

Men's rights in domestic violence cases: Analysing gender neutral legal protections under the domestic violence act

Men's Rights in Domestic Violence Cases in India: Legal Landscape and Evolving Inclusivity

Domestic violence is widely understood as abuse occurring within the household, predominantly against women. However, in recent years, a growing discourse around the rights of male victims in domestic settings has emerged in India. While the Protection of Women from Domestic Violence Act, 2005 (PWDVA) recognizes women as primary victims and focuses on protecting their rights, the Indian legal system has faced increasing calls to address male victimization and adopt gender-neutral approaches to domestic abuse.

This essay analyses the current legal framework surrounding domestic violence in India with a focus on men's rights, examines how the law has evolved, discusses challenges in implementation, and assesses whether the legal system has become more inclusive toward men's experiences of domestic abuse.

Current Legal Framework for Domestic Violence

As it stands, the primary legislation dealing with domestic violence in India is the **Protection of Women from Domestic Violence Act, 2005 (PWDVA)**. This law provides civil remedies to women facing abuse from their husband or male live-in partner, as well as from other family members. It allows women to seek protection orders, residence orders, custody orders, monetary relief, and compensation.

Section 3 of the PWDVA defines domestic violence to include not only physical abuse but also emotional, verbal, sexual, and economic abuse. However, the Act is **gender-specific**, applicable **only to women** as victims. Men are not recognized as victims under this Act and therefore cannot seek protection or relief under it.

Additionally, Section 498A of the Indian Penal Code, enacted in 1983, criminalizes cruelty by a husband or his relatives toward a wife. Again, this provision applies only to women.

These gender-specific laws were introduced in response to increasing reports of dowry deaths and domestic abuse against women. While they remain crucial in protecting women's rights, critics argue that they leave male victims of domestic violence without any legal recourse.

The Need for Inclusivity: Emerging Concerns and Cases

In the past decade, India has witnessed growing concern over the **misuse of gender-specific laws** and the **lack of protection for male victims** of domestic abuse. A number of men have come forward with allegations of emotional, physical, and economic abuse by wives or female partners.

Organizations such as **Save Indian Family Foundation (SIFF)**, **Men's Welfare Trust**, and **Confidare Research** have conducted studies and provided support to men claiming to be falsely accused under Section 498A or subjected to domestic abuse.

Some key concerns raised include:

1. **False Accusations:** Critics argue that Section 498A has been misused by some women to harass husbands and their families, often as leverage in marital disputes or custody battles.
2. **Lack of Legal Remedy for Male Victims:** Men facing abuse in a domestic setting—whether physical, emotional, or financial—have no statutory remedy or protection.
3. **Suicide and Mental Health Concerns:** NCRB data consistently shows that a high number of men die by suicide due to domestic disputes, financial pressure, and mental health stress. Yet, male mental health in domestic contexts remains under-addressed.

This growing advocacy has prompted discussions around gender-neutral laws and the need for a more balanced framework that considers both male and female victims.

Judicial Interpretation and Developments

While there has been no major amendment to PWDVA to include men, the judiciary has recognized the need for reform and caution in applying existing laws.

1. **Arnesh Kumar v. State of Bihar (2014):** The Supreme Court observed that Section 498A was being misused and directed police not to automatically arrest accused individuals without proper investigation. This was a crucial step toward preventing misuse and protecting the rights of men and their families.
2. **Rajesh Sharma v. State of U.P. (2017):** The Court laid down guidelines to scrutinize 498A complaints and suggested the formation of family welfare committees in districts to examine allegations before arrest. Though some aspects of this ruling were later reconsidered, it highlighted judicial concern over misuse.
3. **K. Srinivas Rao v. D.A. Deepa (2013):** The Supreme Court reiterated the need to distinguish between genuine victims and false complainants and called for legal reforms to discourage misuse of anti-dowry and domestic violence provisions.

These cases do not explicitly extend protection to male victims but reflect an evolving judicial awareness that **domestic disputes are complex** and laws must be applied judiciously to avoid injustice to any party.

Petitions and Demands for Gender-Neutral Laws

Several Public Interest Litigations (PILs) have been filed in various courts, demanding that laws like the PWDVA and Section 498A be made gender-neutral.

