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Rape Trials: Analysis and Critique

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ABSTRACT

The aim of this paper is to examine the topic of "Rape" in India from several angles and to offer solutions for eliminating this crime from the country. A comprehensive investigation using the primary problem analysis technique should get used to the gang rape case of 16 December 2012 in order to uncover the underlying source of the rape problem and advise ways to minimize such exacerbations in the future. Despite the fact that rape is considered horrible and illegal in nature, the quantity and degree of inhumanity associated with this crime has already been increasing. As a result, the topic is both significant and timely. The work presents an intellectual and empirical contribution to a little-studied area of rape violence against women. A greater understanding of the rationale behind rape would almost certainly lead to the implementation of preventative measures. Since there are numerous perspectives on rape and related crimes, the investigations are fragmented in nature and require a holistic integration to immerse into the causes and consequences of rape. This research not only incorporates multiple perspectives, but it also investigates the multifaceted reasons of the rape phenomena.

Keywords: Rape, Section 375, Poor definition, Laws, Exemption

I. INTRODUCTION

"Women don't get raped because they were drinking or took drugs. Women do not get raped because they weren't careful enough. Women get raped because someone raped them."

~Jessica Villenti

Rape is among the most prevalent crimes against women in India. In India, a woman is raped around every 20 minutes, according to reports. And according to bulk of reports, female youth are really a vulnerable demographic for rape victimization. Thus, according experts, just 10% of rapes are recorded, and the rape incarceration rate is 24.2 percent. According to the National Crime Record Bureau's 2013 annual report, there were 24,923 rape incidents registered in India in 2012. 24,470 of these were perpetrated by somebody known to the

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victim (98 percent of the cases)².

Despite the numerous legislative efforts to limit the use of sexual history testimony in rape prosecutions, it is nevertheless admitted in many cases, raising substantial debate and prompting additional legislative measures to amend the law. Numerous writers had already recently recommended that equal protection for rape victims is not now provided in the courts because the results of rape cases are usually impacted by particular victim, defendant, and rape case features. The current study intended to evaluate the influence of these characteristics on juror convictions by systematically changing the characteristics of defendant and victim ethnicity, victim physical beauty, victim sexual experience, strength of evidence provided, and type of rape performed in a legal rape case. Rape is a social stigma that has existed for a long time. The definition of rape in the dictionary is "the ravishing or violation of a woman." Most rape victims are a female. One is traumatized as a result of the experience; it is extremely difficult for a person to recover from this trauma. Rape is a punishable offence in India. Various Acts have a plethora of clauses. Rape is legally defined in Section 375 of the Indian Penal Code³, 1860. In Law rape is defined and also specifies punishment for it. Rape occurs when a male penetrates or engages in sexual intercourse with a woman against her consent or will. Penetration here indicates that even a light touch of the penis to the vagina constitutes to rape; a woman's undescended hymen doesn't really prove that rape did not occur. There are several exceptions, such as when a man has sexual relations with his wife who is over the age of 15 doesn't constitute to rape. The Indian Penal Code's rape statute has since undergone numerous modifications.

Since the Indian judiciary is overburdened, judgments in rape cases are often issued late. Often it arrives so late that one or both people have perished. As a result, swift hearings in rape cases are necessary to ensure that the complainant receives justice, as it is properly claimed that "justice delayed is justice denied." Every coin includes two sides, and this scenario is no exception. Several times, girls submit false complaints in order to damage the life of a man; sometimes, the girl's parents force her to file a complaint even against young man she respects, because the law is sympathetic to the woman. The condemned is left without anything; whenever the complaint is filed, his life is shattered regardless of whether he is found guilty or otherwise. Therefore, in my opinion, a change that equalizes the burden of proof along both parties and makes the law run smoothly is required. It really should be written in such a way that it opposes the statement, i.e., "Law is there for the vigilant."

² "Kamdar, Zeel N et al. "Rape: Is it a lifestyle or behavioral problem?." Indian journal of psychiatry vol. 59,1 (2017): 77-82. doi: 10.4103/psychiatry.IndianJPsychiatry_78_16[Accessed 24 July 2021]."

³ § 375, Indian penal Code

According to Indian law, police personnel that fail to file a sexual assault complaint face up to two years in jail. Human Rights Watch discovered, however, that police did perhaps not submit a First Information Report (FIR), the first step towards opening a police investigation, particularly if the victim was more of an economically or socially vulnerable neighborhood. In other cases, the police either refused to file a FIR or put pressure on the victim's family to "settle" or "compromise," especially if the perpetrator came from an influential family or group⁴.

