



The Forgotten Half: Revisiting Gender Justice in India vis-a-vis Male Survivors of Domestic Violence

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Abstract

The Protection of Women from Domestic Violence Act, 2005 was one of the substantial efforts in India to acknowledge domestic abuse as a punishable act, thereby granting female victims access to emergency assistance and legal remedies. The acknowledgment was long overdue, considering that Indian women were frequently subjected to victimization by their spouse or in-laws, but this framed the issue of domestic abuse in terms of men as 'perpetrators' and women as 'victims'. This perspective has narrowed, more often disregarded, an alternative phenomenon of research which highlights that female-perpetrated domestic abuse against men is also a noteworthy problem for

Indian society. The presence of societal stereotypes and gendered standards frequently hinders male survivors of domestic violence from seeking assistance or revealing their experiences, resulting in a lack of reporting and a lack of visibility in discussions about domestic violence. The absence of legal remedy for male victims adds to their trauma. This research article strives to underscore that during the entire process to strengthen the status of women, there has been a lack of focus on the issue of domestic violence against males and its consequences. The article emphasises that it is crucial to revise criminal laws that reflect bias or prejudice towards a specific gender which in turn will force societal attitudes to evolve towards a more inclusive understanding of domestic violence. The paper simultaneously delves into the potential threats to Indian society and legal system that may be imposed by gender-neutral legislation against domestic violence. The article also aims to decode the current legislative stance on domestic violence while also shedding light on the diverse manifestations of domestic violence experienced by males in India enabling the

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development of informed and effective policies facilitating the enactment of necessary legislative interventions to bring out the true notions of gender justice.

Keywords

gender neutral, gender justice, domestic violence, male victims, gender equality

INTRODUCTION

Domestic violence encompasses a wide range of violent actions, including but not limited to physical injuries caused, threats, verbal and emotional abuse, psychological manipulation, and sexual abuse. These acts are perpetrated by one or more members of the family or household against another. Domestic violence is considered to be a violation of fundamental human rights and is widely acknowledged by several countries worldwide as a type of violence that has profound ramifications on the physical, mental, emotional, and psychological aspects of the victim's life.

DOMESTIC VIOLENCE : A GENDERED CRIME

In Indian society, the term 'domestic violence' is commonly used to refer to situations involving violence in a domestic household primarily against women. But, domestic violence is not an exclusively male perpetrator or female victim phenomenon. In a patriarchal society such as India, where males have historically held power, it becomes challenging for individuals to accept that men can also experience domestic violence, similar to women. Domestic violence perpetrated against men is frequently not given due societal or legal consideration, is underreported, and lacks explicit legal acknowledgment within India and many other countries. Owing to the growing modernism, there has been a significant shift in societal values, culture, and conventions and thus in this modern era, it is regrettable that society tends to link this menace with only one gender as its victim. Some most common forms of domestic violence



against men include nagging, grumbling, mocking, name-calling, withholding of food, denial of sexual intercourse, abuse towards parents and family members, income snatching, object hurling, scratching with nails, biting, threats of suicide, eviction from the house and threat to wrongfully accuse the individual or family members under false criminal charges.³

There is no provision in the Domestic Violence Act, 2005 or any other criminal law in India that safeguards men from this sort of domestic abuse. In effect, such a law creates a presumption as to men being inherently guilty, yet women, undoubtedly being regarded as innocent. It is undeniable that women are victims of domestic abuse often perpetrated by men or his relatives. On a comparative note, statistically, men exhibit lower levels of worry over their personal safety in a domestic relationship and

demonstrate a higher probability of achieving financial independence. The fact that women all round the world are often being subjected to recurrent and grave forms of abuse within a domestic partnership is indisputable.⁴ However, this leads to no valid justification for the absence of legislation to safeguard men from similar situations of abuse. It goes without saying that any similar form of violence will have comparable consequences on an individual, regardless of their gender.

