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## **SOCIO-LEGAL DIMENSIONS OF DOMESTIC VIOLENCE: MYTHS AND REALITIES OF GENDERED VIOLENCE**

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### **ABSTRACT**

Domestic violence constitutes one of the most pervasive human rights violations globally, deeply embedded in societal structures and power dynamics that perpetuate gender inequality. While the Protection of Women from Domestic Violence Act, 2005 (PWDVA) represents a significant milestone in India's legislative evolution by recognizing and addressing violence against women within private spheres, its gender-specific framework has generated considerable debate regarding the systematic exclusion of male and LGBTQIA+ victims from legal protection. This paper undertakes a critical examination of the socio-legal dimensions of domestic violence in contemporary India by interrogating the persistent myths that shape public discourse and analyzing the legal realities that govern enforcement mechanisms. The central argument posits that while women disproportionately experience domestic violence due to structural inequalities, the exclusion of other vulnerable groups from protective legislation perpetuates injustice and reinforces harmful gender stereotypes. Through comprehensive analysis of legal provisions, judicial interpretations, empirical studies, and prevailing societal attitudes, this paper advocates for a more inclusive and balanced legal framework that addresses the complex realities of gendered violence without undermining the fundamental intent of protecting women from abuse.

**Keywords:** Domestic Violence, PWDVA 2005, Gender Inequality, LGBTQIA+ Victims, Male Victims, Socio-Legal Analysis, Human Rights, Inclusive Legal Framework

## **1. Introduction**

Domestic violence remains a deeply entrenched social problem that transcends cultural, economic, and geographical boundaries, affecting millions of individuals worldwide regardless of their socioeconomic status, education, or background.<sup>1</sup> In the Indian context, the patriarchal family structure and deeply ingrained gender norms have historically contributed to the normalization and invisibility of domestic abuse, creating an environment where such violence is often perceived as a private matter rather than a serious criminal offense requiring state intervention.<sup>2</sup> The recognition of this critical issue led to the enactment of the Protection of Women from Domestic Violence Act, 2005 (PWDVA) by the Indian Parliament, which explicitly aims to protect women from various forms of abuse including physical, emotional, sexual, and economic violence within domestic relationships.<sup>3</sup>

However, nearly two decades after its implementation, the Act has faced significant criticism for its gender-biased approach, as it fails to recognize men or individuals in same-sex relationships as potential victims of domestic violence.<sup>4</sup> Simultaneously, there exists a widespread perception that laws against domestic violence are frequently misused, which undermines the struggles of genuine victims and creates additional barriers to justice.<sup>5</sup> This duality — characterized by the invisibility of certain victim categories and the overemphasis on potential misuse — highlights the complex socio-legal dimensions of gendered violence in contemporary India.

This paper seeks to achieve several critical objectives: first, to unpack and analyze the social myths surrounding domestic violence and gender that influence public perception and policy formulation; second, to examine the legal provisions and judicial interpretations of the PWDVA in detail; third, to analyze empirical evidence regarding the prevalence of domestic violence across different gender categories; and finally, to propose comprehensive reforms that would make domestic violence legislation more inclusive and effective while maintaining its protective intent.

## **2. The Social Myths of Domestic Violence**

### **2.1 Myth 1: Domestic Violence is Exclusively a Women's Issue**

One of the most pervasive myths surrounding domestic violence is the assumption that it

exclusively affects women, thereby rendering male and LGBTQIA+ victims invisible in both social discourse and legal frameworks.<sup>6</sup> While extensive research consistently demonstrates that women remain the primary victims of domestic violence globally, emerging studies suggest that men and LGBTQIA+ individuals also experience abuse, albeit with different frequencies and distinct dynamics that require specialized understanding and intervention strategies.<sup>7</sup>

The invisibility of male victims is particularly pronounced due to societal norms and masculinity stereotypes that discourage men from reporting abuse or seeking help.<sup>8</sup> Traditional notions of masculinity often equate vulnerability with weakness, creating significant barriers for men to acknowledge their victimization. Similarly, queer relationships are rarely acknowledged in law or policy discourse, leaving LGBTQIA+ individuals without adequate legal protection or support mechanisms.<sup>9</sup>

## **2.2 Myth 2: Women Frequently Misuse Domestic Violence Laws**

Another persistent myth that significantly impacts the discourse around domestic violence is the belief that women frequently misuse domestic violence laws for vindictive purposes, particularly in matrimonial disputes.<sup>10</sup> Although documented instances of false cases exist, empirical research indicates that the rate of misuse is relatively low compared to the substantial scale of unreported abuse that remains hidden due to social stigma and fear of retaliation.<sup>11</sup> This myth of rampant misuse is often strategically employed to delegitimize women's claims and sustain patriarchal control over women's autonomy and decision-making processes.

