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Protection of Men under Criminal Law: A Forgotten Dimension of Gender Justice

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The legal and policy environment around male victims of intimate relationships and domestic abuse in India is examined in this article. India's legal system, particularly the Protection of Women from Domestic Abuse Act (PWDVA), 2005, denies males the civil remedies and protections afforded to women, despite mounting factual evidence that men suffer from high rates of marital abuse. Men can still pursue criminal remedies for IPC offences, including assault and criminal intimidation, but they are frequently insufficient to address the range of domestic violence. In addition to discussing the socio-cultural and institutional barriers that make male victimhood 'invisible,' the paper critically analyses doctrinal, empirical, and comparative literature. It also assesses judicial trends and the policy debate surrounding the alleged misuse of gendered provisions (such as Section 498A IPC) and suggests a calibrated reform agenda that strikes a balance between protection for all victims, safeguards against misuse, improved data collection, and victim-centred support services. Instead of a general gender-neutralisation that runs the danger of eliminating the structural justifications for women-specific safeguards, the paper makes the case for targeted legislative and administrative changes.

Keywords: *domestic abuse, gender justice, socio-cultural impacts.*

INTRODUCTION

In India, the discussion of gender justice has traditionally focused on shielding women from systematic violence and oppression by patriarchy. This approach, which has its roots in the socioeconomic reality of the nation, was required to address decades of systemic inequity that had placed women at risk in both the public and private domains. Women's rights have been protected in large part by legislative landmarks, including the Protection of Women from Domestic Violence Act, 2005¹ (henceforth PWDVA), the Criminal Law (Amendment) Act, 2013,² and the Dowry Prohibition Act, 1961.³ Men who experience domestic, emotional, or sexual abuse at the hands of female partners or family members are another group of victims who have unintentionally been devalued by this sole focus on women as victims and men as offenders.

Feminist jurisprudence has successfully brought patriarchal prejudices in society and the law to light, but it has also – possibly unintentionally – created an uneven legal system in which men's protection under the criminal law is still mainly hidden. There is no legal framework in India to address male-to-male domestic abuse. Although the PWDVA offers a wide range of civil remedies, including maintenance, residency rights, and protection orders, it only applies to women.⁴ To address the intricacies of intimate partner abuse, male victims are forced to depend on generic legal provisions like Sections 323 (voluntarily inflicting pain), 506 (criminal intimidation), and 350 (use of criminal force) of the Indian Penal Code, 1860 (IPC).⁵ As a result, many males who try to pursue legal recourse are frequently mocked, unprotected, and unacknowledged. The frequency of male victimisation in household contexts has been brought to light by empirical studies in recent years. More than 52% of the spouses polled in cross-sectional research in Haryana reported having been the victim of verbal, emotional, or physical domestic violence in their marriages.⁶ According to a different countrywide survey, dominating conduct, denial of marital rights, threats of false criminal allegations, and economic exploitation are common ways that emotional abuse against males

¹ Protection of Women from Domestic Violence Act 2005

² Criminal Law (Amendment) Act 2013

³ Dowry Prohibition Act 1961

⁴ Protection of Women from Domestic Violence Act 2005, s 2(a)

⁵ Indian Penal Code 1860, ss 323, 350 and 506

⁶ Jagbir Singh Malik and Anuradha Nadda, 'A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India' (2019) 44(1) *Indian Journal of Community Medicine* <<https://pubmed.ncbi.nlm.nih.gov/30983711/>> accessed 12 May 2026

presents itself.⁷ Despite these results, there is still very little institutional recognition of male suffering; for example, the National Crime Records Bureau (NCRB) does not even keep track of male victims of sexual or domestic abuse. A policy-level invisibility that supports the false belief that males cannot experience abuse is maintained by this statistical omission. Furthermore, discussions on the necessity for gender-neutral protections in the criminal justice system have been rekindled by court discourse surrounding the abuse of gender-specific laws, especially Section 498A IPC (cruelty by a spouse or his family). Although acknowledging the importance of Section 498A in safeguarding women, the Supreme Court has issued a warning against its abuse as a means of harassment and personal grudges. The Court noted that false implications under Section 498A had become a significant problem in *Rajesh Sharma v State of Uttar Pradesh*, and it suggested that family welfare committees confirm reports before arrests. A greater understanding of the possible imbalance brought about by gender-exclusive laws is reflected in these court rulings.⁸

Thus, the core of this research is the conceptual conflict between gender justice and gender neutrality. The goal is to acknowledge that gender equality under Article 14 of the Indian Constitution mandates that the law protect all victims of violence, regardless of sex, rather than weakening the safeguards afforded to women. To achieve true gender justice, the criminal code must change to handle all sorts of domestic abuse, whether it is committed by men or women, without fostering prejudice or maintaining inequalities.

