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“DOMESTIC VIOLENCE AGAINST MEN IN INDIA – A BALANCING FEDERALISM AND JUDICIAL REFLECTION”

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Abstract:

In the context of India, domestic violence against men has generally remained downtrodden in a discussion that has largely been seen only through the lens of women's rights. It was only relatively recently that the legal and judicial frameworks of domestic abuse have evolved to address women's safety and empowerment but the question of how a male victim of domestic abuse is protected and treated has received less consideration. This paper attempts to understand the move towards and reflection on federalism and judicial behaviour in dealing with the growing concern of domestic violence against men in India. It reflects on the interaction between central and state laws, judicial interpretations, and the social stigma attached to male victimization in domestic spaces. Through an examination of these constitutional provisions as well as pertinent judicial responses and legal reforms, this paper argues for a need to create an inclusive legal framework which explicitly recognizes domestic violence against men. It goes even further, arguing for a balance that adheres to federalistic values while making sure that the judicial system is responsive to the development of domestic abuse laws in a changing India. The study calls for a nuanced and gender-neutral view while understanding the reported data on domestic violence in the context of India's rich legal and sociocultural framework.

Keywords: Domestic violence, India, federalism, judicial reflections, male victims.

Introduction

Domestic Violence¹ is a scourge in India is an indictment of society as a whole, but it has largely been framed as a women's rights issue. The Protection of Women from Domestic Violence Act (PWDVA) 2005² was a landmark piece of legislation in India's legal system to deal with this issue. Yet, there is an increasing realization that domestic violence knows no gender, with men frequently perpetrating abuse but excluded from the dialogue. The interplay between central and state laws, social stigma around domestic male victimhood, in addition to this, add to the complexities of this issue. The reflection of judiciary and legal framework regarding domestic violence against male victims in India, through putting the whole aspects into the case of; "Atul Subhash" and its impact on the judicial structure. But now, awareness is growing that men can also be victims of domestic violence. This part discusses how legislation and judiciary practices have progressive to acknowledge the experiences of male victims. In contrast, Indian law does not clearly define men as victims of domestic violence, even though there are certain segments of the Indian Penal Code (IPC) (Sections 323 and 498A), which criminalises acts of physical assault (Section 323)³ and harassment (Section 498A)⁴ respectively. However the Section 498A⁵ of Indian Penal Code specifically safeguards the Women Victims and does not cover the Male victims under this provision.

The Historical Development of Domestic Violence Legislation in India

Indian legislation addressing domestic violence in India has traditionally been oriented towards gender, predominantly prioritizing the safeguarding of women. The principal legislative framework established for this purpose is the Protection of Women from Domestic Violence Act of 2005⁶, which aims to provide legal protection against various forms of abuse directed at women. Recent developments indicate a growing recognition of male victimization in domestic violence incidents, which challenges the previous one-dimensional perspective on this issue. As societal awareness of the complexities of domestic violence increases, legal frameworks and judicial interpretations are gradually evolving to acknowledge and encompass the experiences of male victims. This progression reflects a broader understanding of domestic violence as a societal issue that affects individuals regardless of gender. The case involving

¹ **Domestic Violence**, Wikipedia, https://en.wikipedia.org/wiki/Domestic_violence (last visited Jan. 21, 2025).

² *Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005* (India).

³ *Indian Penal Code, 1860, section 323* (India).

⁴ *Indian Penal Code, 1860, section 498A* (India).

⁵ *Supra 3*

⁶ *Supra 2.*

Atul Subhash⁷ has brought attention to the issue of male victims within Indian society, resulting in an increasing public concern regarding their welfare. This heightened awareness has prompted calls for the establishment of legal frameworks aimed at safeguarding male victims, while simultaneously reflecting a significant degree of societal resentment on this matter. Concurrently, the judiciary has begun to engage with the issue with a degree of seriousness; however, the absence of specific legislation designed to protect male victims has resulted in constraints on judicial actions. Consequently, the lack of legal provisions hinders the potential for effective intervention in such cases, leaving both the judiciary and society in a complex position with respect to the rights and protections afforded to male victims.

Judicial Analysis of Male Victimization

The interpretation of laws by judicial entities significantly influences their practical application. In the context of domestic violence, the phenomenon of male victimization has largely remained overlooked within judicial discussions. There have, however, been cases in which courts have begun to recognize the necessity for a more inclusive perspective on this issue.

A pertinent illustration of this concern is the Atul Subhash's case⁸, which exemplifies the detrimental effects that may arise from the misuse of legal statutes. Subhash's, a 34-year-old software engineer, found himself entangled in a contentious marital dispute. Reports indicate that his spouse and her family made demands for excessive financial support in the form of alimony and maintenance. Upon Subhash's refusal to comply with these demands, he was allegedly threatened with false accusations of dowry harassment under Section 498A of the Indian Penal Code (IPC)⁹. The psychological repercussions, coupled with the societal stigma associated with such allegations, culminated in Subhash's tragically taking his own life. This particular incident has illuminated several systemic deficiencies.

