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Gender Bias in Domestic Violence Laws in India: Need for a Gender-Neutral Framework

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Abstract

India's legal framework addressing domestic violence, particularly the Protection of Women from Domestic Violence Act of 2005, has been instrumental in safeguarding the rights of women and ensuring access to legal remedies for abuse within domestic spaces. However, a critical analysis reveals that this legislation, while progressive in intent, is inherently gender-specific and excludes male and LGBTQ+ individuals from its protective ambit.

This research paper delves into the structural gender bias embedded in the law, highlighting how its narrow scope contributes to legal invisibility and societal neglect of non-female victims. The study assesses the limitations of the current legal framework, drawing attention to the absence of inclusive definitions and lack of recourse for male and queer survivors. It also examines key judicial interpretations that reinforce or challenge this bias and juxtapose India's approach with international legal models adopting gender-neutral frameworks. Through comparative legal analysis and critical doctrinal review, the paper underscores the urgent need for reforms that reflect the evolving understanding of domestic violence as a human rights issue rather than a gender-specific one.

The conclusion advocates for a more inclusive, equitable, and balanced legal regime that protects all individuals against domestic abuse, irrespective of their gender or sexual orientation. By shedding light on overlooked narratives and advocating for comprehensive reform, this paper contributes to the ongoing discourse on legal equity and the need for a justice system that upholds the principle of equality before the law.

Keywords: Domestic violence, gender bias, male victims, LGBTQ+ rights, gender neutrality.

Introduction

Domestic violence is an enduring and complex issue that affects individuals regardless of gender, age, economic status, or cultural background. It transcends national and societal boundaries, manifesting in various forms such as physical abuse, emotional manipulation, psychological trauma, sexual coercion, and financial control. In India, domestic violence has long been perceived and addressed as an issue predominantly faced by women, given the deeply entrenched patriarchal norms and historical marginalization of women within familial structures. Consequently, the legal system, through legislative enactments like the Protection of Women from Domestic Violence Act, 2005 (PWDVA), has sought to provide protective mechanisms primarily for women, reflecting an intent to rectify the gendered power imbalances that have perpetuated their vulnerability within domestic spaces.

However, while the rationale for a woman-centric legal approach is grounded in a legitimate need to combat widespread gender-based violence, it has inadvertently resulted in the marginalization of other victims of domestic violence—particularly men and individuals from the LGBTQ+ community. The legal presumption that men are invariably perpetrators and women are inevitably victims fails to account for the realities of abuse experienced by individuals outside this binary framework. This one-dimensional understanding creates gaps in legal recognition, support systems, and access to justice for those whose experiences do not align with the dominant narrative. Male victims, for instance, often face stigma, disbelief, and social ridicule when they attempt to report domestic abuse, while LGBTQ+ individuals struggle with additional barriers such as familial rejection, societal invisibility, and lack of tailored legal recourse.

The prevailing gender-specific nature of the PWDVA, although instrumental in empowering many women to challenge abusive domestic environments, does not extend its protections to men or

individuals in same-sex relationships. As a result, the law inadvertently perpetuates a form of systemic bias by excluding a segment of the population from seeking similar safeguards and remedies. This exclusion undermines the constitutional promise of equality and non-discrimination and fails to uphold the fundamental rights of all citizens. A legal framework that does not recognize the universality of human vulnerability within domestic settings risks entrenching stereotypes and reinforcing inequities rather than addressing the root causes of domestic violence.

In recent years, increasing social awareness, empirical studies, and anecdotal evidence have brought attention to the diverse experiences of domestic abuse across gender and sexual identities. Research indicates that men, too, may suffer in silence due to societal expectations around masculinity, which discourage emotional expression and seeking help. Similarly, transgender and non-binary individuals face unique forms of domestic abuse that remain unaddressed within the current legal paradigm¹. The absence of a comprehensive, inclusive framework reflects a significant oversight in India's approach to domestic violence, where the justice system must evolve in tandem with the changing societal realities and emerging understandings of gender and family dynamics.

A shift toward gender-neutral domestic violence laws does not imply diluting protections available to women; rather, it calls for an expansion of legal safeguards to all individuals irrespective of their gender identity. Such a shift necessitates thoughtful legislative reform, ensuring that protections are inclusive while being sensitive to the varied manifestations of abuse. Countries such as the United Kingdom, Australia, and Canada have adopted more inclusive models that recognize domestic violence as a human issue, not merely a women's issue. Their frameworks provide valuable insights into how India can recalibrate its domestic violence legislation without compromising the gains made in women's rights.

This paper, therefore, seeks to critically examine the gendered assumptions embedded within India's domestic violence laws, particularly focusing on the PWDVA, and argues for the development of a more equitable legal approach. Through an exploration of judicial

¹ Jain, D., & Mukherjee, S., 'The forgotten gender: Understanding domestic violence against men in India' (2019) 26(3) Indian Journal of Gender Studies 317.

interpretations, case studies, comparative legal analysis, and scholarly perspectives, the study aims to highlight the importance of broadening the legal definition of domestic violence to reflect the diverse realities of abuse. The objective is not to contest the need for protective laws for women but to advocate for inclusivity that affirms the dignity, safety, and legal recognition of all individuals who face violence in intimate or domestic settings. Addressing domestic violence in its entirety requires dismantling rigid gender stereotypes and adopting a holistic perspective that centers on justice, empathy, and equal protection under the law.