Quantification of Male Survivors of Domestic Violence

Domestic violence perpetrated against men is an issue of concern that has received less investigation and relatively less attention. Social scientists and researchers have used rigorous methods to study different aspects of domestic violence against women, including its diverse impacts at individual, family and

³ Hines, D.A. and Malley-Morrison, K., *Psychological effects of partner abuse against men: A neglected research area*, 2(2) P.M.M., 75 (2001).

⁴ Thureau, Sophie, et al., *Conjugal violence: a comparison of violence against men by women and women by men*, 31, J. FORENSIC LEG. MED. 42-46 (2015).



social level. Even so, the scientists, particularly in India, failed to investigate the occurrence of domestic violence against males and its resultant effects, despite the similar implications that men too endure as a result of such victimisation. Thus, relatively less data is available quantifying the male victims of domestic violence.

However, a report released in 2023, utilizing data from the National Family Health Survey, brought attention to the widespread occurrence of physical abuse perpetrated against husbands throughout India. The study found that out of every 1000 married women, 29 were engaging in domestic violence by physically assaulting their husbands, even when the husbands had not been assaulting or physically harming them. The incidence of such domestic abuse against men rose from 7 to 29 per 1000 individuals in 2006 to 2016.⁵

⁵ Chattopadhyay, A. et al., *Prevalence and risk factors of physical violence against husbands: Evidence from India*, 56(2) J. BIOSOC. SCI., 391–411 (2024).

Another study done in rural Haryana revealed that 52.4% of men encountered domestic violence at least once during their lives, while 10.5% experienced it during the past 12 months. The study also found that domestic violence by the female spouse was notably more prevalent in rural areas compared to urban areas.⁶

UNDERREPORTING of DOMESTIC VIOLENCE AGAINST MEN

Domestic violence against men is a grave threat despite the fact that it is not always simple to detect owing to several factors. They are frequently overlooked due to societal misconceptions and institutional prejudices.

Hope psychology

Certain male victims of domestic violence tend to minimize or justify their experiences of domestic abuse by perceiving them as temporary or

⁶ Malik, J.S. and Nadda, A., *A cross-sectional study of gender-based violence against men in the rural area of Haryana, India*, 44(1), INDIAN J. COMMUNITY MED., 35-38. (2019).



expecting the situation to improve in the future. They may employ psychological coping techniques, such as cognitive dissonance and reasoning, to rationalize the abusive behaviour of their partners. Such denial might be influenced by the expectation that the perpetrator of domestic violence might undergo positive behavioural changes.

Fear of losing societal esteem

Within a community characterized as 'patriarchal', men often perceive being subjected to physical aggression by a woman as a source of shame, leading them to refrain from reporting such incidents.⁷ They are frequently expected by society to exhibit strength, emotional restraint, and authority. Thus publicly acknowledging himself as a target of domestic violence may be seen as a departure from societal expectations, resulting in emotions of disgrace and emasculation. The concept of a woman

overpowering or causing bodily injury to a male goes against the established societal hierarchy in patriarchal cultures, where men are traditionally seen as the defenders and providers. Consequently, men may internalize their encounters with violence as a challenge to their manhood and social standing, apprehensive of being mocked or disbelieved if they were to reveal such occurrences.

Fear of false prosecution

A significant concern for male victims of domestic violence is the potential presumption of their role as the aggressor, stemming from societal prejudices that associate men with perpetration and women with victimhood. There are many recorded occurrences of such situations where the courts found the woman harassing and psychologically abusing her husband and in-laws by falsely accusing them of frivolous charges. The courts had ruled that even a single unfounded criminal

⁷ Deshpande, S., *Sociocultural and legal aspects of violence against men*, 1(3-4), J. PSYCHOSEXUAL HEALTH, 246-249 (2019).



complaint by either spouse is enough to qualify as matrimonial cruelty.⁸ A 2023 judgement of Delhi High court also reiterated that multiple criminal complaints lodged by the wife without adequate justification constitutes cruelty.⁹

Lack of administrative concern

Although men make up a substantial number of victims, they are often silenced due to the anger and disbelief they face when discussing their experiences with the police and safety authorities. The authorities frequently neglect to acknowledge the mistreatment of men and downplay incidents involving female perpetrators of domestic violence. The societal censure around domestic abuse is further heightened when the recipient of the abuse is a male and the abuser is a female.