Firstly, it reveals the inadequacy of protective measures against the exploitation of Section

⁷Sankalp Tiwari, *The Subhash Atul Suicide Case: A Legal and Social Analysis*, **Lawyers Club India**, 14 Dec 2024, <https://www.lawyersclubindia.com/articles/the-subhash-atul-suicide-case-a-legal-and-social-analysis--17269.asp>

⁸ Sankalp Tiwari, *The Subhash Atul Suicide Case: A Legal and Social Analysis*, **Lawyers Club India**, 14 Dec 2024, <https://www.lawyersclubindia.com/articles/the-subhash-atul-suicide-case-a-legal-and-social-analysis--17269.asp>

⁹ Supra 4

498A¹⁰. Originally instituted to safeguard women against cruelty, the law's misapplication has frequently resulted in the wrongful accusation of innocent men. Secondly, it brings to light the mental distress and social alienation endured by those accused of dowry¹¹ harassment¹². Whereas women are often afforded more robust support systems, men frequently encounter significant barriers in accessing counselling and legal resources, thereby intensifying their feelings of isolation and hopelessness.

This case is not an isolated incident; rather, it reflects a broader pattern whereby numerous men have faced analogous distressing circumstances, which may have been mitigated through timely interventions and a more equitable legal framework. Critics contend that statutes such as Section 498A¹³, despite their intentions to protect women from maltreatment, are often exploited, leading to unwarranted harassment of innocent individuals. Consequently, this case necessitates a rigorous examination of the enforcement of these laws and a demand for increased accountability from those who exploit them.

The influence of media coverage on public perception warrants consideration. The sensational portrayal of marital conflicts often unjustly maligns one party, failing to provide a comprehensive view of the circumstances. Initial reports regarding Subhash's situation predominantly emphasized the allegations against him without adequately addressing the extortion efforts he encountered. Such unilateral representations contribute to societal stigma and ostracism, potentially prompting the accused to consider extreme measures. Addressing these concerns mandates legislative reform, judicial action, and heightened public awareness. A culture characterized by accountability and empathy should be cultivated to ensure that laws like Section 498A¹⁴ are applied judiciously and not misappropriated as instruments of harassment.

Ongoing discourse surrounding this case emphasizes the demand for gender-neutral legal provisions. Advocates for reform argue that an inclusive legal framework would more effectively address the complexities of contemporary marital disputes, providing protection to legitimate victims while simultaneously deterring misuse by offenders.

¹⁰ Supra 4

¹¹ **Dowry**, *Wikipedia*, <https://en.wikipedia.org/wiki/Dowry> (last visited Jan. 21, 2025).

¹² **Harassment**, *Wikipedia*, <https://en.wikipedia.org/wiki/Harassment> (last visited Jan. 21, 2025).

¹³ Supra 4

¹⁴ Supra 4

Federalism and Domestic Violence in India

The governance structure of India, characterized by its federal system, facilitates a distribution of powers between the Union and State governments, as delineated in the Constitution of India¹⁵. This constitutional framework is intended to provide mechanisms for addressing a multitude of societal issues, among which domestic violence is notably significant. Despite the establishment of these legal provisions, domestic violence continues to be a widespread and persistent concern, closely linked with the socio-cultural realities of Indian society. The present discourse examines the impact of federalism on the approaches to managing and mitigating domestic violence in India, while also identifying the inherent challenges and opportunities that arise within this system.

The quasi-federal nature of the Indian Constitution¹⁶ allocates powers to both the Union and State governments, articulated through the Seventh Schedule¹⁷, which is structured into three distinct lists: the Union List, the State List, and the Concurrent List. Domestic violence, classified under the purview of criminal law and personal laws, falls within the Concurrent List. This particular arrangement grants concurrent legislative authority to both levels of government, thereby rendering the shared jurisdiction critical in addressing issues of domestic violence. The intersectionality of gender justice, public order, and personal laws within this framework necessitates a coordinated response from both the Union and State governments to effectively combat the prevalence of domestic violence.

Challenges and Opportunities within a Federal Framework

The differential implementation of laws, such as the Protection of Women from Domestic Violence Act (PWDVA), 2005¹⁸, across various states can be attributed to a multitude of factors, including variations in socio-economic conditions and the capabilities of administrative structures. While certain states have achieved substantial progress in enforcing these laws, others encounter significant obstacles stemming from inadequate infrastructure and the scarcity of resources. Moreover, the prevalence of entrenched patriarchal norms and

¹⁵ **The Constitution of India**, Legislative Department, Ministry of Law and Justice, <https://legislative.gov.in/constitution-of-india/> (last visited Jan. 21, 2025).

