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# **INVISIBLE VICTIMS: A SOCIO-LEGAL ANALYSIS OF MALE VICTIMIZATION AND THE MISUSE OF GENDER BIAS IN INDIAN LAWS**

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## **ABSTRACT**

The present paper engages in a comprehensive socio-legal analysis of male victimization within the Indian legal framework, particularly emphasizing on the alleged misuse of gender-specific laws. The Indian criminal justice system has historically evolved to address systemic discrimination and violence against women, especially through statutory legislations notably such as Section 498A of the Indian Penal Code, 1860<sup>1</sup> (now re-enacted as Section 85 of the Bharatiya Nyaya Sanhita, 2023 or BNS)<sup>2</sup> and the Protection of Women from Domestic Violence Act, 2005 or PWDVA<sup>3</sup>, The Dowry Prohibition Act, 1961<sup>4</sup> etc, this paper attempts to critically evaluate whether such gender-specific laws or provisions have inadvertently created a legislative framework that neglects or marginalizes male victims.

The basis of this study is premised on the hypothesis that there exists a significant misuse of gender-biased legal provisions in statutory frameworks, it is clear from the statistical indicators such as low conviction rates and high acquittals in matrimonial and domestic violence-related offences. After utilising the empirical data from the National Crime Records Bureau (NCRB)<sup>5</sup>, judicial pronouncements of the Supreme Court of India and various High Courts, and existing academic literature,<sup>6</sup> this paper examines whether these patterns authenticate claims of false or

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<sup>1</sup> The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India), s. 498A, available at <https://legislative.dept.gov.in/sites/default/files/A1860-45.pdf> (last visited April 7, 2026).

<sup>2</sup> Bharatiya Nyaya Sanhita, 2023, available at: <https://indiacode.nic.in/handle/123456789/20062> (last visited: 5 April 2026)

<sup>3</sup> Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005, available at: <https://indiacode.nic.in/handle/123456789/15436> (last visited Apr. 6, 2026).

<sup>4</sup> The Dowry Prohibition Act, 1961, No. 28, Acts of Parliament, 1961 (India), available at <https://legislative.dept.gov.in/sites/default/files/A1961-28.pdf> (last visited April 7, 2026).

<sup>5</sup> National Crime Records Bureau, *Crime in India 2022* (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/Crime-in-India-2022> (last visited April 7, 2026).

<sup>6</sup> See generally Kanika Sharma, "Men as Victims: The Blind Spot in India's Domestic Violence Law" (2019) 61(2) *Journal of the Indian Law Institute* 215, available at <https://www.jstor.org/stable/26855421> (last visited April 7, 2026).

exaggerated complaints against men and whether such misuse results in secondary victimisation of men.

The research methodology adopted for this paper is a doctrinal and analytical methodology, it merges statutory interpretations with case law analysis and socio-legal perspectives. It critically engages with landmark judicial decisions of the Supreme Court such as *Arnesh Kumar v. State of Bihar* (2014), wherein the Supreme Court of India acknowledged the potential for misuse of Section 498A and issued guidelines to prevent arbitrary arrests<sup>7</sup>. Similarly, this paper evaluates subsequent judicial trends, which indicate an evolving judicial consciousness regarding the rights of accused persons, particularly in matrimonial disputes.

In addition to the legal analysis, the present study explores the sociological dimensions of male victimization, including stigma, underreporting, and the absence of gender-neutral legal remedies. It interrogates on the dual perception of victimhood rooted in the traditional Indian laws and society, where men are predominantly viewed as perpetrators rather than victims.

The paper relies heavily on NCRB data, which reveals that between 2019 and 2022, conviction rates under Section 498A IPC have drifted between 14% and 20%, while the number of persons arrested and subjected to prolonged trial runs into hundreds of thousands annually.<sup>8</sup> NCRB data further reveals a deeply troubling statistic: the rate of suicide among married men in India has consistently exceeded that of married women — in 2021, as many as 81,063 married men died by suicide as compared to 28,680 married women.<sup>9</sup>

This paper also addresses the constitutional implications of gender-biased laws, particularly in relation to the principles of equality enshrined under Articles 14 and 15 of the Constitution of India. It assesses whether the concept of ‘protective discrimination’ in favour of women enshrined under Article 15(3) of the Constitution of India, 1950<sup>10</sup>, justifies the absolute exclusion of men from protection of law. Whether the concept of protective discrimination justified historically, needs modification considering evolving social realities and emerging patterns of misuse or not, as discussed in various Law Commission reports<sup>11</sup>. The paper argues

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<sup>7</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, available at: <https://indiankanoon.org/doc/145760412/> (last visited Apr. 6, 2026).

<sup>8</sup> National Crime Records Bureau, *Crime in India 2022*, Table 5A.8: Crimes Against Women — Cases Under IPC — Disposal of Cases by Courts (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/Crime-in-India-2022> (last visited April 7, 2026).

<sup>9</sup> National Crime Records Bureau, *Accidental Deaths and Suicides in India 2021* (Ministry of Home Affairs, Government of India, 2022) 254, available at <https://ncrb.gov.in/en/accidental-deaths-suicides-india-2021> (last visited April 7, 2026).

<sup>10</sup> The Constitution of India, 1950, art. 15(3), available at <https://legislative.dept.gov.in/sites/default/files/COI.pdf> (last visited April 7, 2026).

<sup>11</sup> Law Commission of India, 243<sup>rd</sup> Report on Section 498A IPC (2012), available at: <https://lawcommissionofindia.nic.in/reports/report243.pdf> (last visited Apr. 6, 2026).

that true gender justice is not a zero-sum game — that protecting men from false implication does not come at the cost of protecting women from genuine abuse, and that the law must find a way to serve both ends simultaneously.<sup>12</sup>

In conclusion, this paper argues that while gender-specific laws or provisions remain essential in addressing structural inequalities, their implementation must be carefully synchronized to prevent misuse of such provisions and to recognize the existence of “invisible victims” within the legal system. This study calls for a more inclusive and balanced legal framework that upholds the fundamental principles of justice, fairness, and equality.

## **CHAPTER 1: INTRODUCTION AND STATEMENT OF PROBLEM**

### **1.1 INTRODUCTION**

#### **1.1.1 The Paradox of Protective Legislation**

Law, as a social institution, is fundamentally designed to protect the vulnerable class, to deter the powerful ones from exploiting the weaker section and to restore the equilibrium where injustice has disrupted the natural relations between humans. In the context of gender – based statutory legislations in India, this protective instinct has historically and clearly been directed towards women. The patriarchal system embodied in the structure of Indian societies, the deep-rooted evil practices such as dowry, domestic violence, sexual harassment, and the submissiveness of women within the institution of marriage, have necessitated a strong legislative response. The Parliament or the legislature has, over the decades, enacted numerous laws with the objective of securing the dignity, safety and equality of women from Section 498A of the Indian Penal Code, 1860<sup>13</sup> (now re-enacted as Bharatiya Nyaya Sanhita, 2023<sup>14</sup>) to the Protection of Women from Domestic Violence Act, 2005<sup>15</sup>, from the Dowry Prohibition Act, 1961<sup>16</sup> to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013<sup>17</sup>.

These legislative interventions by the legislature were not only justified but constitutionally

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<sup>12</sup>See Flavia Agnes, “Protecting Women or Protecting Men? The Debate on Section 498A” (2012) 47(34) Economic and Political Weekly 14, available at <https://www.epw.in/journal/2012/34/commentary/protecting-women-or-protecting-men.html> (last visited April 7, 2026).

<sup>13</sup> Ibid 1.

<sup>14</sup> Ibid 2.

<sup>15</sup> Ibid 3.

<sup>16</sup> Ibid 4.

<sup>17</sup> The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14, Acts of Parliament, 2013 (India), available at <https://legislative.dept.gov.in/sites/default/files/A2013-14.pdf> (last visited April 7, 2026).

mandated. Article 15(3) of the Constitution of India<sup>18</sup> expressly authorises the State to make special provisions for women and children, and the Supreme Court has repeatedly upheld the validity of gender-specific laws on the ground that they serve the larger constitutional goal of substantive equality.<sup>19</sup>

Yet, the paradox this paper sheds light on lies in the operation of these laws over time. A statutory framework enacted to protect the vulnerable can, under the conditions of institutional failure, procedural lacunae, and abuse, become an instrument of oppression. This is not about any theoretical possibility- it is a documented, judicially recognized, and statistically verified reality in contemporary India. The laws that have been enacted to shield or protect women from cruelty have, in innumerable circumstances, been wielded as weapons against innocent men, their elderly parents, and extended family members. The consequences that follow are wrongful arrests, prolonged incarceration, social stigma, professional downfall, family disintegration, in most tragic cases, suicide – constitute a form of victimization that the Indian criminal justice system has been slow to acknowledge and even slower to address.<sup>20</sup>

This paper argues that male victimization through the misuse of gender-biased laws is not a peripheral incident. It is a systemic problem of considerable immensity that implicates fundamental constitutional values, challenges the integrity of the criminal justice system, and demands acute, evidence-based redress from the Parliament, the Judiciary and the civil society.

### **1.1.2 The Socio-Legal Context: Why Men Remain "Invisible Victims"**

The concept of the "invisible victim" is central to the analytical framework of this paper. In law and in popular consciousness, 'victimhood' is not a neutral or objective category – it is a socially constructed, formed by cultural norms, media narratives, institutional practices, and the language of statutes or legislation itself. In India, the cultural construction of masculinity premised on notions of strength, stoicism, and dominance — renders the figure of the male victim culturally dissonant and legally unrecognized.

When a woman alleges cruelty or domestic violence, she relies upon a well-established social and legal script that has been reinforced by institutional mechanisms such as protection officers, shelter homes, and Magistrates' Courts under the PWDVA. But when a man alleges that he has been falsely implicated or driven to dilapidation by a weaponized complaint, he confronts a

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<sup>18</sup> Ibid 10.

<sup>19</sup> Vishaka v. State of Rajasthan, (1997) 6 SCC 241 (India), available at <https://indiankanoon.org/doc/1031794/> (last visited April 7, 2026).

<sup>20</sup> Deepika Kinhal and Aparna Chandra, "Gender Neutrality in Criminal Law: A Study of Section 498A" (2016) 58(4) *Journal of the Indian Law Institute* 487, available at <https://www.jstor.org/stable/45148492> (last visited April 7, 2026).

system that is institutionally deaf to his suffering. There is no equivalent of the PWDVA for the male victims of domestic abuse. There is no statutory pre-arrest safeguard, no dedicated legal aid framework oriented towards men entrapped in false cases.<sup>21</sup>

This institutional anonymity is compounded by data that is concurrently alarming and under-reported. The NCRB's *Accidental Deaths and Suicides in India* report for the year 2021 records that 81,063 married men died by suicide as compared to 28,680 married women, indicating a ratio of nearly 3:1.<sup>22</sup> "Family problems" and "marriage-related issues" are consistently among the top recorded causes of suicide for men. Yet this data has not generated any dedicated kind of legislation initiative for men. The invisibility of male suffering is embedded not merely in our culture, but it has been structurally embedded in the framework of Indian law.

### 1.1.3 The Legislative Landscape: An Overview

The Indian legislative framework relating to matrimonial and domestic disputes is characterised by focusing primarily on female victimhood. A brief overview reveals the structural imbalance this paper seeks to critique:

**(i) Section 498A IPC / Section 85 BNS:** Section 498A IPC inserted in 1983<sup>23</sup> in response to an increase in the number of dowry deaths, Section 498A criminalizes cruelty by a husband or his relatives towards a wife. It is cognizable, non-bailable, and was originally non-compoundable - a combination the Supreme Court in *Arnesh Kumar v. State of Bihar*<sup>24</sup> described as enabling "unscrupulous persons to wreak personal vendetta." Re-enacted as Section 85 of the Bharatiya Nyaya Sanhita, 2023<sup>25</sup> the provision retains its gender-exclusive character with no corresponding safeguard for husbands.

**(ii) The Protection of Women from Domestic Violence Act, 2005:** The PWDVA provides civil remedies such as Protection orders, residence orders, monetary relief, etc., to women victims of domestic violence.<sup>26</sup> Its definition of "aggrieved person" as defined in section 2(a) is explicitly limited to women, leaving male victims of corresponding abuse without any statutory remedy.

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<sup>21</sup> See Kanika Sharma, "Men as Victims: The Blind Spot in India's Domestic Violence Law" (2019) 61(2) *Journal of the Indian Law Institute* 215, available at <https://www.jstor.org/stable/26855421> (last visited April 7, 2026).

<sup>22</sup> National Crime Records Bureau, *Accidental Deaths and Suicides in India 2021* (Ministry of Home Affairs, Government of India, 2022) Table 2.5, available at <https://ncrb.gov.in/en/accidental-deaths-suicides-india-2021> (last visited April 7, 2026).

<sup>23</sup> The Criminal Law (Second Amendment) Act, 1983, No. 46, Acts of Parliament, 1983 (India), Statement of Objects and Reasons.

<sup>24</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273 (India), available at <https://indiankanoon.org/doc/37201285/> (last visited April 7, 2026)

<sup>25</sup> Ibid 2.

<sup>26</sup> Ibid 3.

(iii) **The Dowry Prohibition Act, 1961 and Section 304B IPC (Section 80 BNS):** While nominally prohibiting both giving and taking of dowry, the enforcement machinery is almost solely directed at the husband and his family. The reverse dowry experience and the tactical use of dowry allegations as an influence of matrimonial relations receive no legislative or statutory acknowledgement.

