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‘Redefining Victimhood’: The Overlooked and Invisible Victims of India’s Domestic Violence Act

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ABSTRACT

The legal architecture addressing domestic violence in India, particularly addressing the women in 2005 made a law which is inherently gender-specific, conceptualizing domestic abuse as mainly a MALE TO A FEMALE phenomenon. While this gender biased included sociological perspective gives us a reality which necessitated such gender protections, on a legal invisibility on groups other than women such as male, transgender, and non-binary victims. Let’s also not forget women as Perpetrators of crime associated under this. They have always been regarded as a victim, but what happens aftermath the domestic violence is also dangerous to think of as the trauma behaviour gives rise to a criminality which is born from the gender specific rules of the legal system of the country. Through a complete doctrinal analysis this paper focuses on the troubles of the present system and focuses on gender specific domestic violence completely ignoring that the word ‘domestic’ may include anybody from the sphere of household relationships, if interpreted widely. If compared to international practices, Domestic Abuse Act, 2021 (UK) reconceptualizes domestic violence as not a gender specific crime anymore, but an abuse of power within intimation or familial relationships.

Keywords: gender-neutral domestic violence laws; Protection of Women from Domestic Violence Act, 2005; male victims; LGBTQ+ rights; legal reform; female perpetrators

I. INTRODUCTION

When we people hear about the term "domestic violence," a blurry image comes to our mind that a female is being harmed by the other gender. For many years there have been a set of real case laws where we can see the real suffering and the genuine need of women to be protected from the inhumane nature of intimate partner abuse. Following these abuses, laws were made, support systems were built, and awareness campaigns were launched to help female survivors from the inhumane act done by the partner. But somewhere down the line

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focuses unintentionally left out others who also suffer in silence.

Men, one of the third gender, are hardly viewed to be victims of domestic violence. Society expects them to be strong and always be stoic so much so that when they do face any kind of abuse it tends to be ignored, downplayed or straight away dismissed. Still many men experience different forms of domestic abuse such as emotional manipulation, verbal humiliation, physical aggression, or psychological coercion. For many acknowledging the abuse means going against deeply rooted ideas of masculinity. The worse thing is that when they come forward for help the legal system often offers them little to no support.

These days many scenarios occur where legal protections meant to safeguard the vulnerable are being misused which are not used to seek safety but to settle grudges with the opposite party. There have been alarming concerns about men who have been falsely accused and are dragged into lengthy legal battles or burdened with unfair maintenance demands. In extreme cases the emotional toll and the mental pressure has led to tragic outcomes such as suicide. But these stories rarely make headlines.

Protection of Women from Domestic Violence Act, 2005³ one of the main acts which was a step forward in many ways for the protection of women but it was gender centric. This leaves no clear legal pathway for men or members of the LGBTQ+ community who face abuse in domestic settings and even if most men and LGBTQ+ community are not the victims we cannot ignore the fact they can also be victims as it takes away their chance for a fair justice.

This article takes a closer look at the other side of domestic violence the part we rarely talk about. It explores why our laws need to evolve and how gender stereotypes silence victims and why a more balanced inclusive approach to domestic violence is urgently needed because abuse isn't about gender it's about harm and the law should protect anyone who suffers it.

II. THE LEGAL LANDSCAPE IN INDIA

Domestic Violence is still one of the most underrated and unreported crimes present in the country. The taboo of social diligence plays a huge factor in limiting social transformation. One of the biggest reasons for a limited social transformation is the societal acceptance of a gender biased domestic violence victim. Legal transformation fails once the society already accepts women to be the constant victim of the same. The psychology of a criminal mindset does not emerge from the fact that one was a woman or man, it emerges from the malafide intention that forced a human to act in a certain way.

