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### **A Socio-Legal Study Of Legal Protections For Men Against Abuse Of Gender Laws In India: Equality Before The Law**

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#### **Abstract**

*Gender equality, which ensures that everyone is equal before the law and has the same legal protections, is guaranteed under Article 14 of the Indian Constitution. Although India's legislative framework has implemented progressive measures to shield women from harassment, discrimination, and violence, there has been increasing criticism over the abuse of several gender-specific rules, which has led to unfair outcomes for men. With an emphasis on laws like Section 498A of the Indian Penal Code, the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, this essay critically analyzes the socio-legal ramifications of such misuse.*

*By looking at statistics from the National Crime Records Bureau (NCRB), court cases, and academic reviews, the research shows how men's rights are hurt by things like unjust prosecution, social shame, mental health problems, and damage to their reputation.*

*In order to protect real victims and avoid erroneous inference, this paper makes the case for a move toward gender-neutral legal drafting and balanced procedural safeguards. Time-bound complaint investigations, required preliminary investigations, sanctions for unfounded allegations, and allowing males to benefit from domestic violence and sexual harassment legislation are among the recommendations.*

*By adopting a socio-legal approach, the paper aims to contribute to a more inclusive understanding of gender justice- one that recognizes the rights and vulnerabilities of all genders. In doing so, it aligns with the theme of “Breaking the Binary” by advocating for legal reforms that transcend traditional gender assumptions and uphold the principle of equality before the law.*

**Keywords:** *Equality before law, Article 14, Article 15, Article 21, gender justice, gender neutrality, gender-specific laws, constitutional rights, legal reform, women protection laws, domestic violence, PWDVA 2005, POSH Act 2013, Section 498A IPC*

### **I. Introduction:**

Equality before the law is one of the cornerstones of constitutional democracy around the world. Article 14, which guarantees equality before the law and equal protection under the law, Article 15, which forbids discrimination based on sex, and Article 21, which guarantees the right to life and personal liberty, all enshrine this ideal in the Indian Constitution. When taken as a whole, these clauses establish the foundation for a legal system that must continue to be equitable, inclusive, and available to all citizens, regardless of gender.

However, historically, the indisputable vulnerabilities that women face in society have influenced the course of legal reform in India. The legislature's response to systemic injustices is reflected in legislative interventions like the Protection of Women from Domestic Violence Act, 2005 (PWDVA), the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), and Section 498A of the Indian Penal Code, 1860, which makes cruelty against married women a crime. These laws were intended to give women a much-needed buffer against dowry-related cruelty, workplace harassment, domestic abuse, and patriarchy.

However, these legal frameworks continue to be gender-specific, establishing a binary protection regime that grants protection to women as a class but denies the same protection to men and gender minorities. For instance, although the POSH Act is progressive in acknowledging workplace harassment, it only protects female employees, leaving out men and transgender individuals who might also experience sexual harassment at work. In a similar vein, the Domestic Violence Act of 2005 only acknowledges women as victims, ignoring situations in which men or partners of the same sex may also be abused.

This disparity and the abuse of some provisions have been recognized by the Indian judiciary over time. The Supreme Court noted in *Sushil Kumar Sharma v. Union of India* that although Section 498A was meant to shield women from abuse, it was occasionally abused as a means of harassing men<sup>1</sup>. Similar to this, the Court demonstrated its sensitivity to abuse in *Rajesh Sharma v. State of U.P.* by issuing guidelines to stop arbitrary arrests under Section 498A<sup>2</sup>. These rulings highlight the necessity of reevaluating laws to make sure they function within the larger framework of justice and fairness rather than favoring one gender over another.

On the other hand, a number of jurisdictions have adopted gender-neutral legal frameworks. For example, neither the victim's nor the perpetrator's gender is mentioned in the UK's Domestic Abuse Act, 2021, which defines abuse. Similarly, Australia and Canada have made strides toward inclusive legal systems, recognizing that everyone is susceptible to abuse or harassment, regardless of gender identity. India needs to reevaluate its legislative priorities in light of this global shift.