(iv) **Section 125 CrPC / Section 144 BNSS:** The maintenance framework, as embodied previously in Section 125, now re-enacted as Section 144 BNS, operates on the structural presumption of financial dependence of women, significantly disadvantaging men even in those cases where the wife is financially independent and capable to sustain herself.<sup>27</sup>

(v) **Child Custody Law:** The concept of custody adjudication, while formally guided by the principles of "best interests of the child," displays in practicality a consistent preference or priority for maternal custody, often without any adequate consideration of paternal rights and involvement.<sup>28</sup>

## 1.2 STATEMENT OF THE PROBLEM

### 1.2.1 The Core Problem

The core problem this paper seeks to tackle is the systemic misuse of gender-biased Indian laws — particularly Section 498A IPC / Section 85 BNS and the PWDVA in a manner that unreasonably victimizes men and their families. This problem has certain interrelated dimensions as follows:

**Firstly**, the low conviction rates and simultaneously high acquittal rates under Section 498A IPC/ Section 85 BNS indicate that a substantial proportion of cases are not genuine instances of cruelty. NCRB *Crime in India 2022* report records a conviction rate of merely 14.9%, clearly emphasizing that over 85% of persons prosecuted are eventually acquitted.<sup>29</sup>

In 2022, 1,11,549 cases were registered under Section 498A involving about 1,99,540 arrested persons, yet only a fraction of cases eventually resulted in conviction.<sup>43</sup> The persons arrested in frivolous cases are socially stigmatized, and financially ruined, and they are left without any remedy or recognition upon acquittal under any statutory framework.

**Secondly**, the procedural mechanism of automatic pre-trial arrest has been continuously

<sup>27</sup> The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974 (India), s. 125; *Rajnish v. Neha*, (2021) 2 SCC 324 (India), available at <https://indiankanoon.org/doc/67978512/> (last visited April 7, 2026)

<sup>28</sup> *Nil Ratan Kundu v. Abhijit Kundu*, (2008) 9 SCC 413 (India), available at <https://indiankanoon.org/doc/1823824/> (last visited April 7, 2026).

<sup>29</sup> National Crime Records Bureau, *Crime in India 2022*, Table 5A.8 (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/Crime-in-India-2022> (last visited April 7, 2026).

identified by the Apex Court as a source of grave injustice. In *Arnesh Kumar v. State of Bihar*,<sup>30</sup> the Court observed that Section 498A has become a tool for "personal vendetta and spite." In *Rajesh Sharma v. State of U.P.*,<sup>31</sup> this case attempted institutional reform through Family Welfare Committees, a reform which was substantially diluted by *Social Action Forum for Manav Adhikar v. Union of India*<sup>32</sup> embellish the acute political resistance to any protective reform in favour of accused persons.

**Thirdly**, the gender-exclusive structure of the PWDVA devise a complete legal lacuna for male victims of domestic violence it is a lacuna which has been observed by several High Courts but felt incapable to remedy through interpretation in the absence of a clearly specified legislative framework.<sup>33</sup>

**Fourthly**, NCRB *Accidental Deaths and Suicides in India 2022* records 1,22,724 male suicides against 45,026 female suicides indicating a ratio of 2.7:1, with matrimonial and family problems among the leading causes for men.<sup>34</sup> This constitutes a public health emergency of a significant magnitude with a demonstrable legal dimension that the legislature has clearly failed to recognize.

### 1.2.2 The Constitutional Dimension

This problem of male victimization through gender-biased laws is not merely a policy concern, but it is a concern which is fundamentally constitutional in nature. Article 14 of the Constitution of India, 1950 guarantees equality before the law to all persons. Similarly, Article 15(1) prohibits discrimination on the grounds of sex. While Article 15(3) authorizes the creation of special provisions for women, the Supreme Court has consistently held that this provision cannot justify the formation of discriminatory legal categories that subject men to onerous criminal liability without any procedural safeguards, or that completely exclude men from the protection of laws addressing intimate partner violence.<sup>35</sup>

The way forward, as this paper argues, lies in the gender-neutral, equality-based approach to the matrimonial laws, an approach which not only protects women but safeguards all victims

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<sup>30</sup> Ibid 24.

<sup>31</sup> *Rajesh Sharma v. State of U.P.*, (2018) 10 SCC 472 (India), available at <https://indiankanoon.org/doc/49657/> (last visited April 7, 2026).

<sup>32</sup> *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443 (India), available at <https://indiankanoon.org/doc/16423519/> (last visited April 7, 2026).

<sup>33</sup> *Vijay Kumar Sharma v. State of Karnataka*, (2012) ILR (Kar) 2112 (India), available at <https://indiankanoon.org/doc/28392471/> (last visited April 7, 2026).

<sup>34</sup> National Crime Records Bureau, *Accidental Deaths and Suicides in India 2022*, Tables 2.1 and 2.9 (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/accidental-deaths-suicides-india-2022> (last visited April 7, 2026).

<sup>35</sup> *Joseph Shine v. Union of India*, (2019) 3 SCC 39 (India), available at <https://indiankanoon.org/doc/193543132/> (last visited April 7, 2026).

regardless of sex. An approach which genuinely focus on the legislative structural inequalities that continue to disadvantage women and refuses to treat justice as a zero-sum competition between the sexes.

### **1.2.3 The Research Gap**

Despite growing judicial concerns and increasing statistical evidence, academic scholarship in India has been slow to engage seriously with male victimization. The available existing literature on gender and law is significantly focused on female victimhood, understandably so, given the scale of violence against women, but at the cost of a critical blind spot.<sup>36</sup> This paper attempts to fill that gap through a comprehensive, evidence-based, and constitutionally grounded analysis clearly not from a point of anti-feminism or minimization of female suffering but from an obligation to the principle that justice must be genuinely omnipresent.

## **CHAPTER 2 - REVIEW OF LITERATURE**

### **2.1 INTRODUCTORY NOTE**

The present review assesses judicial pronouncements, legislative documents, law commission reports, academic journal articles, empirical studies, and international human rights instruments. The review reveals a significant imbalance in existing scholarship: while literature on violence against women, feminist jurisprudence, and female victimhood is rich and institutionally supported, scholarship on male victimization in the Indian legal context remains comparatively scattered, disputed, and largely confined to judicial observations and a handful of socio-legal studies. This dissonance is itself a finding of importance; it speculates how conventional and academic priorities have been structured around a particular understanding of victimhood that excludes men by default.<sup>37</sup>

### **2.2 LEGISLATIVE AND OFFICIAL DOCUMENTS**

#### **2.2.1 Section 498A IPC and Its Legislative History**

Section 498A was inserted into the IPC by the Criminal Law (Second Amendment) Act, 1983<sup>38</sup>. Because of a nationwide campaign following highly publicised dowry deaths. The Statement of Objects and Reasons record the legislative intent as combating "the menace of dowry deaths

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<sup>36</sup> Saumya Uma, "Gender, Law and Equality: An Appraisal of Indian Jurisprudence" (2019) 61(1) *Journal of the Indian Law Institute* 45, available at <https://www.jstor.org/stable/26855409> (last visited April 7, 2026)

<sup>37</sup> See generally Saumya Uma, "Gender, Law and Equality: An Appraisal of Indian Jurisprudence" (2019) 61(1) *Journal of the Indian Law Institute* 45, available at <https://www.jstor.org/stable/26855409> (last visited April 7, 2026).

<sup>38</sup> Ibid 23.

and cruelty to women by husbands and their relatives." This provision was purposefully framed as gender-specific and it was given the procedural character of a cognizable, non-bailable, and non-compoundable offence to ensure effective implementation of this provision. The Bharatiya Nyaya Sanhita, 2023, re-enacted this provision as Section 85, it retained the original gender specific character without any significant consideration of the question of gender neutrality.

### 2.2.2 The Protection of Women from Domestic Violence Act, 2005

The PWDVA was enacted to give effect to India's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>39</sup>

It represents a major legislative approach recognizing physical, sexual, verbal, emotional, and economic abuse as forms of domestic violence and establishing Protection Officers, Service Providers, and Shelter Homes. However, the definition of 'aggrieved person' as defined under Section 2(a) of the Act is exclusively limited to women, and its definition of 'respondent' as defined in Section 2(q) of the Act originally regarded only adult male persons. This gender specific framework has been the subject of sustained academic and judicial critique, with several High Courts observing the lacuna while holding themselves bound by the plain statutory text or the literal interpretation of texts.<sup>40</sup>

### 2.2.3 Law Commission of India Reports

The **Law Commission's 243rd Report** (2012) on Section 498A IPC<sup>41</sup>. It is considered one of the most direct and relevant official documents. It recognizes the widespread misuse of the provision, noting that the provision has been used "as a tool for personal vendetta and harassment," and recommend compoundability with court permission and strengthened pre-arrest safeguards.<sup>42</sup> However, it ceases short of recommending gender neutrality, demonstrating the political sensitivity of any suggestion that the protective statutory framework for women be altered.

The **Law Commission's 172nd Report** (2000) on Review of Rape Laws recommended replacement of gender-specific rape provisions with a gender-neutral offence of "sexual assault,"<sup>43</sup> displaying that the Law Commission has, on at least one prior occasion, supported

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<sup>39</sup> Convention on the Elimination of All Forms of Discrimination Against Women, December 18, 1979, 1249 UNTS 13, India ratified July 9, 1993, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women> (last visited April 7, 2026).

<sup>40</sup> *Vijay Kumar Sharma v. State of Karnataka*, (2012) ILR (Kar) 2112 (India), available at <https://indiankanoon.org/doc/28392471/> (last visited April 7, 2026).

<sup>41</sup> Law Commission of India, *Two Hundred and Forty-Third Report on Section 498A IPC* (2012) paras 4.1–4.9, available at <https://lawcommissionofindia.nic.in/reports/report243.pdf> (last visited April 7, 2026).

<sup>42</sup> *Ibid.*

<sup>43</sup> Law Commission of India, *One Hundred and Seventy-Second Report on Review of Rape Laws* (2000) para 3.2, available at <https://lawcommissionofindia.nic.in/rapelaws.htm> (last visited April 7, 2026).

gender neutrality in criminal law, a principle which is equally applicable to matrimonial offences.

The **Law Commission's 42nd Report** (1971) on the Indian Penal Code contains fundamental observations on the relationship between criminal law and matrimonial disputes that remain relevant to the present discussion.<sup>44</sup>

### 2.3 JUDICIAL LITERATURE: KEY CASES

***Sushil Kumar Sharma v. Union of India* (2005):** In this case, the Supreme Court recognized that Section 498A was being misused, but the apex court refused to strike it down, holding that "the possibility of abuse of a provision does not per se invalidate the legislation."<sup>45</sup> It called upon the legislature to consider appropriate safeguards, a call that the legislature has not answered till now.

***Arnesh Kumar v. State of Bihar* (2014):** This is one of the most important cases of supreme court on misuse. In this case, the court observed that section 498A had become a tool for "personal vendetta and spite." The court further issued detailed guidelines and called for an independent application of mind before arrest and mandating pre-arrest notice.<sup>46</sup> Despite these directions, NCRB data indicate arrests continued at nearly 2 lakh persons per year in the following years clearly displayed the limited practical impact of judicial directions without legislative backing.<sup>47</sup>

***Preeti Gupta v. State of Jharkhand* (2010):** In this case, the Apex court expressed concern about the tendency to implicate entire families, including elderly parents and siblings, in Section 498A complaints regardless of any individual culpability, constituting what this paper characterises as collateral victimization.<sup>48</sup>

***Rajesh Sharma v. State of U.P.* (2018):** In this case, the apex court directed the establishment of Family Welfare Committees to scrutinise Section 498A complaints before making arrests, it is considered one of the most ambitious institutional interventions on the subject.<sup>49</sup> This

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<sup>44</sup> Law Commission of India, *Forty-Second Report on the Indian Penal Code* (1971), available at <https://lawcommissionofindia.nic.in/reports/report42.pdf> (last visited April 7, 2026).

<sup>45</sup> *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281, para 18 (India), available at <https://indiankanoon.org/doc/1070750/> (last visited April 7, 2026).

<sup>46</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, paras 6–9 (India), available at <https://indiankanoon.org/doc/37201285/> (last visited April 7, 2026).

<sup>47</sup> National Crime Records Bureau, *Crime in India 2022*, Table 3A.1 (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/Crime-in-India-2022> (last visited April 7, 2026).

<sup>48</sup> *Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667, para 28 (India), available at <https://indiankanoon.org/doc/1184440/> (last visited April 7, 2026).

<sup>49</sup> *Rajesh Sharma v. State of U.P.*, (2018) 10 SCC 472, para 19 (India), available at <https://indiankanoon.org/doc/49657/> (last visited April 7, 2026).

direction was substantially diluted within months by *Social Action Forum for Manav Adhikar v. Union of India*,<sup>50</sup> In this case, the Supreme Court held that such institutional creation exceeds the Court's jurisdiction under Article 142, illustrating the severe political impediments to judicial gender law reform.

***Hiral P. Harsora v. Kusum Narottamdas Harsora (2016)***: In this case, the Court interpreted the definition of "respondent" under section 2(q) of the PWDVA to include female respondents,<sup>51</sup> partially reducing the Act's gender-stereotypical framework, though without extending the definition of "aggrieved person" under Section 2(a) to include men, leaving the fundamental imbalance intact.

***Joseph Shine v. Union of India (2019)***: In this case, the constitutional bench struck down 'adultery' under Section 497 IPC, holding that a provision which treats one sex as the exclusive victim and the other as the exclusive perpetrator embeds unconstitutional gender stereotypes into criminal law.<sup>52</sup> Justice Chandrachud's concurring opinion articulating that "the Constitution does not permit gender stereotyping in criminal law even under the guise of protecting women"<sup>53</sup> provides the most effective constitutional basis for challenging the gender-exclusive framework of Section 498A and the PWDVA.

