

# NEED FOR GENDER NEUTRAL RAPE LAWS IN INDIA: A LEGAL STUDY

Written by *Tharak Sudharrshan*

*4th Year BBA LLB Student, Christ University, Bangalore, India*

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## ABSTRACT

Rape is the fourth most common crime in India, and it's a major issue throughout the globe. History has shown that rape is not just a woman's crime but also affects men as well as gays and members of the transgender community. Even in the IPC, rape is defined in law as involving a male criminal and a female victim. Understanding this issue and its significance requires letting go of stereotypes regarding sexual offenses, such as the idea that they can only be committed against women. Rape may happen to anybody, regardless of their age, gender, or sexual orientation.

The paper focuses on discussing this reality gap where the rape laws just focus on females being victims. It discusses the incident of rapes with even males and transgender and focuses on the need to establish gender-neutral rape laws in India.

**Keywords:** Rape Laws, Gender-Neutral, Patriarchy, Reality Gap, Judicial Gap

## INTRODUCTION

### *Overview*

The term 'Rape' refers to a breach of bodily integrity. It is important to note that the definition of this phrase has been limited and simplified. Society has a long-held belief about who is capable of committing this crime and who is vulnerable to it. Violent male-on-female victim-perpetrator relationships are the only ones that may be described under the legislative definition of this crime. Several modifications have been made to Section 375<sup>1</sup> of the Indian Penal Code since its establishment.

The Indian Penal Code, Section 375, defines rape as an act committed by a male against a female. As a result of this, the offender is always a guy and the victim is always a female. In addition to fulfilling the sexual needs of the offender, rape also serves as a way for the perpetrator to demonstrate superiority/dominance over the victim. It harms not just the sufferer, but also the entire society.

But, the fact cannot be ignored that other genders, such as men, homosexuals, and the transgender community, have also been harmed by this crime over time. Rape may happen to anybody, regardless of their age, gender, or sexual orientation. As a result, most of these instances are unreported for fear of raising suspicions about their efficacy. In general, rapes committed on non-females go undetected, so people are unaware of them. However, people must become aware of such crimes, and that appropriate law and order be maintained -9KJ to eradicate this horrendous crime.

There is a widespread belief that men are too powerful to be humbled, and that sex offenders are weak victims of their crimes. A male victim's fear of society and losing his manhood keeps him from reporting the crime. Woman as a perpetrator of such crimes is also ridiculous since women are perceived as weaker than males, who require protection. Patriarchy in Indian society impedes the expansion of sexual offense legislation to encompass males as well as women, according to this research.

It is a well-known fact that Indian laws do not recognize adult male victims. The demand for gender-neutral laws is rising. There have been several cases of women being raped, but males and transgender people are also victims. The British and American male victim study found

that 3 to 8 percent of males had experienced at least one sexual attack in their lives, with at least 5 to 10 percent of all rape victims being male perpetrators, and 6 to 15 percent being female perpetrators, respectively and there were 67 percent of lesbians who reported the sexual assault to the Centers for Disease Control and Prevention identified women as offenders. Understanding this issue and its significance requires letting go of stereotypes regarding sexual offenses, such as the idea that they can only be committed against women.

As a result of the gaps in existing legislation, this study attempts to emphasize the necessity for gender-neutral rules against sexual crimes. Indian law prohibits discrimination based on religion, race, caste, gender, and birthplace. It also provides for social justice, and society consists of more than one gender.

### ***Research Questions***

- What is rape as a crime?
- Are the current rape laws in India justified?
- Whether Innocent victims are victimized under the law by false allegation by a woman?
- Whether there is a need for gender neutral rape laws in India ?

### ***Objectives***

- To analyze what is rape as a crime and what are its drawbacks as a law
- To study and discuss the reality gap where the rape laws just focus on females being victims.
- To determine what government should do government to overcome these drawbacks of the rape law in India

### *Hypothesis*

H<sub>0</sub>: To modify the conventional thinking of society, gender-neutral rape legislation must be brought to the government and the public.

## **CONCEPT OF RAPE AS A CRIME**

**Section 375** of the Indian Penal Code defines rape as "sexual intercourse with a woman against her will, without her consent, by coercion, misrepresentation or fraud or at a time when she has been intoxicated or duped or is of unsound mental health and in any case if she is under 18 years of age."

Since the dawn of human civilization, rape has existed as a crime. This crime is punishable under section 376 of the Indian Penal Code of 1860. One may argue that Section 375's meaning has fundamentally altered since, despite several revisions since 1860, it hasn't kept pace with society.

