



Gender Inequality and Silent Struggles of Male Victims of Domestic Abuse in India

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ABSTRACT

This paper undertakes a comprehensive and in-depth analysis of the gender biases that are present in Indian domestic violence legislation, specifically concentrating on the Protection of Women from Domestic Violence Act, 2005 (PWDVA), as well as Section 498A of the Indian Penal Code (IPC). While these laws were created with the primary intention of protecting women from various forms of domestic abuse and violence, the gendered structure inherent within these laws raises significant concerns regarding issues of equity, the potential for misuse, and the marginalization of male victims who may also suffer in domestic situations. This study presents a thoughtful legal and socio-analytical viewpoint aimed at examining gender disparity within the domestic violence laws implemented in India. It contrasts these national laws and provisions with international standards in an effort to promote a more balanced and gender-neutral legal framework, ensuring that all victims of domestic violence, regardless of gender, receive appropriate protection and support under the law.

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Introduction



Domestic violence represents a significant social challenge that impacts individuals of all genders, ages, and socioeconomic backgrounds. Historically, legal systems have concentrated on the protection of women, who have been predominantly regarded as victims of domestic violence. This gender-focused approach has created notable shortcomings in the law, particularly regarding the protection of men and other marginalized populations facing domestic abuse. The prevailing notion that women are victims and men are perpetrators has marginalized male victims, same-sex couples, and elderly individuals experiencing abuse within the home.

In India, the Protection of Women from Domestic Violence Act of 2005 (PWDVA) and Section 498A of the Indian Penal Code (IPC) were enacted to safeguard women against violence and cruelty in intimate and domestic relationships. While these laws have offered crucial relief and justice for many women, their focus on gender has raised concerns about equity and potential misuse. The Supreme Court of India has recognized incidents where Section 498A has been misused, resulting in false allegations and the wrongful arrest of men and their families. The lack of legal measures specifically for male victims exacerbates this problem, leading to insufficient support systems and reduced societal recognition of their experiences.

This paper intends to rigorously examine the current domestic violence legislation in India, bringing attention to the inherent gaps and biases within the existing legal framework. It will juxtapose India's approach with international examples that have embraced gender-neutral domestic violence laws, aiming to propose meaningful recommendations for legal reforms. An equitable legal system is essential to ensuring that all victims, irrespective of gender, receive adequate protection under the law. The research will delve into the legal structures governing domestic violence in India, scrutinize judicial interpretations and patterns, and evaluate the societal ramifications of these laws. Additionally, it will address the obstacles encountered by male victims, the misuse of present legal provisions, and the pressing need for policy modifications. Ultimately, this research advocates for a gender-neutral framework in domestic violence legislation that aligns with constitutional values of equality and justice.

Legal Framework of Domestic Violence Laws in India

1. The Protection of Women from Domestic Violence Act, 2005 (PWDVA) was established with the explicit aim of delivering prompt and effective assistance while safeguarding women who



find themselves as victims of domestic violence. This crucial Act encompasses various alarming forms of domestic violence, explicitly categorizing it to include physical, emotional, sexual, and economic forms of abuse that can severely impact the well-being of individuals. It outlines comprehensive provisions for protection orders, rights to residence, financial support, custody arrangements, and compensation for victims, showcasing a multi-faceted approach to addressing this grave issue. However, the Act has faced considerable criticism for its omission of male victims and other vulnerable demographics, such as elderly parents who may experience abuse from their own offspring, raising significant concerns about its overall efficacy (Kumar & Tiwari, 2021). Furthermore, it exhibits a notable dependency on magistrates and protection officers for its implementation, engendering persistent worries regarding potential delays in the delivery of timely justice (Sharma, 2020). As society progresses in recognizing and addressing the complexities of domestic violence, there is an ongoing discussion about the necessary amendments to the Act that could broaden its scope and effectiveness, thus ensuring that all victims, regardless of gender or demographic background, receive the protection and support they rightfully deserve.