HISTORICAL CONTEXT AND EVOLUTION OF GENDER JUSTICE IN INDIA

In India, the idea of gender justice has developed over a lengthy historical trajectory that was characterised by the shift from colonial criminal law to a constitutional system based on rights. In the past, the Indian legal system was set up in a patriarchal manner that saw women more as objects of protection and dependency than as independent legal beings. This view was mirrored in the adoption of colonial legislation like the Indian Penal Code, 1860 (IPC), which based offences against women on ideas of chastity, modesty, and honour rather than equality and consent.⁹ Articles 14, 15, and 21 of the Indian Constitution, which forbid sex-

⁷ Aparajita Chattopadhyay et al., 'Prevalence and risk factors of physical violence against husbands: evidence from India' (2024) 56(2) *Journal of Biosocial Science* <<https://pubmed.ncbi.nlm.nih.gov/37823273/>> accessed 12 May 2026

⁸ *Rajesh Sharma and Ors v State of UP and Anr* AIR 2017 SC 3869

⁹ Indian Penal Code 1860, ss 354, 497, and 509

based discrimination, safeguard life and individual liberty, and guarantee equality before the law, attempted to change this framework in the years after independence. In order to alleviate gender-based inequities and gradually increase women's rights, the judiciary interpreted these statutes.¹⁰ The Mathura rape case (*Tukaram v State of Maharashtra*, 1979) is one of the major turning points. It caused a great deal of public indignation and resulted in the Criminal Law (Amendment) Act, 1983, which strengthened the laws against sexual offences.¹¹ In a similar vein, the 1997 ruling in *Vishaka v State of Rajasthan* established rules against sexual harassment in the workplace and acknowledged that it violates basic rights.¹²

In certain areas, these changes led to a gender-asymmetric judicial system, even though they were necessary to address structural injustice and provide justice for women. The criminal code started to categorise criminals as males and victims of sexual and domestic abuse as women. Only female victimisation is recognised under gender-specific IPC provisions like Section 498A (Cruelty by Husband or Relatives) and Section 354 (Outraging Modesty of a Woman).¹³ Despite the justifiable goal of shielding women from patriarchal abuse, these laws' lack of gender neutrality in their design has, over time, created severe concerns about their impartiality, especially in cases where males are falsely or exaggeratedly accused. In its 172nd Report (2000)¹⁴ and following discussions, the Law Commission of India suggested gender-neutral changes to the legislation pertaining to sexual offences; however, the Criminal Law (Amendment) Act of 2013 did not completely implement these recommendations.¹⁵ The 2013 Justice Verma Committee Report recognised the necessity for complete equality under criminal jurisprudence and the possibility of gender prejudice, even as it emphasised the need for better protection for women. However, even if male victimisation is acknowledged in certain situations, including child abuse, adult male victims are still mostly ignored by law and policy. This development shows that India's path to gender justice has been one-dimensional, with a primary focus on women's empowerment—a crucial objective that unintentionally led to blind spots in the legal protection system. In accordance with the constitutional ideals of equality and fairness, it is now necessary to

¹⁰ Constitution of India 1950, arts 14, 15, and 21

¹¹ *Tukaram and Anr v State of Maharashtra* (1979) 2 SCC 143

¹² *Vishaka and Ors v State of Rajasthan and Ors* (1997) 6 SCC 241

¹³ Indian Penal Code 1860, ss 498A and 354

¹⁴ Law Commission, *Review of Rape Laws* (Law Com No 172, 2000)

¹⁵ Criminal Law (Amendment) Act 2013

reevaluate gender justice as a two-way concept that guarantees equal protection for all people, regardless of gender.

LEGAL PROVISIONS IN INDIA

Protection of Women from Domestic Violence Act (2005): The Domestic Violence Act is a powerful statute that grants women several rights, including financial support, the freedom to dwell in their own homes, and protection orders. But according to the legislation, the 'aggrieved person' can only be a woman. This implies that even if males experience comparable abuse at home, they are not allowed to invoke this statute.

Indian Penal Code (IPC): Men can use general sections of the IPC, such as:

- Section 323 – Causing Hurt,
- Section 341 – Wrongful Restraint,
- Section 506 – Criminal Intimidation.