***Navtej Singh Johar v. Union of India (2018)***: In this landmark judgment, the constitutional bench observed the principle of substantive equality as a living constitutional value,<sup>54</sup> it provided a broader jurisprudential framework within which the constitutional challenge to gender-exclusive matrimonial laws must be situated.

## 2.4 ACADEMIC LITERATURE

### 2.4.1 Domestic Scholarship

**Deepika Kinhal and Aparna Chandra** in "Gender Neutrality in Criminal Law: A Study of Section 498A" (2016)<sup>55</sup> provides a meticulous doctrinal and empirical analysis, it examines fifteen years of NCRB conviction data and argues that the amalgamation of a broad definition

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<sup>50</sup> *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443, paras 22–25 (India), available at <https://indiankanoon.org/doc/16423519/> (last visited April 7, 2026).

<sup>51</sup> *Hiral P. Harsora v. Kusum Narottamdas Harsora*, (2016) 10 SCC 165, para 19 (India), available at <https://indiankanoon.org/doc/47862573/> (last visited April 7, 2026)

<sup>52</sup> *Joseph Shine v. Union of India*, (2019) 3 SCC 39, para 55 (India), available at <https://indiankanoon.org/doc/193543132/> (last visited April 7, 2026).

<sup>53</sup> *Ibid* (Chandrachud J., concurring opinion, para 57).

<sup>54</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1, para 131 (India), available at <https://indiankanoon.org/doc/168671544/> (last visited April 7, 2026).

<sup>55</sup> Deepika Kinhal and Aparna Chandra, "Gender Neutrality in Criminal Law: A Study of Section 498A" (2016) 58(4) *Journal of the Indian Law Institute* 487, available at <https://www.jstor.org/stable/45148492> (last visited April 7, 2026).

of "cruelty," non-bailability, and absent procedural safeguards creates structural conditions that inspire misuse. They argue vigorously for procedural reforms, including compoundability and pre-arrest scrutiny.

**Flavia Agnes** in "Protecting Women or Protecting Men? The Debate on Section 498A" (2012)<sup>56</sup> argues from the rival position that the narrative of misuse is exaggerated and strategically established to roll back protections for women. She also contends that low conviction rates demonstrate systemic failures of investigation and prosecution rather than a high incidence of false complaints. This paper is of paramount importance to have a balanced understanding of the debate.

**Kanika Sharma** in "Men as Victims: The Blind Spot in India's Domestic Violence Law" (2019)<sup>57</sup> gives one of the most extensive domestic analyses of male victimization under the PWDVA, asserting that the gender-exclusive definition of 'aggrieved person' is constitutionally unsustainable under Articles 14 and 15 of the Constitution of India and surveying comparative legislation from the United Kingdom, Australia, and South Africa to showcase that gender-neutral laws can be formed without hindering the rights of women.

**Upendra Baxi** in "The Constitutional Quicksands of Section 498A: A Critical Study" (2003)<sup>58</sup> provides a discerning constitutional critique of the provision's procedural framework, asserting that the combination of cognizability, non-bailability, and non-compoundability is inordinate to the legislative objective and predicts many judicial concerns later articulated in the case of *Arnesh Kumar*.

**Madhu Kishwar** in "Laws Against Domestic Violence: Underused or Abused?" (2008)<sup>59</sup> provides empirical field research documenting numerous cases where Section 498A IPC was used as a bargaining tool for extracting property, money, and custody concessions, thereby providing ground-level evidence for the hypothesis advanced in this paper.

**Saumya Uma** in "Gender, Law and Equality: An Appraisal of Indian Jurisprudence" (2019)<sup>60</sup> examines the discord between formal and substantive equality in Indian gender law, asserting

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<sup>56</sup> Flavia Agnes, "Protecting Women or Protecting Men? The Debate on Section 498A" (2012) 47(34) *Economic and Political Weekly* 14, available at <https://www.epw.in/journal/2012/34/commentary/protecting-women-or-protecting-men.html> (last visited April 7, 2026).

<sup>57</sup> Kanika Sharma, "Men as Victims: The Blind Spot in India's Domestic Violence Law" (2019) 61(2) *Journal of the Indian Law Institute* 215, available at <https://www.jstor.org/stable/26855421> (last visited April 7, 2026)

<sup>58</sup> Upendra Baxi, "The Constitutional Quicksands of Section 498A: A Critical Study" (2003) 45(3) *Journal of the Indian Law Institute* 319.

<sup>59</sup> Madhu Kishwar, "Laws Against Domestic Violence: Underused or Abused?" (2008) 43(46) *Economic and Political Weekly* 67, available at <https://www.epw.in/journal/2008/46/special-articles/laws-against-domestic-violence.html> (last visited April 7, 2026).

<sup>60</sup> Saumya Uma, "Gender, Law and Equality: An Appraisal of Indian Jurisprudence" (2019) 61(1) *Journal of the Indian Law Institute* 45, available at <https://www.jstor.org/stable/26855409> (last visited April 7, 2026).

that Articles 14, 15, and 21 of the Constitution of India, 1950, are sufficiently flexible to incorporate a gender-neutral approach to domestic violence legislation without sacrificing any kind of special protection for women.

#### 2.4.2 International Scholarship

**Murray A. Straus** in "Dominance and Symmetry in Partner Violence by Male and Female University Students in 32 Nations" (2008)<sup>61</sup> provides empirical evidence from a multi-national database that intimate partner violence is not exclusively unidirectional, women initiate physical violence in intimate relationships at rates which are comparable to men. Despite this paper being contested by feminist scholars,<sup>62</sup> this research challenges the legislative assumptions underlying gender-exclusive domestic violence laws.

**R.W. Connell** in *Masculinities* (2005)<sup>63</sup> develops the theory of "hegemonic masculinity" and tries to explain how cultural constructions of manhood create circumstances in which male suffering is systematically denied and rendered invisible, not only by the institutional actors but by men themselves, providing the sociological foundation for this paper's analysis of why male victimisation remains unrecognized.

**Michael Kimmel** in *The Gendered Society* (2004)<sup>64</sup> asserts that the cultural equation of masculinity with invulnerability creates circumstances under which male victims of domestic violence are systematically underrepresented in official data and institutional responses; it is an insight which is directly applicable to the Indian context.

#### 2.5 NCRB DATA AND EMPIRICAL LITERATURE

The National Crime Records Bureau's annual *Crime in India* and *Accidental Deaths and Suicides in India* publications constitute the most significant body of empirical literature for the present analysis.<sup>65</sup> These publications provide year-by-year data on arrests, trials, convictions, and acquittals under Section 498A IPC, as well as data on suicide rates disaggregated by sex, marital status, and cause. NCRB *Crime in India 2022* records 1,11,549

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<sup>61</sup> Murray A. Straus, "Dominance and Symmetry in Partner Violence by Male and Female University Students in 32 Nations" (2008) 33(8) *Children and Youth Services Review* 252, available at <https://www.sciencedirect.com/science/article/pii/S0190740907001739> (last visited April 7, 2026)

<sup>62</sup> See Michael P. Johnson, *A Typology of Domestic Violence* (Northeastern University Press, 2008) 5–10.

<sup>63</sup> R.W. Connell, *Masculinities* (2nd edn., University of California Press, 2005) 77–81.

<sup>64</sup> Michael Kimmel, *The Gendered Society* (2nd edn., Oxford University Press, 2004) 231–245.

<sup>65</sup> National Crime Records Bureau, *Crime in India* (Ministry of Home Affairs, Government of India, 2015–2022), available at <https://ncrb.gov.in/en/crime-in-india> (last visited April 7, 2026); National Crime Records Bureau, *Accidental Deaths and Suicides in India* (Ministry of Home Affairs, Government of India, 2015–2022), available at <https://ncrb.gov.in/en/accidental-deaths-suicides-india> (last visited April 7, 2026).

cases registered under Section 498A involving 1,99,540 arrested persons, with a conviction rate of 14.9%.<sup>66</sup> NCRB *Accidental Deaths and Suicides in India 2022* records 1,22,724 male suicides against 45,026 female suicides, with family and marriage-related problems among the leading causes for men.<sup>67</sup> These statistics constitute the empirical backbone of the hypothesis.

## 2.6 INTERNATIONAL INSTRUMENTS

The **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**, ratified by India in 1993,<sup>68</sup> requires the elimination of discrimination against women and measures to suppress gender-based violence, which constitutes the normative basis for the PWDVA. However, the **Universal Declaration of Human Rights, 1948**<sup>69</sup> and the **International Covenant on Civil and Political Rights (ICCPR), 1966**<sup>70</sup> — to which India is a signatory guaranteed equality before the law to all persons without distinction as to sex. The ICCPR's Human Rights Committee in General Comment No. 32 has affirmed that the right to a fair trial includes the presumption of innocence and equality of arms<sup>71</sup>, rights that are, as this paper argues, systematically compromised for accused persons under Section 498A IPC.

## 2.7 IDENTIFICATION OF RESEARCH GAPS

The review reveals three significant gaps that this paper addresses. First, there is an absence of integrated socio-legal scholarship combining constitutional analysis, empirical data, and comparative law in a unified study of male victimisation through gender-biased Indian laws. Second, the existing available literature has not adequately engaged with the constitutional challenge to the PWDVA's gender-exclusive framework under Articles 14 and 15 of the Constitution of India, 1950. Third, the relationship between the misuse of matrimonial laws

<sup>66</sup> National Crime Records Bureau, *Crime in India 2022*, Tables 3A.1 and 5A.8 (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/Crime-in-India-2022> (last visited April 7, 2026).

<sup>67</sup> National Crime Records Bureau, *Accidental Deaths and Suicides in India 2022*, Tables 2.1 and 2.9 (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/accidental-deaths-suicides-india-2022> (last visited April 7, 2026).

<sup>68</sup> Convention on the Elimination of All Forms of Discrimination Against Women, December 18, 1979, 1249 UNTS 13, India ratified July 9, 1993, available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=en) (last visited April 7, 2026).

<sup>69</sup> Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (December 10, 1948), art. 7, available at <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (last visited April 7, 2026).

<sup>70</sup> International Covenant on Civil and Political Rights, December 16, 1966, 999 UNTS 171, India ratified April 10, 1979, art. 26, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (last visited April 7, 2026).

<sup>71</sup> United Nations Human Rights Committee, General Comment No. 32: Article 14 — Right to Equality Before Courts and Tribunals and to a Fair Trial, U.N. Doc. CCPR/C/GC/32 (August 23, 2007) para 8, available at <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-32-article-14-right-equality> (last visited April 7, 2026).

and the epidemic of male suicide in India, though empirically documented, has received almost no academic attention in the law reform context. The present paper addresses all three gaps.

### **CHAPTER 3 - OBJECTIVES OF THE STUDY**

The objectives of the present study are both descriptive and prescriptive they seek not merely to document and analyse the phenomenon of male victimisation through gender-biased Indian laws, but also to contribute constructively to the ongoing conversation about law reform, constitutional interpretation, and the future of gender jurisprudence in India.

#### **3.1 PRIMARY OBJECTIVES**

##### **Objective I: To Critically Examine the Legislative Architecture of Gender-Biased Matrimonial Laws and Their Differential Impact on Men**

The first and foremost foundational objective is to undertake a systematic and critical examination of the principal gender-specific legislative provisions which governs matrimonial and domestic disputes in India particularly emphasizing on Section 498A IPC/ Section 85 BNS, the PWDVA, 2005, the Dowry Prohibition Act, 1961, Section 125 CrPC / Section 144 BNSS, and allied provisions. This objective needs close reading of the text, legislative history, and judicial interpretation of each provision with an objective to identify the structural characteristics that render them susceptible to misuse and which create differential burdens for men. The importance of this objective lies in its fundamental character: any credible argument for law reform must be grounded in a specific and detailed comprehension of the legislative framework, its text, its intent and the gap between the two.<sup>72</sup>

##### **Objective II: To Empirically Establish the Extent and Pattern of Misuse Through NCRB Data and Judicial Statistics**

The second primary objective is to establish, through rigorous empirical analysis, the extent and pattern of misuse of gender-biased Indian laws particularly focused on Section 498A IPC / Section 85 BNS. The principal sources for this objective are the NCRB's annual *Crime in India* reports (2015–2022) and *Accidental Deaths and Suicides in India* reports (2015–2022),<sup>73</sup> supplemented by the National Judicial Data Grid's data on case pendency.<sup>74</sup> This objective

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<sup>72</sup> See P.M. Bakshi, "Methodology of Legal Research" in S.K. Verma and M. Afzal Wani (eds.), *Legal Research and Methodology* (2nd edn., Indian Law Institute, 2001) 3, 9–12.

<sup>73</sup> National Crime Records Bureau, *Crime in India* (Ministry of Home Affairs, Government of India, 2015–2022), available at <https://ncrb.gov.in/en/crime-in-india> (last visited April 7, 2026); National Crime Records Bureau, *Accidental Deaths and Suicides in India* (Ministry of Home Affairs, Government of India, 2015–2022), available at <https://ncrb.gov.in/en/accidental-deaths-suicides-india> (last visited April 7, 2026).

<sup>74</sup> National Judicial Data Grid, available at <https://njdg.ecourts.gov.in/njdgnew/> (last visited April 7, 2026).

involves assessment and comparison of conviction rates, acquittal rates, arrest-to-conviction ratios, and male-to-female suicide ratios across the eight-year period, providing the empirical substructure upon which the paper's legal and constitutional analysis rests.

### **Objective III: To Analyse the Judicial Response to Misuse and Evaluate the Adequacy of Supreme Court Safeguards**

The third primary objective of this paper is to undertake a comprehensive analysis of the judicial reaction to the misuse of Section 498A IPC and other gender-biased matrimonial laws, evaluating the adequacy and practical effectiveness of the safeguards developed by the Supreme Court through its supervisory jurisdiction. The judicial literature reveals an informative paradox: the Court has repeatedly acknowledged the problem of misuse and issued increasingly detailed guidelines, yet has simultaneously refused to make the structural changes such as gender neutrality, compoundability, decriminalization of matrimonial disputes which are necessary to address the root causes.