For instance, in **2019**, a PIL was filed in the Delhi High Court by the **Men Welfare Trust** seeking that domestic violence laws be amended to allow male victims to seek protection. The petition cited that several countries, including the United States, UK, Canada, and Australia, have gender-neutral domestic violence laws and that Indian law should align with international human rights standards.

While courts have not yet ordered legislative change in this direction, such petitions have contributed to national debate and increased media and academic attention on men's rights in the domestic sphere.

Proposals and Law Commission Recommendations

Over the years, there have been suggestions from legal experts, academics, and civil society organizations to bring about reform in domestic violence laws:

1. **Gender-Neutral Drafting:** Legal scholars advocate amending Section 498A and PWDVA to use gender-neutral language such as “aggrieved person” instead of “woman,” enabling any victim—male or female—to seek redress.
2. **New Legislation:** Others propose drafting a separate statute to protect men from domestic abuse, especially in cases of live-in relationships, financial coercion, and emotional harassment.
3. **Law Commission Reports:** Although the Law Commission has not yet specifically recommended gender-neutral domestic violence laws, it has acknowledged the potential for misuse and the importance of ensuring that laws are not used for vindictive purposes.
4. **National Commission for Men:** Several NGOs and activists have long demanded the creation of a National Commission for Men on the lines of the National Commission for Women, to address grievances of male victims in domestic and family law cases.

Comparative Jurisprudence and Global Trends

Countries like the **United Kingdom, United States, Canada, and Australia** have gender-neutral domestic violence laws. These laws recognize that anyone, regardless of gender, can be a victim or perpetrator of domestic abuse.

- The **UK's Domestic Abuse Act, 2021**, defines abuse in gender-neutral terms.
- In the **United States**, the **Violence Against Women Act (VAWA)** has been interpreted and amended to ensure services and protections apply to all genders.
- **Australia's Family Law Act** provides for protection orders irrespective of the victim's gender.

These developments serve as models for reform in India and are often cited by advocacy groups campaigning for more inclusive legal recognition.

Challenges in Addressing Men's Rights in Domestic Violence

1. **Cultural Perception and Stereotyping:** Indian society still largely views men as aggressors and women as victims. Male victims of domestic abuse often face stigma and ridicule, which discourages them from coming forward.
2. **Lack of Institutional Support:** There are no government-run helplines, shelters, or support systems for male victims of domestic violence. Most resources are targeted toward women.
3. **Legal Inaccessibility:** With no statute providing for male victims, they are left to rely on general provisions of the Indian Penal Code such as assault, wrongful confinement, or criminal intimidation—none of which adequately address domestic abuse in a household setting.
4. **Low Visibility and Data Deficit:** There is little government data on domestic violence against men, making it difficult to build a policy case. The National Family Health Survey (NFHS) focuses solely on female victims.
5. **Opposition to Gender-Neutral Laws:** Some women's rights activists argue that making laws gender-neutral would dilute the protections for women, who are overwhelmingly the victims of domestic violence. They contend that the current focus on women is justified by systemic patriarchy and historical oppression.

Recent Developments and Outlook

Despite institutional inertia, awareness about men's rights in domestic contexts is slowly gaining traction. Some key developments include:

- **NCRB's Inclusion of Male Suicide Data:** Activists use this data to highlight the psychological toll of family and domestic pressure on men.
- **Mental Health and Abuse Reporting:** More men have begun using online forums and support networks to discuss abuse, though formal legal redress remains limited.
- **Judicial Sensitization:** Courts are increasingly cautious about ex parte orders and one-sided assumptions in marital disputes.

The debate is no longer about denying protection to women but about **acknowledging that abuse can occur across all gender lines**, and justice must be equally available.

Conclusion

India's domestic violence framework remains heavily skewed toward protecting women, as it was designed to counter the endemic abuse they face. However, the rise in cases involving men claiming to be victims of domestic abuse, as well as the misuse of protective laws, points to the need for a more balanced and inclusive approach.

Men in India currently have **no dedicated legal recourse** under domestic violence laws. Although courts have taken steps to prevent misuse of existing laws, the lack of statutory recognition for male victims continues to deny them protection and relief. As societal attitudes shift and awareness grows, it is imperative for lawmakers to **consider reforms that recognize domestic violence as a human issue, not just a gendered one.**

While reform must not dilute protections for women, inclusivity does not necessarily imply equivalence. Tailored remedies for all victims, irrespective of gender, are essential for building a just and equitable legal system. The future of domestic violence law in India will depend on the state's ability to respond to emerging realities with fairness, sensitivity, and constitutional fidelity.