However, these provisions do not offer civil remedies like protection or residency orders; rather, they solely penalise particular behaviours. Therefore, the emotional or recurring aspect of domestic abuse cannot be adequately addressed by the IPC.

Misuse of Section 498A: To shield married women from abuse by their husbands or in-laws, Section 498A was created in 1983. Courts and legislators eventually discovered that numerous complaints filed under this clause contained inflated or misleading allegations. The Supreme Court noted in *Sushil Kumar Sharma v Union of India* (2005) that improper use of this rule might cause injury to families and diminish the gravity of legitimate cases.¹⁶ However, it's crucial to keep in mind that abuse does not imply that the law is flawed; rather, it only indicates that more thorough checks and balances are required.

JUDICIAL PERSPECTIVES ON MISUSE OF GENDER-SPECIFIC LAWS

The abuse of gender-specific criminal laws, especially those about marriage conflicts and sexual offences, has been acknowledged by Indian courts on several occasions. Although the initial purpose of these laws was to shield women from systematic oppression and domestic

¹⁶ *Sushil Kumar Sharma v Union of India and Ors* AIR 2005 SC 3100

violence, the judiciary has seen a rise in these abuses over time, which has caused innocent men to be harassed and have their reputations harmed. Section 498A of the IPC, which makes cruelty by a husband or his family members to a wife a crime, is the most hotly contested clause in this area. This clause was enacted in 1983 with the intention of protecting married women from violence and reducing harassment linked to dowries.¹⁷ Nonetheless, the Supreme Court of India and many High Courts have repeatedly observed that the clause is routinely used for spiteful purposes, occasionally as a means of coercion in marital conflicts or divorce procedures.¹⁸ The Supreme Court unequivocally acknowledged in *Sushil Kumar Sharma v Union of India* (2005) that 'disgruntled wives sometimes use provision as a weapon rather than a shield.'¹⁹ The court stressed that although the statute was intended to offer protection, its abuse results in 'legal terrorism,' which erodes the legitimacy of legitimate proceedings and clogs the criminal justice system. In a similar vein, the court noted that false charges under Section 498A were increasing in *Preeti Gupta v State of Jharkhand* (2010)²⁰ and encouraged the legislature to reconsider the legislation to stop the needless victimisation of men and their families.

In *Rajesh Sharma v State of UP*,²¹ the Supreme Court established instructions to avoid arbitrary arrests of accused individuals under Section 498A, marking a significant judicial intervention. To ensure that arrests are not made without adequate verification, the court mandated the construction of a district-level FWC to review allegations prior to police action. Although the Court stated that such committees should not interfere with the statutory powers of the police in *Manav Adhikar v Union of India*,²² this direction was later changed in *SAF*. Nevertheless, the debate was a critical step in acknowledging the necessity of procedural safeguards for the accused in such circumstances.

The scope of judicial concern extends beyond marital offences. Courts have warned against false charges that might permanently damage the accused's character in several rape and sexual assault cases. The Supreme Court reaffirmed in *State of Karnataka v Hemareddy* (1981) the need to make sure the presumption of innocence is maintained as the cornerstone

¹⁷ Indian Penal Code, 1860, s 498

¹⁸ Ministry of Home Affairs *Crime in India - 2022* NCRB (2023)

¹⁹ *Sushil Kumar Sharma v Union of India and Ors* AIR 2005 SC 3100

²⁰ *Preeti Gupta and Anr v State of Jharkhand and Anr* AIR 2010 SC 3363

²¹ *Rajesh Sharma and Ors v State of UP and Anr* AIR 2017 SC 3869

²² *Social Action Forum for Manav Adhikar and Anr v Union of India, Ministry of Law and Justice and Ors* AIR 2018 SC 4273

of criminal prosecutions, including in cases involving delicate gender-based offences.²³ More recently, in *Shivangi Bansal v Sahib Bansal* (2025), Delhi High Court Justice Arun Monga noted that it is impossible to overlook the abuse of Section 498A IPC and its ancillary sections, and that false cases undermine the goal of gender justice by using protective laws against males.²⁴ The Calcutta High Court's Justice Subhendu Samanta also pointed out in 2024 that, although being a social protection, Section 498A is frequently utilised for settlement pressure and personal grudges, which results in unfair prosecution and societal shame for accused males.