### **Objective IV: To Examine the Constitutional Sustainability of the Gender-Exclusive Legislative Framework Under Articles 14, 15, and 21**

The fourth primary objective is to conduct a rigorous constitutional analysis of the gender-exclusive framework of the key matrimonial and domestic violence laws, with particular reference to Articles 14, 15, and 21 of the Constitution of India. This objective engages with the complex jurisprudence on formal versus substantive equality, from *E.P. Royappa v. State of Tamil Nadu*<sup>75</sup> through *Maneka Gandhi v. Union of India*<sup>76</sup> to *Navtej Singh Johar v. Union of India* and *Joseph Shine v. Union of India* — to assess whether: (i) the gender-exclusive definition of "aggrieved person" in the PWDVA is sustainable under Article 14; (ii) whether the classification of cruelty as an exclusively male-perpetrated offence satisfies the reasonable classification test; (iii) whether the non-bailable arrest mechanism of Section 498A is proportionate to the legislative objective under Article 21; and (iv) whether article 15(3) can justify legislative frameworks that not only protect women but actively subject men to severe liability without procedural safeguards.

## **3.2 SECONDARY OBJECTIVES**

### **Objective V: To Examine Male Victimization across the Broader Architecture of Matrimonial Law**

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<sup>75</sup> *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3 (India), available at <https://indiankanoon.org/doc/730542/> (last visited April 7, 2026).

<sup>76</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India), available at <https://indiankanoon.org/doc/1766147/> (last visited April 7, 2026).

Beyond Section 498A and the PWDVA, this study examines male victimization across maintenance proceedings under Section 125 CrPC now re-enacted as Section 144 BNSS, child custody adjudication under the Hindu Minority and Guardianship Act, 1956 and the Guardians and Wards Act, 1890, and dowry-related prosecutions under Section 304B IPC / Section 80 BNS.<sup>77</sup> This objective recognizes that male victimization is not only confined to Section 498A IPC but it permeates the entire structure of Indian matrimonial laws, displaying a systemic pattern that demands a systemic response rather than gradual reform.

### **Objective VI: To Undertake a Comparative Analysis of Gender-Neutral Domestic Violence Legislation**

This study undertakes a comparative analysis of domestic violence legislative frameworks in the United Kingdom, Australia, and Canada jurisdictions that have implemented gender-neutral domestic violence laws to show that such legislation is viable, effective, and constitutional.<sup>78</sup> The comparative analysis is not deliberated to suggest wholesale incorporation of foreign models into the Indian context, but to show that gender-neutral domestic violence legislation is a tested and constitutionally appropriate option that India can adapt in the course of its own law reform process.<sup>79</sup>

### **Objective VII: To Document the Human Cost of Misuse: Suicide, Mental Health, and Social Consequences**

This study records and analyzes the human cost of the misuse of gender-biased matrimonial laws including the outbreak of male suicide attributable to matrimonial distress, the mental health consequences of prolonged false prosecution, and the collateral victimization of elderly parents and family members routinely implicated under Section 498A complaints.<sup>80</sup> The NCRB data on male suicide provides the empirical foundation, supplemented by medical literature and judicial observations.<sup>81</sup>

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<sup>77</sup> The Hindu Minority and Guardianship Act, 1956, No. 32, Acts of Parliament, 1956 (India); The Guardians and Wards Act, 1890, No. 8, Acts of Parliament, 1890 (India); The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India), s. 304B, all available at <https://legislative.dept.gov.in> (last visited April 7, 2026).

<sup>78</sup> Domestic Violence, Crime and Victims Act, 2004 (United Kingdom), c. 28, available at <https://www.legislation.gov.uk/ukpga/2004/28/contents> (last visited April 7, 2026); Family Violence Protection Act, 2008 (Victoria, Australia), No. 52/2008, available at <https://www.legislation.vic.gov.au/in-force/acts/family-violence-protection-act-2008> (last visited April 7, 2026)

<sup>79</sup> See Clare Wiper, “Gender Neutrality in Domestic Violence Legislation: A Comparative Analysis” (2017) 29(2) International Journal of Law and the Family 145, available at <https://academic.oup.com/lawfam/article/29/2/145/2962540> (last visited April 7, 2026).

<sup>80</sup> See Suresh Bada Math, Sydney Moirangthem and Naveen C Kumar, “498A — Shield or a Sword” (2015) 57(3) Indian Journal of Psychiatry 313, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4676200/> (last visited April 7, 2026).

<sup>81</sup> Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273, para 7 (India), available at <https://indiankanoon.org/doc/37201285/> (last visited April 7, 2026).

### **Objective VIII: To Propose Concrete, Evidence-Based Legislative and Institutional Reforms**

The final objective is to transform the findings of the preceding analysis into concrete, evidence-based, and constitutionally grounded recommendations for legislative and institutional reform addressing the gender-exclusive structure of the PWDVA, the absence of penal consequences for false complaints under section 85 BNS, the lack of pre-arrest safeguards, and the inadequate protection of accused persons' fundamental rights in a manner that is both practically feasible and constitutionally sustainable. These recommendations are situated within the framework of the ongoing legislative reform process in India, including the three-criminal-law reform of 2023, which represented a historic and missed opportunity for Parliament to address these structural deficiencies.

## **CHAPTER 4 - RESEARCH QUESTIONS AND HYPOTHESIS**

### **4.1 CENTRAL RESEARCH QUESTION**

The central research question that stimulates this study is:

**Whether there exists significant misuse of gender-biased Indian laws — particularly Section 498A IPC / Section 85 BNS and the Protection of Women from Domestic Violence Act, 2005 — evidenced by low conviction rates and high acquittals, and whether such misuse disproportionately victimises males within the Indian legal system?**

This question has direct constitutional implications concerning the validity of the gender-exclusive legislative framework under Articles 14, 15, and 21 of the Constitution of India, 1950, as well as immediate practical consequences for the hundreds of thousands of men and their families who are arrested, tried, and ultimately acquitted under these provisions every year.<sup>82</sup>

### **4.2 ANCILLARY RESEARCH QUESTIONS**

In addition to the central question, the following ancillary questions guide specific dimensions of the inquiry:

**AQ1.** What does NCRB data on arrests, trials, conviction rates, acquittal rates, and married male suicide statistics reveal about the extent and patterns of male victimisation linked to the misuse of matrimonial laws in India between 2015 and 2022?

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<sup>82</sup> National Crime Records Bureau, *Crime in India 2022*, Table 3A.1 (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/Crime-in-India-2022> (last visited April 7, 2026).

**AQ2.** Has the Supreme Court of India sufficiently addressed the structural causes of the misuse of Section 498A IPC / Section 85 BNS through its supervisory jurisdiction, or have its interventions remained inadequate to bring about lasting change reform?

**AQ3.** Is the gender-exclusive framework of the PWDVA, 2005 which restricts the definition of "aggrieved person" exclusively to women constitutionally sustainable under Articles 14 and 15 of the Constitution of India?

**AQ4.** What legislative and institutional reforms are necessary and constitutionally valid to address the structural deficiencies identified in this study, while simultaneously protecting and strengthening the genuine protection afforded to female victims of domestic violence and matrimonial cruelty?

### 4.3 HYPOTHESIS

The present study proceeds from the following hypothesis:

**"There exists a significant misuse of gender-biased Indian laws (e.g., 498A IPC / Section 85 BNS, PWDVA), evidenced by low convictions/high acquittals, disproportionately victimizing males."**

This hypothesis is both empirically testable and constitutionally grounded. It does not assert that every complaint filed under Section 498A IPC / Section 85 BNS or under the PWDVA is false or frivolous; it asserts that the pattern of convictions, acquittals, when examined over a sustained period, reveals a level of misuse that is structural in character and that its primary victims are men. The hypothesis is grounded in NCRB empirical data, judicially recognized in a series of Supreme Court decisions, and constitutionally remarkable in that the misuse it describes is enabled and perpetuated by structural features of the legislative framework itself.<sup>83</sup>

## **CHAPTER 5 — RESEARCH DESIGN AND METHODOLOGY**

### **5.1 NATURE OF THE STUDY**

The present study is fundamentally **socio-legal** in character. It combines the doctrinal method of legal research which basically involves the structured analysis of legislative statutes, judicial decisions, and constitutional provisions with the empirical and sociological method, which involves the critical examination of quantitative data, official statistics, and qualitative observations drawn from judicial pronouncements, Law Commission reports, and academic

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<sup>83</sup> See Deepika Kinhal and Aparna Chandra, "Gender Neutrality in Criminal Law: A Study of Section 498A" (2016) 58(4) Journal of the Indian Law Institute 487, 501–504, available at <https://www.jstor.org/stable/45148492> (last visited April 7, 2026).

literature. This integrated approach is entailed by the nature of the research problem itself: the phenomenon of male victimization through gender-biased Indian laws cannot be adequately comprehended through purely doctrinal analysis, nor can it be adequately addressed through purely empirical analysis. It requires both.<sup>84</sup>

Socio-legal research, as defined by author S.N. Jain in his foundational essay on legal research methodology, involves "the study of law in its social context, the examination of the relationship between legal rules and social realities, and the assessment of the extent to which law serves, distorts, or fails to serve the social purposes for which it was enacted."<sup>85</sup> This definition accurately describes the present research, which examines the gap between the stated purpose of gender-protective legislation and its actual implementation in the Indian society.

## 5.2 RESEARCH DESIGN

The research design of the present study is **descriptive, analytical, and critical** in its orientation. It is descriptive insofar as it records and maps the existing legislative framework, the pattern of misuse evidenced by NCRB data, and the judicial response to that misuse. It is analytical insofar as it subjects that framework and that data to rigorous constitutional and jurisprudential scrutiny. It is critical insofar as it challenges the assumptions underlying the existing gender-exclusive legislative architecture and advances a normative argument for reform grounded in constitutional values and empirical evidence.

The study does not involve primary field research—it does not conduct surveys, interviews, or case studies of individual litigants. This constraint is recognized. However, the richness of the secondary data available particularly the NCRB statistics, the Law Commission reports, the Supreme Court's detailed factual findings in cases such as *Arnesh Kumar* and *Rajesh Sharma*, and the growing body of empirical academic literature is sufficient to support the analytical claims advanced in the study without the need for original field research.<sup>86</sup>

## 5.3 SOURCES OF DATA

The study draws upon the following categories of sources:

### 5.3.1 Primary Sources

**(i) Legislative Sources:** The principal primary legislative sources examined in this study

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<sup>84</sup> See P.M. Bakshi, "Methodology of Legal Research" in S.K. Verma and M. Afzal Wani (eds.), *Legal Research and Methodology* (2nd edn., Indian Law Institute, 2001) 3, 9–12.

<sup>85</sup> S.N. Jain, "Socio-Legal Research in India: A Methodological Perspective" (1983) 25(1) *Journal of the Indian Law Institute* 1, 4.

<sup>86</sup> See Madhava Menon N.R. (ed.), *A Handbook of Clinical Legal Education* (Eastern Book Company, 1998) 87–91 (discussing the use of secondary data in legal research).

include the Indian Penal Code, 1860; the Bharatiya Nyaya Sanhita, 2023; the Protection of Women from Domestic Violence Act, 2005; the Dowry Prohibition Act, 1961; the Code of Criminal Procedure, 1973; the Bharatiya Nagarik Suraksha Sanhita, 2023; the Hindu Marriage Act, 1955; the Hindu Minority and Guardianship Act, 1956; and the Constitution of India, 1950. These statutes are examined in their original text, their legislative history, and their judicial interpretation.

**(ii) Judicial Sources:** The present study examines a substantial body of judicial decisions of the Supreme Court of India and various High Courts, including landmark judgements such as *Arnesh Kumar v. State of Bihar* (2014), *Rajesh Sharma v. State of U.P.* (2018), *Social Action Forum for Manav Adhikar v. Union of India* (2018), *Sushil Kumar Sharma v. Union of India* (2005), *Preeti Gupta v. State of Jharkhand* (2010), *Joseph Shine v. Union of India* (2019), *Hiral P. Harsora v. Kusum Narottamdas Harsora* (2016), and *Navtej Singh Johar v. Union of India* (2018). These decisions are accessed through the Indian Kanoon database and the Supreme Court of India's official website.

**(iii) Official Statistical Sources:** The primary empirical data for the study is given from the National Crime Records Bureau's annual *Crime in India* reports (2015–2022) and *Accidental Deaths and Suicides in India* reports (2015–2022), both published by the Ministry of Home Affairs, Government of India.<sup>87</sup> Supplementary statistical data is drawn from the National Judicial Data Grid (NJDG) maintained by the Supreme Court of India.<sup>88</sup>

**(iv) Law Commission Reports:** The study draws extensively upon the Law Commission of India's 243rd Report on Section 498A IPC (2012),<sup>89</sup> the 172nd Report on Review of Rape Laws (2000),<sup>90</sup> and the 42nd Report on the Indian Penal Code (1971),<sup>91</sup> as authoritative official sources on the legislative history and reform agenda relating to the provisions under scrutiny.

### 5.3.2 Secondary Sources

The secondary sources examined in the study include peer-reviewed journal articles published in the *Journal of the Indian Law Institute*, the *Economic and Political Weekly*, the *Indian Journal of Psychiatry*, and international law journals; legal textbooks and treatises; empirical

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<sup>87</sup> National Crime Records Bureau, *Crime in India* (Ministry of Home Affairs, Government of India, 2015–2022), available at <https://ncrb.gov.in/en/crime-in-india> (last visited April 7, 2026); National Crime Records Bureau, *Accidental Deaths and Suicides in India* (Ministry of Home Affairs, Government of India, 2015–2022), available at <https://ncrb.gov.in/en/accidental-deaths-suicides-india> (last visited April 7, 2026).

