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GENDER DISCRIMINATION IN INDIAN LAW: A CRITICAL ANALYSIS OF LEGAL PROTECTIONS FOR MEN

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ABSTRACT

The research examines the gender inequalities inherent in the Indian legal system specifically the factor of exclusion of males through the protection of domestic violence, sexual crimes and harassment in the workplace. Although the Indian laws, like the Bharatiya Nyaya Sanhita (BNS) 2023, the Domestic Violence Act, and the POSH Act have played a key role in protecting women, they are mainly gender-oriented disregarding the female and LGBTQ+ victims. By examining the current laws, comparing international models, and applying case-study to it, this paper can see the structural bias that only sees men as attackers. It claims that the provisions of the law are one-sided and not only do not uphold the principle of equality under Article 14 of the Indian Constitution, but also promote the stigmatization of society, which causes underreporting, psychological distress, and disenfranchisement of male victims. The research is based on the global practices in the US, UK, Canada, and Australia, thus recommending the use of gender-neutral laws in India as an urgent practice. It suggests modifications in the criminal and family law, comprehensive safeguards in the workplace and domestic violence legislation, and national sensitization to eliminate the gender stereotypes. The paper concludes that true gender justice can only be achieved when laws are created to safeguard everyone regardless of gender on the nature of harm and not identity.

Keywords: Gender discrimination, Men's rights, Legal reform, Gender-neutral Laws, Domestic violence, Sexual offences, Family Law, Workplace protections.

INTRODUCTION

विद्याविनयसम्पन्ने ब्राह्मणे गवि हस्तिनि ।
शुनि चैव श्वपाके च पण्डिताः समदर्शिनः ॥⁷¹⁰

“The wise sees a learned and humble Brahmin, a cow, an elephant, a dog, and a dog-eater with equal vision.”

This verse from the Bhagavad Gita emphasizes the concept of equality that surpasses physical differences. In its complete meaning, this wisdom negates all kinds of discrimination, including those of a gender type. In spite of this

philosophical basis, India's judiciary is largely prejudiced in its attitude towards gender justice.

Gender discrimination is treating individuals unjustly solely on the basis of gender. It results in denying rights, protection, or advantages to them. In India, traditional male domination gender role ideology has influenced the law in large measure viewing women as victims and men as perpetrators. While this approach was initially essential for empowering women, but now it has led to failure in recognising that men can also be a victim.

This research informs us that India has strong laws to protect women but does not equate men with women, especially in rape, violation of

⁷¹⁰ BHAGAVAD GITA, ch. 5, v. 18 (A. C. Bhaktivedanta Swami Prabhupada trans., 2015).

modesty, eve-teasing, sexual harassment at work, spouse domestic violence, and laws of maintenance. These laws favour one side but do so unwittingly at the cost of bringing injustice to men.

A. LEGAL PROTECTIONS FAVOURING WOMEN

Indian laws have evolved to provide effective protection to women against every form of abuse and exploitation. The Bharatiya Nyaya Sanhita (BNS), 2023 and other significant laws provide special provisions for the protection of the rights of women.

1. Rape and Sexual Offences

The Bharatiya Nyaya Sanhita (BNS), 2023 defines rape and other sexual offences in very strict and ritualistic terms in Sections 63–70. In its essence, Section 63 describes rape as a non-consensual intercourse, whether penetration of the penis, object or body penetration into the vagina, mouth, urethra or anus of a woman, without her free and explicit consent, and explains that a lack of consent, meaning silent behaviour or non-resistance is not consent. No one can consent to something after being deceived, coerced, intoxicated, impersonated (e.g. mimicking her husband) or by a person who lacks the capacity to do so and therefore could not communicate it. There are exceptions on medical interventions, and acts in marriage where the wife is 18 years and above.⁷¹¹

The punishments increase drastically in the following provisions. In Section 64, anyone convicted of rape is sentenced to not less than ten years (usually life) imprisonment and a fine; and heavier fines are imposed where the offender is in power or the victim is a vulnerable position.⁷¹² In cases in which the victim is a minor, under 16 years or under 12, Section 65 has set a minimum of 20 years of imprisonment (possibly life imprisonment) and a fine; in cases involving a minor who is under 12, the death penalty may be imposed.⁷¹³ Section 66 also

worsens the punishments in cases of rape resulting in the death of the victim or her being left in a persistent vegetative state– another option of life imprisonment or the death penalty opens up.⁷¹⁴