Understanding Domestic Violence: A Gendered vs Gender-Neutral Perspective

Domestic violence, in its essence, encompasses a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain control over another intimate partner. It includes a spectrum of physical, emotional, psychological, sexual, and economic abuse that can severely impair the well-being, autonomy, and dignity of the victim². In India, the Protection of Women from Domestic Violence Act, 2005 (PWDVA), provides a comprehensive definition of domestic violence, encompassing physical harm, verbal insults, emotional trauma, sexual coercion, and deprivation of financial resources. The legislation was a progressive step toward recognizing the multi-dimensional nature of domestic abuse beyond physical violence, allowing for civil remedies such as protection orders, residence rights, and monetary relief. However, its protective ambit is limited to women, assuming the perpetrator to be male and the victim to be female, thus excluding other categories of victims from its scope. This legal framework, while vital in addressing the historically entrenched and systemic abuse faced by women, overlooks the experiences of male victims and those from the LGBTQ+ community who equally suffer in silence.

The gendered perspective on domestic violence emerged from the socio-historical context in which women were—and in many ways still are—subjected to systemic subjugation within patriarchal family structures. Domestic violence against women was often viewed as a private matter, hidden behind closed doors, and normalized within cultural and familial traditions. Feminist legal theory played a pivotal role in reframing domestic abuse as a public concern and a violation of human rights, bringing it into the legal and political discourse. It emphasized the structural inequalities

² Singh, R., 'Domestic violence against men in India: A comprehensive study' (2017) 26(6) *Journal of Aggression, Maltreatment & Trauma* 616-630 <https://doi.org/10.1080/10926771.2016.1215573> .

and power imbalances that placed women in subordinate positions, thereby making them more vulnerable to domestic abuse. From this standpoint, laws like the PWDVA were seen as necessary tools for social justice, designed to empower women and challenge the cultural norms that perpetuate their victimization. The law was intended not just as a remedy, but as a transformative instrument to correct centuries of gendered injustice. Thus, the gendered approach was born out of necessity, grounded in empirical evidence and social reality.

However, while this perspective remains crucial, it also raises the concern of legal exclusion and the danger of institutionalizing gender bias. By assuming a unidirectional flow of violence—from male perpetrators to female victims—the law disregards the complexity of interpersonal relationships and the multiple configurations in which domestic abuse can occur. Male victims of domestic violence often face ridicule, disbelief, or apathy when seeking help³. Their experiences are dismissed as anomalies or as failures to conform to traditional masculinity. Similarly, individuals in same-sex relationships may suffer abuse that is invisible to the legal system, which does not recognize their partnerships or the dynamics within them. This legal invisibility compounds their vulnerability, leaving them without recourse or recognition. It also contributes to underreporting, as social stigma and the absence of legal acknowledgement discourage many from coming forward.

A gender-neutral approach to domestic violence legislation seeks to address these gaps without undermining the specific protections required by women⁴. It recognizes that domestic violence is fundamentally an abuse of power and control, which can be exercised by anyone, irrespective of gender. By shifting the focus from gender to behavior, a gender-neutral framework acknowledges the universal potential for victimization and perpetration. This does not mean erasing the context of women's oppression or denying the statistical predominance of violence against women. Rather, it calls for a more inclusive understanding that ensures legal protection is based on the experience of harm, not the identity of the victim. Countries such as the United Kingdom and Australia have adopted gender-neutral domestic violence laws that apply to all victims equally, demonstrating

³ Dhawan, S., 'Domestic violence against men in India: A perspective' (2014) 24(4) *Journal of Human Behavior in the Social Environment* 452-463.

⁴ Malik, Jagbir Singh; Nadda, Anuradha, 'A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India' (2019) *Indian Journal of Community Medicine* 44(1), p 35-38, Jan-Mar. DOI: 10.4103/ijcm.IJCM_222_18.

that it is possible to create inclusive legal structures without compromising support for historically disadvantaged groups.

The resistance to gender-neutral laws often stems from the fear that such changes may dilute the focus on women's issues or hinder their access to justice. However, this concern underestimates the ability of the legal system to recognize and respond to diverse forms of harm. A well-crafted gender-neutral law can retain the provisions necessary to support women while extending similar rights to others who suffer from domestic abuse. It can mandate sensitization training for law enforcement, establish protocols to assess the specific needs of different groups, and ensure that protective orders and remedies are accessible to all. Legal inclusivity does not require a zero-sum approach; the rights of one group do not need to be traded for the recognition of another. Instead, a balanced, context-sensitive law can address the intersectionality of domestic violence by considering factors such as gender, sexuality, economic status, and social position.

Moreover, the push for a gender-neutral approach finds support in evolving societal norms and international human rights principles. The Supreme Court of India, in various judgments, has emphasized the importance of equality, dignity, and the protection of individual rights irrespective of gender. The recognition of same-sex relationships, increasing advocacy for gender fluidity, and growing awareness of male victimization challenge the existing legal boundaries and demand a more responsive legal architecture. Domestic violence is not merely a women's issue; it is a human issue that affects the integrity of families, the well-being of children, and the moral fabric of society. Ignoring its broader manifestations weakens the effectiveness of any intervention and perpetuates suffering in silence.

In practice, the implementation of gender-neutral domestic violence laws would require not just legislative change but also a transformation in institutional attitudes. Police, judiciary, social workers, and health professionals must be trained to recognize and respond to all victims with empathy and impartiality⁵. Support services, such as shelters, counselling, and legal aid, must be made available to all, regardless of gender or sexual orientation. Data collection mechanisms must be refined to capture the full spectrum of abuse, providing an evidence base for policy-making and

⁵ Sethi D, Tiwari R, Bhargava S, Ghoshal A, Singh TB, Gupta R, 'Domestic Violence Against Men in India: A Perspective from a Men's Rights Activist' (2017) 10(4) Medical Journal of Dr. D.Y. Patil Vidyapeeth 330-336 <https://doi.org/10.4103/0975-2870.212140>

resource allocation. Public awareness campaigns must be reoriented to reflect the diversity of victims and the various faces of abuse. Such systemic reforms are essential to create an environment where all survivors feel safe, heard, and empowered to seek justice.