From a socio-legal viewpoint, India's current framework raises significant concerns. It rightly prioritizes the protection of women from historical disadvantages. However, it also risks reinforcing injustice by ignoring the abuse faced by men and non-binary individuals. This tension between protection and fairness highlights the dilemma of breaking the binary. The question is whether the law should continue to operate under a gender-specific framework or shift to a gender-neutral model that ensures justice for everyone. There is a research gap because, while the judicial system recognizes misuse, legislative reforms have not kept pace. Parliament has not yet amended or revised gender-specific laws to make them more inclusive, despite widespread evidence of misuse and exclusion. This article aims to critically examine the need for gender-neutral legislation in India, focusing specifically on the misuse of protective provisions, judicial responses, and international comparisons.

The introduction presents the main idea: justice cannot be selective. Equality before the law can only be achieved if protections apply to all genders. This approach challenges the binary that the Indian legal system has upheld until now.

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<sup>1</sup> *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281 (India).

<sup>2</sup> *Rajesh Sharma v. State of U.P.*, (2017) 8 SCC 746 (India).

## II. Historical Background of Gender-Specific Laws in India

The legislative framework that addresses crimes against women in India was created in response to the prevalence of gender-based violence and deeply ingrained patriarchal structures. For many years, women in India faced systematic discrimination in both public and private settings, which led Parliament to enact laws specifically designed to protect their interests. One of the first laws to be passed was the Dowry Prohibition Act, 1961, which was passed to prevent the social threat of dowries and to shield women from economic exploitation in marriage.<sup>3</sup>

Later, cruelty by the husband or his family members was made illegal by Section 498A of the Indian Penal Code (IPC), which was introduced in 1983. Since cruelty was interpreted broadly to include both physical and mental harassment, especially in relation to dowry demands, this was a significant step in the recognition of domestic violence as a criminal offense.<sup>4</sup> Although this clause was intended to protect women, it has since come under fire for possible abuse because it is cognizable and non-bailable, which frequently results in arbitrary arrests.<sup>5</sup>

Similarly, the Protection of Women from Domestic Violence Act, 2005 (PWDVA) established a civil law framework to tackle domestic abuse. It provides protection orders, residence rights, and maintenance for women.<sup>6</sup> Parallely, workplace harassment was officially recognized with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), which followed the Supreme Court's important Vishaka judgment in 1997.<sup>7</sup> These laws showed the state's recognition of women's vulnerabilities and its duty to provide safeguards under Articles 14, 15(3), and 21 of the Constitution.<sup>8</sup>

While these laws were undoubtedly progressive, their focus on gender created an imbalance by ignoring male and gender-diverse victims of abuse. This history has led to ongoing discussions about the need for gender-neutral laws that deliver justice for all citizens, regardless of gender identity.

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<sup>3</sup> The Dowry Prohibition Act, No. 28 of 1961, INDIA CODE (1961).

<sup>4</sup> Indian Penal Code, No. 45 of 1860, § 498A (amended 1983).

<sup>5</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273 (India).

<sup>6</sup> The Protection of Women from Domestic Violence Act, No. 43 of 2005, INDIA CODE (2005).

<sup>7</sup> *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 (India).

<sup>8</sup> INDIA CONST. arts. 14, 15(3), 21.

### III. Judicial Recognition of Misuse of Gender-Specific Laws

Although gender-specific laws in India were introduced to protect, the judiciary has often pointed out their misuse. Courts have raised concerns that the provisions meant to safeguard women can be used to harass men and their families. This undermines the very goal of these laws.

One frequently cited example is Section 498A IPC, which makes cruelty by a husband or his relatives a crime. In *Sushil Kumar Sharma v. Union of India*, the Supreme Court noted that while the provision was constitutionally valid, it had the potential to be misused, turning into a tool of legal harassment.<sup>9</sup> The Court stressed that the law was intended to punish genuine offenders, not to provide a way for revenge.

Additionally, in *Arnesh Kumar v. State of Bihar*, the Supreme Court pointed out the widespread misuse of Section 498A. The Court noted that its nature as cognizable and non-bailable often led to unnecessary arrests.<sup>10</sup> It directed police to follow strict guidelines before making arrests, reinforcing that personal liberty under Article 21 should not be casually limited.