Section 67 to 69 expand liability to cases which are less intuitively included in the common law of rape: a husband compelling separation-intercourse⁷¹⁵(Section 67), authorities using their authority to force sex⁷¹⁶ (Section 68), and intercourse obtained by fraud or misrepresentation⁷¹⁷ (Section 69). Lastly, Section 70 deals with gang rape, which entails a jail term of at least 20 years or life imprisonment, and, where the victim is a minor, death.⁷¹⁸ However, in *Navtej Singh Johar v. Union of India (2018)*⁷¹⁹, consensual same-sex relations were decriminalised, the Court failed to extend the concept of rape to those of a male or transgender victim, leaving a legal loophole in terms of acknowledging the male sexual victimisation within the field.

Although BNS increases inhibition by increasing the level of punishment and the range of its application, it still has a glaring feminine exclusivity: all these crimes are relevant only when the victim is a woman and the offender a man. Under this regime, male, transgender, or same sex victims are still invisible. The exception of continuing marital rape even after increasing the age of consent of wives from 15 to 18 years further disappoints the commitment of the equal protection under law.

2. Offences Against Modesty and Privacy

Sections 74 to 79 of the Bharatiya Nyaya Sanhita (BNS), 2023 criminalize offences such as sexual harassment, stalking, voyeurism, and verbal insults, but each of these is conceptualized as a crime against woman. When a woman has been assaulted or the criminal force used was

⁷¹¹ Bharatiya Nyaya Sanhita, 2023, § 63, No. 45, Acts of Parliament, 2023 (India).

⁷¹² *Ibid.*, § 64.

⁷¹³ *Ibid.*, § 65.

⁷¹⁴ *Ibid.*, § 66.

⁷¹⁵ *Ibid.*, § 67.

⁷¹⁶ *Ibid.*, § 68.

⁷¹⁷ *Ibid.*, § 69.

⁷¹⁸ *Ibid.*, § 70.

⁷¹⁹ *Navtej Singh Johar v. Union of India*, AIR 2018 SC 4321.

aimed at offending her modesty, it is punished by one to five years imprisonment and fine under Section 74⁷²⁰. Similarly, Section 75 prosecutes a man who initiates unwanted physical contact, solicits sexual favours, displays pornography, or makes sexually coloured statements towards a woman.⁷²¹ Section 76 extends this framework by prohibiting the use of force on a woman to disrobe, emphasizing the severity of public humiliation and violence directed towards women.⁷²² Section 77, which deals with voyeurism, makes it a criminal act to record or hand out private photographs of women thereby safeguarding her privacy and bodily integrity.⁷²³ Similarly, Section 78 defines stalking as a repeated following, contacting or monitoring by a man of a woman when such acts destroy enthusiasm or frighten her through the use of electronic communications.⁷²⁴ Lastly, Section 79 punishes words, gestures or acts that are meant to degrade the modesty of a woman which goes to recognize the evil that is committed by degrading a woman verbally or otherwise.⁷²⁵

On the whole, the very organization of these laws shows a strongly gendered bias: women are created as the constant victims, and men (or other genders) remain invisible whenever they become victims of similar fate. The overall outcome is the entrenchment of legal asymmetry, the destruction of universal protection of bodily autonomy, and the perpetration of stereotypes concerning gendered vulnerability instead of protecting the dignity of all.

3. Domestic Violence (Protection of Women from Domestic Violence Act, 2005)

The Act provides a comprehensive provision in dealing with domestic violence as it is a complex problem that involves physical,

emotional, sexual, and economic abuse.⁷²⁶ It specifically protects women involved in domestic relationships and their safety and dignity are guaranteed. Protection orders can be granted under this Act to promptly prevent the abuser to perpetrate more acts of violence. Residence orders also provide a woman with the right to remain in the joint home whether or not she has a title or ownership of the property. Money relief is granted to pay costs and damages accrued due to abuse and custody orders protect the interest and well-being of children involved in domestic conflicts. Also, there is compensation order, which covers the psychological effects of the violence, such as mental torture and emotional distress.

Though the Act is an essential step towards recognition of the wide spectrum of domestic abuse and enforcement of women rights, it is still gender specific. Its protection services are only limited to women as victims, not men or transgender who can also become victims of domestic violence. Although such a gender-exclusive system was historically necessary, it opens the doors to the further debates concerning the notions of inclusivity and the equal protection of all victims of domestic violence.