The Supreme Court's observation in *Rajesh Sharma v. State of UP* highlighted concerns about the misuse of Section 498A of the Indian Penal Code, which deals with cruelty to wives, but this should not overshadow the genuine need for protective legislation.<sup>12</sup> The fear of misuse should not become a barrier to justice for genuine victims who already face numerous obstacles in seeking legal recourse.

## **2.3 Myth 3: Domestic Violence is a Private Matter**

Despite being recognized as a crime under law, domestic violence continues to be perceived as a personal or family matter that should be resolved within the confines of the household rather than through legal intervention.<sup>13</sup> This societal attitude perpetuates a culture of silence and

allows abuse to continue unchecked, often escalating in severity over time. The privatization of domestic violence serves to protect perpetrators and maintain existing power structures that benefit from the subordination of victims.

### **3. The Legal Reality: Comprehensive Analysis of the Domestic Violence Act, 2005**

#### **3.1 Progressive Features of the PWDVA**

The Protection of Women from Domestic Violence Act, 2005 represented a significant progressive step forward in Indian legislation by explicitly acknowledging that violence occurring within the private sphere is as serious and deserving of legal intervention as violence in public spaces.<sup>14</sup> The Act incorporates several key features that distinguish it from previous legislative attempts to address domestic violence:

First, the Act provides a broad and comprehensive definition of domestic violence under Section 3, encompassing not only physical abuse but also emotional, sexual, and economic abuse, thereby recognizing the multifaceted nature of domestic violence.<sup>15</sup> This inclusive definition acknowledges that domestic violence extends beyond physical harm to include psychological manipulation, financial control, and sexual coercion.

Second, the Act establishes various civil remedies including protection orders, residence orders, monetary relief, and custody orders, providing victims with comprehensive legal tools to address their immediate safety needs and long-term security.<sup>16</sup> These remedies are designed to be accessible and effective, allowing victims to seek protection without necessarily pursuing criminal charges.

Third, the Act mandates the appointment of Protection Officers to facilitate implementation and ensure that victims receive appropriate support and guidance throughout the legal process.<sup>17</sup> These officers serve as crucial intermediaries between victims and the legal system, helping to bridge the gap between legal provisions and practical implementation.

#### **3.2 Critical Limitations and Criticisms**

Despite its progressive features, the PWDVA faces two major criticisms that limit its effectiveness and inclusivity. First, the Act's gender-specific language creates significant exclusions by only recognizing women as "aggrieved persons" under Section 2(a) and men as

"respondents" under Section 2(q), effectively excluding male and non-binary victims from protection.<sup>18</sup> This binary approach fails to account for the complex realities of domestic violence and reinforces gender stereotypes that assume women are always victims and men are always perpetrators.

Second, substantial implementation gaps persist despite the Act's progressive spirit, with lack of awareness, insufficient resources, and patriarchal attitudes among law enforcement officials impeding effective enforcement.<sup>19</sup> These implementation challenges mean that even women, who are explicitly protected under the Act, often struggle to access justice and protection through the legal system.

## **4. Empirical Realities: What Data Reveals**

### **4.1 Violence Against Women: Statistical Overview**

Data from authoritative sources including the National Crime Records Bureau (NCRB) and National Family Health Survey (NFHS) consistently reveal alarming levels of domestic violence against women in India.<sup>20</sup> The NFHS-5 (2019-21) reported that 29.3% of ever-married women have experienced spousal violence, indicating that nearly one in three married women in India has faced domestic abuse.<sup>21</sup> These statistics represent only reported cases and likely underestimate the true prevalence of domestic violence due to underreporting caused by social stigma, fear of retaliation, and lack of awareness about available legal remedies.

The NCRB data further reveals that crimes against women have been consistently increasing, with domestic violence cases forming a significant portion of overall violence against women.<sup>22</sup> This trend suggests that despite legislative measures, the problem of domestic violence against women remains persistent and requires sustained intervention efforts.

### **4.2 Male and LGBTQIA+ Victims: The Data Gap**

In contrast to the relatively comprehensive data on violence against women, there is severely limited official data on male or LGBTQIA+ victims of domestic violence.<sup>23</sup> However, smaller studies and helpline records indicate that a non-negligible proportion of men experience abuse, particularly psychological and emotional abuse that may not be captured in traditional crime statistics.<sup>24</sup> The absence of official data on male victims is partly due to the gender-specific

nature of existing legislation and partly due to social factors that discourage men from reporting abuse.