¹⁶ Ambutai, *Quasi-Federal Nature of Indian Constitution – An Empirical View*, **JETIR** (Dec. 2019), <https://www.jetir.org/papers/JETIR1912227.pdf>.

¹⁷ **Treaty and Agreement between the Government of India and the Government of the United Kingdom of Great Britain and Northern Ireland regarding the Rights of Citizens of the United Kingdom and Colonies and British Protected Persons Resident in India**, Ministry of External Affairs, <https://www.mea.gov.in/Images/pdf1/S7.pdf> (last visited Jan. 21, 2025).

¹⁸ Supra 2

cultural attitudes toward domestic violence, particularly in regions where customary practices hold considerable influence, constitutes a significant barrier to the efficacy of legal interventions.

In the context of federalism, the necessity for effective coordination between the Union and State governments is paramount; however, political divergences often result in delays regarding policy implementation and the allocation of funds. This situation is further exacerbated by the insufficient collection of reliable data and the absence of centralized monitoring mechanisms, which severely undermines the capacity to evaluate the laws and policies designed to address domestic violence.

Nevertheless, the federal structure also presents avenues for localized and effective solutions. States possess the flexibility to devise strategies that are specifically tailored to their unique socio-cultural contexts, which may include the establishment of community-based initiatives and partnerships with local non-governmental organizations (NGOs). The process of inter-state learning can serve as an additional advantage, permitting states to adopt exemplary practices, such as Kerala's Kudumbashree¹⁹ initiative, which focuses on the economic empowerment of women.

To further reinforce institutional frameworks, the Union government has the potential to standardize protocols, provide financial assistance, and oversee the implementation of policies at the state level, thus ensuring a degree of uniformity across the federation. Additionally, collaborative public awareness campaigns orchestrated by the Union and State governments can play a vital role in transforming societal attitudes, enhancing knowledge regarding available legal remedies, and fostering an environment that encourages the reporting of domestic violence cases.

Social Stigma and Male Victimization

The issue of domestic violence against men in India presents numerous challenges, with one of the most significant being the pervasive social stigma associated with male victimization. Cultural norms and expectations concerning masculinity engender a perception of men as inherently strong and resilient, thereby hindering the acknowledgment of their potential victimization. This prevailing stigma not only deters men from seeking assistance but also

¹⁹ **Kudumbashree**, *Wikipedia*, <https://en.wikipedia.org/wiki/Kudumbashree> (last visited Jan. 21, 2025).

sustains the perception that domestic violence is predominantly a women's issue. Consequently, cultural narratives often portray domestic violence through a gendered lens, emphasizing women's rights while inadvertently marginalizing the experiences of male victims²⁰.

The apprehension among men regarding the reporting of abuse is exacerbated by fears of ridicule, skepticism, and a conspicuous absence of institutional support. Societal attitudes frequently interpret a man's confession of victimization as indicative of weakness, resulting in isolation and psychological distress. As a result, a significant number of male victims endure their suffering in silence, which serves to perpetuate a cycle of harm and further obscures their plight.

To effectively confront these challenges, a multidimensional strategy incorporating cultural transformation alongside legal reforms is essential. Social awareness campaigns are instrumental in reshaping public perceptions and dismantling harmful stereotypes related to masculinity. Furthermore, educational initiatives must be implemented to foster empathy and understanding, thereby encouraging individuals to recognize that domestic violence transcends gender boundaries.

On the legal front, the establishment of a gender-neutral framework is vital for ensuring equitable protection for all victims of domestic violence. This necessary approach should encompass the development of safe spaces and support systems specifically designed for male victims, including helplines, counseling services, and shelters. Moreover, the sensitization of law enforcement and judicial entities to the experiences of male victims is crucial in cultivating a more inclusive and efficient response to domestic violence²¹.

The Need for an Inclusive Legal Framework

The phenomenon of domestic violence is frequently examined through a gender-specific framework, predominantly identifying women as the primary victims. Nonetheless, the complexity of this issue is underscored by the fact that men can also experience domestic

²⁰ Dr Mercy Maclean, *Invisible Chains: Social Stigmas, Stereotypes, and Male Victimhood of Domestic Violence*, *Brainz Magazine*, <https://www.brainzmagazine.com/post/invisible-chains-social-stigmas-stereotypes-and-male-victimhood-of-domestic-violence> (last visited Jan. 21, 2025).