While the gendered approach to domestic violence laws in India was a crucial step in addressing the historical oppression of women, it is time to re-evaluate its limitations in the light of changing societal realities. Domestic violence, in its many forms, affects people across the gender spectrum, and laws must reflect this truth. A gender-neutral legal framework is not a threat to women's rights but a step forward in the pursuit of justice and equality for all. It affirms the idea that protection under the law is not a privilege reserved for some but a right guaranteed to all. Only by embracing this inclusive vision can India hope to create a truly responsive, fair, and humane legal system that addresses the full scope of domestic violence in our society.

Legal Framework on Domestic Violence in India

Domestic violence remains one of the most prevalent yet underreported forms of abuse in India. While social transformation and increased awareness have brought the issue into public discourse, legal intervention has been instrumental in recognizing and addressing the complexities of domestic violence. In India, the legal response to domestic violence primarily comprises civil remedies under the Protection of Women from Domestic Violence Act, 2005, and criminal provisions under the Indian Penal Code. These legislative measures, while aiming to protect vulnerable individuals within the domestic sphere, have also come under criticism for being gender-specific and for overlooking certain categories of victims. This section delves into the major statutes governing domestic violence in India, focusing on their features, scope, and criticisms.

- **Protection of Women from Domestic Violence Act, 2005**

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) marks a significant development in Indian law by providing a comprehensive civil law framework to protect women from various forms of domestic abuse⁶. The Act was enacted to address the limitations of criminal

⁶ Government of India, Protection of Women from Domestic Violence Act 2005, [Online] available at <https://wcd.delhi.gov.in/wcd/protection-women-domestic-violence-act-2005>

law, which often failed to provide immediate and practical relief to victims of domestic violence. Unlike earlier provisions that dealt mostly with dowry-related abuse, the PWDVA adopts a broader definition of domestic violence that includes physical, emotional, sexual, verbal, and economic abuse. It recognizes that abuse within the domestic space extends beyond mere physical harm and encompasses a wide array of controlling and coercive behaviors that severely impact a woman's mental and emotional well-being.

One of the significant features of the PWDVA is that it provides for civil remedies in addition to the existing criminal provisions. The Act empowers Magistrates to issue protection orders to prohibit the abuser from committing any further acts of violence, contacting the woman, or entering the shared household. Additionally, residence orders can be granted, allowing the woman to continue living in the shared home regardless of ownership rights. Monetary relief can also be provided to cover expenses related to medical treatment, loss of earnings, and damage to property. Custody orders can be issued concerning any children involved, and compensation orders can be passed to address the mental anguish and trauma suffered by the woman.

Another important aspect of the PWDVA is its procedural mechanism. The Act provides for the appointment of Protection Officers by the State who are responsible for assisting the aggrieved woman in filing applications, accessing shelter homes, and availing medical facilities. Moreover, service providers such as NGOs and legal aid services are given official recognition under the Act, thus creating a network of support for women experiencing abuse. The Act also mandates that proceedings under the Act should be disposed of expeditiously, ideally within 60 days, recognizing the urgency of such matters.

However, one of the key limitations of the PWDVA is its gender-specific framework. The Act defines the "aggrieved person" exclusively as a woman who is, or has been, in a domestic relationship with the respondent. While this focus was necessary given the historical and structural oppression faced by women in patriarchal households, the exclusion of male and non-binary victims has raised significant concerns about equality and fairness. As domestic violence is not restricted to one gender, there is a growing call for the law to become more inclusive by recognizing all individuals who may suffer from abuse within domestic relationships.

- **Indian Penal Code Provisions**

In addition to the civil remedies under the PWDVA, the Indian Penal Code (IPC) contains various provisions that criminalize acts of domestic violence. Section 498A of the IPC is perhaps the most well-known among these and deals specifically with cruelty by the husband or his relatives towards a married woman. Cruelty, under this section, includes any willful conduct that is likely to drive a woman to commit suicide or cause grave injury to her life or health, as well as harassment for dowry. Section 498A was introduced in 1983 as a response to the rising cases of dowry deaths and domestic abuse and represents a crucial tool in the criminal justice system to hold perpetrators accountable.

Another significant provision is Section 304B, which addresses the offence of dowry death. According to this section, if a woman dies under unnatural circumstances within seven years of marriage and it is shown that she was subjected to cruelty or harassment in connection with dowry demands, the husband or his relatives can be held liable for her death. This provision shifts the burden of proof onto the accused, recognizing the inherent difficulties in proving such crimes. Section 509 IPC, which penalizes any word, gesture, or act intended to insult the modesty of a woman, is also relevant in the context of verbal and emotional abuse.

Apart from these, general provisions related to assault, grievous hurt, wrongful confinement, and criminal intimidation can also be invoked in domestic violence cases. However, these sections require a high standard of proof and often do not address the ongoing, pervasive, and psychological nature of abuse within households. Moreover, the criminal justice system tends to be slow and retributive, offering little in the way of immediate protection or long-term support for survivors.

The reliance on criminal law also means that the focus is largely on punishing the perpetrator rather than rehabilitating the victim. In most cases, victims, especially women, may not want to sever family ties but seek safety, respect, and a change in behavior. Thus, while IPC provisions are crucial for ensuring accountability and deterrence, they are often inadequate in addressing the nuanced and ongoing nature of domestic abuse.