When taken as a whole, these court rulings demonstrate a judicial awakening to the negative aspects of gender-specific law. To protect real female victims and prevent innocent males from being unfairly criminalised, courts have continuously argued for a balanced approach. Despite these findings, there haven't been many legal changes to include procedural checks or gender neutrality. The judiciary cannot address the imbalance caused by the continued perpetuation of inequality under the pretence of protection due to the lack of legislative acknowledgement of male suffering. In the end, the legal debate highlights the need for inclusive gender justice. One gender's empowerment at the expense of another cannot be its exclusive tenet. 'Equality under the law requires that both protection and accountability be blind to gender,' as Justice R.F. Nariman famously said.

TOWARDS GENDER-NEUTRAL REFORMS IN CRIMINAL LAW

The Need for Gender-Neutrality in Criminal Law: While the development of gender justice in India has been revolutionary for women's rights, it has also brought attention to the pressing need to reconsider how criminal law is gendered. All people must have equal access to legal protection, regardless of their gender, sexual orientation, or social identity, for there to be true justice. According to Article 14 of the Indian Constitution, which upholds the concept of equality before the law, the judicial system must shield both men and women from abuses of the legal system, false accusations, and violence.²⁵ Women's rights are not diminished by gender neutrality in criminal laws. Instead, it aims to provide justice and responsibility for all citizens by extending the legal framework of protection. There is no

²³ *State of Karnataka v Hemareddy alias Vemareddy and Anr* AIR 1981 SC 1417

²⁴ *Shivangi Bansal v Sahib Bansal* (2025)INSC 883

²⁵ Constitution of India 1950, art 14

room for the acknowledgement of male or transgender victims since laws like Sections 354, 375, and 498A of the IPC identify victims as women and criminals as males. Articles 15 and 21 of the Constitution's goal of equality and non-discrimination are incompatible with this structural imbalance.

Following the Nirbhaya tragedy, the Justice J.S. Verma Committee proposed extensive change of the laws about sexual offenses in 2013. The Criminal Law (Amendment) Act of 2013 maintained the gender-specific definition of rape, restricting victims to women, even though the committee recognised the potential for male and transgender victimisation.²⁶ This selective protection ignores factual evidence of male victimhood in both domestic and sexual assault situations, perpetuating the myth that only women are victims and only men are offenders.

Comparative Perspectives: Gender-neutral criminal laws have been adopted by a number of countries worldwide. The UK recognises victims of all genders and defines rape and sexual assault in gender-neutral language in the Sexual Offences Act 2003.²⁷ In a similar vein, inclusive laws that provide protection regardless of sex or gender identity have been passed in Canada and Australia.²⁸ By striking a balance between protection and equity, these measures show that gender-neutrality and robust protections for women may coexist. On the other hand, India's continued use of gender-specific criminal laws is indicative of a legacy mentality that is more founded in protectionism than equality. The Indian judiciary has recognised this constraint. The Supreme Court emphasised the significance of eliminating gender stereotypes and guaranteeing equal dignity for all people, irrespective of gender or sexual orientation, in the 2018 case of *Navtej Singh Johar v Union of India*. A constitutional basis for reinterpreting current criminal legislation in a gender-neutral manner is provided by the ruling.²⁹

Policy and Legislative Recommendations: Several legislative and policy changes are necessary to achieve gender neutrality:

²⁶ Criminal Law (Amendment) Act 2013

²⁷ Sexual Offences Act 2003 (UK)

²⁸ Criminal Code (RSC 1985, c C-46) (Canada); Crimes Act 1900 (Australia)

²⁹ *Navtej Singh Johar v Union of India thru Secretary, Ministry of Law and Justice* AIR 2018 SC 4321

IPC Amendment: Sections 354, 375, 376, and 498A should be revised to substitute the word 'person' for gendered terminology like 'man' and 'woman,' guaranteeing that both the accused and the victims may be of any gender.³⁰

The establishment of a law against gender-neutral domestic violence. To combat violence in intimate relationships, a new law that protects men, women, and LGBTQ+ people should be passed.

Creation of Gender-Neutral Support Systems Legal assistance programs, counselling facilities, and helplines should serve all victims of abuse, not only women. In matrimonial cases, preliminary scrutiny is required. To stop Section 498A from being abused, a system akin to FWC ought to be reinstated under the law. These changes would contribute to the development of a fair criminal justice system that acknowledges the complexity of contemporary gender relations. Never should the defence of one gender lead to the persecution of another. India may advance toward a form of inclusive justice that is consistent with both international human rights norms and constitutional morality by enacting gender-neutral legislation.

