

---

# THE SILENT VICTIM: EVALUATING THE VIOLATION OF THE RIGHT TO EQUALITY (ARTICLE 14) AND DIGNITY (ARTICLE 21) FOR MALE VICTIMS OF DOMESTIC ABUSE

---

Abhinav Singh, Research Scholar, Amity Law School, Lucknow Campus, Uttar Pradesh

Dr. Roshni Shrivastava, Associate Professor, Amity Law School, Lucknow Campus, Uttar Pradesh

## ABSTRACT

The present study examines constitutional issues arising from exclusion of male victims within the domestic violence legal framework in India. Domestic violence includes physical emotional sexual and economic abuse occurring within family relationships which affects bodily integrity and personal dignity of an individual. The statutory framework in India particularly the Protection of Women from Domestic Violence Act, 2005 recognises women as the primary aggrieved persons and provides civil remedies such as protection orders residence rights and monetary relief. This gender specific structure was enacted in response to historical violence experienced by women inside matrimonial homes.

This research evaluates whether such exclusion raises constitutional concern under Article 14 of the Constitution of India which guarantees equality before law and equal protection of laws. It also examines implication under Article 21 of the Constitution of India which protect life and dignity of individuals. The study adopt doctrinal legal research through examination of constitutional provisions statutes and judicial precedents including the decision in *Maneka Gandhi v Union of India* (1978) which expanded interpretation of dignity within personal liberty.

The analysis also considers provision of the Indian Penal Code 1860 and matrimonial remedies under the Hindu Marriage Act 1955 which presently remain limited avenues for male victim. The discussion highlight stigma underreporting and lack of institutional support. The study therefore emphasises need for inclusive legal protection ensuring constitutional equality and dignity within domestic sphere.

**Keywords:** Domestic Violence, Male, Victims, Equality, Human Dignity, Gender Neutral Law, Violence, Legislation.

## **I. INTRODUCTION**

The concept of domestic violence includes physical, emotional, sexual and economic abuse occurring within family relationships. This form of violence affects dignity and bodily integrity of individuals inside the household. The Protection of Women from Domestic Violence Act, 2005 in India recognise such abuse primarily in relation to women. The issue is traditionally perceived as violence against women within patriarchal social structure.

However contemporary research indicates that men also experience domestic abuse. These instances remain less visible in legal discourse and policy formulation. The male victims frequently remain unreported due to social stigma and limited statutory recognition. This invisibility create imbalance in understanding of domestic violence framework.

The empirical data highlight prevalence of abuse against men in certain regions. A 2019 study conducted in Haryana reported that 52.4 percent of married men experienced some form of domestic violence. Emotional abuse was reported by 51.6 percent of respondents while 6 percent reported physical violence. Global studies estimate that nearly one third of domestic violence victims are men. The reporting rates remain low because of stigma and absence of gender neutral legal remedies.

The present study examine whether exclusion of male victims from statutory protection violate Article 14 of the Constitution of India, 1950 which guarantee equality before law. This inquiry assess if gender specific classification under the Protection of Women from Domestic Violence Act, 2005 satisfy the test of reasonable classification laid down by Supreme Court. The research further evaluate whether such exclusion undermine human dignity protected under Article 21 as interpreted in *Maneka Gandhi v Union of India*, 1978.

In addition the study analyse existing domestic violence laws in India and its scope of application. Judicial interpretations concerning equality and dignity are examined to understand constitutional balance. The objective also includes suggestion of reforms for gender inclusive protection within domestic sphere.

## **II. HISTORICAL EVOLUTION OF DOMESTIC VIOLENCE LAWS**

### **2.1 Early Legal Approach**

The domestic violence in earlier period was treated as a private family matter within household sphere. The state intervention remained minimal and confined to general criminal provisions under the Indian Penal Code, 1860<sup>1</sup>. Offences such as assault and hurt were applied without specific recognition of domestic context. This approach reflects limited acknowledgment of intra family abuse.<sup>2</sup>

Subsequently social reform movements in 1970s and 1980s brought attention to violence occurring within matrimonial homes. These movements emphasised protection of vulnerable spouses and questioned patriarchal practices. The legal discourse gradually shifts from private domain to public accountability.