Indian Penal Code 1860 protects Indian women against rape and sexual abuse. In section 375 of the IPC, rape is defined and proclaimed to be a crime. Section 376, on the other hand, sanctions the same offense. Section 376<sup>ii</sup>, on the other hand, sanctions the same offense. Non-consensual and even consensual sexual acts are covered by Section 375 in six different circumstances.

### ***Components of Rape Consent***

An allegation of rape must prove that the "sexual intercourse" complained of was either against the complainant's will or without her permission. Consent granted under the circumstances listed in the first through sixth paragraphs would likewise constitute rape.

In the case of *Dileep Singh v. the State of Bihar*<sup>iii</sup>, the Supreme Court concluded that whereas will and consent may connote the same meaning, their legal definitions differ. A man may not have been willing to do a sexual act, yet he or she consented to it. "Will" and "consent" are therefore classified separately in the IPC, 1860.

In *State of UP v. Chottey Lal*<sup>iv</sup>, the Supreme Court noted that the terms "against her will" and "without her permission" in the statutory definition of "Rape" may overlap in some circumstances. Although their proportions are slightly different, they do have certain similarities. A sexual act that was performed against a victim's wishes is known as "against her will." Forcing someone to provide their consent is another way to get their consent. Therefore, without permission indicates that the will was not involved at all.

According to section 90<sup>v</sup> of the IPC, there are a few tests for determining "consent". According to the Supreme Court's ruling in *State of H.P v. Mango Ram*<sup>vi</sup>, consent cannot be expressed by submitting one's body out of fear or anxiety or even misperception. Section 375 does not include voluntary consent and willing involvement in the sexual act.

### ***Penetration***

Violation of Section 375 is defined as any penetration of the skin that results in sexual contact. In *Koppula Venkatrao v. State of AP*<sup>vii</sup>, the Supreme Court clarified that penetration is sufficient to establish rape and that ejaculation is not required. Trying to commit rape by ejaculating without penetrating the skin is rape in progress.

### ***Amendments in Rape Laws:***

- CRIMINAL LAW AMENDMENT ACT (1983)

In 1983, the Criminal Procedure Code was revised. According to Section 327 of the CrPC, rape proceedings can be conducted in front of a camera. A rape victim's name must not be revealed under Section 228A of the Code of Criminal Procedure, 1973, on the other hand. According to Section 376(2)<sup>viii</sup> of the IPC, custodial conditions are punishable with a more severe sentence. Section 114A<sup>ix</sup> was added to the Indian Evidence Act of 1872, creating a presumption of consent in certain instances.

As a result of the modifications made in 1983, rape in custody was recognized as a separate crime. Because the accused is in a position of trust, custodial rape is considered a terrible crime. To prevent further crimes, they have both the authority and the obligation to do so. In such situations, the onus of establishing 'permission' has been shifted to the accused, a huge improvement.



- INDIAN EVIDENCE AMENDMENT ACT (2002)

Due to the changes, the defense was forbidden from asking the prosecutrix, during cross-examination, humiliating questions about her moral character and sexual past. Because it claimed that a victim's sexual past was of paramount relevance in determining her moral character, section 155(4)<sup>x</sup> was removed in 2002.

The concept of rape/sexual assault has evolved as new circumstances have emerged and society's thinking has evolved. Still to come is the typical male-on-female model of sexual relations. It is important to note that no such gender-based differentiation has ever been reflected through any of the amendments that have taken place so far.

## **DRAWBACKS OF THE RAPE LAW IN INDIA**

Since the dawn of human civilization, rape has existed as a crime. This crime is punishable under section 376 of the Indian Penal Code of 1860. One may argue that Section 375's meaning has fundamentally altered since, despite several revisions since 1860, it hasn't kept pace with society.

Some of the drawbacks of the rape law which needs to be addressed are-

Indian Penal Code, 1860, assumes that the culprit in rape cases is a man. A female perpetrator and a victim of any gender are not considered.

When defining the genders that make up 'gender-neutral,' it's vital to consider whether or not it includes all body types, not just males and females. One's body is thought to exhibit either male or female traits up until this point. The third gender is a concern. A dropdown list of gender categories includes them, too. Again, the transgender community in India is not taken into account while drafting laws. Stigmatized because the transgender community defied normatively accepted gender roles. The 'hijras' and the 'kothis' must be given a space, as other cis-gender or transgender offenders may violate their modesty.