4. Dowry and Marital Cruelty

The BNS considers dowry-related abuse and marital cruelty as a major crime especially in the light of Sections 80, 85, and 86. Section 80 concerns the tragic consequences of dowry abuse: if a woman dies due to burns, injury, or in suspicious circumstances within seven years of marriage, and it is proved that the death occurred because she was subjected to cruelty or harassment based on dowry claims by her husband or his relatives, the death is considered a dowry death. In this instance the involved individuals are required to undergo a minimum jail term of seven years that can be stretched to life imprisonment.⁷²⁷ In section 85, it

⁷²⁰ BNS, *supra* note 2, § 74.

⁷²¹ *Ibid.*, § 75.

⁷²² *Ibid.*, § 76.

⁷²³ *Ibid.*, § 77.

⁷²⁴ *Ibid.*, § 78.

⁷²⁵ *Ibid.*, § 79.

⁷²⁶ Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005 (India).

⁷²⁷ BNS, *supra* note 2, § 80.

is an offense punishable by up to three years in prison and a fine to inflict cruelty on a woman through a husband or his relatives.⁷²⁸ The meaning of cruelty as stated in Section 86 is not limited to the types of harm that are both physical or mental but also the type of actions that are most likely to compel her to commit suicide or inflict severe harm, as well as harassment aimed at coercing her or her family to make an illegal claim of property or other valuables.⁷²⁹

All these provisions aim to cover cruelty in marital relationships, punish the perpetrators on the escalation of abuses, and correlate dowry requirements to the worst consequences when women die. Nevertheless, with the law being tightened, it is still gender-based: these clauses are limited to women as victims and husbands or their relatives as offenders, ignoring male, transgender, or same-sex victimization.

5. Workplace Harassment: Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013⁷³⁰ also referred as the POSH Act was enacted as a direct consequence of the *Vishaka and Ors. v. State of Rajasthan and Ors. (1997)*⁷³¹ ruling, in which the Supreme Court provided the Vishaka Guidelines to protect the right of women to safe working environment. The Act offers a legal platform to prevent, ban, and redress any acts of sexual harassment in the workplaces, to create accountability and gender equality in professional workplace.

The Act has a liberal definition of sexual harassment to cover any unwanted act or conduct of a sexual nature such as physical contact and advances, requests or demands of sexual favours, sexually coloured remarks,

display of pornography or any other verbal or non-verbal actions that have sexual intent.

According to the POSH Act, all organizations that hire ten or more persons are required to have an Internal Complaints Committee (ICC) to hear and solve complaints evenly and effectively. It also demands that the employers implement an open system of complaints, timelines and procedures regarding the investigation and resolution of complaints. Also, the Act focuses on prevention and as such, organizations are directed to hold periodic training and awareness exercises where employees can be educated on what is acceptable conduct at the workplace and what happens once they are breached.

Although the Act is a necessary move to the enhancing the safety and dignity of women in the workplace, it is not gender-inclusive in terms of coverage since it only covers women as complainants, leaving out men and individuals of other genders who can also be victims of sexual harassment.

6. Maintenance and Financial Protection

The legal system of India upholds the spousal and family support on two overlapping grounds, which are the Hindu Adoptions and Maintenance Act, 1956 and the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. Under Section 18 Hindu Adoptions and Maintenance Act⁷³², a Hindu wife has a legal claim to be maintained from her husband throughout her life even in situations where she stays away as a legally valid reason (cruelty, desertion, bigamy, having a concubine or converting). This right is however lost when she becomes unchaste or changes religion without consent.

Section 144 of BNSS, 2023⁷³³ strengthens maintenance obligations making it clearer and effective in ensuring that those being obliged cannot avoid their responsibilities. It gives a

⁷²⁸ *Ibid.*, § 85.

⁷²⁹ *Ibid.*, § 86.

⁷³⁰ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14, Acts of Parliament, 2013 (India).

⁷³¹ *Vishaka & Ors. v. State of Rajasthan & Ors.*, AIR 1997 SC 3011.

⁷³² Hindu Adoptions and Maintenance Act, 1956, § 18, No. 78, Acts of Parliament, 1956 (India).

⁷³³ Bharatiya Nagarik Suraksha Sanhita, 2023, § 144, No. 46, Acts of Parliament, 2023 (India).