A **timeline of key legal developments and judicial interventions** related to domestic violence laws in India, focusing on **how and where male protections have been discussed or indirectly incorporated**, even though there is still no direct, statutory provision for men as victims under domestic violence laws:

Timeline: Legal and Judicial Developments on Domestic Violence and Men's Rights in India

1983 – Introduction of Section 498A, IPC

- Criminalizes cruelty by the husband or his relatives against a woman.
- No provision for male victims.
- Marks the beginning of formal recognition of domestic violence in Indian law—but only for women.

2005 – Enactment of the Protection of Women from Domestic Violence Act (PWDVA), 2005

- Civil law providing protection, residence, maintenance, and compensation for women victims.
- Applies only to women; men cannot seek protection under this law.
- The term “aggrieved person” is defined to mean only a woman.

2006–2010 – Rising Reports of Misuse of Section 498A

- Multiple cases in various High Courts and Supreme Court cite the misuse of 498A by some women to harass husbands and in-laws.
- Male rights groups like Save Indian Family Foundation begin highlighting the issue.
- No statutory reforms yet, but courts begin noting misuse in individual judgments.

2013 – *K. Srinivas Rao v. D.A. Deepa* (SC Judgment)

- Supreme Court acknowledges misuse of 498A in matrimonial disputes.
- Suggests courts should ensure that false complaints do not misuse criminal law.

2014 – *Arnesh Kumar v. State of Bihar* (SC Judgment)

- Landmark ruling restricting automatic arrests under Section 498A.
- Supreme Court directs police to follow a checklist before making arrests.
- Aims to prevent harassment of husbands and in-laws; widely seen as a **protective measure for men** in domestic violence-related arrests.

2017 – *Rajesh Sharma v. State of UP* (SC Judgment)

- Court suggests formation of **Family Welfare Committees** to examine complaints under 498A before police action.
- Introduced a cooling-off and screening mechanism.
- Later diluted in 2018 in *Social Action Forum v. Union of India*, but opened debate on procedural safeguards for men.

2019 – Delhi High Court PIL Filed by Men's Welfare Trust

- Public Interest Litigation demands that PWDVA be made **gender-neutral**.
- Seeks legal protection for **male victims** of domestic violence.
- Case admitted, highlighting growing visibility of male victimization in domestic abuse.

2021 – Law Commission and Ministry Debates on Gender-Neutral Laws

- Amid ongoing public discussion, legal experts, NGOs, and law commissions begin consultations on **gender-neutral laws** for sexual harassment and domestic violence.
- No final recommendation for law change yet, but significant **policy discourse** begins.

2023–2024 – NCRB Data and Mental Health Reports Used by Advocacy Groups

- Men's rights organizations begin using official suicide and mental health data to argue for systemic support for male victims.
- Reports highlight high male suicide rates due to familial and marital stress.

Areas Where Male Protection Has Been Indirectly Incorporated or Judicially Acknowledged

1. Police and Judicial Caution on 498A Arrests

- *Arnesh Kumar* ruling mandates restraint in arresting accused men without investigation.

2. Recognition of Misuse of Laws

- Multiple judgments recognize that **laws meant to protect women can be weaponized**, thus **emphasizing judicial discretion** to protect innocent men.

3. Demand for Gender-Neutral Language in Draft Laws

- Draft proposals and PILs have begun calling for “aggrieved person” instead of “aggrieved woman” to make PWDVA inclusive.

4. Discussion on Mental and Emotional Abuse of Men

- Although not in statutes, court observations and reports now increasingly mention **psychological impact on men** in toxic or abusive marriages.

5. Emergence of Civil Society and Legal Advocacy for Men

- Growth of legal help desks, NGOs, and research organizations focused on **male victims**, influencing policy conversations.

While Indian domestic violence laws remain **formally focused on women**, judicial measures and civil society action have opened space for **acknowledging male victimization**, particularly through:

- Procedural safeguards

- Cautionary principles
- Public interest litigations
- Growing policy debates on gender neutrality

The legal recognition of male victims is still in **evolution**, with **no codified legal protections yet**, but pressure is mounting for more balanced and inclusive reforms.