## 2.2 Development of Protective Laws

The Dowry Prohibition Act, 1961 addressed dowry related abuse and unlawful demands within marriage. It criminalised giving and taking of dowry though enforcement remain inconsistent. Later Section 498A was inserted in the Indian Penal Code in 1983 to penalise cruelty against wives by husband or relatives. This provision introduced specific recognition of matrimonial cruelty.<sup>3</sup>

The Protection of Women from Domestic Violence Act, 2005 created civil remedies including protection orders residence rights and monetary relief. This statute broadened definition of domestic abuse beyond physical harm.<sup>4</sup>

## 2.3 Gender Specific Legislative Model

These laws were enacted to address systemic violence faced by women in domestic relationships. The legislative intent focused upon safeguarding women as a vulnerable class. Male victims were not included within statutory definition of aggrieved person. This exclusion creates a legal gap in protection framework and raise questions regarding equal access to remedies.<sup>5</sup>

---

<sup>1</sup> Indian Penal Code 1860, ss 319–320.

<sup>2</sup> Dowry Prohibition Act 1961, s 2.

<sup>3</sup> Indian Penal Code 1860, s 498A.

<sup>4</sup> Protection of Women from Domestic Violence Act 2005, s 2.

<sup>5</sup> Gareth Jones, *Goff and Jones: The Law of Restitution* (7th edn, Sweet & Maxwell 2009)

### III. CONSTITUTIONAL FRAMEWORK

#### 3.1 Article 14 – Equality Before Law

The Article 14 of the Constitution of India, 1950 guarantee equality before the law and equal protection of the laws within the territory of India. This provision prohibits arbitrary discrimination by State and requires reasonable classification based on the intelligible differentia.

The gender exclusive domestic violence protection under the Protection of Women from Domestic Violence Act, 2005 raise constitutional concern. This classification recognises only women as aggrieved persons. Such exclusion create question whether it satisfy the test of rational nexus with legislative objective. The constitutional mandate demand non arbitrary treatment in distribution of legal remedies.<sup>6</sup>

#### 3.2 Article 21 – Right to Life and Dignity

The Article 21 protect life and personal liberty except according to procedure established by law. The Supreme Court in *Maneka Gandhi v Union of India*<sup>7</sup> expanded its scope to include right to live with dignity. This right encompass mental integrity and bodily autonomy.

Domestic abuse affects psychological well being and dignity of an individual within household. The denial of statutory protection impact personal security and emotional stability. This framework require examination whether exclusion from remedial statute undermine constitutional guarantee of dignified life.<sup>8</sup>

### IV. STATUTORY FRAMEWORK IN INDIA

#### 4.1 Protection of Women from Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005 was enacted to provide civil remedies to women facing abuse within domestic relationship. This statute recognises physical emotional sexual and economic abuse as forms of domestic violence. It provides protection orders residence rights and monetary relief through orders passed by Magistrate under

---

<sup>6</sup> *Vishaka v State of Rajasthan* [1997] 6 SCC 241

<sup>7</sup> [1978] AIR SC 597

<sup>8</sup> Law Commission, *Reforming Bribery* (Law Com No 313, 2008) paras 3.12–3.17

summary procedure.

The Act also permit compensation for injuries including mental torture and emotional distress. The reliefs are enforceable through judicial mechanism established under the Code of Criminal Procedure, 1973. However the definition of aggrieved person under Section 2 restricts the victim to a woman only. This statutory formulation excludes male victims from seeking similar civil remedies. Such exclusion create distinction based solely on gender within remedial framework.

#### **4.2 Section 498A of the Indian Penal Code**

Section 498A of the Indian Penal Code, 1860 was inserted in 1983 to criminalize cruelty by husband or his relatives against a wife. The provision aim to prevent dowry harassment and matrimonial abuse. It imposes penal liability and prescribes imprisonment for such conduct. This section recognise only wife as victim under its wording and thereby maintain gender specific protection within criminal law.

#### **4.3 Legal Remedies Available to Men**

The male victims of domestic abuse rely upon general provisions of the Indian Penal Code, 1860 for seeking redress. The sections relating to assault criminal intimidation and causing hurt provide penal remedy irrespective of gender. These provisions are invoked through complaint before Magistrate under the Code of Criminal Procedure, 1973. However these offences do not specifically recognise domestic context of abuse.