- **Criticisms of the Current Legal Framework**

Despite the significant strides made in legal recognition of domestic violence, India's current legal framework has drawn considerable criticism on various fronts. One of the most prominent critiques

is the exclusion of male and non-binary victims from the protection offered by the PWDVA. By recognizing only women as aggrieved persons, the law fails to account for instances where men, especially in same-sex relationships or in cases of elder abuse, face similar forms of domestic violence. This gender-specific approach perpetuates the stereotype that only women can be victims and only men can be perpetrators, ignoring the lived realities of many individuals.

There is also a growing concern about the potential misuse of certain legal provisions, especially Section 498A IPC. While the section plays a critical role in protecting women from cruelty and dowry harassment, instances of its misuse have been reported where false allegations are made for ulterior motives such as personal vendetta or custody battles. The Supreme Court of India has acknowledged this issue in several cases and emphasized the need for a balanced approach to prevent abuse of legal provisions while continuing to protect genuine victims. In *Rajesh Sharma v. State of UP* (2017)⁷, the Court even recommended preliminary inquiries before arresting the accused under Section 498A, reflecting judicial concern over its potential misuse.

Another limitation lies in the lack of adequate support structures for victims of domestic violence, particularly those who fall outside the traditional mold of female victims. There is a severe shortage of rehabilitation centers, mental health support, and social reintegration programs. Male survivors, in particular, face a lack of institutional recognition and often suffer in silence due to societal stigma and the absence of legal recourse. Non-binary individuals are virtually invisible in the legal narrative, despite facing heightened vulnerabilities.

Furthermore, the implementation of existing laws remains a significant challenge. Many protection officers are overburdened or inadequately trained, and the infrastructure for legal aid, shelter, and counseling is patchy at best. Delays in the judicial system further discourage victims from seeking justice. Often, police personnel are either unaware of the provisions under the PWDVA or reluctant to intervene in what they perceive as ‘private’ family matters, thereby failing to offer timely help.

There is also a need for more clarity and coordination between the civil and criminal proceedings related to domestic violence. The dual system often leads to procedural confusion and duplication of efforts. Moreover, societal attitudes towards domestic violence remain regressive in many parts

⁷ AIR 2017 SUPREME COURT 3869, 2018 (10) SCC 472

of the country, with victims being blamed or pressured to remain silent for the sake of family honor or children's welfare.

While India has a relatively robust legal framework to address domestic violence, it is not without its flaws. The Protection of Women from Domestic Violence Act, 2005 and relevant IPC provisions have played a crucial role in acknowledging and penalizing abusive behavior within domestic relationships. However, the gendered nature of these laws, coupled with concerns over misuse, inadequate implementation, and lack of inclusive support systems, hampers their overall effectiveness. Moving forward, it is essential for lawmakers to consider a more inclusive, victim-centric approach that addresses the needs of all individuals facing domestic violence, regardless of their gender, and ensures that accessible support services and timely judicial intervention accompany legal remedies.

Judicial Attitudes and Case Law Analysis

The judiciary in India has played a pivotal role in interpreting and shaping the application of domestic violence laws. While the legislative intent behind enacting these laws, especially the Protection of Women from Domestic Violence Act, 2005 (PWDVA), has been to shield women from abuse in domestic settings, the evolving dynamics of modern relationships and growing instances of legal misuse have led to critical judicial scrutiny. Courts have not only examined the constitutionality and scope of these laws but also addressed allegations of their misuse, gender bias in their implementation, and public demands for a more inclusive legal framework. The legal landscape thus reflects a tension between upholding the protective spirit of the law and ensuring that it is not weaponized for unintended purposes. The judiciary has been tasked with balancing the scales of justice—protecting victims while preventing harassment of the innocent.

- **Misuse of Domestic Violence Laws**

One of the most debated aspects of domestic violence jurisprudence in India is the alleged misuse of Section 498A of the Indian Penal Code, which criminalizes cruelty against women by their husbands or relatives. While this provision was enacted in response to the alarming rise in dowry-related violence and deaths, over time, there have been increasing claims that it is sometimes invoked with malicious intent. This concern found judicial recognition in the landmark case of

Rajesh Sharma v. State of U.P. (2017), where the Supreme Court observed a growing trend of misuse and emphasized the necessity of safeguards to prevent false accusations. The Court noted that in many cases, entire families, including elderly parents and young siblings of the husband, were being implicated without substantial evidence.

In the *Rajesh Sharma* case, the Supreme Court laid down a series of guidelines aimed at curbing the misuse of Section 498A. These included the constitution of Family Welfare Committees at the district level, tasked with reviewing complaints before any arrests could be made. The objective was to differentiate between genuine victims and those misusing the law for vendetta or financial gain. The judgment was a turning point in recognizing that the protective laws, though well-intentioned, must not become instruments of harassment. However, the guidelines were later modified in *Social Action Forum for Manav Adhikar v. Union of India* (2018)⁸, where the Court clarified that courts must not interfere with the statutory provisions laid down under criminal law and that arrest powers cannot be curtailed arbitrarily. Nonetheless, the debate initiated by the *Rajesh Sharma* case continues to influence judicial discourse and legal scholarship.

The misuse narrative, while valid in some instances, has often overshadowed the genuine need for protection among women facing systemic and intimate partner violence. Courts have generally urged caution in dealing with domestic violence cases, ensuring that the law is not diluted but also that procedural safeguards are in place. This judicial caution signifies the difficult task of preserving the sanctity of protective legislation while addressing its misuse without undermining the victims' access to justice.