Gendered laws against domestic violence

Violence, as a situation, can be experienced by individuals of any gender. However, under the current legal system in India, there is a noticeable assumption that domestic violence predominantly impacts women, consequently neglecting the traumatic experiences of male victims. The presumption embedded in Indian criminal laws not only disregards the actual existence of male survivors of domestic abuse but also encourages detrimental stereotypes that strengthen the belief that males are inherently impervious to victimization. This inherent bias not only negates the experiences and entitlements of male survivors but also promotes a culture of silence and social disapproval surrounding male victimhood. Certain male victims of domestic violence tend to minimize or justify their experiences of domestic abuse by perceiving them as temporary or expecting the situation to

⁸ K. Srinivas Rao v. D.A. Deepa, (2013) 5 SCC 226; Veena v. Naveen, AIR ONLINE 2021 P&H 1078.

⁹ Mamta v. Pradeep Kumar, 2023 LiveLaw (Del) 790.



improve in the future. They may employ psychological coping techniques, such as cognitive dissonance and reasoning, to rationalize the abusive behaviour of their partners. Such denial might be influenced by the expectation that the perpetrator of domestic violence might undergo positive behavioural changes.

LEGISLATIVE FRAMEWORK AGAINST DOMESTIC VIOLENCE : EFFICACY for MALE VICTIMS

Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005, as the short title suggests, restricts its purview to affording protection only to women victims of domestic violence. This is further elaborated by Section 2(a) of the Act which defines the term 'aggrieved person' by referring to a woman who alleges to have experienced domestic abuse perpetrated by the respondent, and who is presently or was previously in a domestic relationship with the respondent. The Indian courts too at

several occasions highlighted that men cannot file a case for domestic violence under the Domestic Violence Act, 2005.

Sometimes courts via their decisions¹⁰ have tried to include males under the definition of 'aggrieved person' under Domestic Violence Act, 2005 basing their reasons on the judgement of *Hiral P. Harsora & Ors v. Kusum Narottamdas Harsora*¹¹. In the Harsora case the Apex court had struck down a portion of Section 2(q) for being violative of Article 14 of the Indian constitution since it defined the term 'respondent' as an 'adult male member'. Hence prior to the afore-mentioned judgement, cases of domestic violence could be brought only against adult male perpetrators. The current stance of law is that remedies under the Domestic Violence Act, 2005

¹⁰ Mohd. Zakir v. Shabana, 2017 SCCOnLine KAR 4719; Mohsin Dar, *Husband can also file case against wife under Protection of Women from Domestic Violence Act: Jammu and Kashmir court* (Mar 15, 2024, 10:56 PM)

<https://www.barandbench.com/news/husband-can-also-file-case-against-wife-women-domestic-violence-act-jammu-and-kashmir-court>.

¹¹ *Hiral P. Harsora & Ors v. Kusum Narottamdas Harsora*, 2016 (10) SCC 165.



are available against persons irrespective of their gender or age. This rendering of the term ‘respondent’ as gender-neutral has led a few to believe that similar assumptions can be drawn to the definition of ‘aggrieved person’.

Section 498-A of IPC

In order to address the growing number of incidents involving dowry-related fatalities and the mistreatment of married women in exchange for dowry, section 498-A was incorporated into the Indian Penal Code in 1983. The main purpose of the amendment was to safeguard married women from such mistreatment, which was frequently intense and resulted in catastrophic outcomes such as suicide or murder. The provision includes acts of physical, mental, and emotional cruelty, which are widely construed to encompass many forms of harassment.