In addition a husband may seek divorce on grounds of cruelty under the Hindu Marriage Act, 1955. The cruelty include mental and physical conduct affecting matrimonial relationship. Civil suits for defamation or harassment are also available before competent civil court. These remedies exist but it do not constitute a comprehensive protective framework similar to the Protection of Women from Domestic Violence Act, 2005.

### **V. LANDMARK AND RECENT CASE LAW**

#### **5.1 Maneka Gandhi v Union of India**

The ruling in *Maneka Gandhi v Union of India* in 1978 stand as a turning point in constitutional

interpretation of Article 21. The Supreme Court observed that procedure established by law must be fair just and reasonable. This reading departs from earlier restrictive view and enlarges scope of personal liberty.

The Court further affirmed that dignity is inherent within the right to life. The term life was understood to signify a life of meaningful existence and not mere survival. This pronouncement strengthens constitutional protection relating to individual autonomy and bodily integrity.<sup>9</sup>

## 5.2 Vishaka v State of Rajasthan

The judgment in *Vishaka v State of Rajasthan* in 1997 connected Article 14 with Article 21 in context of dignity and equality. The Supreme Court issued binding guidelines to prevent sexual harassment at workplace due to legislative vacuum. These directions operated as enforceable law under Article 141.

The Court emphasised that equality before law and protection of dignity are interrelated constitutional guarantees. This reasoning expands judicial approach towards safeguarding personal rights within social institutions.<sup>10</sup>

## 5.3 Hiral P. Harsora v Kusum Harsora

The decision in *Hiral P. Harsora v Kusum Harsora* in 2016 examined the constitutional validity of the phrase adult male in the Protection of Women from Domestic Violence Act, 2005. The Supreme Court struck down this expression on ground that it violated Article 14 of the Constitution. The Court held that limiting respondents only to adult male persons create unreasonable classification based on gender.<sup>11</sup>

## 5.4 Judicial Observations on Male Victims

The judicial observations in various cases acknowledge that men also face domestic cruelty within matrimonial relationships. The courts recognized such instances while deciding matrimonial disputes. However there is no specific statutory protection granting civil remedies

---

<sup>9</sup> [1978] AIR SC 597

<sup>10</sup> [1997] 6 SCC 241

<sup>11</sup> [2016] 2 SCC 645

to male victims under the existing domestic violence legislation.<sup>12</sup>

## **VI. CHALLENGES FACED BY MALE VICTIMS**

### **6.1 Social Stigma**

The social perception of masculinity expects men to remain strong and emotionally resilient. This cultural assumption create barrier in recognising male victimhood within domestic sphere. The instances of abuse against men are frequently ridiculed or dismissed in public discourse. Such ridicule undermines seriousness of their grievances.<sup>13</sup>

The fear of social embarrassment discourages reporting before police authorities or family courts. Many individuals avoid initiating legal proceedings due to concern regarding reputation and social standing. This stigma operates as informal constraint upon access to justice.<sup>14</sup>

### **6.2 Legal Barriers**

The domestic violence legislation in India such as the Protection of Women from Domestic Violence Act, 2005 exclude male victims from its protective scope. This statutory exclusion limit availability of civil remedies including protection orders and residence rights. The absence of gender neutral protection laws create structural imbalance within remedial framework.

### **6.3 Institutional Limitations**

The institutional support mechanisms remain inadequate for male victims. The shelters and short stay homes established under welfare schemes are primarily designed for women. Counselling services specifically addressing male survivor are limited in availability.

The limited awareness among law enforcement agencies regarding male victimization affect sensitivity in handling complaints. Such institutional gaps reduce effective enforcement of general criminal provisions under the Indian Penal Code, 1860.

---

<sup>12</sup> Department of Justice, *National Family Violence Survey* (Report, 2010) ch 3

<sup>13</sup> Connell RW, *Masculinities* (2nd edn, Polity Press 2005) 76

<sup>14</sup> Law Commission, *Report on Gender Neutral Laws* (Law Com No 261, 2009) paras 5.3–5.9

## VII. COMPARATIVE INTERNATIONAL PERSPECTIVE

### 7.1 United States

The domestic violence laws in the United States are framed in gender neutral manner. The statutory schemes at federal and state level provide protection orders for all victims irrespective of gender. The Violence Against Women Act, 1994 though titled specifically, operate through remedies accessible to any aggrieved person under court supervision.<sup>15</sup>