First-Class Magistrate the power to order monthly maintenance to a wife (including a divorced one), children (including adult children unable to support themselves), or parents when a person able to pay it neglects or refuses to pay it. The magistrate may likewise grant interim maintenance and meet litigation costs, and impose defaults by warrants or short jail sentences. Nevertheless, BNSS is still the gender-biased restriction: a woman can lose her maintenance in case she leads adulterous life, refuses to cohabit with her husband unreasonably, or even in case of mutual consent to separate.

Together, the two Section 18 and Section 144 both belong to two legal approaches: the application of the personal law to enforce the patriarchal requirement of husbandly maintenance, and the application of the criminal law to enforce legally binding maintenance orders. Although the two are both trying to protect the financially vulnerable, they are constrained by the asymmetry of gender as only women are legally defined as dependents and husbands as providers in Section 18 and the terms in Section 144 are still based on traditional gender roles.

B. LACK OF LEGAL PROTECTIONS FOR MEN

1. No Recognition for Male Rape Victims

India's legal definition of rape in terms of Bharatiya Nyaya Sanhita (BNS), 2023, is not gender neutral. Only women are identified as victims and only men as perpetrators.⁷³⁴ BNS sections 63 to 70 define rape as actions performed only "against a woman." Consequently, men of all ages and backgrounds cannot qualify as rape survivors under Indian criminal law. This narrow legal perspective overlooks world facts. Evidence from across the globe, including that of WHO and CDC, has established that men too can become victims of sexual assault by a woman or by another man.

Without legal acknowledgment, male victims experience legal, social, and psychological issues. Section 377 of the Indian Penal Code⁷³⁵ (now amended in certain respects) previously criminalized non-consensual anal sex for everybody but didn't categorize such behaviour as rape. Further, following the *Navtej Singh Johar judgment (2018)*⁷³⁶, Section 377 addresses only non-consensual homosexual acts, with male victims of sexual assaults by women getting no assistance. This lacuna in the law silences individuals and leads to abandonment, further perpetuating the notion that men can't get harmed.

A fair system of justice should define sexual offenses in gender-neutral manner, concentrating on the offense and not the genders of the offenders. This modification would be in accordance with Article 14 of the Constitution, which ensures equal treatment before law.

2. Male Minors and the Law: BNS and POCSO Disparities

India's Protection of Children from Sexual Offences Act (POCSO), 2012⁷³⁷, is a gender-neutral legislation for persons below 18. However, in practice, boys often face unequal treatment. The issue arises when both the individuals engaging in consensual sex are minors. The act is criminalized with the boy as the perpetrator and the girl as the victim, particularly when the girl's family complains.

For instance, if a boy aged 17 and a girl aged 17 engage in consensual sex, the boy can be prosecuted for rape under POCSO, even if there was no coercion. The injustice is further amplified when courts interpret the law through the patriarchal lens and assume the boy as initiator and the girl as a follower. In such case, the boy can be prosecuted, criticised and even punished and the girl is labeled as a survivor.

⁷³⁵ Indian Penal Code, 1860, § 377, No. 45, Acts of Parliament, 1860 (India).

⁷³⁶ *Navtej Singh Johar*, *supra* note 10.

⁷³⁷ Protection of Children from Sexual Offences Act, 2012, No. 32, Acts of Parliament, 2012 (India).

⁷³⁴ N. Sharma, *Sexual Harassment: Why Men Are Also Victims*, The Hindu Business Line, 2019.

This inequality disregards how teenagers develop and does not honour mutual agreement. It is also counter to the principle of equality and treats female juveniles as children and blames male juveniles. The law needs to correct these issues by differentiating consensual activities between peers, ensuring that juveniles of both genders are not unfairly prosecuted.

3. Domestic Violence Against Men: No Legal Recourse

The Protection of Women from Domestic Violence Act, 2005 (PWDVA)⁷³⁸ is an act that safeguards women from domestic violence. It classifies domestic violence as physical, sexual, verbal, emotional, and economic abuse but classifies women as victims alone. There is no act that explicitly states men can be victims of domestic violence too, and the PWDVA doesn't allow men to seek protection, shelter, or compensation. In *Hiral P. Harsora v. Kusum Narottamdas Harsora (2016)*⁷³⁹, the Supreme Court struck down Section 2(q) of the Protection of Women from Domestic Violence Act, 2005, which limited the term "respondent" to adult males. This was extended to include female respondents as well. Nonetheless, it was not applied to male victims, and thus the male-exclusive nature of the Act was preserved.