In *Rajesh Sharma v. State of Uttar Pradesh*, the court noted that a large number of Section 498A complaints seemed inflated or untrue.<sup>11</sup> To reduce misuse, it suggested setting up Family Welfare Committees to review such complaints before any arrests were made. However, this direction was later adjusted in *Social Action Forum for Manav Adhikar v. Union of India*. The Court clarified that committees created by the judiciary could not override statutory provisions but still emphasized caution in these cases.<sup>12</sup>

High Courts have also shared these concerns. For example, in *Inder Raj Malik v. Sunita Malik*, the Delhi High Court warned about the misuse of dowry-related laws, noting that frivolous cases were overwhelming the criminal justice system.

These judicial statements show a recurring theme: while protecting women is crucial, the potential misuse of gender-specific laws puts justice at risk. Such acknowledgment from the judiciary supports the argument for gender-neutral legal frameworks that safeguard both victims and prevent wrongful prosecution.

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<sup>9</sup> *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281 (India).

<sup>10</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273 (India).

<sup>11</sup> *Rajesh Sharma v. State of Uttar Pradesh*, (2017) 8 SCC 746 (India).

<sup>12</sup> *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443 (India).

#### IV. Comparative Perspective: Gender-Specific vs. Gender-Neutral Laws in Other Jurisdictions

The Indian legal system mainly offers gender-specific protections. Women are the primary beneficiaries of laws like Section 498A of the Indian Penal Code and the Dowry Prohibition Act of 1961. The purpose of these legislation is to address systemic violence against women and injustice. However, their one-sided nature has led to frequent claims of misuse and calls for change.<sup>13</sup>

In contrast, many common law jurisdictions, including the United States, United Kingdom, and Australia, have taken a gender-neutral approach toward domestic violence and harassment laws. In the United States, the Violence Against Women Act of 1994 (VAWA) establishes a framework for domestic violence laws that protect everyone, regardless of sex or gender<sup>14</sup>. In a similar vein, domestic violence is illegal in the UK under the Domestic violence Act of 2021, regardless of the gender of the victim or the abuser.<sup>15</sup> In Australia, the Family Law Act of 1975 and related domestic violence laws are framed in gender-neutral language, protecting all individuals in familial and intimate relationships<sup>16</sup>.

This comparison shows that gender-neutral laws not only recognize male and LGBTQ+ victims but also reduce the misuse of protective laws by holding individuals accountable based on their behavior, not their gender. Some scholars suggest that this universal application boosts the credibility of legal systems and promotes a more inclusive sense of justice<sup>17</sup>.

While India's gender-specific laws are rooted in the history of protecting women from deep-seated patriarchal violence, the experiences of other jurisdictions suggest that India should think about moving toward gender-neutral laws. This change could happen without compromising essential protections for women who still face systemic oppression.

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<sup>13</sup> The Dowry Prohibition Act, No. 28 of 1961, INDIA CODE (1961); Indian Penal Code, No. 45 of 1860, § 498A, INDIA CODE (1860).

<sup>14</sup> Violence Against Women Act of 1994, 42 U.S.C. § 13701 (1994).

<sup>15</sup> Domestic Abuse Act 2021, c. 17, Section 1 (U.K.).

<sup>16</sup> Family Law Act 1975 (Cth) (Austl.).

<sup>17</sup> Rashida Manjoo, Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, U.N. Doc. A/HRC/20/16 (2012).

## V. Legislative Landscape and Its Gendered Framework

The criminal law system in India has always been gender specific with a primary emphasis on ensuring that women are not subjected to victimization through various kinds of violence and exploitation. Although, this intention is based on historical inequalities, it has opened up opportunities of exploitation and discrimination. An example is Section 375 of the Indian Penal Code (IPC) which explicitly defines rape in a way that confines rape to a man as a perpetrator and a woman as a victim, and thus excludes male victims and transgender victims, as well as rape victims who are men or transgender.<sup>18</sup>

Even the Justice J.S. Verma Committee Report (2013), which was based on the findings in the Nirbhaya case and urged changes, continued to focus on women exclusively, missing a chance to advocate gender-neutral provisions.<sup>19</sup> The recent split decision by the Delhi High Court in the case on criminalizing marital rape further illustrates this gender-biased approach which is not only untenable as a constitutional guarantee of equality before law under Article 14 of the Constitution and non-discrimination under Article 15.<sup>20</sup>

Although law making took a protective approach, its biased nature has created injustices which require the orientation of law making to be gender neutral in addressing abuse without considering the gender of the victim.