With regard to male survivors of domestic abuse, section 498-A exhibits a gender-biased perspective by

prioritizing the safeguarding of married women, while blatantly disregarding the similar issues faced by male victims of cruelty in a domestic setup. What is more disheartening to see is the overt misuse of the provision by females. In *Sushil Kumar Sharma v. UOI*¹², the Supreme court emphasized that numerous instances have emerged where the complaints filed under section 498-A, IPC were not genuine and were made with nefarious intentions.

The Bharatiya Nyaya Sanhita, 2023

The Bharatiya Nyaya Sanhita, enacted in 2023, although a step forward, does not fully incorporate the concepts of gender-neutrality with respect to domestic violence. In spite of its contemporary nature and stated objective of tackling current legal issues, the law does not embrace a gender-neutral approach, therefore maintaining systemic biases and strengthening conventional gender

¹² *Sushil Kumar Sharma v. UOI*, AIR 2005 SC 3100.



stereotypes against men. On the same lines of Section 498-A of IPC, 1860, the Bharatiya Nyaya Sanhita, 2023 defines 'cruelty' to affect only females as victims. The definition¹³ of cruelty encompasses deliberate behavior that is likely to compel a woman to commit suicide or cause serious harm or risk to her life, body, or well-being (be it mental or physical).

Divorce on the grounds of Cruelty

Matrimonial laws strictly prohibited marital violence of any type, irrespective of the gender of the perpetrator. Thus, a person suffering from cruelty at the hands of his or her spouse may obtain a divorce on the ground of 'cruelty'. Among all offences committed within a marriage, cruelty proves to be the most challenging to accurately identify since the determination of cruelty in a particular case is fully contingent upon the specific facts and circumstances of that case, and may not apply to another

case. In *Shobha Rani v. Madhukar Reddy*¹⁴, the Supreme court also observed that the notion of cruelty is dynamic and cannot be precisely defined.

The legal framework regarding instances of spousal cruelty perpetrated by females towards their husbands is somewhat less explicit. Despite that, Indian courts have often acknowledged the increase in domestic abuse at the hands of females against their spouses and granted divorces to their husbands on the grounds of mental or physical cruelty inflicted on them. In *Naveen Kohli v. Neetu Kohli*¹⁵, the court ruled that cruelty refers to the deliberate infliction of mental or bodily suffering upon another individual. Thus, verbal abuse and insults, characterized by the use of obscene language, that persistently disrupts the mental tranquillity of another individual, exemplify instances

¹³ Bharatiya Nyaya Sanhita, § 85, (2023).

¹⁴ *Shobha Rani v. Madhukar Reddy*, AIR 1988 SC 121.

¹⁵ *Naveen Kohli v. Neetu Kohli*, AIR 2006 SC 1675.



of mental cruelty. In several other cases¹⁶ various courts had held that lodging of false complaints by the wife against the husband and his family members amounts to mental cruelty.

A GENDER-NEUTRAL LAW AGAINST DOMESTIC VIOLENCE : CHALLENGES & CRITIQUES

Gender-neutrality in law pertains to the implementation of policies and practices that do not result in any form of discrimination based on an individual's gender identity, thus seeking to establish a system that eliminates restrictions on individuals merely based on their gender. The phenomenon strives to offer justice to all genders, without any form of discrimination based on assumptions or stereotypes. On the contrary, a law which is not gender-neutral, limits its arena of authority by differentiating the perpetrators and victims of an offence, on the basis of gender. These

differentiating standards may result in similar incidents going unremedied for the reason that the 'gender requirement' stipulated in the law is not met by the victim or the offender.