In its 172nd report, the Law Commission advocated gender-neutral rape legislation. According to the study, all citizens' fundamental rights must be safeguarded, and denying protection against sexual assault to both sexes is a grave breach of these principles. The realities of society

must not be ignored. However, recognizing male and transgender victimization does not preclude a women's right to protection.

As a result of gender-neutral rape laws, women are subjected to more pain and humiliation because both genders (male and female) are viewed as potential perpetrators. An accused guy may, for example, strive to establish the woman's innocence instead of proving himself, causing the real victim to suffer shame and anguish. The aim of the rape legislation would be defeated.

According to a frequent argument against gender neutrality, recognizing female criminals will have negative consequences for the immediate society in which they live. India, a patriarchal country, is not yet intellectually able to embrace gender-neutral rape legislation. As well as misusing the law, unethical "representation for accused" might also be construed that way. Counter-complaints may be made against every bona fide female victim, undermining the objective of the statute, which is to safeguard the identity of a sexually assaulted woman, once again. Moral character questions that the victims would be asked will be humiliating and beyond comprehension. On the contrary, it might harm their mental health.

As the last point, the legislature must take into account gender issues and not be gender blind. As a result of a historically skewed view of gender, feminists view rape solely as an issue of male/female inequity that must be remedied by gender-specific legislation. Consequently, they believe that the ingrained inequities between men and women can only be addressed by recognizing that women are victims of male perpetrators.

## **REASONS BEHIND THE LACK OF GENDER- NEUTRAL LAWS**

The Indian Penal Code, Section 375, defines rape as an act committed by a male against a female. As a result of this, the offender is always a guy and the victim is always a female. In addition to fulfilling the sexual needs of the offender, rape also serves as a way for the perpetrator to demonstrate superiority/dominance over the victim

But, the fact cannot be ignored that other genders, such as men, homosexuals, and the transgender community, have also been harmed by this crime over time. Rape may happen to anybody, regardless of their age, gender, or sexual orientation. But this fact is not known by many persons because of several reasons.

Some of them are-

### ***Traditions of the male-to-female paradigm***

Taking this assumption as a whole, we must examine it. A few elements of men's rights remain unprotected by law, even though they are entitled to such protection. So, for example, when it comes to stalking, voyeurism, sexual harassment, etc., the law assumes that the criminal is a guy. Although the phrase "Whoever" is included in the definition, the rules about acid assaults have only lately been gender-neutral.

The act of sexual assault, as noted above, may also serve as a way to assert authority and power. It might be driven by a desire to humiliate the victim, or by a combination of both. Anyone, regardless of gender, can be the victim of such sexual attacks. When it comes to identifying who committed a sexual assault and who was victimized, the only identification taken into consideration is gender. So why males are not treated similarly and subject to the same laws as women if it can be proven that their sexual experience is the same?

### ***Patriarchy***

In this regard, patriarchy plays a significant role. Males, as well as females, are affected by this toxin. Since each gender is given particular gender responsibilities, males are supposed to be physically fit and powerful enough to defend them if necessary. As a result, women cannot sexually abuse or exploit males.

India's Constitution protects basic rights under its third article. Everyone has these rights, regardless of gender. There is also a prohibition on sexist discrimination under Article 15 of the Constitution. Men should be treated the same as women under a few gender-specific legislation, it is obvious. Understandably, female-on- male rape is a rare occurrence but it's not an impossible scenario.

### ***Gender-neutrality is in opposition to feminist ideas***

Gender neutrality has been denounced by several feminist groups. It is not diminished by the fact that men are also victims of rape. Feminism involves putting men and women on an equal footing. There must be coexistence between both sexes. If either one is explicitly



acknowledged, the other's viewpoint is not necessarily undermined.

Certainly, female rape victims are subjected to a great deal of societal shame. Male dominance has been a fact of life for centuries.

### ***Misinterpretation of physiological factors***

Sexual assaults may be summed up in three ways, even without relying on facts and statistics. The vast majority of rapists are men, although a substantial percentage of women also commit sexual offenses. As a second point, the fact that women are statistically at a higher risk of sexual assault than males do not invalidate the risk that men are also exposed to. Third, more men and boys than we realize are victims of sexual assault. In part, this is due to the paucity of recorded instances. This paucity of recorded events is due to the absence of regulations that require such reporting.