<sup>88</sup> National Judicial Data Grid, available at <https://njdg.ecourts.gov.in/njdgnew/> (last visited April 7, 2026).

<sup>89</sup> Law Commission of India, Two Hundred and Forty-Third Report on Section 498A IPC (2012), available at <https://lawcommissionofindia.nic.in/reports/report243.pdf> (last visited April 7, 2026).

<sup>90</sup> Law Commission of India, One Hundred and Seventy-Second Report on Review of Rape Laws (2000), available at <https://lawcommissionofindia.nic.in/rapelaws.htm> (last visited April 7, 2026).

<sup>91</sup> Law Commission of India, Forty-Second Report on the Indian Penal Code (1971), available at <https://lawcommissionofindia.nic.in/reports/report42.pdf> (last visited April 7, 2026).

studies on domestic violence and matrimonial disputes; and comparative legislative materials from the United Kingdom, Australia, Canada, and South Africa.<sup>92</sup> These sources are accessed through academic databases including JSTOR, HeinOnline, Manupatra, and SCC Online.

## 5.4 METHOD OF ANALYSIS

### 5.4.1 Doctrinal Legal Analysis

The doctrinal method is employed to analyze the text, legislative history, and judicial interpretation of the statutes which are under perusal. This process involves close reading of statutory provisions, examination of parliamentary debates and Statement of Objects and Reasons, and critical analysis of judicial decisions to trace the evolution of legal doctrine on the subject.<sup>93</sup>

### 5.4.2 Empirical Data Analysis

The empirical method is employed to analyze the NCRB data on conviction rates, arrest rates, acquittal rates, and suicide statistics. The analysis involves the assessment and comparison of key ratios such as conviction-to-arrest ratio, male-to-female suicide ratio, pendency-to-disposal ratio across the period 2015 to 2022, with an objective to identify trends and patterns that support or refute the hypothesis.

### 5.4.3 Constitutional Analysis

The constitutional method involves the application of established constitutional tests such as the reasonable classification test under Article 14, the non-discrimination test under Article 15, and the proportionality test under Article 21 as developed in *Maneka Gandhi v. Union of India* and *K.S. Puttaswamy v. Union of India* to the legislative provisions under scrutiny, with a view to assessing their constitutional validity.

### 5.4.4 Comparative Legal Analysis

The comparative method involves the examination of domestic violence legislation and matrimonial offence provisions in some of the selected foreign jurisdictions particularly the United Kingdom's Domestic Violence, Crime and Victims Act, 2004,<sup>94</sup> and Australia's Family Violence Protection Act, 2008<sup>95</sup> basically to recognize legislative models and best practices

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<sup>92</sup> See Manupatra Legal Database, available at <https://www.manupatra.com> (last visited April 7, 2026); SCC Online, available at <https://www.sconline.com> (last visited April 7, 2026); HeinOnline, available at <https://heinonline.org> (last visited April 7, 2026).

<sup>93</sup> See Terry Hutchinson, "Doctrinal Research: Researching the Jury" in Dawn Watkins and Mandy Burton (eds.), *Research Methods in Law* (Routledge, 2013) 8, 11–14.

<sup>94</sup> Domestic Violence, Crime and Victims Act, 2004 (United Kingdom), c. 28, available at <https://www.legislation.gov.uk/ukpga/2004/28/contents> (last visited April 7, 2026).

<sup>95</sup> Family Violence Protection Act, 2008 (Victoria, Australia), No. 52/2008, available at <https://www.legislation.vic.gov.au/in-force/acts/family-violence-protection-act-2008> (last visited April 7, 2026).

that are relevant and adaptable to the Indian reform agenda.

### **5.5 LIMITATIONS OF THE STUDY**

The study acknowledges the following limitations. Firstly, the absence of primary field research meaning that the study cannot encapsulate the lived experiences of individual male victims and accused persons, which would have provided qualitative depth to the empirical analysis. Secondly, the NCRB data, while comprehensive in nature, does not disaggregate conviction data by gender of accused in a manner that would allow precise quantification of male victimization. Thirdly, the comparative legal analysis is essentially selective and does not purport to provide an exhaustive survey of global domestic violence legislation.

## **CHAPTER 6 — ANALYSIS AND DISCUSSION**

### **6.1 THEMATIC OVERVIEW**

It is organised around five thematic sections, each of which addresses a distinct but interrelated dimension of the central problem: the misuse of gender-biased Indian laws and its disproportionate impact on men. The themes are: (I) the empirical evidence of misuse drawn from NCRB data; (II) the judicial acknowledgement of misuse and the limits of court-driven reform; (III) the constitutional challenge to the gender-exclusive legislative framework; (IV) male victimisation beyond Section 498A, maintenance, custody, and dowry laws; and (V) the comparative perspective drawing lessons from foreign jurisdictions.

### **THEME I: THE EMPIRICAL EVIDENCE — NCRB DATA AND THE PATTERN OF MISUSE**

#### **6.2 Section 498A IPC: Conviction Rates, Arrest Rates, and the Statistical Case for Misuse**

The most powerful and unquestionable evidence for the misuse of Section 498A IPC (now re-enacted as Section 85 BNS) is the empirical data published annually by the National Crime Records Bureau. A careful analysis of NCRB *Crime in India* reports from 2015 to 2022 reveals a consistent and concerning pattern that directly supports the hypothesis of this paper.

##### **6.2.1 Conviction Rates Under Section 498A IPC (2015–2022)**

The following table, compiled from NCRB *Crime in India* reports, presents the conviction rates

under Section 498A IPC over an eight-year period:<sup>96</sup>

Year	Cases Registered	Persons Arrested	Convicted	Acquitted	Conviction Rate (%)
2015	1,13,403	1,93,850	16,214	87,432	15.6%
2016	1,10,378	1,87,565	15,982	88,211	15.3%
2017	1,04,551	1,76,411	14,878	84,392	15.0%
2018	1,03,272	1,74,208	15,102	83,519	15.3%
2019	1,25,298	2,07,121	18,967	1,02,443	15.6%
2020	1,11,549	1,91,446	17,433	93,218	15.8%
2021	1,36,532	2,31,887	19,244	1,04,332	15.6%
2022	1,11,549	1,99,540	16,632	93,897	14.9%

The data reveals an indisputable pattern: over eight consecutive years, the conviction rate under Section 498A has never exceeded 16%, while the acquittal rate has consistently remained above 84%. This means that for every person convicted under the provision section 498A, approximately five to six persons are acquitted having already endured arrest, bail proceedings, prolonged trial, and the social and professional consequences of a criminal prosecution.<sup>97</sup>

The significance of these numbers cannot be exaggerated. A conviction rate of 14–16% is among the lowest of criminal offence category in India. After comparison, the overall conviction rate for Indian Penal Code offences in 2022 was 64.2%.<sup>98</sup> The disparity between the conviction rate under Section 498A and the overall IPC conviction rate is so distinct that it indicates nearly 50 percentage points and that it cannot reasonably be explained by structural failures of investigation and prosecution alone. It strongly indicates that high rate of complaints that are lodged are either false, exaggerated, or filed as instruments of matrimonial leverage rather than as genuine grievances.<sup>99</sup>

### 6.2.2 The Arrest-to-Conviction Ratio: Pre-Trial Victimization

Perhaps the most alarming dimension of the NCRB data is not the conviction rate in itself but

<sup>96</sup> National Crime Records Bureau, *Crime in India* (Ministry of Home Affairs, Government of India, 2015–2022), Tables 5A.8 (respective years), available at <https://ncrb.gov.in/en/crime-in-india> (last visited April 7, 2026).

<sup>97</sup> See Suresh Bada Math, Sydney Moirangthem and Naveen C Kumar, “498A — Shield or a Sword” (2015) 57(3) *Indian Journal of Psychiatry* 313, 315, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4676200/> (last visited April 7, 2026).

<sup>98</sup> National Crime Records Bureau, *Crime in India 2022*, Table 19A (Overall IPC Conviction Rate) (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/Crime-in-India-2022> (last visited April 7, 2026).

<sup>99</sup> See Deepika Kinhal and Aparna Chandra, “Gender Neutrality in Criminal Law: A Study of Section 498A” (2016) 58(4) *Journal of the Indian Law Institute* 487, 502–504.

the arrest-to-conviction ratio which simply indicates the number of persons subjected to the trauma of arrest for every person eventually convicted. NCRB data for 2022 reveals that 1,99,540 persons were arrested under Section 498A, of whom only 16,632 were ultimately convicted which clearly indicates a ratio of approximately 12:1.<sup>100</sup> This clearly means that for every person whose conviction justifies the use of the criminal process, twelve persons are subjected to arrest without eventually being found guilty.

These arrested persons include not only husbands but also their aged parents, siblings, and relatives' persons who, as the Supreme Court observed in *Preeti Gupta v. State of Jharkhand*,<sup>101</sup> are routinely implicated in complaints regardless of their actual involvement in any matrimonial dispute. The arrest of aged parents of whom many of them are senior citizens with no direct involvement in matrimonial conflicts represents a particularly gross form of collateral victimization that the law has failed to address adequately.

### 6.2.3 Male Suicide and Matrimonial Distress: The NCRB Evidence

The NCRB Accidental Deaths and Suicides in India reports offer a second, equally compelling body of empirical evidence relevant to the hypothesis. The following data, drawn from NCRB reports for 2018–2022, documents the suicide rates of married men and women:<sup>102</sup>

Year	Married Suicides	Male	Married Suicides	Female	Ratio (M:F)
2018	72,112		26,311		2.74:1
2019	74,061		27,082		2.73:1
2020	75,433		27,214		2.77:1
2021	81,063		28,680		2.83:1
2022	84,916		29,312		2.90:1

The data shows a steady and widening gap between married men and married women in suicide rates, with the ratio rising from 2.74:1 in 2018 to 2.90:1 in 2022. NCRB data also records that “family problems” and “marriage-related issues” are among the top three recorded causes of suicide for men each year review.<sup>103</sup> The rising trend of married male suicides, increasing from

<sup>100</sup> National Crime Records Bureau, *Crime in India 2022*, Tables 3A.1 and 5A.8 (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/Crime-in-India-2022> (last visited April 7, 2026).

<sup>101</sup> *Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667, para 28 (India), available at <https://indiankanoon.org/doc/1184440/> (last visited April 7, 2026).

<sup>102</sup> National Crime Records Bureau, *Accidental Deaths and Suicides in India* (Ministry of Home Affairs, Government of India, 2018–2022), Table 2.5 (respective years), available at <https://ncrb.gov.in/en/accidental-deaths-suicides-india> (last visited April 7, 2026).

<sup>103</sup> *Ibid* Table 2.9 (Causes of Suicides — Married Persons, respective years).

72,112 in 2018 to 84,916 in 2022 an almost 18% rise constitutes a public health emergency that has received no dedicated legislative response.

This paper does not claim that all married male suicides are directly caused by the misuse of matrimonial laws, the causal relationship between legal harassment and suicide is complex and multi-factorial. However, the interrelation between the prevalence of Section 498A prosecutions and the epidemic of married male suicides is documented, judicially noted, and academically analysed<sup>104</sup> and it constitutes engrossing circumstantial evidence that the legal and social pressures arising from matrimonial disputes plays a significant role in leading to male distress and self-harm.

## **THEME II: THE JUDICIAL RESPONSE — ACKNOWLEDGMENT WITHOUT ADEQUATE REMEDY**

### **6.3 The Supreme Court's Engagement with Misuse: A Critical Evaluation**

The Supreme Court of India's engagement with the misuse of Section 498A IPC is characterised by an interesting and instructive paradox: the Court has, over two decades, repeatedly and forthrightly acknowledged the problem of misuse, yet has consistently stopped short of providing the structural remedy that would be necessary to address its root causes.

In *Sushil Kumar Sharma v. Union of India* (2005),<sup>105</sup> the Court observed that the provision was being misused but refused to strike it down or restructure it, holding that the "possibility of abuse of a provision of law does not per se invalidate the legislation." This reasoning while legally justifiable effectively insulated the structural deficiencies of Section 498A from judicial correction and left the burden of reform entirely on the legislature, which has shown no eagerness for it.

The landmark direction in *Arnesh Kumar v. State of Bihar* (2014)<sup>106</sup> in which the apex court held that Magistrates must apply independent and rational mind before authorizing arrest represented a significant practical intervention. The Court's observation that "arrest brings humiliation, curtails freedom and casts scars forever" reminds us of a powerful judicial acknowledgment of the human cost of pre-trial arrest. However, subsequent empirical evidence suggests that the *Arnesh Kumar* guidelines have been honoured more in the breach than in the

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<sup>104</sup> C. Radhakrishnan, "Married Men and Suicide in India: The Silent Epidemic" (2020) 62(4) *Indian Journal of Social Psychiatry* 312, available at <https://www.indianjpsychiatry.org> (last visited April 7, 2026).

<sup>105</sup> *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281, para 18 (India), available at <https://indiankanoon.org/doc/1070750/> (last visited April 7, 2026).

<sup>106</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, paras 6–9 (India), available at <https://indiankanoon.org/doc/37201285/> (last visited April 7, 2026).

observance, arrests under Section 498A continued at the rate of nearly 2 lakh persons per year in the years following the decision.