Since, India lacks a witness protection statute, rape survivors including witnesses are exposed to intimidation that compromises prosecutions. For example, Khap Panchayats, or unofficial local caste councils, frequently press Dalit and other so-called "low-caste" households not to continue a criminal case or to amend their evidence if the accused belongs to something like the dominant caste. Doctors in India are required by law to provide immediate first aid or medical care to girls and women who contact them and reveal rape. The physical examination not only has a medical goal, but it also aids in the collection of potential forensic evidence.

Statement of Problem

Rape, sexual assault, and verbal harassment of females of all ages and socioeconomic backgrounds are becoming so very common in India. Thousands of women are distressed and their well-being is endangered as a result of such acts. The purpose of this study is to examine the topic of rape and its recurrence in India from a variety of angles at the micro and macro levels, using institutional, sociological, and psychological theories. It makes recommendations for reducing this phenomenon.

Research Objectives

- To understand the meaning of Rape as defined.
- To know the relevance of the Laws provided in present day with various case laws.
- To determine the socio legal barriers in the society.
- To examine and understand the loopholes in Rape Laws and provide necessary solutions.

Research Questions

- What are Rape Laws in India?
- What are the reasons stated by the society for rapes and the stigma around it?

⁴ "Ganguly, M., 2017. *India: Rape Victims Face Barriers to Justice*. [online] Human Rights Watch. Available at: <<https://www.hrw.org/news/2017/11/08/india-rape-victims-face-barriers-justice>> [Accessed 24 July 2021]."

- What are the rates of implications of the laws ?

Hypothesis

The laws and the remedies provided by the Government is efficient as well as sufficient for the victims of rape. Only women get raped.

Scope and Limitations

Given the nature of this topic, the researcher's major limitation was a lack of content and the insignificance of the content that was available. The matter's validity cannot be established. It is based on the researcher's opinions. The researcher of this paper is not a professional. The data was gathered by using doctrinal research methodology. The information was gathered primarily from secondary sources such as journals, articles, books, government published statements, as well as websites.

II. RAPE LAWS IN INDIA

Rape was never considered a crime against the victim in the past; contrary, it was considered a felony against commodity, and the property in question usually women who were meant to adhere to their husbands or fathers. The word "rape" is derived from the Latin word "*reperere*," that either means to grasp or take anything, implying property once more. Rape was not recognised as a crime against all the victim until the twelfth century. Rape was initially described by the IPC in the 1860s. It was defined as intercourse against a woman's will or permission; it also includes consent gained by placing the victim or anybody she cares about in danger of death or injury. For the following 100 years or more, the definition of rape remained unchanged⁵.

Rape is a punishable offence in India. Various Acts have a plethora of clauses. Rape is constitutionally defined in **Section 375**⁶ of the Indian Penal Code, 1860. It defines rape as well as specifies punishment for it.

A 'rape' charge under Section 375 of the Indian Penal Code is divided into two parts:

1. a person's non-consensual penetration of any opening (vagina, anus, mouth, urethra) in a female, OR
2. non-consensual contact with any opening with the mouths This isn't limited to having sex. Women being forced to do the same to herself or to another person is also rape.

⁵ "The Indian Express. 2016. *The State's attitude towards rape law reform has been historically reactionary.* [online] Available at: <<https://indianexpress.com/article/opinion/columns/how-about-an-ideal-rape-trial-7345865/>> [Accessed 24 July 2021]."

⁶ Supra note 2

The court will rule that all these acts constitute rape if and only if the following conditions are met:

- It occurs without her knowledge or consent.
- She accepts, but only if she or someone she trusts is in danger, or
- She agrees, but only because she believes the accused is their husband, or
- She agrees, but she is high on drugs, inebriated, or mentally ill.
- If she is under the age of 18, it makes no difference whether she agreed or not.

If the woman is over the age of 15, it is not considered sexual assault if her husband participates in intercourse with her without their consent. When the two are parted, the situation changes. If a couple is married but lives apart, the 'marital rape' exception is no longer applicable, and the spouse can indeed be convicted of rape if no permission is given. The husband faces a prison sentence of two to seven years in addition to a penalty.