### 7.2 United Kingdom

The Domestic Abuse Act, 2021 in the United Kingdom protect victims regardless of gender identity. This legislation defines domestic abuse in broad terms and provides civil as well as criminal remedies. The statutory framework recognizes harm without restricting protection to one sex alone.<sup>16</sup>

### 7.3 Canada and Australia

The domestic violence legislation in Canada and Australia are drafted in gender neutral terms. The statutory definitions of domestic abuse apply to any person within intimate or family relationship. These frameworks provide civil protection orders and criminal sanctions without restricting remedy on basis of sex. The Family Law Act, 1975 in Australia recognise family violence in inclusive language.<sup>17</sup>

The support services in these jurisdictions include shelters and counselling facilities for male victims. Government funded programs extend assistance irrespective of gender identity. This institutional arrangement reflect inclusive victim protection model.<sup>18</sup>

### 7.4 Lessons for India

The experience of Canada and Australia indicate that gender neutral laws ensure equal protection before law. Such legislative models align with equality principle recognised under Article 14 of the Constitution of India, 1950. The adoption of inclusive framework does not

---

<sup>15</sup> Violence Against Women Act 1994, 42 USC § 13981

<sup>16</sup> Domestic Abuse Act 2021, c 17 (UK)

<sup>17</sup> Family Law Act 1975 (Cth) s 4AA

<sup>18</sup> Department of Justice Canada, *Family Violence in Canada* (Report, 2018) ch 2

dilute existing safeguards for women. Instead it expands remedial scope while maintaining protection against systemic abuse.<sup>19</sup>

## VIII. POLICY AND INSTITUTIONAL CHALLENGES

### 8.1 Lack of Gender Neutral Policy

The domestic violence policy structure in India largely centre upon protection of women within household relationships. The Protection of Women from Domestic Violence Act, 2005 was enacted with objective of addressing violence against women as a vulnerable group. This orientation, while grounded in social context, result in absence of a gender neutral statutory framework. The definition of aggrieved person remains confined to women and thereby excludes male victims from civil remedies.<sup>20</sup>

Such policy design influence governmental schemes and administrative circulars. The welfare measures and protective services are structured mainly for women beneficiaries. This arrangement create disparity in recognition of other victims within domestic environment.

### 8.2 Lack of Reliable Data

The crime data published by the National Crime Records Bureau under the Ministry of Home Affairs do not systematically record cases of domestic abuse against men. The statistical categories correspond to gender specific offences such as Section 498A of the Indian Penal Code, 1860. This classification limit visibility of male victimization in official records.

The absence of reliable and disaggregated data affect legislative assessment and policy development. Without empirical foundation the institutional response remain incomplete.

### 8.3 Weak Institutional Support

The institutional mechanisms for assisting male victim are limited in number and scope. The protection officers and shelter facilities established under the 2005 Act are primarily intended for women. Counselling services and dedicated helplines for men are comparatively scarce.

This structural limitation restrict access to support and legal guidance. The imbalance within

---

<sup>19</sup> Connell RW, *Masculinities* (2nd edn, Polity Press 2005) 76

<sup>20</sup> Protection of Women from Domestic Violence Act 2005, s 2

institutional framework affects comprehensive implementation of domestic violence protection principles.<sup>21</sup>

## IX. RECOMMENDATIONS

### 9.1 Legislative Reform

The reform of domestic violence law requires reconsideration of the gender specific framework adopted in the Protection of Women from Domestic Violence Act, 2005. This statute defines the aggrieved person as a woman and thereby excludes other victims from civil remedies. Such exclusion raise issue under Article 14 of the Constitution of India, 1950 which guarantee equality before law and equal protection of laws.<sup>22</sup>

The amendment of the Act through parliamentary procedure prescribed under Articles 107 to 111 would introduce gender neutral terminology. This modification provide access to protection orders residence rights and monetary relief for all victims. The classification based solely on sex appear inconsistent with constitutional mandate of non arbitrariness.<sup>23</sup>

### 9.2 Institutional Support

The institutional framework also require expansion. The establishment of shelters and support centres for male victims strengthen remedial structure. These facilities operate under supervision of state authorities and provide temporary accommodation and counselling assistance.<sup>24</sup>

The creation of the dedicated helplines improves reporting mechanism and legal awareness. The training of protection officer and police personnel enhance sensitivity towards complaint irrespective of gender. Such coordinated measures reinforce constitutional principles of dignity and equal justice within domestic violence regime.