Domestic violence, as a category of personal and familial violence, has been historically framed within the context of protecting women due to the pervasive and systemic abuse faced by them, especially in patriarchal societies like India. While this focus remains crucial, an emerging narrative has highlighted the need for gender-neutral protections in domestic violence law to address abuse faced by other gender identities, including men, transgender persons, and non-binary individuals.

India's current legal framework on domestic violence—especially the Protection of Women from Domestic Violence Act, 2005 (PWDVA)—exclusively focuses on women as victims and men as perpetrators. However, contemporary legal debates and social realities now demand a re-evaluation of this approach to ensure inclusivity and equality under the law.

The Existing Legal Framework

India's primary legislation addressing domestic violence is the **Protection of Women from Domestic Violence Act, 2005 (PWDVA)**. It is a civil law enacted to protect women from abusive relationships within domestic settings and grants them the right to seek protection orders, residence orders, maintenance, custody, and compensation.

Section 2(a) of the PWDVA defines "aggrieved person" exclusively as a woman who is, or has been, in a domestic relationship with the respondent. Section 2(q) defines "respondent" as an adult male person, though this was later interpreted to include female relatives of the husband or partner.

This law, while a milestone in recognizing and addressing women's domestic abuse experiences, does **not extend protection to men**, same-sex partners, or other gender minorities who might suffer abuse within domestic settings.

The Case for Gender-Neutral Domestic Violence Laws

In recent years, there has been a growing call to make domestic violence laws **gender-neutral** based on the following considerations:

1. **Abuse Can Be Gender-Independent:** Research and anecdotal evidence suggest that men and persons of other genders can also be victims of psychological, physical, and economic abuse within domestic settings.

2. **Equality Before Law:** Article 14 of the Constitution of India guarantees equality before the law. Critics argue that the PWDVA's gender-specificity violates this constitutional principle when protection is denied to victims based on gender.
3. **International Trends:** Countries like the UK, US, Canada, and Australia have gender-neutral domestic violence laws. These allow any person, regardless of gender, to file complaints and seek protection orders.
4. **Preventing Misuse and Ensuring Fairness:** Concerns have been raised about the misuse of gender-specific laws such as Section 498A IPC and the PWDVA by some individuals. Legal neutrality is seen as a way to create balanced remedies.

Judicial Pronouncements and Trends

While there has been no formal change to the gender-specific nature of the PWDVA, several **judgments** have recognized the need for a cautious, balanced, and rights-oriented application of domestic violence and related laws.

1. **Arnesh Kumar v. State of Bihar (2014):** The Supreme Court acknowledged misuse of Section 498A IPC and directed that arrests should not be automatic. It reinforced the idea that legal protections must not become tools of oppression.
2. **Shakti Vahini v. Union of India (2018):** Though not directly addressing gender neutrality, the judgment emphasized the constitutional right of adults to choose their partners, implicitly recognizing autonomy and the need to protect individuals regardless of gender.
3. **K. Srinivas Rao v. D.A. Deepa (2013):** The Court acknowledged the psychological toll of matrimonial disputes on men and cautioned against weaponizing matrimonial laws, thus indirectly pointing to the need for a gender-balanced perspective.
4. **Harsora v. Harsora (2016):** The Supreme Court struck down parts of Section 2(q) of the PWDVA that restricted the term "respondent" to adult males, allowing women to be named as respondents. Though it did not change the definition of "aggrieved person," this marked an important interpretive shift.

Public Interest Litigations and Demands for Reform

There have been multiple **Public Interest Litigations (PILs)** filed in High Courts and the Supreme Court demanding amendments to PWDVA to make it gender-neutral.

In 2019, the **Men Welfare Trust and Save Indian Family Foundation** filed a PIL in the Delhi High Court seeking a declaration that the PWDVA be applied in a gender-neutral manner. The petition cited psychological abuse, financial coercion, and physical harm experienced by men and transgender persons and argued that the law's current structure violates constitutional guarantees of equality and justice.

While the case did not result in immediate changes, it has significantly contributed to public debate, media attention, and policy discourse on gender-neutral protections.