Reimagining Gender Justice: Moving beyond gender dichotomies and acknowledging that victimisation and perpetration are human experiences rather than gendered identities is necessary for the future. Instead of undermining women's justifiable struggles, a gender-neutral criminal code ensures that protection is equitable, universal, and constitutionally grounded. In *Joseph Shine v Union of India* (2019),³¹ the Supreme Court ruled that equality must be achieved through mutual respect and equal legal recognition, rather than by favouring one gender over another. The idea of parity, according to which all people are equal before the law, whether they are men, women, or non-binary people, must thus be the foundation of any reform of India's criminal justice system. In its purest form, gender justice needs to develop into human justice.

CONCLUSION

Unquestionably, India's history of systemic violence against women and patriarchal oppression has influenced the country's conversation on gender justice. From the Criminal

³⁰ Indian Penal Code 1860, ss 354, 375, 376 and 498A

³¹ *Joseph Shine v Union of India* AIR 2018 SC 4898

Law (Amendment) Act of 1983³² to the Nirbhaya reforms of 2013,³³ legal changes have attempted to address centuries of inequity and guarantee women's autonomy, safety, and dignity. The legal system has, however, progressively changed into a gender-asymmetric framework in the process of redressing these historical injustices, where the defence of women has occasionally resulted in the disregard of men's rights. According to the current research, Indian criminal law has played a significant role in empowering women, but it has also overlooked males as possible victims of sexual assault, domestic violence, and false charges. Court rulings in cases like *Sushil Kumar Sharma v Union of India* (2005)³⁴ and *Preeti Gupta v State of Jharkhand* (2010)³⁵ make it abundantly evident that laws specific to gender, especially Section 498A of the IPC, have been abused and manipulated, harming men and their families financially, socially, and psychologically. Legislative reform in this area has been sluggish and insufficient in spite of this judicial recognition.

According to Articles 14, 15, and 21 of the Indian Constitution, true gender equity cannot be one-sided. To apply legal principles without discriminating against sex or gender identity, it must guarantee equality of protection and responsibility. Stereotypes that run counter to the spirit of equality and the developing knowledge of human rights legislation are perpetuated by the idea that only women may be victims and only males can be abusers. A just society must recognise that everyone should be protected and that persecution is not gender-specific. The goal of the shift to gender-neutral criminal law is to extend the reach of justice to all people, not to diminish the justifiable complaints of women. Other democracies, like the UK, Canada, and Australia, have included gender-neutral clauses, which serve as useful examples of how tailored protection for vulnerable populations may coexist with legal equality. India has an international duty to guarantee that equality works in both directions, preventing not only discrimination but also reverse discrimination brought on by one-dimensional laws, as a signatory to the Universal Declaration of Human Rights (UDHR)³⁶ and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).³⁷

³² Criminal Law (Amendment) Act 1983

³³ Criminal Law (Amendment) Act 2013

³⁴ *Sushil Kumar Sharma v Union of India and Ors* AIR 2005 SC 3100

³⁵ *Preeti Gupta and Anr v State of Jharkhand and Anr* AIR 2010 SC 3363

³⁶ Universal Declaration of Human Rights 1948

³⁷ Convention on the Elimination of All Forms of Discrimination Against Women 1981

In this regard, the judiciary has already started to guide the discussion. Constitutional morality transcends societal preconceptions, as demonstrated by progressive rulings like *Navtej Singh Johar v Union of India* (2018)³⁸ and *Joseph Shine v Union of India* (2019),³⁹ which demand that equality and individual liberty be upheld for all people, regardless of gender. The basis for reinterpreting criminal laws to conform to the principles of justice, inclusion, and human dignity has been established by these rulings.

As a result, three pillars must serve as the foundation for Indian criminal jurisprudence going forward:

- Equality before the law, which guarantees that every citizen is equally safeguarded and held responsible;
- Recognising men, women, and non-binary people as potential victims or perpetrators is known as neutrality of protection, and
- Keeping a balance between protecting victims and avoiding abuse is known as proportionality of justice.

The criminal law's protection of males is a reaffirmation of constitutional equality rather than a rejection of women's rights. Ignoring male victimhood is ignoring a crucial aspect of justice in general. In order to turn gender justice from a feminist ideal into a humanist reality, India must go from gender-biased protection to gender-balanced justice as it develops into a more inclusive society.

³⁸ *Navtej Singh Johar v Union of India thru Secretary, Ministry of Law and Justice* AIR 2018 SC 4321

³⁹ *Joseph Shine v Union of India* AIR 2018 SC 4898