## VI. Judicial Advancement -Gender Neutrality

The Indian judiciary has been critical in challenging its gendered construction of laws and the nature of its protection beyond the normal binaries. Although neutrality has been slow in the legislation, the judicial definition has been very vigilant of equality and dignity as enshrined in the Constitution.

Navtej Singh Johar v NALSA v. UOI (2018), the Supreme Court held that transgender individuals had a constitutional right to identify as they chose by amending the NALSA verdict in light of the NALSA verdict to include transgender individuals<sup>2</sup> within the constitutional protection of single sex marriage.<sup>21</sup> The Court also acknowledged the existence of a third gender under the Union of India (2014), and established that the rights must be legally granted

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<sup>18</sup> The Indian Penal Code, No. 45 of 1860, Section 375 (India).

<sup>19</sup> Justice J.S. Verma et al., Report of the Committee on Amendments to Criminal Law 113–15 (2013).

<sup>20</sup> RIT Foundation v. Union of India, W.P. (C) 284/2015 (Del. HC 2022).

<sup>21</sup> Navtej Singh Johar v. Union of India, (2018) 10 SCC 1 (India).

regardless of gender identity.<sup>22</sup> This is indicative of how the judicial system is taking steps to change to a rights-based approach that is gender-neutral, vis-a-vis slow law-making and legislative changes.

In addition, in *Joseph Shine v. Union of India* (2018), the Court decriminalized adultery, pointing out that any law that rests on patriarchal satisfactions of control over women are not constitutional.<sup>23</sup> More recently, the Delhi High Court has heard the case of marital rape exception under 375 IPC, and although the bench is deeply divided, it has signaled the willingness of the judicial system to address the gendered shortcomings of criminal law.<sup>24</sup>

It is on the basis of these interventions that the courts have slowly but steadily expanded the scope of the equality jurisprudence in a manner that would lead to the adoption of a gender-blind legal framework.

## VII. Comparative Laws on Gender-Neutral Laws

The worldwide experience demonstrates that gender neutrality in law is not only a novelty brought to law by the advanced legal picture, but it is an achievable practice which is already embraced by many jurisdictions. Examining the three cases of the United States, the United Kingdom and Australia comparatively, there are lessons that can be learnt to improve the legal reform in India.

In the United States, rape and sexual assault criminal laws have been re-enacted in a gender-neutral manner, acknowledging that perpetrators and victims may be of any gender. This development was bolstered by the legislation under the Equal Protection Clause of the Fourteenth Amendment that forbids gender-based discrimination.<sup>25</sup>

The United Kingdom has also taken the gender-neutral approach, especially since the Sexual Offences Act, 2003, which defines rape and other sexual crimes, does not limit the definition of victimhood or perpetrator into a specific gender.<sup>26</sup> The UK has also taken the same attitude towards its domestic violence laws in that they extend their protection, regardless of gender.

The Australian legislations (both federally and state) have moved towards the use of gender-neutral terminology in criminal legislation by a deliberate policy choice. As an example, the

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<sup>22</sup> *Nat'l Legal Servs. Auth. v. Union of India*, (2014) 5 SCC 438 (India).

<sup>23</sup> *Joseph Shine v. Union of India*, (2019) 3 SCC 39 (India).

<sup>24</sup> *RIT Foundation v. Union of India*, W.P. (C) 284/2015 (Del. HC 2022).

<sup>25</sup> U.S. Const. amend. XIV, § 1.

<sup>26</sup> Sexual Offences Act 2003, c. 42 (U.K.).

Crimes Act 1900 (NSW) legalizes that equal protection against sexual violence and domestic abuse applies to all persons.<sup>27</sup> Judicial findings have also added support to the issue of inclusiveness by recognizing that it is equally easy to be vulnerable as a man, a woman, and even a transgender person in various situations.

Considering the trend in the comparison, it distinguishes the tendency of the legal systems of different parts of the world to dismantle the gender polarization of criminal law in order to guarantee inclusiveness and equality. India is a constitutional democracy that believes in equality therefore is able to learn in similar cases experienced by other countries thus enhancing the legal framework.