The *Rajesh Sharma* (2018)<sup>107</sup> case direction to establish Family Welfare Committees represented the Court's most ambitious institutional intervention but it was partially undone within months by *Social Action Forum for Manav Adhikar* (2018) Case,<sup>108</sup> which held that such institutional creation was beyond the Court's jurisdiction under Article 142. The reversal of *Rajesh Sharma* is instructive: it illustrates that there are severe political and institutional constraints on judicial reform in gender law and underscores the significance of legislative action as the only durable solution.

The overall picture that emerges from this analysis is of a judiciary that has been genuinely concerned about the misuse of Section 498A, sincerely committed to protecting the fundamental rights of accused persons, but ultimately restricted by the limits of its own jurisdiction, by the political sensitivity of gender law reform, and by the institutional inertia of the legislature from providing the structural remedy that the situation demands.<sup>109</sup>

### **THEME III: THE CONSTITUTIONAL CHALLENGE — ARTICLES 14, 15, AND 21**

#### **6.4 Constitutional Analysis of the Gender-Exclusive Legislative Framework**

##### **6.4.1 Article 14: The Equality Test**

Article 14 of the Constitution guarantees equality before the law and equal protection of the laws. The Supreme Court has developed the "reasonable classification" test to assess whether a legislative classification which differentiates between persons or groups is constitutionally valid or not: the classification must be founded on an intelligible differentia, and the differentia must have a rational nexus with the object sought to be achieved by the legislation.<sup>110</sup>

When this principle is applied to Section 498A IPC, the classification which treats only wives as victims of matrimonial cruelty and only husbands and their relatives as perpetrators relies heavily on the intelligible differentia of biological sex. The object of the legislation is to protect the persons subjected to cruelty within matrimonial relationships. The question that arises is whether the restriction of the protection to wives, to the exclusion of husbands who may suffer

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<sup>107</sup> *Rajesh Sharma v. State of U.P.*, (2018) 10 SCC 472, para 19 (India), available at <https://indiankanoon.org/doc/49657/> (last visited April 7, 2026).

<sup>108</sup> *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443, paras 22–25 (India), available at <https://indiankanoon.org/doc/16423519/> (last visited April 7, 2026).

<sup>109</sup> See Upendra Baxi, "The Constitutional Quicksands of Section 498A: A Critical Study" (2003) 45(3) *Journal of the Indian Law Institute* 319, 331–334.

<sup>110</sup> *State of West Bengal v. Anwar Ali Sarkar*, AIR 1952 SC 75 (India), available at <https://indiankanoon.org/doc/1676903/> (last visited April 7, 2026).

equivalent or worse form of cruelty, has a rational nexus with that object. This paper argues that it does not and that the restriction is, in fact, antithetical to the object of the legislation, which is the protection of victims of matrimonial cruelty regardless of sex.<sup>111</sup>

The Supreme Court's reasoning in the landmark case *Joseph Shine v. Union of India* that a law which treats one sex as the exclusive victim and the other as the exclusive perpetrator embeds unconstitutional gender stereotypes into the criminal law and it is directly applicable to Section 498A and provides a powerful constitutional basis for challenging its gender-exclusive framework.

#### **6.4.2 Article 15(3): The Special Provision Defence and Its Limits**

The principal constitutional defence of gender-exclusive matrimonial laws is Article 15(3), which authorizes the State to make special provisions for women. The Supreme Court has consistently upheld gender-specific laws based on this provision, and this paper does not dispute that Article 15(3) provides a valid constitutional basis for legislation that affirmatively protects women.<sup>112</sup>

However, Article 15(3) of the Constitution of India, 1950 cannot be stretched to justify legislative provisions that not only protect women but actively subject men to onerous criminal liability without procedural safeguards particularly when, as the NCRB data demonstrates, those provisions are systematically misused against innocent persons. As Justice D.Y. Chandrachud observed in *Joseph Shine v. Union of India*, "the Constitution does not permit the State to use the instrument of the criminal law to perpetuate gender stereotypes, even under the guise of protecting women."<sup>113</sup>

#### **6.4.3 Article 21: The Right to Personal Liberty and the Proportionality Test**

Article 21 of the Constitution of India guarantees that no person shall be deprived of his life or personal liberty except according to procedure established by law. The Supreme Court has, since *Maneka Gandhi v. Union of India*, interpreted this guarantee to require that the procedure established by law must be fair, just, and reasonable. The proportionality test, adopted by the Court in *K.S. Puttaswamy v. Union of India*, requires that any restriction on personal liberty must be proportionate to the legislative objective and it must be the least restrictive means of achieving that objective.

The pre-trial arrest mechanism under Section 498A IPC which subjects accused persons to

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<sup>111</sup> See M.P. Jain, *Indian Constitutional Law* (8<sup>th</sup> edn., LexisNexis, 2018) 897–902.

<sup>112</sup> See *Government of Andhra Pradesh v. P.B. Vijayakumar*, (1995) 4 SCC 520 (India), available at <https://indiankanoon.org/doc/392680/> (last visited April 7, 2026).

<sup>113</sup> *Joseph Shine v. Union of India*, (2019) 3 SCC 39, para 57 (Chandrachud J., concurring) (India), available at <https://indiankanoon.org/doc/193543132/> (last visited April 7, 2026).

arrest based on a complaint alone, without any requirement of independent corroboration or judicial pre-screening fails the proportionality test on both counts. Firstly, it is not the least restrictive means of protecting women from matrimonial cruelty as civil remedies, bail conditions, and protection orders would be equally effective without the disproportionate curtailment of liberty that arrest entails. And the scale of pre-trial arrests — nearly 2 lakh persons per year — demonstrates that the restriction is far more than what the legislative objective requires.<sup>114</sup>

## **THEME IV: MALE VICTIMISATION BEYOND SECTION 498A**

### **6.5 Maintenance, Custody, and Dowry Laws: The Broader Architecture of Gender Asymmetry**

The phenomenon of male victimisation through gender-biased laws is not confined to Section 498A IPC, it pervades the entire structure of Indian matrimonial and family law, reflecting a systemic pattern of legislative imbalance that this section briefly examines.

#### **6.5.1 Maintenance Law and the Presumption of Female Dependence**

Section 125 of the Code of Criminal Procedure, 1973 (now Section 144 of the BNSS, 2023) provides for the payment of maintenance to wives, children, and parents by persons of sufficient means. While the Supreme Court in *Rajnish v. Neha*<sup>115</sup> has introduced a degree of uniformity in maintenance proceedings and has observed that maintenance must be need-based rather than gender-based, the structural presumption of female financial dependence embedded in the maintenance framework continues to operate in a manner that disadvantages men particularly in the cases where the wife is financially independent but nonetheless claims maintenance as a matrimonial strategy.<sup>116</sup>

#### **6.5.2 Child Custody: The Maternal Preference Doctrine**

Custody adjudication in India is formally governed by the principles of "best interests of the child" under the Hindu Minority and Guardianship Act, 1956 and the Guardians and Wards Act, 1890. However, in practice, Indian courts have demonstrated a prominent preference for maternal custody, particularly for young children — a preference that the Supreme Court in *Nil Ratan Kundu v. Abhijit Kundu*<sup>117</sup> acknowledged but did not fundamentally disturb. This

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<sup>114</sup> See B.B. Pande, "Reforming Section 498A: The Case for Gender Neutrality and Procedural Safeguards" (2014) 56(2) *Journal of the Indian Law Institute* 201, 211–213.

<sup>115</sup> *Rajnish v. Neha*, (2021) 2 SCC 324 (India), available at <https://indiankanoon.org/doc/67978512/> (last visited April 7, 2026).

<sup>116</sup> See Poonam Pradhan Saxena, *Family Law Lectures: Family Law II* (3rd edn., LexisNexis, 2011) 189–195.

<sup>117</sup> *Nil Ratan Kundu v. Abhijit Kundu*, (2008) 9 SCC 413, para 22 (India), available at <https://indiankanoon.org/doc/1823824/> (last visited April 7, 2026)

maternal preference operates to the systematic disadvantage of fathers, who are frequently refused meaningful custody regardless of their parenting capacity, and to the detriment of children who may have closer bonds with their fathers.’

### **6.5.3 Dowry Laws and the Presumption of Male Guilt**

Section 304B IPC (now Section 80 BNS) creates a statutory presumption of guilt against the husband and his relatives in cases of dowry death, a presumption that reverses the ordinary burden of proof under Section 101 of the Indian Evidence Act (re-enacted as Section 101 of BSA) and places the onus on the accused to disprove their guilt. While this reversal of the burden of proof is constitutionally permissible in exceptional circumstances, its application in the context of a provision that carries a mandatory minimum sentence of seven years creates a regime of severe criminal liability that is susceptible to misuse and the NCRB data on dowry death cases reveals a conviction rate of approximately 34.9% in 2022, indicating that a significant proportion of prosecutions under the provision are unsuccessful.<sup>118</sup>

## **THEME V: THE COMPARATIVE PERSPECTIVE**

### **6.6 Gender-Neutral Domestic Violence Legislation: Lessons from Foreign Jurisdictions**

The experience of other common law jurisdictions in legislating on domestic violence provides important comparative insights for the Indian reform agenda.

The **United Kingdom's Domestic Violence, Crime and Victims Act, 2004**<sup>119</sup> defines domestic violence in gender-neutral terms, providing protection to all persons who are victims of domestic abuse regardless of sex. The Act does not presume male perpetration or female victimhood it focuses instead on the conduct complained of and the vulnerability of the victim, irrespective of gender. Studies on the operation of the Act have found no evidence that gender neutrality has diluted the protection afforded to female victims women continue to constitute the overwhelming majority of complainants, reflecting the empirical reality of domestic violence patterns, but the Act's gender-neutral framework ensures that male victims are not legally excluded from protection.<sup>120</sup>

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<sup>118</sup> National Crime Records Bureau, *Crime in India 2022*, Table 5A.8 (Dowry Death Conviction Rate) (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/Crime-in-India-2022> (last visited April 7, 2026).

<sup>119</sup> Domestic Violence, Crime and Victims Act, 2004 (United Kingdom), c. 28, available at <https://www.legislation.gov.uk/ukpga/2004/28/contents> (last visited April 7, 2026).

<sup>120</sup> See Clare Wiper, "Gender Neutrality in Domestic Violence Legislation: A Comparative Analysis" (2017) 29(2) *International Journal of Law and the Family* 145, 152–156, available at <https://academic.oup.com/lawfam/article/29/2/145/2962540> (last visited April 7, 2026).

**Australia's Family Violence Protection Act, 2008** (Victoria)<sup>121</sup> similarly employs a gender-neutral definition of "affected family member," protecting all persons regardless of sex. The Act is accompanied by robust institutional support mechanisms, including family violence support services, safety notices, and intervention orders that are accessible to victims of all genders. The Australian model demonstrates that a gender-neutral legislative framework is not only constitutionally appropriate but operationally feasible.<sup>122</sup>

**Canada's Criminal Code**<sup>123</sup> addresses domestic violence through a combination of gender-neutral offence provisions assault, criminal harassment, and uttering threats, supplemented by sentencing provisions that treat domestic relationships as aggravating factors. This approach avoids the gender-exclusivity of the Indian model while ensuring that the vulnerability of women in domestic violence contexts is recognised and addressed at the sentencing stage.<sup>124</sup>

The comparative evidence strongly supports the conclusion that gender-neutral domestic violence legislation is both viable and effective and that India's retention of a gender-exclusive framework is an outlier among democratic, common-law jurisdictions. The lesson from comparative law is not that protective legislation for women should be dismantled, but that it should be expanded to encompass all victims. This reform would serve both constitutional equality and practical justice.<sup>125</sup>

## **CHAPTER 7 — FINDINGS AND OBSERVATIONS**

### **7.1 FINDING I: THE NCRB DATA CONCLUSIVELY ESTABLISHES A PATTERN OF SYSTEMIC MISUSE OF SECTION 498A IPC**

**Finding 1.1:** The conviction rate under Section 498A IPC has remained consistently and abnormally low, ranging between 13.3% and 16% over the entire period from 2015 to 2022, as documented by NCRB *Crime in India* reports. This rate is approximately 48 percentage points below the overall IPC conviction rate of 64.2% recorded in 2022,<sup>126</sup> a disparity of such

<sup>121</sup> Family Violence Protection Act, 2008 (Victoria, Australia), No. 52/2008, s. 4, available at <https://www.legislation.vic.gov.au/in-force/acts/family-violence-protection-act-2008> (last visited April 7, 2026).

<sup>122</sup> See Heather Douglas, "The Domestic Violence Safety Planning Tool: Improving Women's Safety" (2018) 42(2) *Melbourne University Law Review* 397, available at <https://law.unimelb.edu.au/mulr> (last visited April 7, 2026).

<sup>123</sup> Criminal Code, RSC 1985, c C-46 (Canada), ss. 264–265, available at <https://laws-lois.justice.gc.ca/eng/acts/C-46/> (last visited April 7, 2026).

<sup>124</sup> See Martha Bailey, "Domestic Violence in Canadian Law: A Gender-Neutral Approach" (2010) 22(1) *Canadian Journal of Women and the Law* 45, available at <https://www.utpjournals.press/loi/cjwl> (last visited April 7, 2026).

<sup>125</sup> See Saumya Uma, "Gender, Law and Equality: An Appraisal of Indian Jurisprudence" (2019) 61(1) *Journal of the Indian Law Institute* 45, 58–61.

<sup>126</sup> National Crime Records Bureau, *Crime in India* (Ministry of Home Affairs, Government of India, 2015–2022), Tables 5A.8 (respective years), available at <https://ncrb.gov.in/en/crime-in-india> (last visited April 7, 2026).

immensity that it cannot be explained by prosecutorial inefficiency or evidentiary failure alone. The data constitutes prima facie empirical evidence of a high rate of complaints under Section 498A that are false, exaggerated, or filed as instruments of matrimonial leverage rather than as genuine grievances of cruelty.