This exclusion overlooks the real victims of many men who have been abused by their wives or partners. Various NGO reports and studies show cases of men who have been physically hurt, wrongly accused, emotionally traumatized, and even economically abused by their female partners. But without any recourse to file their complaints, seek restraining orders, or go to shelter homes, they are left helpless.

4. Marital Cruelty Not Protected

Under Section 85 and 86 of the BNS (previously Section 498A IPC⁷⁴⁰), cruelty is an offense on the part of a husband or his relatives to ill-treat his

wife. This encompasses mental cruelty and physical cruelty, dowry issues, and cruel treatment that may force the woman to commit suicide. The law, however, does not observe cruelty by the wife against her husband. When the husband is subjected to mental harassment, physical cruelty, or suicide tendencies, the law is silent.

This unilateral model presumes that women alone are vulnerable in marriages. It ignores the increasing numbers of men who are victims of psychological abuse, threats of dowry, manipulation, or denial of access to their children. Men's rights groups say that most married men who commit suicide do so due to psychological abuse or attorney problems.

Additionally, the Supreme Court acknowledged that certain individuals abuse Section 498A, referring to it as a weapon of "legal terrorism" in certain situations. In *Sushil Kumar Sharma v. Union of India (2005)*⁷⁴¹, the Court acknowledged that even though section 498A was intended to safeguard women, it can result in causing serious injustice against men, and the legislative body needs to redress the imbalance. Nonetheless, there is no legal recourse available to a husband who is subjected to cruelty except when it becomes extremely acute and can be prosecuted under ordinary laws such as assault. It is essential to acknowledge marital cruelty against men to ensure there is justice and accountability in marriage laws.

5. Workplace Harassment: Legal Vacuum for Male Victims

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013⁷⁴² (POSH Act) gives complete protection from sexual harassment at workplace to women only. It makes Internal Complaints Committees (ICCs) compulsory, gives a wide definition of harassment, and makes inquiries on time. It doesn't provide help to male

⁷³⁸ PWDVA, *supra* note 17.

⁷³⁹ *Hiral P. Harsora & Ors. v. Kusum Narottamdas Harsora & Ors.*, AIR 2016 SC 4774.

⁷⁴⁰ IPC, *supra* note 26, § 498A.

⁷⁴¹ *Sushil Kumar Sharma v. Union of India*, AIR 2005 SC 3100.

⁷⁴² POSH Act, *supra* note 21.

employees who are subjected to the same type of harassment.

Men in workplaces today also fall victims to unwelcome advances, abuse, sexual comments, or harassment from co-workers or managers. The *Vishaka & Ors. v. State of Rajasthan & Ors. (1997)*⁷⁴³ gave rise to the POSH Act that although progressive in nature limited the protection to the women and did not provide protection to men or other genders. Male victims are not legally protected, and thus they have to rely on the HR policy of their organization, which is not a law. Even when companies act on men's complaints, the absence of a legal mandate results in sporadic enforcement and accountability.⁷⁴⁴

This legal gap fosters a culture in which male harassment is minimized or ignored. It can also lead to reverse discrimination and violates the constitutional principle of equal treatment.⁷⁴⁵ The U.S., U.K., and Canada already have gender-neutral sexual harassment laws. India also has to follow suit to ensure a safe and equal working environment for all.

6. No Maintenance to Men

Indian maintenance laws, including Section 18 of the Hindu Adoptions and Maintenance Act, 1956, and Section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, permit only parents, children, and women to claim maintenance. No law permits a man to claim maintenance from a wife, regardless of whether he is unemployed, disabled, or in need of money.

This discriminatory inequality in the law presumes all men are wealthy and all women are impoverished. This assumption is less accurate in the contemporary world. In the majority of urban families, women are as wealthy, or wealthier than, their husbands. But in divorce or separation actions, only women are

legally permitted to request support regardless of how wealthy the husband is.

There have been isolated judicial pronouncements allowing maintenance to men under equitable principles, but these remain exceptions rather than the rule. There is no codified law for men to get alimony, so they are kept out of the support system. Maintenance laws that cover all, irrespective of gender, would acknowledge evolving social and economic conditions as well as uphold the spirit of Article 39(a) of the Constitution to ensure all have sufficient means to live, irrespective of gender.