³ *The Protection of Women from Domestic Violence Act, 2005.*

One-Sided Safeguards: Unpacking Gender Bias in India's Domestic Violence Law

Protection of Women from Domestic Violence Act, 2005⁴ is in force since 26th of October 2006. The main focus of this act to be implemented is for providing protection to wife and for the female as a live-in partner from the violence which is been done by their husband or the male as a live-in partner or any of his relatives associated with him. This law also protect the women who are sisters which also include adopted sisters and the mothers. The term domestic violence under this act covers the wide aspects of abuse which includes the actual abuse or any kind threat of abuse which can be physical, verbal, emotional, and sexual. Harassment can be of various kinds which also includes by the way of dowry demands to the women victim or to any of her relatives which is likewise included in the legal definition of domestic violence.⁵ The act was enacted to address the limitations of criminal 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 behaviours that severely impact a woman's mental and emotional well-being.⁶ 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.⁷ 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 Apex Court of India has acknowledged this issue in several cases and emphasized the need for a balanced approach to prevent abuse of legal

⁴The Protection of Women from Domestic Violence Act, *supra* note 2.

⁵Government of NCT of Delhi, Department of Women and Child Development, *Protection of Women from Domestic Violence Act, 2005* (last visited July 15, 2025).

⁶Mayank Raj, *Gender Bias in Domestic Violence Laws in India: Need for a Gender-Neutral Framework*, 1 IJMRRS 2, 9, (2024).

⁷ *Id* at 3.

provisions while continuing to protect genuine victims.⁸

III. INVISIBLE VICTIMS OF THE DOMESTIC VIOLENCE

The act of Domestic Violence is a continuous act and regarded criminality only when one realises they are under the abuse of domestic violence. Domestic violence is still a ‘hush-hush’ crime in India. Its regarded matter within the four walls of a marital household and it shall be a shame to the household, if the tag of Domestic Violence gets attached to it.

Most of the time, the victims of domestic violence fail to contemplate if there is something wrong with the behaviour of their male counter-parts. The violence is usually attached along with the love, care and affection like a band aid to the violence that has happened. A Lot of times, women defend this behaviour of violence as ‘his right as a husband’ failing to show and protect her individual autonomy.

There is however a concept of ‘Trauma Behaviour’ ‘any disturbing experience that results in significant fear, helplessness⁹ used in Psychology describes a coping mechanism¹⁰. What is a coping mechanism? It essentially means that, when there is a victim of prolonged domestic violence, the feeling of trauma, gets settled to subconscious behaviour of that individual and the mind tends to cope up with the situation over and over again, accepting the fact, that this is what meant to be, rather going against it and standing for individual’s autonomy. However, the saturation point hits when the body denies any more trauma. The mechanism that she has been building for years tends to break, and though very late, the body tends to react to the domestic violence but not in a normal preventive way usually through a punitive revengeful way. We often refer to this as **Post-Traumatic Stress Disorder (PTSD)**. While some people clearly meet the clinical criteria for PTSD after a serious traumatic experience many others show more subtle signs such as short term emotional struggles or any kind of symptoms that do not mandatorily fit in the official diagnosis. The term trauma doesn't affect everyone in the same way but for some people it can be deeply destructive and for others it may show up in a quiet and hidden ways. Any person's reaction to trauma depends on several things just like their personality, age, life experiences, how they interpret the event and the cultural or social environment they live in.¹¹

⁸ Protection of Women from Domestic Violence Act, *supra* note 2.

⁹ *Trauma*, *APA Dictionary of Psychology*, <https://dictionary.apa.org/trauma> (last visited July 17, 2025).

¹⁰ JUDITH HERMAN, *TRAUMA AND RECOVERY* (New York: Basic Books 1992)

https://beyondthetemple.com/wp-content/uploads/2018/04/herman_trauma-and-recovery-1.pdf (last visited July 17, 2025).

¹¹ **Exclusive Hawaii Rehab**, *Addiction Recovery and Recovering Careers*, Trauma-Informed Therapy Section (Jan. 25, 2025), <https://exclusivehawaiiirehab.com/blog/addiction-recovery-and-recovering-careers/> (last visited July 15, 2025).