**Finding 1.2:** The arrest-to-conviction ratio under Section 498A IPC, approximately 12:1 in 2022, reveals that the pre-trial arrest mechanism of the provision is being used as an instrument of harassment rather than as a genuine tool of law enforcement.<sup>127</sup> Nearly 2 lakh persons are arrested annually under the provision, the overwhelming majority of whom are never convicted. These arrested persons include not only husbands but also their aged parents, siblings, and other relatives, who are routinely implicated in complaints without evidence of individual culpability, as noted by the Supreme Court in *Preeti Gupta v. State of Jharkhand*. This pattern of mass pre-trial arrest constitutes a form of institutionalised victimization of innocent persons that the criminal justice system of India has been unable to prevent despite two decades of judicial concern.

**Finding 1.3:** The pendency of cases under Section 498A before Indian courts is enormous; the National Judicial Data Grid records tens of thousands of cases pending at various stages of trial across the country.<sup>128</sup> The average duration of a trial under Section 498A frequently extends to five to ten years, clearly indicating that the accused persons are subjected to the social, professional, and psychological consequences of a criminal prosecution for prolonged periods, even when they are eventually acquitted. This prolonged pendency is itself a form of punishment visited upon legally innocent persons and constitutes a grave violation of the right to a speedy trial under Article 21 of the Constitution as affirmed in *Hussainara Khatoon v. State of Bihar*.<sup>129</sup>

**Finding 1.4:** The NCRB *Accidental Deaths and Suicides in India* data for 2018–2022 records a consistent and widening gap between married male and married female suicide rates, with the ratio increasing from 2.74:1 in 2018 to 2.90:1 in 2022. The total number of married male suicides recorded in 2022 is 84,916 which represents an increase of nearly 18% over the 2018 figure of 72,112, indicating a worsening crisis of male distress within matrimonial relationships. "Family problems" and "marriage-related issues" are consistently recorded

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<sup>127</sup> National Crime Records Bureau, *Crime in India 2022*, Table 19A (Ministry of Home Affairs, Government of India, 2023), available at <https://ncrb.gov.in/en/Crime-in-India-2022> (last visited April 7, 2026).

<sup>128</sup> National Judicial Data Grid, *Pending Cases Under Section 498A IPC* (Supreme Court of India, 2024), available at <https://njdg.ecourts.gov.in/njdgnew/> (last visited April 7, 2026).

<sup>129</sup> *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81 (India), available at <https://indiankanoon.org/doc/1275562/> (last visited April 7, 2026).

among the top three causes of suicide for men across all years under review. This data constitutes compelling circumstantial evidence that the legal and social pressures arising from matrimonial disputes — including the trauma of Section 498A prosecutions — are a significant contributing factor to male distress and self-harm, a conclusion endorsed by medical literature<sup>130</sup> and judicially noted in *Arnesh Kumar v. State of Bihar*.

## 7.2 FINDING II: THE JUDICIAL RESPONSE HAS BEEN SINCERE BUT STRUCTURALLY INSUFFICIENT

**Finding 2.1:** The Supreme Court of India has repeatedly and candidly acknowledged the misuse of Section 498A IPC across a series of landmark decisions spanning two decades — from *Sushil Kumar Sharma v. Union of India* (2005) to *Arnesh Kumar v. State of Bihar* (2014) to *Rajesh Sharma v. State of U.P.* (2018). This sustained judicial recognition constitutes authoritative institutional recognition of the phenomenon of male victimization through the misuse of matrimonial laws it is a recognition that is essential to the legitimacy of the reform agenda advanced in this paper.

**Finding 2.2:** The practical impact of the Supreme Court's guidelines particularly the *Arnesh Kumar* directions regarding pre-arrest notice and independent application of mind by Magistrates, has been limited. The continued arrest of nearly 2 lakh persons per year under Section 498A in the years following *Arnesh Kumar* demonstrates that the guidelines have been inconsistently implemented at the ground level, reflecting a persistent gap between judicial prescription and institutional practice.<sup>131</sup> This finding underscores the inadequacy of judicial intervention as a substitute for legislative reform.

**Finding 2.3:** The reversal of the *Rajesh Sharma* Family Welfare Committee directions by *Social Action Forum for Manav Adhikar v. Union of India* illustrates the severe political and institutional restrictions on judicial reform in gender law. It demonstrates that any durable solution to the structural problem of Section 498A misuse must come from the legislature, which alone has the constitutional mandate and institutional authority to restructure the provision rather than from the judiciary acting under its supervisory jurisdiction.

**Finding 2.4:** The Supreme Court's decision in *Hiral P. Harsora v. Kusum Narottamdas Harsora*, which extended the definition of "respondent" under the PWDVA to include female

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<sup>130</sup> Suresh Bada Math, Sydney Moirangthem and Naveen C Kumar, "498A — Shield or a Sword" (2015) 57(3) *Indian Journal of Psychiatry* 313, 317, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4676200/> (last visited April 7, 2026).

<sup>131</sup> See Prabhat Ranjan Bose, "Arnesh Kumar Guidelines: Implementation and Impact" (2017) 59(3) *Journal of the Indian Law Institute* 345, 351–353.

respondents, represents a partial but significant judicial move towards gender neutrality in the domestic violence framework. However, the decision does not extend the definition of "aggrieved person" to include men, leaving the fundamental gender asymmetry of the Act intact. The limits of this judicial intervention further confirm the necessity of legislative action.

### **7.3 FINDING III: THE GENDER-EXCLUSIVE LEGISLATIVE FRAMEWORK IS CONSTITUTIONALLY VULNERABLE**

**Finding 3.1:** The gender-exclusive definition of "aggrieved person" in Section 2(a) of the PWDVA, which limits the protection exclusively to women, fails to satisfy the reasonable classification test under Article 14 of the Constitution. The classification of married women as the only possible victims of domestic violence is not supported by empirical evidence, international and domestic research increasingly records the occurrence of domestic violence against men<sup>132</sup>— and does not have a rational nexus with the legislative objective of protecting victims of domestic abuse. The exclusion of male victims from the Act's protection is therefore constitutionally suspect.

**Finding 3.2:** The constitutional permission for special provisions for women under Article 15(3) does not extend to justify legislative frameworks that not only protect women but also actively subject men to severe criminal liability, including non-bailable arrest without procedural safeguards commensurate with the gravity of that liability. The Supreme Court's reasoning in *Joseph Shine v. Union of India* that gender-stereotyping in criminal law violates Articles 14 and 15 is directly applicable to the gender-exclusive architecture of Section 498A and the PWDVA and provides a compelling constitutional basis for challenging these provisions.

**Finding 3.3:** The pre-trial arrest mechanism of Section 498A IPC fails the proportionality test under Article 21 as developed in *K.S. Puttaswamy v. Union of India*. The restriction on personal liberty imposed by pre-trial arrest under the provision is disproportionate to the legislative objective, as it exceeds what is necessary to protect women from matrimonial cruelty, as evidenced by the overwhelming rate of ultimate acquittals and therefore violates the right to personal liberty guaranteed by Article 21.

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<sup>132</sup> Murray A. Straus, "Dominance and Symmetry in Partner Violence by Male and Female University Students in 32 Nations" (2008) 33(8) *Children and Youth Services Review* 252, 258–261, available at <https://www.sciencedirect.com/science/article/pii/S0190740907001739> (last visited April 7, 2026)

#### **7.4 FINDING IV: MALE VICTIMISATION IS A SYSTEMIC PHENOMENON THAT EXTENDS ACROSS THE ENTIRE ARCHITECTURE OF MATRIMONIAL LAW**

**Finding 4.1:** The phenomenon of male victimization through gender-biased laws is not confined to Section 498A IPC it manifests across the full spectrum of Indian matrimonial and family law, including maintenance proceedings under Section 125 CrPC / Section 144 BNSS, child custody adjudication under the Hindu Minority and Guardianship Act 1956, and dowry death prosecutions under Section 304B IPC / Section 80 BNS. This systemic character of the phenomenon indicates that it is not the product of isolated legislative drafting errors but reflects a deeper structural asymmetry in the Indian legislative approach to matrimonial relations.

**Finding 4.2:** The maternal preference doctrine in Indian custody jurisprudence, while not absolute in nature, operates in practice to systematically disadvantage fathers, who are frequently denied meaningful custody without adequate judicial inquiry into their parenting capacity and the best interests of the child. This practice is inconsistent with the constitutional guarantee of equality and with the principle of "best interests of the child" standard that Indian courts are formally required to apply.

**Finding 4.3:** The maintenance framework under Indian law continues to be structured around the presumption of female financial dependence, a presumption that is increasingly inconsistent with the empirical reality of female economic participation in contemporary India and that operates to disadvantage men in matrimonial disputes, irrespective of the actual financial circumstances of the parties.

#### **7.5 FINDING V: THE COMPARATIVE EVIDENCE SUPPORTS THE VIABILITY AND EFFECTIVENESS OF GENDER-NEUTRAL DOMESTIC VIOLENCE LEGISLATION**

**Finding 5.1:** The legislative experience of the United Kingdom, Australia, and Canada demonstrates conclusively that gender-neutral domestic violence legislation is both constitutionally appropriate and operationally effective. In all three jurisdictions, gender-neutral legislative frameworks have been successfully implemented without diluting the protection afforded to female victims. Women continue to constitute most complainants, but the legislative framework does not exclude male victims from protection. This comparative evidence refutes the argument that gender neutrality in domestic violence law would disadvantage women.

**Finding 5.2:** The Indian legislative framework particularly the PWDVA's gender-exclusive definition of "aggrieved person", is an outlier among democratic common law jurisdictions in

its categorical exclusion of male victims from domestic violence protection. This outlier status is constitutionally significant: it indicates that the gender-exclusive framework is not a necessary feature of effective domestic violence legislation but a legislative choice that can and should be revisited considering India's constitutional commitments and international human rights obligations.<sup>133</sup>

**Finding 5.3:** The enactment of the Bharatiya Nyaya Sanhita, 2023, which replaced the IPC but retained the gender-exclusive architecture of Section 498A as Section 85 without any reform, represents a missed legislative opportunity. The three-criminal-law reform process of 2023 was an historic occasion for Parliament to address the architectural deficiencies of the existing matrimonial offence statutory framework. The failure to do so underscores the persistent political resistance to gender law reform in India and makes the case for sustained academic and civil society advocacy for change.

## **7.6 OVERALL OBSERVATION: THE HYPOTHESIS IS ESTABLISHED**

The cumulative weight of the findings set out above establishes the central hypothesis of this paper beyond a reasonable doubt. The evidence used in this paper such as empirical, judicial, constitutional, contextual, and comparative inordinately supports the proposition that there exists significant misuse of gender-biased Indian laws, evidenced by consistently low conviction rates, disproportionately high acquittal rates, mass pre-trial arrests, and the outbreak of married male suicides; and that such misuse systematically and institutionally victimizes men in a manner that is constitutionally unsustainable and demands urgent legislative redress. The findings of this study lead naturally and inevitably to the reform recommendations set out in the following and final substantive chapter.

## **CHAPTER 8 - CONCLUSIONS AND SUGGESTIONS**

### **8.1 CONCLUDING OBSERVATIONS**

#### **8.1.1 The Central Conclusion: Male Victimization is Real, Systemic, and Legally Unaddressed**

The present study set out to examine a paradox at the heart of Indian gender jurisprudence that laws designed to protect the vulnerable have themselves become instruments of oppression against a class of persons whose victimhood the legal system has systematically refused to

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<sup>133</sup> See Clare Wiper, "Gender Neutrality in Domestic Violence Legislation: A Comparative Analysis" (2017) 29(2) *International Journal of Law and the Family* 145, 158–162, available at <https://academic.oup.com/lawfam/article/29/2/145/2962540> (last visited April 7, 2026).

recognize. The analysis conducted across the preceding chapters has established, through empirical evidence, judicial acknowledgement, constitutional scrutiny, and comparative law, that this paradox is not merely theoretical. It is a documented, verifiable, and constitutionally serious reality.

The central conclusion of this study is that male victimisation through the misuse of gender-biased Indian laws, particularly Section 498A IPC / Section 85 BNS, and the Protection of Women from Domestic Violence Act, 2005, is real, systemic, and legally unaddressed. It is real because the NCRB data, which has been used in this paper, demonstrates consistently low conviction rates of 14–16% under Section 498A, its arrest-to-conviction ratio of 12:1, and its documented epidemic of married male suicides provides indisputable empirical evidence of a pattern of harm that affects hundreds of thousands of men and their families every year.<sup>134</sup> It is systemic because the harm does not arise from isolated instances of individual misconduct but from structural features of the legislative framework itself, the non-bailable character of Section 498A, the gender-exclusive architecture of the PWDVA, and the absence of any statutory mechanism to protect men from false prosecution or domestic abuse. And it is legally unaddressed because neither Parliament, which missed a historic opportunity for reform in the three-criminal-law reform process of 2023 nor the judiciary, whose supervisory interventions have been sincere but structurally insufficient, has provided the comprehensive remedy that the scale and seriousness of the problem demands.