C. SOCIETAL AND PSYCHOLOGICAL IMPACTS ON MEN

1. Stigma, Silence, and Underreporting

Indian culture has outlooked men as the protectors and providers, denying them space to be vulnerable.⁷⁴⁶ This social pressure imposes a devastating stigma on male victims of harassment by law or abuse. Many males who are victims of domestic violence, sexual harassment, or emotional abuse choose not to disclose it because they are afraid of being made fun of, not believed, or rejected. Even within legal system, male victims are met with suspicion rather than sympathy, discouraging them from seeking justice. This high rate of underreporting hides the level of male suffering and sustains the perception that men do not, or cannot, suffer abuse.

2. Mental Health Crisis: Suicide and Emotional Suppression

The psychological burden of gender-discriminatory law and societal norms can be devastating for men. Ongoing suppression of feelings, the single breadwinner burden, and months of legal fight in cases of false allegations or custody conflicts result in increased anxiety, depression, and even suicidal thoughts. According to National Crime Records Bureau (NCRB) report, Accidental Deaths and Suicides in India, 2023, the number of suicides

⁷⁴³ *Vishaka, supra note 22.*

⁷⁴⁴ Muskhan Mangla, *Rape Against Men by Women — No Neutral Law in India*, Jus Corpus L.J. (2022).

⁷⁴⁵ Rangai Motale & Vedangi Kulkarni, *Discrimination Against Men in India and U.S.: Comparison Between Indian Laws and U.S. Laws*, IJLR (2024).

⁷⁴⁶ Shraddha Kothari, *Male Rape Victims — The Hushed Sufferers*, 4 Int'l J. L. & Legal Res. (IJLLR) (2022).

committed by married men is significantly higher than that of married women. In the category of “Marriage Related issues”, 4,863 married men committed suicide in 2023 compared to 4,180 married women and 38,612 men died because of “Family Problems” compared to 16,031 women. This shows a steady gender gap in the rates of suicide linked to social and family pressures.⁷⁴⁷

One such tragic example is the case of Atul Subhash⁷⁴⁸. He was a 34-year-old Bengaluru software engineer who committed suicide on 9 December 2024. He was a victim of harassment and extortion. In his 24-page suicide letter and video, Atul spoke of emotional and legal harassment, misuse of Section 498A IPC by his estranged wife’s relatives, and denial of access to the justice system. His case re-ignited public debate on men’s mental health issues, particularly in the family court system, and prompted immediate calls for legal change and judicial responsibility.

3. Social and Financial Fallout: False Cases and Custody Loss

False charges under laws such as IPC Section 498A and the Domestic Violence Act can have a life-shattering effect on men. Many people get arrested without proper investigation, are isolated by society, lose their jobs, and have to go through court cases for years. Accusation can ruin reputations, derail professional careers, and break families even if the man is acquitted afterwards.

One such landmark case is that of *Nisha Sharma v. The State of Madhya Pradesh (2014)*⁷⁴⁹, where Nisha Sharma in 2003 accused her fiancé, Munish Dalal, of last-minute dowry demands. Munish was arrested, and Nisha was praised across the country. However, in 2012, a court acquitted the accused on the grounds of the complaint being false to postpone the

wedding. The case exposed the potential of abuse of dowry laws and sparked a nationwide debate on whether there was a need for protection against false claims. In *Arnesh Kumar v. State of Bihar (2014)*⁷⁵⁰, the Supreme Court gave guidelines against the automatic arrest of people under Section 498A and acknowledged that dowry laws were being misused and the innocent men should be protected from harassment.

Men are being denied custody of children frequently, even when they are more appropriate to be the custodial parents. The presumption of automatic maternal custody and restricted visitation for fathers too frequently results in alienation and emotional harm.⁷⁵¹ Additionally, economic expenses like alimony and maintenance are forced upon men regardless of the economic standing of the spouse, leaving numerous financially exhausted and emotionally shattered.

D. COMPARATIVE LEGAL FRAMEWORK

1. International Models of Gender-Neutral Laws (US, UK, Canada)

Several developed countries have adopted gender-neutral legal frameworks that consider both men and women as potential victims and perpetrators of domestic violence, sexual harassment, and other gender violence. In the United States, the Violence Against Women Act (VAWA)⁷⁵² was specifically amended to cover male victims. Although initially meant for women, VAWA’s support and funding mechanisms have been extended to cover anyone regardless of gender who is a victim of domestic violence, dating violence, sexual violence, or stalking.