Aggravated rape can be due to the surprising position of either the victim, or the accused-

- Rape by someone with legal influence and power over the person (such as police officers, public officials, armed forces personnel, and prison staff);
- Rape committed by someone in a position of responsibility with the sufferer (hospital personnel, relatives or guardians, person in control or domination);
- Victim characteristics (pregnant lady who is aware she is pregnant, woman under the age of 16, female unable to consent, woman with a physical/mental disability);
- Rape in violent conditions (during communal conflict, causing grievous harm/disfigurement/endangering victim's life, raping identical victim repeatedly).

The sentence for such serious assault is severe punishment for 10 years to life, as well as a fine.

The legislation (**Section 376E IPC**) permits the death penalty to be inflicted if a person is convicted for the second or third time of rape, rape leading to death or a persistent vegetative state, or gang rape.

The Indian Penal Code's rape statute had undergone numerous modifications. **Section. 376(2)**, i.e. custodial rape, **Section. 376(A)**, i.e. marital rape, and **Section. 376(B to D)⁷**, i.e.

⁷ § 376(B-E), Indian penal Code.

sexual intercourse not constituting to rape, was introduced in 1983⁸.

According to **Section 228A** of the Indian Penal Code⁹, no one shall divulge the identity of the rape victim, and anyone does so shall be sentenced either with the description for a term that may reach to two years, as well as fined.

Under certain rape proceedings, a presumption of lack of consent could be made under **Section 114-A** of the Indian Evidence Act¹⁰.

Provisions for medical examination of rape victims are made within **Section 164A** of the Code of Criminal Procedure¹¹.

All rape victims should indeed be tried in private, according to **Section 327(2)** of the Code of Criminal Procedure.

III. MARITAL RAPE IN INDIA

“Her friends used to tell her it wasn't rape if the man was your husband. She didn't say anything, but inside she seethed; she wanted to take a knife to their faces.”

- F. H. Batacan

Rape is specified in Section 375 of the Indian Penal Code (“IPC”) as any form of sexual assault that involves nonconsensual intercourse with a female. Exception 2 to Section 375, on the other hand, exempts undesired sexual intercourse here between husband and a wife above the age of fifteen from Section 375's definition of "rape," and so protects such actions from conviction. After entering into spousal intercourse, a wife is expected to give her husband eternal agreement to have sex with her. Although practically every country on the planet considers unwilling sexual intercourse between a husband and a wife to be a criminal charge, India is one of the thirty-six countries that has yet to criminalize marital rape. The Supreme Court of India and several High Courts are being inundated with writ petitions questioning the legitimacy of this provision, and the Supreme Court recently criminalized undesired sexual contact with a wife between both the ages of fifteen and eighteen in a landmark decision of *Independent Thought vs. Union of India*¹² This decision has resulted in a surge in the number of writs challenging the constitutional validity of Exception 2 overall.

Rape is not just a kind of cruelty against women, but it is also a serious violation of a person's

⁸ “kalita, A., 2021. *vikaspedia Domains*. [online] Vikaspedia.in. Available at: <<https://vikaspedia.in/social-welfare/social-awareness/legal-awareness/legal-provisions-related-to-rape>> [Accessed 24 July 2021].”

⁹ § 228A, Indian penal Code.

¹⁰ § 114A, Indian Evidence Act.

¹¹ § 164A, Code of Criminal Procedure.

¹² [2017] 10 SCC 800, AIR 2017 SC 4904

fundamental right to life and individual freedom. The connection between the victim and the perpetrator does not change the situation. In this sense, it is not correct to believe that sex with spouse is a privilege granted to the husband by marriage. It has been established that marital rape is more traumatic, with long-term physical and mental consequences. As a result, marital opposition to spouse has indeed been reduced in a few countries¹³. By decriminalizing spouse rape, the nation is failing to meet its commitment to ensure sex equity, which includes protection from misconduct and mistreatment. Articles 14 and 21 of the Constitution are violated by Exception 2 to Section 375 of the IPC. It is past time for Indian law to recognize the brutal nature of this clause of the law and issue a ruling.