#### **VIII. Suggestions or Recommendations:**

This controversy over gender neutrality in the criminal law is not one to weaken the protections granted to women, but to put all genders on equal footing with each other. The Transgender Persons (Protection of Rights) Act, 2019 has already acknowledged the rights of transgender people in India, however there is still a limited amount of application of these rights in criminal law.

Reforms are required which are multidimensional:

1. *Gender Specific Fixation Amendment to Give it a Gender Neutral Amendment* - Provisions such as IPC 375 (Rape) and IPC 498A (Cruelty by husband or relatives) must be restructured in gender-neutral language so as to focus on the act of violence or exploitation than the gender of the victim or perpetrator.<sup>28</sup>
2. *Reinforcing the POSH Act, 2013* - The Act seems progressive in its workplace protection policy, but it leaves men out of the scope of its application. Making gender-inclusive terms will provide a level playing field to avoid the question of unfairness to harassment among different gender.<sup>29</sup>
3. *Awareness and Sensitization* - Although legal reforms play a vital role in settling the gender-neutrality question, legal reforms by themselves will not always be effective in practice. Judges, policemen as well as the general population should be sensitized and made more aware in order to ensure that gender-neutral laws remain effectively applied.

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<sup>27</sup> Crimes Act 1900 (NSW) (Austl.).

<sup>28</sup> Indian Penal Code, 1860, §§ 375, 498A.

<sup>29</sup> Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, § 2(n) (India).

4. *Protections Against Abuse / Misuse* - Barriers to the abuse of Section 1983 exist to assuage fears about false allegations and efficacy in the system to deter frivolous complaints and the scholarly community can help by recognizing effective procedural protection without laxity on homeless victims.<sup>30</sup>
5. *Global Models* - India can learn lessons of best practices in other jurisdictions such as the UK, U.S. and Australia, that have been effective in both pursuing gender-neutral statutes that effectively still provide special protections when vulnerability is prevalent.

To sum up, gender neutrality in law does not threaten the cause of women, but is an enlargement of human rights to all genders. Implementing such reforms would not just map on to the constitutional mandate of India with regard to equality under Articles 14 and 15, but would also convey the spirit that the country embraces international human rights norms.

## IX. Conclusion

Indian discourse on gender justice is a paradox. On the one side, the law has been critical in breaking centuries of subjugation against women and affording them a political space of honour in the society. The current exception to protections of a more gender-specific nature, however, has equally resulted in the development of another imbalance. Laws like Section 498A of the Indian Penal Code and the Dowry Prohibition Act were created with an enviable motive and purpose of preventing a woman against structural abuse and violence. But, as years have passed, there have been recurring concerns brought up about their application and there have been past instances where judges have recognized the want of caution and balance in their application. The courts have repeatedly tried to find a good balance relying on the need to protect and the possibility of abuse.

This stress implicates the importance of breaking away with binary concepts of gender in the legal system. Such a framework based solely on the protection of women is no longer sufficient as a woman in a modern society where men are also potentially victims of harassment, unfounded allegations, or domestic violence. Justice as a concept is supposed to be just to everyone regardless of the gender. Enactment of gender-neutral laws, especially those in the context of domestic violence, sexual harassment, and matrimonial litigation, would lend greater credence to the legal system as it would mean that the law offers protection to all vulnerable persons regardless of gender considerations.

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<sup>30</sup> Rajesh Sharma v. State of Uttar Pradesh, (2017) 8 SCC 746 (India).

Furthermore, the gender-neutral approach does not deny the fact that women came across more distinct issues. On the contrary, it strengthens the legal system since it does not depict that victimization belongs to one gender. It fills in the disconnection between the available constitutional ideology of equality and its actual practice. In so doing, it will work towards fostering the culture of accountability thus eliminating chances of abuse of the law and reviving the confidence of the citizenry in the justice delivery system.

The end result of breaking the binary is not to undermine any women and their hard-won rights. But it is more about realizing that the road to an egalitarian society runs through equality before the law as it should be. Justice is not allowed to be partial, but must be universal. A society that believes in fairness and dignity of human beings should make a decisive shift, which underscores gender-specific protection toward equal protection. And it is only when the legal system can fulfill its potential of acting as a catalyst of justice to everyone that the full God-given beauty and efficacy can be attained.

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