The UK’s Domestic Abuse Act 2021⁷⁵³ is gender-neutral, and abuse is defined as behaviour among partners or family members and all victims are given equal protection. The act

⁷⁴⁷ National Crime Records Bureau (NCRB), *Accidental Deaths and Suicides in India, 2023* (Ministry of Home Affairs, Govt. of India 2024).

⁷⁴⁸ Firstpost, *Atul Subhash Suicide: Who is Nikita Singhanian and Why Was She Arrested?* (last visited Oct. 18, 2025).

⁷⁴⁹ *Nisha Sharma v. The State of Madhya Pradesh*, (2014) 2024:MPHC-GWL:20031.

⁷⁵⁰ *Arnesh Kumar v. State of Bihar*, AIR 2014 SC 2756.

⁷⁵¹ S. Bhatnagar, *Custody Battles and Gender Bias: A Legal Perspective*, *Journal of Family Law*, 2020.

⁷⁵² Violence Against Women Act, 1994, Pub. L. No. 103-322, 108 Stat. 1902 (U.S.).

⁷⁵³ Domestic Abuse Act, 2021, c. 17 (UK).

defines coercive control, psychological abuse, and financial abuse experiences that are most commonly reported by male victims. The UK Sexual Offences Act 2003⁷⁵⁴ also legalizes rape and sexual assault based on the act committed and not the gender of the victim or the perpetrator, hence offering more legal protection.

Canada has developed in the manner in which it deals with abuse by partner. Its Criminal Code and family law statutes are gender neutral and its public health policy directly addresses the needs of male survivors. Men and LGBTQ+ individuals are receiving support services like shelters, helplines, and counselling. These jurisdictions demonstrate that gender-neutral systems can both protect vulnerable people and uphold the ideals of justice and equality without diminishing the needs of anyone.

2. Inclusion of Men in Domestic Violence Laws Elsewhere

Globally, there is growing perception is that domestic violence is not limited by gender. In Australia, New Zealand, and Ireland, laws have been introduced specifically to recognize men as potential victims of abuse. In Australia, for example, domestic violence legislation in all states and jurisdictions is gender-neutral regarding who can apply for protection orders, either partner in a relationship.

Similarly, New Zealand's Family Violence Act 2018⁷⁵⁵ protects all victims of abuse regardless of gender or sexual orientation. Male victims also enjoy government-sponsored campaigns and services. In Ireland, both male and female applicants are eligible to apply for safety, protection, and barring orders as per the Domestic Violence Act 2018, acknowledging abuse in all types of relationships.

These models of legislation are more inclusive and evidence-based in their conception of domestic abuse. They also are reasonable models for India to follow in ensuring that its

legal protections are universally applicable and constitutional.

3. India's Slow Legislative Reform

Despite increasing awareness and public debate, India has proceeded cautiously to introduce gender-neutral legislative reforms. Several Law Commission reports, judicial observations, and demands from civil society groups have urged an extension of protective laws like the Domestic Violence Act to include men and redefine sexual offences. Yet legislative inaction persists, typically due to political sensitivities and entrenched gender ideologies.

India's latest criminal law reform in the form of the Bharatiya Nyaya Sanhita (BNS), 2023 was a golden opportunity to amend laws where gender imbalances were concerned. But the reforms merely copied earlier biases, ignoring males being victim or suggesting gender neutral definitions of rape or domestic violence. Indian law therefore continues to have a one-sided view of gender justice, ignoring constitutional ideals of equality under Article 14⁷⁵⁶ and the rising global evidence that abuse and victimization are not gender specific. Even in the case of *Independent Thought v. Union of India* (2017)⁷⁵⁷, the Supreme Court had criminalised marital rape of wives who were under the age of 18 years but had left the immunity of adult marriages underlining the reluctance of judges to acknowledge sexual autonomy equally.

E. RECOMMENDATIONS AND LEGAL REFORMS

Attaining true gender justice in India calls for legislative reform, institutional change, and attitudinal adjustment at the societal level. The recommendations below try to correct the structural gender imbalance in existing laws and protect everyone irrespective of gender.

1. Amendments for Gender-Neutrality in IPC/BNS

⁷⁵⁴ Sexual Offences Act, 2003, c. 42 (UK).

