and breaking down the societal rationalizations that justify the acts will help curb invisible sexual victimization to a considerable extent. The legal process of compensating victims, providing safety for witnesses and rehabilitating the affected individuals should be inclusive for male victims of sexual offences. Justice cannot be provided equitably unless all sufferings are treated equally by the law.