Expert Opinions on Gender-Neutral Domestic Violence Laws

1. **Justice (Retd.) Markandey Katju:** A vocal advocate for legal balance, he has stated that laws must not discriminate and that men too deserve equal protection and presumption of innocence in domestic abuse cases.
2. **Indira Jaising, Senior Advocate:** She supports the gender-specific PWDVA, arguing that the structural inequality women face justifies targeted protection. However, she has acknowledged that other gender identities may deserve specialized legal remedies.
3. **Madan Lokur, Former SC Judge:** He has emphasized that laws must evolve with time and that the judiciary must address changing social realities, including non-traditional family structures and same-sex relationships.
4. **Law Commissions and Legal Academics:** Various legal scholars argue that gender-neutrality does not mean gender-blindness. Laws should recognize diverse experiences of abuse but with sensitivity to power dynamics and historical discrimination.

Implementation Gaps and Institutional Challenges

Even within the current framework, the implementation of domestic violence laws faces numerous challenges, which would also affect any potential gender-neutral law:

1. **Inadequate Infrastructure:** Protection Officers, shelter homes, and counseling services are severely under-resourced, particularly in rural areas.
2. **Training and Sensitization:** Police, judiciary, and welfare officials often lack training to deal with domestic abuse cases with empathy and non-bias. Gender-neutral training is almost non-existent.
3. **Underreporting by Male Victims:** Due to stigma and social ridicule, men often do not report abuse, fearing they will not be taken seriously or might be mocked. Transgender persons face even greater barriers due to discrimination.
4. **Lack of Official Data:** Government data, such as that from the National Family Health Survey (NFHS) or NCRB, does not record domestic violence cases against men or transgender persons, creating a data vacuum that hinders policymaking.

Scope for Improvement and Reform

To truly achieve gender justice in domestic violence legislation, India must consider reforms that retain protections for women while extending protection to other vulnerable groups. Potential areas of improvement include:

1. **Amending the PWDVA:** Redefine “aggrieved person” in Section 2(a) as any person in a domestic relationship who is subjected to violence, irrespective of gender or sexual orientation.
2. **Drafting a New, Inclusive Law:** Some experts argue that rather than modifying PWDVA, a **new gender-neutral domestic violence statute** could be enacted to address abuse experienced by all genders, including LGBTQ+ persons, without diluting existing protections for women.
3. **Special Provisions for Vulnerable Groups:** Just as women receive special protection due to systemic inequality, specific provisions can be added for men, children, elderly, and LGBTQ+ victims, ensuring that their experiences are addressed in law.
4. **Data Collection and Research:** The government must begin collecting disaggregated data on domestic violence victims across gender categories. Without data, legal reforms remain reactive rather than evidence-based.
5. **Training and Sensitization:** Law enforcement, judicial officers, and counselors must be trained to recognize and address abuse suffered by any gender with empathy and fairness.
6. **Legal Awareness and Accessibility:** Helplines, legal aid centers, and NGOs must be equipped and encouraged to offer services to male and non-binary victims of domestic violence.

Lessons from International Legal Systems

1. **United Kingdom:** The Domestic Abuse Act 2021 applies to all people regardless of gender and recognizes emotional, controlling, and financial abuse.
2. **Australia:** The Family Law Act and domestic violence laws apply to all persons in family relationships, with special support for vulnerable populations.
3. **United States:** The Violence Against Women Act has expanded to include services for all genders, including same-sex couples and male victims.

These models illustrate how legal systems can be inclusive without undermining protections for women.

Conclusion

India’s domestic violence laws, while a significant step in protecting women, currently do not account for the experiences of male, transgender, or non-binary victims. Legal, social, and judicial developments now point toward the urgent need for **inclusive, gender-neutral legal protections** that acknowledge domestic abuse as a human rights issue rather than solely a women’s issue.

Judicial caution against misuse, increased awareness of male victimization, and global trends toward inclusivity underscore the need for reform. However, inclusivity must be approached with nuance—acknowledging that while abuse is not limited to any one gender, structural inequalities still shape the lived experiences of victims.

Moving forward, a reimagined domestic violence framework in India must balance the protection of historically marginalized women with the inclusion of all individuals in domestic settings who face abuse. This is not merely a legal necessity but a constitutional obligation to uphold equality, dignity, and justice for all citizens.