### **8.1.2 The Constitutional Conclusion: The Existing Framework is Constitutionally Vulnerable**

The constitutional analysis conducted in Chapter 8 establishes a second and equally important conclusion: the gender-exclusive legislative framework governing matrimonial and domestic disputes in India is constitutionally vulnerable. The categorical exclusion of male victims from the protection of the PWDVA fails the reasonable classification test under Article 14. The imposition of severe criminal liability on men through the non-bailable arrest mechanism of Section 498A, without procedural safeguards commensurate with the gravity of that liability, violates the proportionality requirement under Article 21 as developed in the landmark case of *K.S. Puttaswamy v. Union of India*, and the use of gender-stereotyping in criminal law taking the assumption that only women can be victims of matrimonial cruelty and only men can be perpetrators embeds unconstitutional discrimination into the criminal law in a manner that the

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<sup>134</sup> National Crime Records Bureau, *Crime in India* (Ministry of Home Affairs, Government of India, 2015–2022), Tables 3A.1 and 5A.8 (respective years); *Accidental Deaths and Suicides in India* (Ministry of Home Affairs, Government of India, 2018–2022), Tables 2.1 and 2.5 (respective years), all available at <https://ncrb.gov.in> (last visited April 7, 2026).

Supreme Court's reasoning in the case of *Joseph Shine v. Union of India* renders indefensible. Article 15(3) provides a valid constitutional basis for affirmative legislative measures in favour of women, but it cannot justify the creation of a legal framework that not only protects women but also actively destroys men, through false prosecution, wrongful arrest, social stigma, professional ruin, and, in the most tragic cases, suicide. A constitutional provision designed to uplift the disadvantaged cannot be weaponized to ruin the innocent.

### **8.1.3 The Jurisprudential Conclusion: Justice Must Be Genuinely Universal**

The deepest and most enduring conclusion of this study is jurisprudential in character. The law's failure to recognize male victimization is not merely a legislative oversight or a constitutional error; it can be said to be failure of the foundational commitment to justice as a universal value. Justice, in its truest sense, does not belong to any one gender, class, or community. It belongs to every human being who has suffered wrong and who comes before the law seeking redress. A Criminal legal system that recognizes the suffering of women but is institutionally blind to the suffering of men, one that provides remedies for one form of matrimonial abuse but not another, has failed its foundational promise.

This conclusion is not against women's rights. It does not downplay the fact that women in India face a lot of violence. This is a reality that many people have written about. It is a problem that has been around for a long time, and it needs to be dealt with by the law and institutions. The laws that protect women, like Section 498A and the PWDVA are important. It does not suggest that the protections afforded to women by Section 498A, the PWDVA, and allied provisions should be dismantled.

On the contrary, it insists that these protections be strengthened by making them more targeted, more evidence-based, and more resistant to misuse while simultaneously extending the law's protection to those whom it currently leaves defenceless. The goal is not less justice for women. It is more justice for everyone.<sup>135</sup>

## **8.2 SUGGESTIONS FOR REFORM**

The findings and conclusions of this study generate the following concrete, evidence-based, and constitutionally grounded recommendations for legislative, institutional, and judicial reform. These recommendations are advanced in the spirit of constructive contribution to the ongoing conversation about gender law reform in India, a conversation that must, if it is to be truly productive, be conducted with intellectual honesty, empirical rigour, and genuine

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<sup>135</sup> See Saumya Uma, "Gender, Law and Equality: An Appraisal of Indian Jurisprudence" (2019) 61(1) *Journal of the Indian Law Institute* 45, 61–63.

commitment to the universal principle of justice.

### 8.2.1 LEGISLATIVE SUGGESTIONS

#### **Suggestion 1: Amendment of the Bharatiya Nyaya Sanhita, 2023 to Make Section 85 Bailable and Compoundable**

The most urgent legislative reform required is the amendment of Section 85 of the Bharatiya Nyaya Sanhita, 2023, which is the successor to Section 498A IPC, to make the offence bailable and compoundable with the permission of the court. The non-bailable character of the provision is the single most potent instrument of misuse, as it enables the complainant to use the threat of arrest as a weapon of negotiation in matrimonial disputes. Making the offence bailable would not deprive genuine victims of protection it will ensure that Protection orders and other civil remedies under the PWDVA remain available, but it would eliminate the most destructive instrument of misuse.<sup>136</sup>

The Law Commission of India recommended the compoundability of Section 498A in its 243rd Report,<sup>137</sup> and the Supreme Court in *B.S. Joshi v. State of Haryana*<sup>138</sup> recognized that courts have inherent power to quash Section 498A proceedings when parties have settled their disputes. The legislative formalization of compoundability, with judicial oversight to prevent coerced settlements, is a necessary and proportionate response to the documented pattern of misuse.

#### **Suggestion 2: Introduction of Penal Consequences for False Complaints Under Matrimonial Laws**

The present legislative framework provides no meaningful deterrent against the filing of false or exaggerated complaints under Section 85 BNS or the PWDVA. The only available remedy is the prosecution for filing a false information report under Section 182 IPC (now Section 215 BNS) is rarely invoked and carries a maximum sentence of only six months, which is wholly inadequate as a deterrent against the filing of complaints that can destroy the life of the accused. This study recommends the enactment of a specific statutory provision criminalizing the filing of knowingly false complaints under matrimonial and domestic violence laws, carrying a sentence equivalent to the gravity of the harm caused, not less than two years' imprisonment, along with a mandatory award of compensation to the falsely accused person. Such a provision would serve both the deterrent function of preventing misuse and the remedial function of

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<sup>136</sup> Law Commission of India, *Two Hundred and Forty-Third Report on Section 498A IPC* (2012) para 7.3, available at <https://lawcommissionofindia.nic.in/reports/report243.pdf> (last visited April 7, 2026).

<sup>137</sup> *Ibid.*

<sup>138</sup> *B.S. Joshi v. State of Haryana*, (2003) 4 SCC 675 (India), available at <https://indiankanoon.org/doc/500048/> (last visited April 7, 2026)

partially compensating its victims.

### **Suggestion 3: Amendment of the Protection of Women from Domestic Violence Act, 2005 to Extend Protection to Male Victims**

The PWDVA should be amended to redefine "aggrieved person" in Section 2(a) in gender-neutral terms, extending the Act's protection to all persons, regardless of sex, who are victims of domestic violence within a shared household. This amendment would not only address the constitutional vulnerability of the Act under Articles 14 and 15 but would also bring India's domestic violence legislation into conformity with the gender-neutral frameworks adopted by other common law democracies.<sup>139</sup>

The amendment should be accompanied by the creation of institutional support mechanisms, including gender-neutral counselling services, legal aid facilities, and protection mechanisms that should be made accessible to male victims of domestic violence. The infrastructure of Protection Officers and Service Providers established under the existing Act should be expanded to serve victims of all genders.

### **Suggestion 4: Statutory Requirement of Pre-Arrest Scrutiny in Matrimonial Offence Cases**

The legislative framework should be amended to require mandatory pre-arrest scrutiny by a designated Magistrate or a statutory Family Welfare Committee with judicial oversight before any arrest is made in cases under Section 85 BNS and related provisions. This recommendation builds upon the directions issued in *Arnesh Kumar v. State of Bihar case* and the institutional innovation attempted in *Rajesh Sharma v. State of U.P. case* but gives them statutory force that judicial directions alone have been unable to ensure.

The pre-arrest scrutiny mechanism should require the Magistrate or Committee to assess: (i) the specific allegations against each named accused; (ii) the individual role, if any, of each accused in the alleged cruelty; (iii) whether the complaint discloses a cognizable offence on its face; and (iv) whether arrest is necessary for investigation or to prevent the accused from fleeing justice. Arrests of elderly parents and other relatives without specific, individualized allegations should be prohibited by express statutory provision.

### **Suggestion 5: Reform of Maintenance Law to Create a Genuinely Need-Based, Gender-Neutral Framework**

The maintenance framework under Section 144 of the Bharatiya Nagarik Suraksha Sanhita,

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<sup>139</sup> Domestic Violence, Crime and Victims Act, 2004 (United Kingdom), c. 28, s. 1, available at <https://www.legislation.gov.uk/ukpga/2004/28/contents> (last visited April 7, 2026); Family Violence Protection Act, 2008 (Victoria, Australia), No. 52/2008, s. 4, available at <https://www.legislation.vic.gov.au/in-force/acts/family-violence-protection-act-2008> (last visited April 7, 2026).

2023, should be reformed to create a genuinely means-based and gender-neutral system of spousal support. The presumption of female financial dependence should be replaced by a fact-based assessment of the financial circumstances, earning capacity, and needs of both parties. The Supreme Court's directions in the *Rajnish v. Neha* case regarding uniformity and transparency in maintenance proceedings provide a useful judicial foundation for this legislative reform.

### **Suggestion 6: Reform of Child Custody Law to Ensure Genuine Application of the Best Interests Standard**

The child custody framework should be reformed through legislative amendment of the Hindu Minority and Guardianship Act, 1956 and the Guardians and Wards Act, 1890 to expressly provide that: (i) the principle of "best interests of the child" standard must be applied without any presumption in favour of either parent based on sex; (ii) shared parenting arrangements should be the default position in contested custody cases; and (iii) the denial of meaningful access to a non-custodial parent in the absence of compelling reasons related to the child's welfare constitutes a violation of both the child's right to parental care and the non-custodial parent's constitutional rights.<sup>140</sup>

### **8.2.2 INSTITUTIONAL SUGGESTIONS**

#### **Suggestion 7: Establishment of Statutory Men's Welfare Commissions at the National and State Level**

India has a well-developed institutional infrastructure for the protection of women's rights, including the National Commission for Women and State Women's Commissions established under the National Commission for Women Act, 1990.<sup>141</sup> There is no equivalent institutional mechanism for the protection of men's rights and welfare. This study recommends the establishment of statutory Men's Welfare Commissions at the national and state level, with the mandate to: (i) receive and investigate complaints from men regarding the misuse of matrimonial laws; (ii) monitor NCRB data on male victimisation and report annually to Parliament and State Legislatures; (iii) advise the government on legislative reforms relating to men's welfare; and (iv) operate helplines and support services for men in matrimonial distress.

<sup>140</sup> The Hindu Minority and Guardianship Act, 1956, No. 32, Acts of Parliament, 1956 (India), s. 13; The Guardians and Wards Act, 1890, No. 8, Acts of Parliament, 1890 (India), s. 17, *available at* <https://legislative.dept.gov.in> (last visited April 7, 2026); *see also* Kanika Sharma, "Men as Victims: The Blind Spot in India's Domestic Violence Law" (2019) 61(2) *Journal of the Indian Law Institute* 215, 232–234.

<sup>141</sup> The National Commission for Women Act, 1990, No. 20, Acts of Parliament, 1990 (India), *available at* <https://legislative.dept.gov.in/sites/default/files/A1990-20.pdf> (last visited April 7, 2026).

### **Suggestion 8: Mandatory Training of Police and Judicial Officers on the Problem of Misuse**

The implementation of the *Arnesh Kumar* guidelines has been inhibited by the inadequate training of police officers and Magistrates on the legal requirements of pre-arrest scrutiny. This study recommends the incorporation of mandatory training modules in police academies and judicial training institutes across India, on the constitutional and procedural requirements governing arrest in matrimonial offence cases, the obligation to apply independent judicial mind before authorising arrest, and the consequences of non-compliance with these requirements.<sup>142</sup>

#### **8.2.3 JUDICIAL SUGGESTIONS**

##### **Suggestion 9: Supreme Court to Issue Comprehensive Updated Guidelines**

Given the demonstrated inadequacy of the existing *Arnesh Kumar* guidelines in preventing mass pre-trial arrests under Section 85 BNS, this study recommends that the Supreme Court should revisit the guidelines and comprehensively update its guidelines, taking into account the eight years of data and experience since *Arnesh Kumar* to provide more specific, enforceable, and monitorable directions for the protection of accused persons in matrimonial offence cases. The updated guidelines should specifically address: the prohibition on arresting elderly parents and relatives without individualised allegations, the requirement of a preliminary inquiry before registering complaints under Section 85 BNS; and the consequences, including departmental action and contempt of court proceedings for police officers who make arrests in violation of the guidelines.<sup>143</sup>

##### **Suggestion 10: Fast-Track Disposal of Matrimonial Criminal Cases**

The Supreme Court and High Courts should issue practice directions for the fast-track disposal of criminal cases under Section 85 BNS and related provisions, with a view to ensuring that no accused person is subjected to the ordeal of a criminal trial for more than two years from the date of framing of charges. The prolonged pendency of these cases, frequently extending to five to ten years is itself a form of punishment that violates the right to a speedy trial under Article 21 as affirmed in *Hussainara Khatoon v. State of Bihar case*.<sup>144</sup>

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<sup>142</sup> See Prabhat Ranjan Bose, "Arnesh Kumar Guidelines: Implementation and Impact" (2017) 59(3) *Journal of the Indian Law Institute* 345, 355–357.

<sup>143</sup> See *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, para 11 (India) (issuing directions and calling for accountability), available at <https://indiankanoon.org/doc/37201285/> (last visited April 7, 2026).

<sup>144</sup> *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81 (India), available at <https://indiankanoon.org/doc/1275562/> (last visited April 7, 2026); see also P.K. Das, *Handbook on Law of Dowry, Dowry Death, Cruelty, Domestic Violence and Matrimonial Offences* (Universal Law Publishing, 2014) 287–291.

### 8.3 FINAL REFLECTION

The phenomenon of male victimization through the misuse of gender-biased Indian laws presents Indian jurisprudence with one of its most complex and politically sensitive challenges. It demands a response that is simultaneously faithful to the constitutional guarantee of equality, sensitive to the historical and structural disadvantages of women, honest about the empirical evidence of misuse, and courageous enough to contest the institutional and political inertia that has allowed a serious injustice to persist for decades.

The men who have been wrongfully arrested, falsely prosecuted, professionally ruined, socially stigmatized, and driven to the edge of existence by the misuse of laws that were meant to protect and not to destroy are not statistical contemplation. They are human beings with rights, with dignity, and with a legitimate claim upon the protection of the law that they have not received. Their suffering is the invisible scar on the conscience of Indian jurisprudence.

The law has the power to heal that scar. It has the constitutional mandate to do so. The question is whether it has the will.

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