- **Courts and Gender Bias**

Another critical dimension of judicial interpretation in domestic violence cases is the perceived gender bias embedded in existing legal frameworks, particularly the PWDVA. By its very design, the PWDVA recognizes only women as "aggrieved persons," excluding men and non-binary individuals from its ambit. Courts have largely interpreted the Act in alignment with its legislative intent, which is to provide civil remedies to women suffering from domestic abuse. In doing so,

⁸ AIR 2018 SUPREME COURT 4273, AIR 2019 SC(CRI) 35

the judiciary has reinforced the notion that the law is a remedial and protective tool specifically created to redress women's grievances in patriarchal domestic setups.

However, this gender-specific stance has not gone unchallenged. There has been a gradual societal shift questioning the assumption that men cannot be victims of domestic violence. Courts have occasionally been confronted with petitions seeking to broaden the scope of the PWDVA or to at least examine the rationale behind its gender-exclusive language. Although the judiciary has consistently held that the law was crafted to address the disproportionately high rates of abuse against women, it has also acknowledged the emerging discourse on gender neutrality in legal protections.

In several cases, courts have reiterated that the Act's objective is to counteract centuries of gender-based oppression and that its gendered application is constitutionally valid. At the same time, the judiciary has not completely shut the door on the possibility of reform. Judicial observations have increasingly reflected a sensitivity towards male victims, even if substantive relief under the PWDVA remains unavailable to them. For instance, in cases where men have filed counter-allegations, courts have occasionally suggested recourse under other civil laws such as the Protection of Life and Personal Liberty under Article 21 of the Constitution or common law remedies, albeit these remain insufficient compared to the protective umbrella provided by the PWDVA.

Furthermore, the judiciary's approach to gender bias is not uniform across all forums. While higher courts like the Supreme Court and High Courts have displayed nuanced understanding, lower courts sometimes adhere rigidly to the statute, leaving little room for creative or equitable interpretation. This disparity highlights the need for judicial training and awareness, ensuring that every tier of the judiciary is equipped to handle domestic violence cases with sensitivity and fairness.

- **Public Interest Litigations**

Public interest litigations (PILs) have emerged as an important tool for initiating debate on gender neutrality and inclusivity in domestic violence laws. These litigations reflect the concerns of civil society and advocacy groups who argue that laws like the PWDVA should evolve with changing

societal structures and relationships. One of the notable PILs in this context is *Kush Kalra v. Union of India*⁹, where the petitioner urged the Delhi High Court to direct the legislature to amend the PWDVA and make it gender-neutral. The petitioner argued that the Act's gender-specific nature violates the right to equality under Article 14 and the right to life and personal liberty under Article 21 of the Constitution.

However, the Delhi High Court dismissed the petition, maintaining that the law was passed with a specific legislative intent—to safeguard women who are the predominant victims of domestic abuse in India. The Court emphasized that it is not within its domain to rewrite laws enacted by the legislature and that any change in the statute's scope must be brought about through legislative amendment, not judicial overreach. The decision reaffirmed the judiciary's respect for parliamentary intent while also highlighting the limitations of judicial activism in matters of legislative design.

Despite such setbacks, these PILs have succeeded in bringing the issue of gender neutrality into public and judicial discourse. They have forced courts to reckon with the evolving realities of abuse and victimhood, challenging the binary lens through which domestic violence laws are traditionally viewed. Moreover, they have created a platform for male and non-binary victims to voice their grievances and call for inclusive legal protections. While the courts have yet to extend statutory protection to these groups, the growing volume of such litigations indicates a changing societal consciousness that the judiciary cannot indefinitely ignore.

In essence, PILs such as the one filed by Kush Kalra represent more than just unsuccessful legal bids; they mark the beginning of a broader dialogue on inclusivity, victim rights, and the role of law in reflecting societal transformations. These cases serve as a reminder that legal reforms are often preceded by persistent public engagement and advocacy, and that the judiciary plays an essential, if restrained, role in nudging the legislature towards such reforms.

The Indian judiciary has displayed a largely protective stance in interpreting domestic violence laws, especially in safeguarding women's rights as envisioned by the legislature. At the same time, courts have not been blind to the growing concerns over misuse and gender bias. Through

⁹ 2023

landmark judgments and public interest litigations, the judiciary has attempted to balance protection with fairness, and legislative intent with evolving social realities. While the road to a gender-neutral domestic violence law remains complex and politically sensitive, the judicial attitudes so far reflect a cautious openness to change, informed by both constitutional values and societal needs. As legal consciousness continues to grow, it is expected that the judiciary will increasingly become a forum for debating and refining the contours of domestic violence jurisprudence in India.

Comparative Analysis: International Approaches to Gender Neutrality

Gender neutrality in the context of domestic violence legislation has increasingly become a global standard. While some jurisdictions have progressed toward inclusive frameworks, others remain embedded within gender-specific narratives¹⁰. This comparative analysis explores how various countries have structured their domestic violence laws to be inclusive, focusing on the United Kingdom, the United States, Australia, and Canada. Each of these jurisdictions presents a unique approach to addressing the issue, offering important insights for reform initiatives in India.

United Kingdom

The United Kingdom has taken a significant step toward inclusivity through its Domestic Abuse Act, 2021. The Act extends protection to all individuals who experience domestic abuse, irrespective of gender, sexual orientation, or relationship dynamics. It defines domestic abuse comprehensively to include physical, emotional, psychological, sexual, and economic forms. The law recognizes coercive behavior, control, and manipulation as integral elements of abuse, signaling an understanding that domestic violence is not limited to physical aggression. Importantly, the legislation does not frame victims or perpetrators in gendered terms, which reflects a departure from earlier policy tendencies that primarily focused on women.

Legal remedies under the Act are accessible to individuals from all social backgrounds. This includes protective measures such as Domestic Abuse Protection Notices (DAPNs) and Domestic Abuse Protection Orders (DAPOs), which can be issued regardless of the victim's gender identity.