IV. CASE STUDIES

Delhi Gang Rape

Rape occurred on December 16, 2012 in New Delhi, India's capital, shocking the entire nation. Six men raped a 23-year-old woman on a moving bus. The only passengers upon on bus were five men as well as the bus driver. The bus was rerouted from its customary route to an unpopulated area, and also the doors were shut without their knowledge. The woman and her buddy were tormented by the driver and also the five males. When his friend resisted, he was smacked in the head and lost consciousness. They then pulled the victim to the driver's compartment and raped her in the moving bus. The pair was thrown out from the moving bus & discovered laying on the roadside by Delhi Police. The couple was taken to a hospital by police, where the female underwent medical treatment. The Nirbhaya gang rape case stunned the entire nation and received extensive media coverage due to the heinous seriousness of the offence. There was widespread public indignation, and the government intended to modify the legislation to prohibit a crime of this magnitude from occurring again. This resulted in the Criminal Amendment Act of 2013 and the Juvenile Justice Act. The 2013 criminal amendment expanded the definition of rape and raised the sentencing for gang rape from 10 years to life to 20 years to life. New charges such as stalking, voyeurism, and acid attacks were established, and the minimum sentence for rape, which had been unaltered since 1860, was extended from 7 to 10 years. It also allowed for the death sentence if the victim was slain or placed in a vegetative state. Following the historic Aruna Shanbaug case, vegetative state has been included in the criteria for the first instance¹⁴.

¹³ "Ramu Rawat and Tadapatri Masthanaiah, 2015 "Explosion of rape cases in India: A study of last one decade" international journal of research and center, 7, (7), 17976-17984 (accessed on 24th July, 2021)"

¹⁴ "Chapplell, D. Forcible rape: A national survey of the responses by prosecutors (research report). Seattle: Battelle Human Affairs Research Center, Law and Justice Study Center, 1977. [Accessed 23 July 2021]."

Asifa Bano Case

A group of young men raped and killed an 8-year-old young woman named Asifa Bano mostly in Jammu and Kashmir area of Kathua in January 2018. The primary accused seems to have been a priest at the temple where the incident occurred. This terrible event sparked worldwide outrage and a need for tighter laws. That case was intensely politicised on communal lines against the backdrop of Jammu and Kashmir's political developments. This resulted in the 2018 Criminal Amendment Act, which primarily changed POCSO because the rape was committed against a minor. The law established the death penalty available for the offence of raping a juvenile under the age of 12. The minimum sentence is a 20-year prison sentence. Additional section was added to the IPC that dealt with the charge of rape against even a minor underneath the age of 16, with the punishment ranging from 20 years to life sentences.

Hathras Rape Case

The incident occurred on September 14, 2020, when the deceased, a 19-year-old Dalit lady, walked to a farm to gather cattle feed. Sandip, Ramu, Lavkush, and Ravi are accused of dragging her off by her dupatta around her throat, damaging her spinal cord in the procedure. The Thakur caste is represented by the 4 upper caste males accused of sexual assault. Her paralysis was caused by the assault, which also resulted in a severe spinal cord injury. Her tongue was severed. As she fought their rape attempt, the assailants attempted to strangle her. While also being strangled, she wound up cutting her tongue. Her parents heard her screams and arrived to see her lying face down in the farm. She was initially escorted to the Chand Pa police station, where the officers dismissed her accusations and ridiculed her family, as per the family. The police just received a report on September 20. On September 22, police were able to capture the victim's testimony. She stated in her three recorded statements that she was "raped" and suffocated when she tried to fight back. On September 14, the sufferer was brought to Aligarh's Jawaharlal Nehru Medical College and Hospital with significant spinal cord damage. Once her health deteriorated, she was transferred to Delhi's Safdarjung Hospital¹⁵. The victim was strangled using her dupatta, as per the authorities. She passed away on September 29, 2020. Sandeep and Luvkush, according to the victim's mother, had been tormenting her as well as the victim for weeks. The autopsy determined that the manner of death was "damage to the cervical spine by blunt-force trauma," while the medical history mentions "rape and strangling."

¹⁵ *Supra note 13*

Hyderabad Case

As per the Telangana Police Department's remand report, the victim positioned her scooter outside the Tondupally toll plaza, where another accused observed her, two lorry drivers, plus their aides, who had also been drinking whiskey beforehand allegedly arranging the murder. And as per the remand report, the victim took the bus to a dermatologist's office in Hyderabad on November 27, 2019, about 6:15 p.m., after leaving the scooter. In her disappearance, the suspects reportedly deflated her scooter's tyre. When she returned home at 9:15 p.m., she discovered the flat tyre and called her sister. According to the guilty, they stepped in to help her before ambushing her. Three of the suspects shoved her into the woods near that toll gate and pulled out her phone. As she screamed for help, the guys poured whiskey into her mouth during an attempt to drown her out. The four males stripped her naked and sexually assaulted her until she began to bleed and lost consciousness. When lady regained consciousness, they suffocated her, covered the corpse in a blanket, drove 27 kilometres to a place near the Shadnagar junction on the Hyderabad Outer Ring road, and burned it behind a bridge at roughly 2:30 a.m. using diesel and petrol obtained for the operation. Four individuals were apprehended and admitted to raping and killing the doctor, thus according Cyberabad Metropolitan Police¹⁶.