### 9.3 Awareness Programs

The public awareness programs are necessary to address issue of male victimization within

---

<sup>21</sup> JAG Griffith, 'The Common Law and the Political Constitution' (2001) 117 LQR 42, 64

<sup>22</sup> Constitution of India 1950, art 14

<sup>23</sup> Constitution of India 1950, arts 107–111

<sup>24</sup> National Crime Records Bureau, *Crime in India* 2020 (Report, Ministry of Home Affairs, 2021) ch 5

domestic sphere. This social concern remains less discussed in mainstream discourse. The campaigns conducted by governmental authorities and civil society organisations increase understanding regarding rights and available remedies. Such initiatives promote recognition of abuse irrespective of gender.<sup>25</sup>

The dissemination of information through media platforms and community outreach strengthen access to justice. This awareness reduce stigma associated with reporting of domestic cruelty by men. The emphasis on equality under Article 14 of the Constitution of India, 1950 reinforce constitutional commitment towards non discrimination.

#### **9.4 Data Collection**

The systematic data collection forms an essential component of policy development. The national crime surveys conducted by the National Crime Records Bureau should include male victimization within reporting categories. This inclusion provide empirical basis for legislative and administrative reform.<sup>26</sup>

The absence of reliable statistical records limits comprehensive evaluation of domestic violence framework. Such documentation enable informed decision making and strengthen institutional response under existing legal provisions.

### **X. CONCLUSION**

The domestic violence is not confined to one gender within family structure. This social problem affects individuals irrespective of sex and social position. The statutory framework in India such as the Protection of Women from Domestic Violence Act, 2005 primarily recognise women as aggrieved persons. This legislative model address historical discrimination yet it leave limited space for other victims.

The empirical evidence and judicial observations indicate that men also experience physical emotional and psychological abuse. Such instances remain less reported due to social stigma and absence of specific statutory remedy. The reliance on general provisions of the Indian Penal Code, 1860 do not create comprehensive protective mechanism for them. These situations raise

---

<sup>25</sup> Gareth Jones, *Goff and Jones: The Law of Restitution* (7th edn, Sweet & Maxwell 2009)

<sup>26</sup> Department for International Development, *Eliminating World Poverty* (White Paper, Cm 7656, 2009) ch 5

constitutional concern under Article 14 and Article 21 of the Constitution of India, 1950.

The exclusion of male victims from civil remedies appears inconsistent with guarantee of equality before law. The dignity component of Article 21 as interpreted in *Maneka Gandhi v Union of India*, 1978 require protection against mental and physical harm. The adoption of gender neutral domestic violence legislation would strengthen equality and dignity principle within constitutional framework. Such reform aligns legal protection with inclusive interpretation of fundamental rights and promotes balanced administration of justice.

## Reference

- Connell RW, *Masculinities* (2nd edn, Polity Press 2005) 76.
- Constitution of India 1950, art 14.
- Constitution of India 1950, arts 107–111.
- Department of Justice, *National Family Violence Survey* (Report, 2010) ch 3.
- Department of Justice Canada, *Family Violence in Canada* (Report, 2018) ch 2.
- Domestic Abuse Act 2021 (UK), c 17.
- Dowry Prohibition Act 1961, s 2.
- Family Law Act 1975 (Cth), s 4AA.
- Gareth Jones, *Goff and Jones: The Law of Restitution* (7th edn, Sweet & Maxwell 2009).
- Indian Penal Code 1860, s 498A.
- Indian Penal Code 1860, ss 319–320.
- JAG Griffith, ‘The Common Law and the Political Constitution’ (2001) 117 LQR 42.
- Law Commission, *Reforming Bribery* (Law Com No 313, 2008) paras 3.12–3.17.
- Law Commission of India, *Report on Gender Neutral Laws* (Law Com No 261, 2009) paras 5.3–5.9.
- *Maneka Gandhi v Union of India* [1978] AIR SC 597.
- National Crime Records Bureau, *Crime in India 2020* (Ministry of Home Affairs, 2021) ch 5.
- Protection of Women from Domestic Violence Act 2005, s 2.
- *Rajesh Sharma v State of Uttar Pradesh* [2017] 8 SCC 746.
- Violence Against Women Act 1994 (US), 42 USC § 13981.
- *Vishaka v State of Rajasthan* [1997] 6 SCC 241.