In situations of sexual assault, males are often accused of having an erected penis and/or ejaculating, leading to the belief that they gave their permission. During the attack, a majority of men ejaculated or had an erection, which causes confusion or guilt in them. When the nervous system is stimulated by a sexual assault, adrenaline is produced, causing an increase in blood flow and lubricant to the sexual organs. When a person is afraid, their genitals will not be unresponsive. According to the study, males do acquire erections during sexual attacks, even if they don't want to. US courts have already ruled that experiencing an orgasm during a sexual assault is inconclusive evidence of consent.

Understanding the link between bodily arousal and sexual pleasure is crucial in this regard. As early as adolescence, men are conditioned to believe that the penis is their sexual organ. These arguments cause many people to believe that an erection is an indication that permission has been given. A man might also have an erection if he is familiar with a sexual act of penetration or other behaviors connected to sexual assault. They do not reflect a person's emotional state.

Hanged men typically have an erection after they die, as has been documented for ages. As a result, this would not be a sign of sexual desire. A mixture of excitatory and inhibitory innervations converging on the lumbar cord reflex center during asphyxiation is thought to be responsible for this phenomenon.

Men were forced to engage in sexual acts in the past in a variety of instances. During the Bosnian civil war, for example, males were compelled to participate in sexual activity with one another. African- American males were often beaten on their backs during the rebuilding phase in the South. Even though all of these activities would not be possible without a penis erected, characterizing them as sexual scenarios would be misunderstood and undermine the conditions in which these erections happen. Arousal does not prove anything biologically conclusive. In conclusion, an erection is not proof of consent.

### *Gender stereotyping by mass media*

People's thoughts are shaped by the media in today's world. The Indian mainstream media does not portray males as sexual assault victims and presents a distorted vision of what a perfect guy should look like. Indian men still measure masculinity by a quote from the most famous Indian actor, who said that a genuine man does not experience pain. Misogyny and sexist humor are common in Indian films. It is also alarming to see how the Indian media makes light of stereotyping and abuse of homosexual and transgender characters.

Humorously, the molestation of a guy was also brought up. As far as Bollywood movies go, Aitraaz, in which the protagonist's boss's wife tries to sexually assault him, is the only one that has become popular.

The same applies to novels. In the words of Claire Cohen, a well- known author, male rape victims are typically feminized so that female rapists are more acceptable.

India's culture must be made more inclusive of both genders, and cinema directors must be confronted about stereotyped depictions of gender, as well as important topics being portrayed humorously.

## **JUDICIAL PERSPECTIVE ON THE MATTER**

Male rape is an uncommon occurrence in the media. Men and transgender rape numbers are insignificant in comparison to women rape figures, which are significantly higher. Due to a lack of reporting, males and transgender individuals are less aware of the prevalence of rape.

This topic has received little attention from the judiciary throughout the years. No such laws or precedents support gender neutrality in rape legislation.

In 1996, in the case of *Bodhisatwa v Subhra Chakraborty*<sup>xi</sup>, the Supreme Court in India ruled that "violence against basic human rights and the victim's most treasured Fundamental Rights" constitutes crimes against human rights. A grave violation of Article 21's Right to Life is committed. First gender neutrality was recognized in 1996 by Delhi High Court Judge Jaspal Singh.

In the case of *Sudesh Jhaku v KC Jhaku*<sup>xii</sup>, when deciding whether or not non-penetrative sexual actions were included in the former definition of rape (before 2013), the court was asked if it was permissible for the concept to be read this way. It went above and beyond its duty to express an opinion on the topic of gender neutrality. This is a legislative matter, and the judiciary cannot address it, according to Justice Jaspal Singh. Creating gender-neutral planning is a task that can only be accomplished in a legislative setting. In addition, the judge remarked that the rape offense needed to be rewritten.

Delhi-based Sakshi filed a writ petition (*Sakshi v Union of India*) with the Supreme Court of India in 1997, requesting that the Jhaku case be reconsidered. However, in 1999, the highest court outlined the "specific concerns" that would be addressed by the Law Commission of India.

More changes were made in 2012, following the heartbreaking Nirbhaya Rape case (*Mukesh and Anr. v. State for the NCT of Delhi and Others*). Nationwide, demonstrations erupted in response to this case Criminal Law (Amendment) Act 2013, approved in 2013. Section 375 of the Indian Penal Code of 1860, as well as the Criminal Procedure Code and Evidence Act, were modified. Rape was defined more broadly. There was an increase in the severity of the sanctions. Rape cases that result in death or a 'persistent vegetative condition' were subject to the death penalty. For gang rape, a minimum of 20 years in jail was set.