V. LOOPHOLES IN RAPE LAWS

Marital Rape is not considered rape, an absolute Baloney

The statue is highly ornate and extensive. It seeks to cover all elements and components of the horrible and monstrous crime of rape. Despite being such a thorough regulation, the exemption clause looks to be the stumbling block. In more technical terms, it means forced seizure regardless of husband or wife or kin or family. What all the law fails to recognise here is that a wife is, first and foremost, a woman, and she will always be a woman until the end of her existence. So, if becoming a wife places her in a much more vulnerable situation since the husband may have intercourse against her permission, the law itself is undermining the legislation's core goal, which is to protect the women from such heinous acts. This arbitrary and illogical protection granted to a spouse is completely terrible, unethical, and slanderous. What exactly is marital rape if it isn't a rape? The idea that a female has impliedly consented to intercourse is, once again, completely inappropriate. The two fundamental components of rape, coercive and unwanted sexual intercourse, are omitted here, resulting in one of the most

¹⁶“ mcgaylynn, C., 2017. *Rape Trials and Sexual History Evidence: Reforming the Law on Third-Party Evidence* - Clare McGlynn, 2017. [online] SAGE Journals. Available at: <<https://doi.org/10.1177/0022018317728824>> [Accessed 24 July 2021].”

incorrect statues with in Indian Penal Code. Is it legal for a husband to rape his wife after they marry? Marriage cannot be a sacred ceremony if it provides such an awful right. This specific exception clause has rendered it absurdly hilarious for marriage to be a serious, immaculate, and sacramental ritual that establishes the basis for a family—the primary social structure.

The word Penetration is poorly defined

According to the statute, just penetration is enough to establish rape. Additionally, it specifies that it does not have to be a sexual intercourse, but even partial penetration is considered rape. Injuries to a woman's private organ are also not required for rape to be committed. Finally, it is clear that penetration would've been regarded sexual intercourse equivalent to rape. This section of the statue is straightforward and should be appreciated. So, since the term "penetration" is used entirely in the explanation clause as one of the most important part, the word "penetration" carries huge weight age here and must contain zero inelegance. The term "penetration" is vague and ambiguous. Normally, the penal organ performs the "penetration" in the crime of rape. Regrettably, there have been other horrible cases in which external items have been placed into a woman's organ, such as that of the infamous "Delhi gang rape." Fingers have also been inserted in a few occasions. In such heinous instances, the law should be clear and unambiguous, yet the issue of whether introducing external items constitutes rape enters the picture, causing such a horrific ambiguity. This is also what occurred in *Smt Sudesh Jhaku v. Kcj and Ors*. In this case, the judiciary condemns the legislature for weak drafting as well as the legislature for faulty interpretation. In the end, it is nothing more than a heinous perversion of justice. As a result, either that the statute must be sophisticated enough already to embrace all such heinous acts within the scope of rape, or perhaps the courts must apply broad interpretation, or perhaps a liberal approach, to such a vague regulation.

There should be a separate statute for Pedophiles

Sexual assault on minors is on the rise once more, although there is no specific legislation or regulation in place to address a really horrible crime. The boy's sex offender is much more likely somebody he knows and loves. Fathers, step-parents, uncles, colleagues, religious leaders, and camp counsellors can always be sexual abusers. Sexual assaults on minors are presently dealt with under sections 375,376 and 377. Rape is, without a question, a heinous crime, but child sexual assault is much more heinous, and perpetrators of child sexual assault require extreme deterrence by an unique act or provision. Rape sentencing should not be the

same as pedophilia penalty and must be more severe.

Rape Laws are not Gender Neutral

Rape is something that is always mentioned as an issue for the female population. It is a fallacy that only homosexuals conduct such horrible and heinous atrocities. Bisexual and straight persons commit such heinous and heinous things as well. Section 377 deals against "unnatural offences," yet this statute is also quite cautious. Sexism against men has been around for a long time. Male rape was legalised in the Middle Ages as a soldier's duty against a conquered adversary. Despite growing civilisation, male rape persists, albeit in a dormant state. Many males are victims of sexual assaults, gang rapes, and forced sodomy in their own homes, pubs, armed services, and colleges. Given the gravity of the situation, there must be at least one section in the Indian Penal Code that tackles male rape, or Section 375 should be gender-neutral¹⁷.