Revisiting gender justice via gender-neutral legislations

Gender justice is a fundamental principle enshrined in several provisions of the Constitution. It signifies India's dedication to rectify past injustices, advance gender equality, and empower neglected sections of society. Articles 14, 15 and 16 as the fundamental principles, have proved to be the bedrock of gender justice. They prohibit discrimination based on gender and affirm the equal value and dignity of every individual. Similar contributions to the strengthening of gender justice are also made by other provisions of Part III and the Directive Principles of State Policy. A gender-neutral legislation which doesn't discriminate amongst genders and remedies their similar grievances of

¹⁶ Anshul Jain v. Nitin Jain, 2023 SCC OnLine Del 6365; Mangayakarasi v. M. Yuvaraj, (2020) 3 SCC 786; Nishi v. Jagdish Ram, 233 (2016) DLT 50.



domestic violence can undoubtedly be said to bring out the true colours of gender justice as endeavoured by the framers of Indian constitution.¹⁷ This conceptualisation would also need societal support and thus must clearly propagate the idea that enactment of a gender-neutral law doesn't mean discrimination against women.

Potential risks of Gender-neutral laws against domestic violence

Although India has made significant progress through both legislative and judicial actions in empowering marginalized women, particularly in incidents of domestic violence, it is indisputable that even in the twenty-first century, the overall status of women has not yet achieved parity with that of males. Keeping in view of the current state of law and society in India, it can be reasonably feared that implementation of a gender-neutral

legislation with respect to domestic violence can create an opportunity for perpetrators of domestic violence against women, to exploit them by filing counter-complaints or making false accusations against female victims. This could produce a chilling effect, dissuading women from seeking legal justice and further perpetuating their mistreatment.

It can also be reasonably feared that a gender-neutral law against domestic violence may not adequately consider the power dynamics, societal and institutional imbalances that frequently contribute to instances of domestic abuse.¹⁸ Women, who experience domestic abuse at a higher rate than men, may face disadvantages in a legal system that treats both genders equally without taking into account the social, economic, and cultural elements making them more vulnerable.

¹⁷ Lathika Kumari, D., The Need for a Gender-Neutral Domestic Violence Act, Forensic Justice: A Global Perspective, 204 (2024).

¹⁸ Goldscheid, Julie, *Gender neutrality, the violence against women frame, and transformative reform*, 82 UMKC L. Rev., 623 (2013).



In spite of endeavours to advance gender parity and confront prejudiced behaviours, Indian society still struggles with deeply rooted attitudes and convictions that value male dominance and female subservience inside the household domain. The implementation of a gender-neutral law against domestic violence in future is certain to encounter strong opposition. The reluctance to implement such non-gendered law on domestic abuse in Indian society arises from deeply ingrained cultural norms, societal views, and structural biases that sustain traditional gender roles and power relations, making it difficult to garner societal acceptance.

CONCLUSION & WAY AHEAD

In recent years, India has made significant progress in empowering women. The government has effectively executed several projects and policies to improve women's educational, wellness, and economic opportunities, resulting in substantial benefits. For a significant

period, the laws pertaining to divorce, domestic violence, rape, child custody, harassment, etc circled around to provide protection specially for women. Nevertheless, despite these significant achievements, women in India still face many obstacles, particularly domestic violence constituting one of the most obvious hazards. Simultaneously, it is imperative that every instance of domestic abuse is treated with utmost seriousness and that every person, regardless of their gender, is provided with the necessary support. As society advances, it becomes vital to update laws regarding gender equality in domestic relationships and to further stride towards gender equality, it is crucial to not to ignore but remedy the similar traumas faced by men in the domestic relationship. It is high time that men are likewise acknowledged as victims of domestic abuse and violence.

In order to effectively enforce a gender-neutral legislation against



domestic violence, it is imperative to pass comprehensive legal reforms and build robust safeguards to deter the exploitation of these laws by perpetrators. This may involve imposition of severe penalties for making fraudulent allegations, provisions for assistance to victims, and mechanisms for resolving gender-disparities within the legal system. By challenging entrenched gender-stereotypes and biases, and by promoting gender-neutral approaches in policy making vis-a-vis domestic violence, India can move towards a more equitable and just society where all victims of violence are recognized, supported, and empowered to seek justice irrespective of gender.