Once again, the 2012 version of the law was criticized for excluding other genders from the victim group. As a result, it did not recognize marital rape as a criminal offense or a civil one. The categorization of male perpetrators did not change.

Legislators don't only disregard men in this regard Sadly, transgender people are also subject

to rape and sexual violence. Comprehensive criminal law reform is needed to ensure that victims of both genders have access to the same basic laws. According to the Supreme Court's ruling of *State of Punjab v. Ramdev Singh*, "rape is a crime against the entire community, not just against a woman. They are violating the most sacred of human rights, protected by Article 21 of the Indian Constitution."

In Section 18(d) of Chapter 8 of the Transgender Persons (Protection of Rights) Act of 2019, anyone who tends to act in a sexually abusive manner towards a transgender person is subject to imprisonment for not less than 6 months, but not more than 2 years, and a fine. This is a glaring example of the legislature's indifference to transgender people.

## **REASON WHY GENDER-NEUTRAL RAPE LAWS SHOULD BE ADOPTED**

Approximately 77 nations throughout the world have enacted and adopted gender-neutral legal frameworks. Out of the seventy-seven nations with gender-neutral legislation, the United States, the United Kingdom, Australia, and Denmark are the ones to have them.

Repudiating the notion of gender-neutral laws against rape, the Indian Parliament has done so repeatedly. Male rape victims in India are not considered victims at all. It is becoming more and more apparent that men are having problems, both in jail and in our daily life. After being discovered hanged in jail, Ram Singh alleged that other male inmates had raped him.

Similar to female victims, male victims do not get their complaints acknowledged and strive to hide, resist, or deny their victimization until they have suffered significant bodily damage. In several cases, women have been discovered to have submitted fraudulent claims. Due to familial pressure, retribution, etc., many women file false rape accusations.

It was decided in the case of *State of Himachal Pradesh v. Shree Kant Shekari*<sup>xiii</sup> that the crime of rape violated the victim's basic Right to Life under Article 21 of the Indian Constitution. Men also have a right to life; therefore rape laws should cover their rights and breaches as well. To ensure that both men and women have the right to life, it is necessary to incorporate

violations of physical integrity in the law. Recognizing the potential of male rape victims is also important.

Even state governments have shown support for gender-neutral rape legislation in 2012, according to a study produced by the Parliamentary Standing Committee on the 167th Criminal Law (Amendment) Bill. As far as a victim is concerned, they wanted it to be gender-neutral, but they wanted the offender to be a guy.

It is the duty of the state, at all times, to ensure a safe environment for its inhabitants. Racial rape is unquestionably a violation of human rights, and the sanctions for it shouldn't be selective in terms of the protection it offers. The state must stop seeing through a gendered lens and justify the requirements of the current society instead of using gendered glasses.

The government's duty to its inhabitants should not be confined to the realm of the abstract. Their obligations must be reflected in the legislation that it recognizes.

No matter what their gender, every person of India is guaranteed their basic rights under Part III of the Constitution of India. As stated in Article 14, everyone has a right to equality under the protection of the law. Everyone, regardless of gender, is treated equally in this essay. A person or case cannot be separated based on gender, or race, or religion, or any other kind of discrimination, according to article 15.

It is important to remember, however, that even though male assault is fewer than female assault, they still need legislation to protect themselves as well. Giving males the same rights as women in sexual assault situations does not entail taking away their rights.

Given that assertion of dominance is the primary cause of violence against women, providing males a platform to speak out about their assault and the ability to register incidents would diminish the toxic masculinity associated with it, therefore lowering assaults on women.

Guys are afraid of being judged by society and suffering a reaction from a society that believes "men cannot be victims of sexual assault." As a result of opening out, they believe that they will be branded as "unmanly" or informed that they are "not genuine guys." For the simple reason that they were unable to fully appreciate the sexual relationship that women offered to them.



## CONCLUSION

### *Findings*

These presuppositions about rape and sexual assault offenses were the focus of this paper, which was discussed and evaluated to come up with the conclusion that enacting legislation against sexual offenses is not only necessary but also indispensable.

A few of the findings that were derived from the research are-

In theory, patriarchy appears to be beneficial for males, but in fact, it has numerous disadvantages for men as well. Even though sodomy as a war crime is well-known in India, politicians refuse to accept that anybody, regardless of gender, can be a victim or offender.

According to the Indian Constitution, Article 15, there is a need for gender-neutral legislation, as well as to emphasize the importance of consent in sexual autonomy and physical integrity, be it any gender.