VI. SOCIO-LEGAL BARRIERS

Poor Police Response:

In situations of sexual harassment or alleged sexual assault, Indian law requires a professional female police officer to obtain the survivor's testimony, video it, and get it documented by a court judge as soon as possible. The 2013 change to the Criminal Procedure Code also requires police to report accusations of sexual harassment; those who refuse to do so face up to two years in prison. However, it has been demonstrated that the police do not always adhere to these guidelines. They refuse to submit a First Information Report (FIR), which is the first stage in beginning a police investigation, particularly if the victim is from a minority population. The authorities may put pressure on the victim's family to "settle" or "compromise," especially if the offender is from a strong society.

Unavailability of Adequate Medical Resources:

In India, doctors are obligated by law to offer first aid or free care to women and girls who come to them reporting rape. Medical examination not only aids in the treatment of patients, but also in the gathering of proof of validity. A prosecutor may only prove a rape conviction based on the rape victim's testimony if it is compatible with the so-called material facts under Indian criminal law. A forensic certificate is legal, but it is not required. The courts and police, on the other hand, place a high value on forensic evidence. This involves the gathering of standardized medico-legal evidence as well as understanding of its limitations. In

¹⁷ "Feild, H.S. Rape trials and jurors' decisions. *Law Hum Behav* 3, 261–284 (1979)<https://doi.org/10.1007/BF01039806>"

Rajasthan, for example, the standard form still contains a section for hymen status information, which doctors fill out using a finger test.

Uncoordinated Support Services:

India lacks a unified national strategy to regulate the activities of multiple ministries and state governments in its attempts to prevent and respond to sexual assault against women and girls. As a result, there is a mishmash of programmes. And these transitory efforts are unappreciated because India lacks a national monitoring and assessment structure to oversee the implementation and enforcement of laws controlling violence against women and children, including sexual assault.

VII. FINDINGS AND SUGGESTIONS

- The report has offered several policymakers to the government, NGO's, and social communities in order to prevent crime against women. Females, in overall, have such a lack of understanding of what is going on in terms of crimes against them, and as a result, they underreport their sexual abuse and prefer to remain silent, which heinous crime humiliated their family social status, and many sexual abuse victims may feel that even after they have knocked the court, there will be a long legal battle. Our legislation will include a slew of safeguards to control and prevent violence against women.

- As a result, the mass media must play a vital role in raising legal and social knowledge among young boys and girls through appealing programmes. In the Indian community, women usually underreport their abuse, such as domestic abuse and rape, since they are humiliated, guilty, and concerned about their family's social status, and they want to protect their offenders with whom they may be in a partnership. Survivors have reported feared reactions such as horror, skepticism, and outright denial. One key issue in society that needs to be addressed in order to control such types of abuse on females is a mismatch in sex ratios.

- To raise awareness about girls' child protection and their equal rights as boys. Give men and women equal opportunities in society, and appreciate girls and women. With the assistance of a community politician and a non-profit organization, an universal health coverage education programme for girls and boys is being implemented at the local level.

- Legal and psychological help, such as personal therapy, attentiveness, and representation assistance, should be made accessible to the victim by devoted, properly trained caseworkers.

VIII. CONCLUSION

Regardless of the fact that rape is considered horrible and illegal in nature, the quantity and level of inhumanity associated with this crime has already been increasing. This crime is on the rise in all civilizations, whether prosperous or impoverished, educated or uneducated, open or closed. The rape legislation is a critical tool for putting an end to horrible crimes, and it must be used wisely. When emerging crimes emerge, newer laws are required to remove or at the very least reduce crime. For example, the cyber law was created to address crimes committed in the cyber environment. The law must be maintained up to date with the speed with which society operates. Earlier Rape legislation, for example, did not make a clear line between "consent" and "passive acquiescence," resulting in terrible miscarriages of justice.

The law is still in place, but the majority of casualties (including minors) continues to rise, killing the very souls of vulnerable women. In India, the concept of marital rape does not exist. Rape, contrary to popular assumption, is nearly never committed for sexual enjoyment. It is defined as "violent acts that happen to be represented through sexual methods." This can be stated that one of the first issues to address in order to achieve gender equality is the acceptance of all types of genders and the abandonment of constrained definitions of sexuality. Second, the defendant's gender neutrality underlines the frequency of male and transgender sexual abuse in India. A gender-neutral society is totally equal, and so the Constitution's core rights are protected.

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