¹⁰ Ved, P., 'Gender-neutral laws on domestic violence: Lessons from international law' (2015) 50(26-27) *Economic and Political Weekly* 67-72.

The family courts have also adopted a more inclusive outlook, ensuring that custody and access rights consider the context of abuse, even when it involves male or LGBTQ+ victims. Furthermore, the Act mandates local authorities to provide support services without discrimination, ensuring that shelters and psychological support are extended to male victims as well. Police forces across the UK have been sensitized to handle complaints from all victims, with training modules focused on understanding abuse dynamics that are not gender-specific.

The UK's policy direction showcases an evolved legal consciousness where the identity of the victim does not preclude them from receiving justice. It recognizes that domestic abuse can exist in heterosexual relationships as well as in same-sex unions, and that men can be equally vulnerable in certain scenarios. Legal language has been deliberately neutralized to allow space for all victims to find representation within the statutory framework. This legislative neutrality empowers marginalized victims to seek recourse without societal judgment or institutional neglect.

United States

In the United States, domestic violence legislation is largely state-specific, which means that approaches to gender neutrality vary across jurisdictions. However, many states have embraced inclusive language and policies that extend protection to male victims, as well as individuals in same-sex relationships. Statutes typically use the term "person" rather than gendered alternatives, signaling a move toward comprehensive protection frameworks. For instance, California's Family Code and Penal Code explicitly refer to any person who is subjected to abuse, whether physical, psychological, or emotional.

Protective mechanisms such as restraining orders and emergency protective orders are available to victims of any gender. Law enforcement agencies in several states are required to respond to domestic violence complaints without assumptions based on gender stereotypes. Moreover, legal aid services and counseling programs have diversified their reach to support male and LGBTQ+ survivors. Court systems have developed procedural norms to ensure that gender does not influence credibility assessments or outcomes, promoting a culture of judicial impartiality.

Research institutions and public health agencies in the United States have also played a role in advancing gender-neutral perspectives. Data collection initiatives include statistics on male

victimization, highlighting the need for balanced policy responses. Federal-level frameworks like the Violence Against Women Act (VAWA), although initially gender-specific, have undergone amendments to incorporate broader definitions that cover abuse across the gender spectrum. Educational campaigns funded by government bodies now target diverse audiences, raising awareness that abuse is a human rights violation rather than a gender-exclusive issue.

Shelters and support services have gradually become more inclusive, although challenges persist in certain rural areas. Advocacy groups have pushed for equitable funding to support male victims, resulting in a slow but steady transformation in service delivery models. Despite regional disparities, the American approach underscores a growing commitment to gender neutrality, fostering a legal culture where all individuals are entitled to protection from domestic violence.

Australia and Canada

Australia and Canada have implemented inclusive domestic violence policies that aim to safeguard individuals regardless of their gender or relationship configuration. In Australia, both federal and state laws address domestic violence using gender-neutral terminology. The Family Law Act recognizes the rights of all individuals to live free from violence and abuse, emphasizing the importance of safety in family relationships. Specialized family violence courts have been established to handle cases with sensitivity and procedural fairness, without preconceived notions about the gender of the victim or the perpetrator.

Australian jurisdictions recognize abuse in various forms, including coercive control, intimidation, and emotional manipulation. Protection orders are granted based on evidence of harm or threat, with no gender-based prerequisites. Legal practitioners and police departments receive training to identify non-physical forms of abuse and to support victims from diverse backgrounds, including men and members of the LGBTQ+ community. Outreach programs run by government and non-government organizations aim to reduce stigma and encourage male victims to report abuse, ensuring they are not excluded from support systems.

In Canada, gender neutrality is embedded in both federal and provincial laws. The Criminal Code of Canada treats domestic violence as a criminal offense without regard to gender. Provincial legislation, such as Ontario's Domestic Violence Protection Act, provides for restraining orders

and immediate protection services for all victims. Family law policies include provisions for supervised visitation and custody arrangements that prioritize the safety of the child and the abused individual, regardless of gender.

Canadian courts adopt a nuanced approach to domestic violence, recognizing that power imbalances can exist in various relational contexts. Specialized services for male victims have been established in provinces like British Columbia and Alberta, with access to counseling, temporary housing, and legal assistance. Public awareness campaigns sponsored by government agencies have challenged traditional perceptions about domestic abuse, promoting the message that anyone can be a victim.

The integration of research, policymaking, and service delivery in both Australia and Canada reflects a holistic approach to gender neutrality. These countries understand that the effectiveness of domestic violence laws depends on their capacity to address the needs of all individuals. Legal reforms are often based on empirical studies, which helps policymakers design interventions that reflect real-world complexities.

Lessons for India

India's current domestic violence legislation, notably the Protection of Women from Domestic Violence Act, 2005, remains heavily gendered. It defines the "aggrieved person" as a woman, excluding male and LGBTQ+ victims from formal protection mechanisms. This exclusion results in underreporting, lack of access to justice, and institutional neglect for a significant section of society. Lessons from jurisdictions such as the United Kingdom, the United States, Australia, and Canada can provide a roadmap for reform.

One of the primary lessons lies in the importance of gender-neutral legal language. Laws in the aforementioned countries employ the term "person" rather than specifying "woman" or "man," ensuring that the statute does not inadvertently marginalize any group. India can adapt similar linguistic formulations in its legal texts to expand the scope of protection. Moreover, the definition of domestic violence should be broadened to include coercive control, financial abuse, and emotional trauma, which affect all genders.