⁷⁵⁵ Family Violence Act, 2018, No. 46 (N.Z.).

⁷⁵⁶ Constitution of India, art. 14, No. 1, Acts of Parliament, 1950 (India).

⁷⁵⁷ *Independent Thought v. Union of India*, AIR 2017 SC 4904.

The Indian Penal Code (now partially replaced by the Bharatiya Nyaya Sanhita, 2023 (BNS) needs to be gender-neutralized, particularly in sexual offence and liberty provisions.⁷⁵⁸ Rape, sexual assault, and harassment, outraging modesty, eve teasing, stalking and voyeurism need to be defined by nature of the act and not the gender of the victim or perpetrator. Countries like UK and Canada have succeeded in using such language without compromising equal protection under the law or women's rights. It needs to be achieved by substituting gender-specific words such as "woman" or "man" with "person" and allowing victims and offenders to be either gender.

2. Inclusion of Men and Other Genders in Protection Laws (PWDVA, POSH)

The Protection of Women from Domestic Violence Act (2005) must be made applicable to male and LGBTQ+ victims too. This would ensure that men and LGBTQ+ persons could receive protection orders, residence rights, and compensation in domestic violence cases. Similarly, the POSH Act (2013), which governs workplace sexual harassment, must be gender-neutralized. The law presently only permits women to file complaints, and male victims are forced to rely on non-existent or poor HR policies. Amendments should include procedural safeguards and independent grievance redressal for all workers, both male and female.

3. Recognition of Male Rape and Marital Rape of Any Gender

India's current rape laws define the crime as that committed by a man against a woman, thus transgender and male victims being excluded. The law needs to be amended to define rape as a crime against any person with a gender neutral and consent-based approach. Marital rape, regardless of the victim's gender, must be criminalized. The exemption given to

husbands under Section 67 of the BNS is against bodily autonomy and is not in line with modern human rights principles. Legal recognition of marital rape would make all spouses safe from non-consensual sex and protect the constitutional right to dignity and privacy.

4. Legal Rights in Family Law (Alimony, Custody)

India's family laws need to be overhauled completely to make cases of alimony and custody of children more just. Maintenance clauses in Hindu Marriage Act, Hindu Adoptions and Maintenance Act, and BNSS need to be gender-neutralized to enable dependent husbands to seek monetary assistance. Likewise, cases of custody need to be adjudicated on the basis of the best interest of the child, and not on gendered presumptions of parents. Equal attention to granting custody and visitation rights must be accorded to fathers, and measures must be taken to avoid alienation of parents.

5. Public Education and De-Stigmatization Campaigns

Legal reform must be accompanied by regular public education campaigns to break down gender stereotypes. Curriculum in schools and government funded programs must promote awareness that victimization and abuse are not gendered.⁷⁵⁹ Mass media, public health education campaigns, and legal education programs must encourage empathy and inclusiveness and allow male victims to come forward without society stigmatizing them.

CONCLUSION

Gender justice is impossible where equality is selective. The current legal system in India is progressive and effective in terms of its protection of women, but does not recognize the male and other genders as equal subjects of law. This gendered interpretation of protection laws is against Article 14 of the Constitution, that offers equality before the law

⁷⁵⁸ Dr. Shreshth Bhatnagar & Ms. Yutika Bhatnagar, *An Exploration of Men's Rights in India: A Critical Analysis of Legal Protections and Gender Equality*, IJCRT (2024).

⁷⁵⁹ K. Sharma, *Education and Awareness: Key to Challenging Gender Roles*, The Times of India, 2020.



and equal protection of the law. The current laws such as the BNS, POSH Act, and Domestic Violence Act continue to promote gender stereotypes where men are the only perpetrators and women are the only victims, which results in psychological distress, underreporting, and denial of justice to the male victims. The examples of other countries in the world, such as the United States, the United Kingdom, New Zealand, shows that gender-neutral legislations reinforce, rather than undermine, the protection of every citizen. India should thus reform its criminal and family legislation to cover the male and LGBTQ + victims, re-establish the definitions of sexual and domestic violence on the principle of act and consent instead of gender and offer equal consideration to remedies, maintenance and custody. The legislation should not only be shifted into protectionism, but equality where harm is identified regardless of identity. When all people irrespective of sex are equally secured and responsible in front of the law, then true justice will prevail.