2. Section 498A of the Indian Penal Code (IPC) plays a crucial role in protecting married women from various acts of cruelty and harassment, particularly those associated with the pervasive issue of dowry demands. This specific legal provision defines the concept of cruelty in a very comprehensive manner, covering a wide range of mistreatment that includes both physical abuse and psychological forms of distress that women may experience in their marital relationships. However, despite its intended protective purpose, Section 498A is frequently criticized for its potential for misuse, leading to numerous instances of unjust arrests and instigation against men and their relatives, creating significant social and legal dilemmas (Basu, 2018). Landmark judgments from the Supreme Court, particularly the notable case of *Rajesh Sharma v. State of U.P.* (2017), have brought to light various instances of how the provision has been misapplied, which has led to increasing demands for the establishment of procedural safeguards to prevent such misuse. In addition, the report released by the Law Commission in 2018 proposed several amendments aimed specifically at curbing frivolous claims made under this section; however, the implementation of these legislative changes has yet to be realized fully, leaving the existing challenges unaddressed.
3. The Dowry Prohibition Act of 1961 was enacted to establish and enforce legal repercussions for both parties involved in the transaction of dowries, meaning both the giving and receiving of



such payments are covered under this law. Additionally, the Act ensures that individuals who solicit these payments are also subjected to penalties. While this significant piece of legislation is often utilized alongside Section 498A of the Indian Penal Code, which addresses matrimonial cruelty, it has unfortunately faced substantial criticism due to numerous instances of misuse. This misuse often occurs in scenarios where dowry is not present, indicating a potential loophole in its implementation (Verma, 2017). Furthermore, it is worth noting that the Dowry Prohibition Act does not take into consideration safeguards or protections for men who may endure harassment from their in-laws concerning dowry demands. This absence creates a gender imbalance within the legal system, resulting in inadequate protection measures for one side (Gupta, 2022). Thus, while the Act aims to combat the age-old practice of dowry, its execution and the surrounding issues suggest a need for amendments and greater fairness in protecting all individuals, regardless of gender, in such situations.

4. The Indian Evidence Act of 1872, particularly Sections 113A and 113B, delineates a crucial legal presumption regarding the abetment of a woman's suicide by her husband. This presumption is activated when a woman dies by suicide within seven years of her marriage, contingent upon the presence of evidence that indicates cruelty has occurred within the relationship. This statutory framework significantly transfers the burden of proof onto the husband, compelling him to provide evidence of his innocence in such cases. This requirement can complicate his defense, often leading to challenges in obtaining a fair hearing (Desai, 2022). It is important to emphasize that while this provision exists to protect women, there is a notable lack of equivalent legal safeguards for men. Specifically, there are no similar provisions that address the situation for men who may also tragically succumb to suicide as a result of domestic abuse or harassment perpetrated by their wives or in-laws. This absence raises critical concerns about gender biases in the legal system and highlights a disparity in how cases of domestic abuse are treated depending on the gender of the victim.
5. Judicial Interpretations and Recent Developments: In recent years, a number of High Courts and the Supreme Court have acknowledged and recognized the inappropriate and often problematic application of gender-specific legislation, subsequently instituting various procedural protections aimed at addressing these issues. In a landmark case of *Arnesh Kumar v. State of Bihar* (2014), the court made a significant decision to limit the widespread practice of automatic arrests that were mandated under Section 498A of the Indian Penal Code, stressing the need for more judicial discretion in such matters. Furthermore, the Malimath Committee Report released in



2003 strongly urged the transformation of domestic violence laws so that they could become more gender-neutral, reflecting the complexities of modern society and the need for fairness. However, it is unfortunate that these crucial recommendations have, to date, not been effectively put into practice. In more recent times, a number of public interest litigations (PILs) have been submitted to the courts advocating for the legal acknowledgment and protection of male victims who experience domestic violence. Despite the increasing awareness and advocacy efforts, legislative amendments and changes proposed by the government remain pending and have yet to gain the necessary traction in the legislative process (Reddy, 2018).