Another vital takeaway is the establishment of inclusive support systems. Shelters, helplines, legal aid centers, and counseling services in India must be accessible to everyone, irrespective of gender or sexual orientation. Awareness campaigns should challenge existing stereotypes that portray men solely as aggressors, enabling male and LGBTQ+ victims to come forward without fear of ridicule or disbelief. Law enforcement agencies and judicial officers require specialized training to handle cases of abuse involving non-female victims with the same level of seriousness and sensitivity.

Institutional reform must also include data collection and research initiatives. Reliable data on domestic abuse against men and LGBTQ+ individuals can shape policies that are responsive and evidence-based. Collaboration with civil society organizations, medical institutions, and academic researchers can foster a deeper understanding of the dynamics of abuse in varied relational contexts.

Lastly, the integration of international best practices should not be viewed as an abandonment of cultural values but as an enhancement of human dignity and justice. The global move toward gender-neutrality in domestic violence laws represents an ethical commitment to equality. By embracing similar principles, India can ensure that its legal system upholds the constitutional promise of equal protection and dignity for all.

Challenges to Implementation

Implementing gender-neutral domestic violence laws in India is fraught with complex challenges that span social, cultural, legal, and institutional dimensions. While legislative reform is necessary, it cannot achieve its full potential without confronting deep-rooted societal attitudes that continue to frame domestic abuse within a strictly gendered narrative. In India, domestic violence is predominantly perceived as a crime committed by men against women, a perspective shaped by long-standing patriarchal values and reinforced through media portrayals, legal discourse, and community norms. As a result, the very idea of male victimhood often invites ridicule, disbelief, or outright dismissal, making it difficult for male and LGBTQ+ survivors to seek support or report abuse. Victims who do come forward frequently encounter skepticism, both from law enforcement

authorities and from within their own social circles. This cultural resistance is perhaps one of the most formidable barriers to achieving effective gender-neutral implementation¹¹.

Changing the societal mindset is a slow and often contested process, especially in environments where traditional family hierarchies and gender roles are strongly embedded. Men are typically expected to be dominant and emotionally resilient, which leaves little room for acknowledging that they too can be subjected to domestic abuse. The stigma attached to male vulnerability creates a climate of silence where suffering goes unnoticed or unacknowledged. Legal reform alone cannot address this silence unless it is coupled with widespread awareness campaigns that challenge existing stereotypes and educate communities about the diverse forms domestic abuse can take. It is only when society recognizes that abuse can affect anyone, regardless of gender, that survivors will feel empowered to seek help¹².

Another significant hurdle arises from concerns that introducing gender-neutrality might dilute the protective focus of current women-centric laws. Many women's rights groups fear that legal reforms may shift attention away from the very real and persistent threat of violence against women. This apprehension stems from a legitimate concern that statistical underrepresentation of male victims could be used to overshadow the scale of female victimization. There is also worry that gender-neutral provisions could be misused to file counter-cases, thereby undermining the credibility of genuine female complainants. These fears are not entirely unfounded, especially in a legal system where delays, procedural inconsistencies, and misuse of laws already exist. Women's advocacy organizations argue that the historical context of domestic violence law in India has been built upon the necessity to address systemic discrimination and targeted violence against women, a context they feel should not be ignored in the name of neutrality.

Balancing the need for inclusive legislation with the obligation to protect vulnerable women is a delicate process. It requires a nuanced approach that does not treat gender-neutrality as a zero-sum game but rather as a progression toward universal justice. Policies must be structured in a way that addresses the specific vulnerabilities of women while also recognizing the existence of other

¹¹ Government of India, Protection of Women from Domestic Violence Act 2005, [Online] available at <https://wcd.delhi.gov.in/wcd/protection-women-domestic-violence-act-2005>

¹² Kumar S, Sharma K, 'Domestic violence against men: An overlooked issue' (2018) 79(4) Indian Journal of Social Work 533-543.

victim groups. This can be achieved through tailored safeguards that maintain the original spirit of protective legislation while expanding its reach. However, such policy innovation demands political will, legal clarity, and sustained dialogue among diverse stakeholders, which are currently lacking.

Even where legal reform is theoretically possible, its practical implementation is severely hindered by deficits in policy infrastructure. Most existing support systems in India, such as shelters, counseling centers, and helplines, are designed with women in mind. These services are often not equipped to accommodate male survivors, particularly those facing threats from intimate partners or family members. The absence of safe spaces for men or LGBTQ+ individuals who experience domestic violence leaves them with limited options for escape or recovery. Law enforcement personnel are rarely trained to handle complaints from male victims, which adds another layer of institutional exclusion. When a male survivor approaches a police station, he may be met with disbelief or ridicule, further discouraging others from coming forward. Additionally, legal aid services do not always prioritize gender inclusivity, which can result in uneven access to justice for non-female victims.

Building a robust gender-neutral support framework requires more than just altering the text of the law. It involves a systemic overhaul of service delivery models, resource allocation, and staff training programs. There is an urgent need for specialized shelters that cater to all victims regardless of gender, alongside confidential helplines operated by professionals who understand the unique challenges faced by diverse survivor groups. Mental health professionals, social workers, and legal advisors must be sensitized to the complexities of abuse that fall outside conventional gender norms. Public-private partnerships can also play a pivotal role in expanding these services, especially in rural or underserved regions where state intervention is minimal. Without these foundational changes, gender-neutral legislation may remain symbolic rather than transformative.

Moreover, reliable data on male and LGBTQ+ victims is largely absent from national crime statistics, making it difficult to justify policy decisions or budget allocations aimed at supporting these groups. The lack of empirical evidence perpetuates the myth that non-female victimhood is rare or non-existent. Institutional bodies must prioritize inclusive data collection strategies to

inform policymaking and service delivery. Until these structural barriers are addressed, any attempt to implement gender-neutral domestic violence laws in India will face substantial resistance both at the grassroots level and within formal institutions.