IV. FEMALE PERPETRATORS

Although it is well-established fact that the females can engage in sexually offending behaviours and the research on this specific population remains very much limited when compared to the extensive literature on the male sexual offenders. Research indicates that although women can and do commit sexual offenses, they represent only about 5% of recorded cases. Female sexual offenders, however small in number, form a diverse and heterogeneous group with distinct treatment requirements that differ significantly from their male counterparts. Despite the lower prevalence, recent studies emphasize that these women exhibit varied psychological profiles, motivations, and offending patterns, necessitating gender-responsive interventions. Traditional assessment, management, and treatment frameworks—primarily designed for male sexual offenders—may not effectively address the needs of female perpetrators. Consequently, there have been strong academic calls for the development and implementation of gender-specific risk assessment tools and rehabilitative protocols tailored to female sexual abusers.¹²

Most studies which talks about the women who commit IPV¹³ usually ask them **why** they did it rather than studying **what makes them more likely** to do it in the first place.

V. COMPARATIVE ANALYSIS

Domestic violence does not discriminate as it can happen to anyone regardless of gender, background or identity. Yet the way laws are written often tells a different story. In India, the legal framework is largely built around the idea that only women are victims and men are perpetrators. The Protection of Women from Domestic Violence Act, 2005¹⁴ was a much-needed reform when it was introduced which gave a voice to women who had long suffered in silence. We should understand that as the society evolves and we begin to better understand the diverse forms of abuse and the people affected by it then this gender-specific law shows its limitations as it is only inclined to one gender. Men and members of the LGBTQ+ community who experience abuse at home often find themselves without legal recognition or protection and we should also see that their pain is real but the law remains silent. This shows that there is a lack of inclusive legislation which reflects a significant gap in our justice system, one that urgently needs to be addressed.

¹²Hales & Gannon, *Female Perpetrators of Sexual Offences* (2022), <https://kar.kent.ac.uk/93832/1/Hales%20%26%20Gannon%20%282022%29%20-%20FSO%20Chapter.pdf> (last visited July 15, 2025).

¹³Centres for Disease Control and Prevention, *Intimate Partner Violence*, <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html> (last visited July 15, 2025).

¹⁴ *The Protection of Women from Domestic Violence Act*, **supra** note 2.

Around the world many countries have recognized the need for a broader, more inclusive approach to domestic violence. The UK's Domestic Abuse Act, 2021 which explicitly acknowledges that abuse is not only confined to a particular gender as it further defines domestic abuse in a comprehensive and in an elaborative way which include emotional, physical, sexual and economic forms of violence and it should protect all individuals regardless of gender or sexual orientation. In a similar way Canada treats domestic violence as a crime under its Criminal Code and it offers support and services without gender bias ensuring that the victims are heard and protected equally. In the United States while the Violence against Women Act is still framed in gendered terms many state-level laws have evolved to provide gender-neutral protection and legal remedies. Australia, especially in states like Victoria and New South Wales have also made notable stands by implementing family violence laws that apply equally to men women and LGBTQ+ individuals also.

These international models show us the inclusivity of the legal frameworks which is not just idealistic as it is realistic also. They recognize that abuse can affect any person. India on adopting a gender-neutral domestic violence law should not mean ignoring the struggles of women rather it would mean ensuring that every victim be it be of any gender is treated with dignity, heard with empathy and most importantly protected under the law.

VI. CONCLUSION

The discourse on domestic violence must evolve beyond traditional gender binaries to acknowledge that abuse is not confined to a single gender. While women have historically been, and continued to be, victims, however they are not and cannot be the only victims of the act. There is a need for gender neutral laws in the country towards familial relationships. Reforming domestic violence laws shall also shift their eye on the female perpetrated crime in the country.