Contrary to common belief, males do not experience rape in a different way than women do. Contrary to what the male-dominated culture would have us believe, the research shows that males do not have the ability or intuition to retaliate when raped. We've seen that several feminist schools, including renowned campaigners like Brown miller, have recognized and accepted the presence of male violence, despite their opposition. As the paper makes apparent, there is a pressing need to shift away from the phallus-centric rules of today, which confine the discussion of assault legislation.

A defense lawyer's lack of understanding of the body's reaction to sexual activities was also addressed, leading to gross injustice in the courtroom.

The reality gap is reflected in the paper through the media's strategy to producing and sustaining stereotyped gender representations.

### *Suggestions*

In the paper and from research, it appears that men and other genders also need assistance in sexual assault situations. Other genders exist and cannot be rejected or disproved by society. Legislation must pass laws and acts to penalize the criminals no matter what their sexual

orientation.

Some of the other suggestions that are also given after this research are-

First, all present laws must be rewritten in a sexually neutral language to confirm that sex will never again be the basis for judging legal wrongs. The necessity to gender-sensitize the whole legal system and update lawful investigative tools is also a sine qua non, as the law is nothing more than the collective will of society. Diversity and inclusiveness must permeate the mind and the body to build an inclusive society.

To reflect reality, the media's strategy to producing and sustaining stereotyped gender representations must be revised. The media has to illustrate that a guy may have "feminine" activities and still be a man and that women can have "masculine" hobbies and still be women. A moral commitment to improving society should be placed on the media even though they are not legally required to do so. Educating both the judicial system and the public on how sexual stimulus might be achieved without conscious consent for sexual engagement is a true necessity.

### ***Concluding Remarks***

Males and females are designed to cohabit and complement one another to ensure their own and society's existence. Despite its importance, this connection has sadly become the most misused element of society.

All citizens, regardless of gender, should be subjected to the same punishment for a crime that is as terrible as rape. Suffering is incomparable, and it affects everyone the same way. No matter if the survivor is a man, woman, or transgender, they all experience the same physical, mental, and emotional agony.

For gender equality to become a reality, one of the first steps must be the acknowledgment of all genders, as well as the abandonment of constricting gender definitions of gender.

It also underlines the fact that male and transgender sexual assault is prevalent in India. In a gender-neutral society, everyone is treated equally, and the Constitution's fundamental rights are respected.

Why should India lag in terms of gender-neutral rape laws when the country is evolving and

making changes? As a result, India's parliament must pass gender-neutral rape legislation, as do the United States, Bhutan, and the United Kingdom. There is a need for the Indian judicial system and society to recognize that this crime may harm either gender. There should be no distinction made in the law between males and transgender as victims. To modify the conventional thinking of society, gender-neutral rape legislation must be brought to the government and the public.

## ENDNOTES

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<sup>i</sup> Criminal Law (Amendment) Act, 2013, [https://www.iitk.ac.in > data > TheCriminalLaw](https://www.iitk.ac.in/data/TheCriminalLaw)

<sup>ii</sup> Mha.gov.in, 2022 available at: [https://www.mha.gov.in/sites/default/files/CSdivTheCriminalLawAct\\_14082018\\_0.pdf](https://www.mha.gov.in/sites/default/files/CSdivTheCriminalLawAct_14082018_0.pdf) (last visited January 8, 2022).

<sup>iii</sup> Dileep Singh v. State of Bihar, AIR 1988 SC 339.

<sup>iv</sup> State of UP v. Chottey Lal, AIR 1989 SC 164.

<sup>v</sup> Double taxation of income Act, section 90, no. 11 Acts of parliament, 1949 (India)

<sup>vi</sup> State of H.P v. Mango Ram, AIR 2000 SC 314.

<sup>vii</sup> Koppula Venkatrao v. State of AP, AIR 1991 SC 309.

<sup>viii</sup> Central Government Act, section 376(2), no. 10 Acts of parliament, 1949 (India)

<sup>ix</sup> The Indian Evidence Act, 1872, section 114A no. 18 Acts of parliament, 1872 (India)

<sup>x</sup> Indian Evidence Act, section 155(4), no. 14 Acts of parliament, 1942 (India)

<sup>xi</sup> Bodhisatwa v Subhra Chakraborty, AIR 1995 SC 375

<sup>xii</sup> Sudesh Jhaku v KC Jhaku, AIR 1995 SC 375.

<sup>xiii</sup> State of Himachal Pradesh v. Shree Kant Shekari, AIR 2004 SC 376.