In sum, the road to gender-neutral domestic violence legislation in India is paved with multiple challenges that require a concerted effort from lawmakers, civil society, the judiciary, and the public. Social resistance, fears of dilution, and infrastructural inadequacies cannot be overcome in isolation. A multifaceted strategy is essential to ensure that legal reform translates into meaningful protection for all victims, regardless of gender or identity.

Conclusion

The current legal framework in India addressing domestic violence is undoubtedly progressive in protecting women but is not without flaws. Ignoring male and LGBTQ+ victims perpetuates another form of gender discrimination that undermines the principles of justice, equality, and human dignity. The law, as it stands, reflects a narrow understanding of victimhood, one rooted in traditional gender binaries and societal roles. This exclusion becomes more troubling in light of emerging research, which reveals that individuals across the gender spectrum are vulnerable to domestic abuse in various forms. Physical violence, emotional manipulation, economic control, and sexual coercion are not confined to a specific gender. By limiting legal protection only to female victims, the state fails to acknowledge the complexity of human relationships and the evolving dynamics within households.

In a society as diverse as India, the lack of inclusive legal provisions creates a silent population of unrecognized survivors. Men who face domestic violence often suffer in isolation due to the stigma of appearing weak or unmasculine. LGBTQ+ individuals, particularly those in same-sex relationships or who identify as non-binary, struggle even more due to lack of legal recognition for their relationships and societal invisibility¹³. Their experiences are often brushed aside or mischaracterized, pushing them further away from legal redress or social support. The failure to

¹³ Flood, M., Pease, B., & Taylor, A., 'Men's perceptions of domestic violence: Attitudes, definitions and experiences' (2010) 16(10) *Violence Against Women* 1100-1118.

protect all citizens equally, regardless of their gender identity or sexual orientation, erodes trust in the legal system and fosters an environment where abuse can continue unchecked.

It is important to recognize that gender-neutrality does not seek to erase the unique challenges faced by women. Rather, it aims to broaden the scope of protection so that no individual is left behind. A balanced approach does not diminish the struggle of women; it amplifies the core values of the legal framework by extending them to everyone who needs them. By resisting gender-neutrality out of fear that it may overshadow women's issues, society risks creating a hierarchy of victimhood, which contradicts the very essence of justice. True equality requires that the law evolves in response to the needs of all its citizens, not just those who fit within its traditional framework.

To move forward, a comprehensive reform must be initiated, one that begins by acknowledging the need for change. The language of the law must shift from being exclusively female-focused to encompassing all survivors of domestic abuse. This does not mean removing existing protections for women but rather supplementing them with clauses that offer similar safeguards to men and LGBTQ+ persons. Legislative amendments should redefine the term “aggrieved person” to be gender-inclusive, ensuring that anyone who suffers harm within a domestic relationship can seek recourse under the same protective provisions. This change in terminology will lay the groundwork for institutional transformation, signaling a commitment to equality before the law.

Alongside legislative reform, there is a pressing need for structural and administrative changes. Police officers, social workers, legal professionals, and medical practitioners must be trained to identify signs of abuse across all genders without bias. This includes developing gender-sensitive training modules that address the specific needs of male and LGBTQ+ survivors. Institutions must be encouraged to adopt a trauma-informed approach when dealing with cases of domestic violence, one that prioritizes the safety, dignity, and emotional well-being of every individual who seeks help. Shelters, legal aid clinics, and crisis helplines should be expanded and restructured to serve a wider demographic. The absence of such support mechanisms currently forces many non-female victims to endure violence without a safe exit or coping mechanism.

Public discourse also needs a paradigm shift. Social awareness campaigns should portray domestic violence as a human issue rather than a gendered one. Education systems can play a transformative

role by introducing age-appropriate lessons on respect, consent, and healthy relationships, starting from early schooling years. Media platforms should be leveraged to challenge stereotypes around masculinity and femininity that inhibit open conversations about victimhood¹⁴. The more society is exposed to diverse narratives of abuse, the more prepared it will be to support inclusive legal measures.

Data collection is another critical area that requires attention. Government agencies must begin compiling disaggregated data that reflects the experiences of all genders in domestic violence situations. Without reliable statistics, the scale of the problem will remain hidden, making policy-making ineffective or skewed. Surveys and research studies should focus on mapping the prevalence, nature, and impact of domestic violence among male and LGBTQ+ populations. These findings can guide the allocation of resources, development of targeted intervention programs, and drafting of future legislation.

Judiciary too has a role to play in this transformation. Courts must interpret existing laws in ways that uphold constitutional values of equality and non-discrimination. While awaiting legislative change, judges can use their discretionary powers to ensure that justice is not denied due to procedural limitations or gendered definitions. Progressive judicial pronouncements in past decades have set important precedents in areas such as sexual orientation, gender identity, and marital rights. Similar boldness is required when it comes to domestic violence cases that fall outside conventional patterns.

The journey toward gender-neutral domestic violence legislation is not without its hurdles, but it is a necessary path if India aspires to become a society based on true justice and equality. A singular approach to victim protection does not reflect the diversity of lived experiences. Expanding the scope of protection is not a threat to women's rights but a step towards comprehensive human rights. Silence on this issue is no longer an option. The time has come to create a legal and social environment where no survivor is left behind, where every voice is heard, and where the law serves not a gender, but humanity itself.

¹⁴ Parashar, S., Das, S., Das, A., & Mukherjee, S., 'Domestic violence against men in India: Perspectives and implications for mental health' (2019) 41(3) Indian Journal of Psychological Medicine 257-264. [doi: 10.4103/IJPSYM.IJPSYM_111_19]

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