The situation is even more challenging for LGBTQIA+ individuals, who face additional barriers including legal non-recognition of their relationships and social stigma that prevents them from seeking help.<sup>25</sup> This data gap suggests the need for more comprehensive research and data collection mechanisms that can capture the full spectrum of domestic violence experiences across different gender identities and sexual orientations.

## **5. Towards a Gender-Inclusive Framework**

### **5.1 The Need for Inclusive Legislation**

Recognizing the gendered nature of domestic violence remains essential, as women face systemic disadvantages and are statistically at greater risk of experiencing severe forms of domestic violence.<sup>26</sup> However, addressing abuse against men and LGBTQIA+ individuals does not undermine women's rights but rather strengthens the fundamental principle of equality and human dignity that should underpin all legal frameworks.<sup>27</sup>

The challenge lies in developing legislation that acknowledges the disproportionate impact of domestic violence on women while also providing protection for other vulnerable groups. This requires a nuanced approach that recognizes different patterns of abuse and provides appropriate remedies for each category of victims.

### **5.2 Comprehensive Recommendations**

Based on the analysis of existing legislation, empirical data, and international best practices, several recommendations emerge for creating a more inclusive and effective legal framework:

First, the PWDVA should be amended to use gender-neutral language for "aggrieved person," thereby extending protection to all victims regardless of gender identity or sexual orientation.<sup>28</sup> This amendment would ensure that the law's protective scope encompasses all individuals who experience domestic violence while maintaining the Act's fundamental protective intent.

Second, parallel support mechanisms and awareness campaigns should be created specifically for male and LGBTQIA+ victims, recognizing that different victim categories may require

specialized interventions and support services.<sup>29</sup> These mechanisms should be designed to address the unique challenges faced by these groups, including social stigma and lack of awareness about available resources.

Third, safeguards against misuse of the law should be strengthened without diluting its protective intent, ensuring that genuine victims are not discouraged from seeking legal remedies while preventing frivolous litigation.<sup>30</sup> This balance requires careful consideration of procedural safeguards and judicial discretion in determining the validity of complaints.

Fourth, comprehensive training programs should be implemented for law enforcement and judicial personnel to recognize diverse patterns of abuse and respond appropriately to different victim categories.<sup>31</sup> This training should address unconscious biases and provide practical guidance for handling cases involving male and LGBTQIA+ victims.

## **6. Conclusion**

The socio-legal landscape of domestic violence in India reveals a complex pattern of both significant progress and persistent gaps that require urgent attention. The PWDVA, 2005 represented a much-needed recognition of women's rights and marked a crucial step forward in addressing domestic violence as a serious social problem requiring legal intervention. However, its gender-exclusive framework risks reinforcing harmful stereotypes and ignoring other victims who also deserve protection and support.

Simultaneously, persistent myths about misuse and the private nature of domestic violence continue to impede justice for genuine victims, creating additional barriers to accessing legal remedies. These myths serve to maintain existing power structures and prevent meaningful progress in addressing domestic violence comprehensively.

The path forward requires a balanced approach that is firmly rooted in the empirical reality of women's disproportionate vulnerability to domestic violence while remaining sensitive to other victims' experiences and needs. Legal frameworks must evolve to address the full spectrum of domestic violence while safeguarding the significant gains made in protecting women from abuse.

Such evolution requires sustained commitment from policymakers, legal professionals, civil society organizations, and society at large to create a more just and inclusive system that

protects all victims of domestic violence while maintaining the fundamental principle that no individual should suffer abuse in the name of family harmony or traditional values.

The ultimate goal should be the creation of a society where domestic violence is universally recognized as unacceptable, where all victims have access to justice and support, and where legal frameworks reflect the complex realities of human relationships while upholding the fundamental rights and dignity of all individuals.



## Endnotes:

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<sup>10</sup> Supra note 5.

<sup>11</sup> National Crime Records Bureau, *Crime in India 2022* (Ministry of Home Affairs, 2023).

<sup>12</sup> Supra note 5.

<sup>13</sup> Martha Albertson Fineman, "The Autonomy Myth: A Theory of Dependency" (2004) 2 *International Journal of Law in Context* 13.

<sup>14</sup> Supra note 3.

<sup>15</sup> The Protection of Women from Domestic Violence Act, 2005, s. 3.

<sup>16</sup> Ibid., ss. 18-22.

<sup>17</sup> Ibid., s. 8.

<sup>18</sup> Ibid., s. 2(a) and s. 2(q).

<sup>19</sup> Lawyers Collective, *Staying Alive: Fifth Monitoring & Evaluation Report 2012 on the Protection of Women from Domestic Violence Act, 2005* (2013).

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