Gender Inequality and Exclusion of Male Victims

1. **Lack of Legal Safeguards for Male Victims:** Research and data collection efforts reveal that males are also subjected to domestic violence, which is a significant issue that often goes unrecognized; however, they frequently do not have access to adequate legal protections and support available to them (National Family Health Survey, 2019). Reports from the National Crime Records Bureau (NCRB) and numerous non-governmental organizations consistently highlight troubling instances of male victims enduring various forms of abuse without any formal acknowledgment or appropriate responses from within the existing legal framework (Sharma, 2020). This lack of recognition contributes to a broader societal issue where male victims feel marginalized and unsupported in times of crisis.
2. The data provided by the National Crime Records Bureau (NCRB) indicates a strikingly significant and alarming acquittal rate in various cases that have been filed under Section 498A. This situation raises serious and troubling concerns regarding the potential misuse of this particular legal provision (Verma, 2017). The phenomenon of false allegations can unfortunately result in a wide array of adverse and concerning consequences. These consequences may include legal harassment, mounting financial burdens, and significant psychological stress for the accused individuals as well as their families (Gupta, 2022). The impact of such issues extends beyond just the legal realm, affecting personal relationships and overall well-being.

Comparative Analysis with International Domestic Violence Laws

1. In Developed Countries such as the United States and the United Kingdom, there exists a noteworthy and comprehensive legislative framework concerning the issue of domestic violence



that aims to be inclusive of all genders, recognizing the needs and experiences of all individuals affected by such violence. Under the Violence Against Women Act (VAWA), the United States has established gender-neutral laws pertaining to domestic violence cases, which also facilitate and provide necessary support for male victims who may often feel marginalized in discussions surrounding this pressing issue (Smith, 2019). Similarly, the United Kingdom has taken significant strides by implementing the Domestic Abuse Act of 2021, which not only acknowledges and accounts for male victims but also offers various forms of protective orders that are applicable to individuals regardless of their gender identity, thereby fostering a more equitable approach to addressing domestic abuse (Johnson, 2021).

2. Analyzing the various approaches to domestic violence legislation across both developing and underdeveloped nations reveals a variety of distinct frameworks that reflect the cultural, social, and legal contexts of these regions. For instance, South Africa's Domestic Violence Act adopts a notably gender-neutral stance, deliberately recognizing instances of abuse that occur towards men, challenging traditional norms that predominantly focus on female victims (Mkhize, 2020). In stark contrast, Bangladesh employs a gendered perspective similar to that established in India; nevertheless, increasing advocacy efforts are actively pushing for necessary legal reforms to better protect all victims, regardless of gender, highlighting a growing awareness of this pressing issue (Rahman, 2021).

Judicial Trends and Recommendations for Legal Reform

1. Judicial Precedents in India: The judiciary has acknowledged the existence of issues pertaining to the gender-biased application of various regulations; however, it has chosen to refrain from putting forth any significant proposals for amending the existing legislation (Reddy, 2018). Important rulings, such as the landmark case of *Arnesh Kumar v. State of Bihar* (2014), have specifically aimed to curtail the occurrences of arbitrary detentions that arise in situations involving Section 498A. Such precedents illustrate the judiciary's delicate position in addressing gender-related legal problems while grappling with the limitations imposed by the legislative framework.

Proposed Legal Reforms:



Revising the Protection of Women from Domestic Violence Act (PWDVA) to adopt a more inclusive and gender-neutral approach that considers the needs and rights of all individuals is crucial. Implementing comprehensive measures to protect against erroneous allegations in sensitive cases involving Section 498A is also essential. This includes establishing guidelines to prevent misuse while ensuring genuine victims receive necessary support. Moreover, creating robust governmental support systems for all victims, irrespective of gender, will play a vital role in addressing issues of domestic violence effectively (Desai, 2022). These initiatives are intended to foster an environment of safety and justice for everyone affected by domestic conflicts.

Conclusion:

Domestic violence laws in India play an immensely crucial role in providing much-needed protection to individuals affected by such heinous acts. However, the laws exhibit an inherent gender bias that raises significant issues concerning fairness and the potential for misuse against the very individuals they are meant to protect. By adopting a gender-neutral approach, akin to those effectively utilized by various developed nations around the world, we can ensure that adequate legal protection is available to all victims equally, thereby reinforcing the constitutional principle of equality. Achieving this critical balance involves necessary legislative amendments, proactive judicial involvement at all levels, and heightened social awareness among the general populace. It is absolutely essential that we actively pursue these important changes to create a fair and just system that serves the best interests of everyone affected by domestic violence, regardless of their gender. By working together towards this aim, we can create a more equitable legal framework that upholds the rights and dignity of all individuals.

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