²¹ *Gender Neutral Laws in India*, *Law Bhoomi*, <https://lawbhoomi.com/gender-neutral-laws-in-india/> (last visited Jan. 21, 2025).

abuse. In the Indian context, this marginalization necessitates the development of a legal framework that inclusively acknowledges and addresses domestic violence against men while maintaining a balance between the principles of federalism and judicial accountability.

The current absence of gender-neutral legislation in India significantly exacerbates the difficulties encountered by male victims of domestic violence. The legal landscape is largely governed by the Protection of Women from Domestic Violence Act (PWDVA), enacted in 2005²², which is explicitly oriented towards the protection of women. As a result, male victims often find themselves with minimal legal options available to them. This discrepancy emphasizes the imperative for judicial intervention, which is essential for adapting existing laws to better reflect the realities faced by individuals of all genders, thereby promoting fairness and justice²³.

Whereas federalism is instrumental in determining India's approach to domestic violence. The Union government is tasked with establishing the overarching legislative framework, while individual states are responsible for its execution. This division of authority permits states to develop tailored responses that resonate with their unique socio-cultural environments. However, the lack of a unified, gender-neutral statute addressing male domestic violence victims frequently results in disparate handling of such cases across different states. For example, certain states may exhibit greater initiative in providing support services or recognizing the victimization of men, while others may fall behind due to limitations in resources or the persistence of traditional cultural attitudes.

Judicial interpretation plays a significant role in addressing this disparity. The judiciary possesses the authority to foster a more inclusive understanding of domestic violence through its rulings and interpretations, thereby advocating for the recognition of male victims. Courts can stimulate legislative change by highlighting the inequities inherent in gender-specific laws and suggesting a transition toward more inclusive legislation. Furthermore, judicial advocacy can also facilitate awareness initiatives and institutional reforms aimed at assisting male victims, such as the establishment of dedicated helplines and counseling services.²⁴

²² Supra 2

²³ S. Kumar & K. Sharma, Domestic Violence Against Men: An Overlooked Issue, 79(4) *Indian J. Soc. Work* 533, 543 (2018).

²⁴ Ibid 23

To formulate an inclusive legal framework, a multifaceted strategy is required. Initially, legislative changes should focus on either amending existing laws or enacting new ones that reflect a gender-neutral perspective. Additionally, collaborative efforts between federal and state governments are crucial to ensure a consistent approach to domestic violence that transcends gender distinctions. Such efforts may involve the dissemination of best practices, the standardization of procedures, and the equitable allocation of resources. Moreover, public awareness initiatives must confront and reshape societal perceptions of masculinity, encouraging male victims to seek help without the fear of stigma or mockery.²⁵

By effectively harmonizing federalism with judicial exploration, India has the capacity to advance towards a legal framework that perceives domestic violence as a matter of human rights²⁶ rather than a gender-specific issue. Such a framework would not only serve justice to male victims but also reinforce the foundational principles of equality as enshrined in the Constitution²⁷.

Conclusion

Domestic Violence has traditionally been viewed through a gender-based scheme, but it is now, and long overdue to recognize it as a complex societal problem that impacts people of all genders. In the context of India, the insufficient recognition and legal protections for male domestic violence victims highlight a compelling need for a more inclusive legal framework. The existing legal frameworks, including the Protection of Women from Domestic Violence Act (PWDVA), are largely intended for women's protection, leading to a scarcity of resources and support for male victims of domestic violence.

A Deep-rooted social stigma, cultural stereotypes, and an inadequate legal and institutional framework serve to compound the challenges associated with the recognition of domestic violence against men. Atul Subhash was a tragic victim: Significant need for legal reforms there to prevent wrongful misuse of existing laws so that victims of whichever gender have justice & familial/government support. Addressing this issue effectively is a great opportunity for the dynamic interaction of India's federal structure engaging with judicial intervention. The

²⁵ Deepika, *Redefining Domestic Violence: Recognizing Male Victims in India*, **Legal Service India**, <https://www.legalserviceindia.com/legal/article-16491-redefining-domestic-violence-recognizing-male-victims-in-india.html> (last visited Jan. 21, 2025).

²⁶ India Const. art. 15.

²⁷ India Const. art. 14.

Union government is laying down the legislative bedrock, but it is critical for state governments to formulate and implement policies that echo local socio-cultural realities. Additionally, court advocacy can spur reforms that transcend gender, prioritizing laws and awareness by institutions on the hardships faced by male victims.

We need a comprehensive approach to accomplish these goals. The solution lies in legislative reforms that are gender-neutral, supported by public awareness campaigns aimed at deconstructing traditional notions of masculinity. The growth of associated infrastructures, such as helplines and counseling services for male victims, and equitable distribution of resources would also be important steps toward achieving a more equitable society.

To sum up, the solution to domestic violence in India lies in the fact that the problem needs to be seen as a human issue rather than a male vs female issue. It is precise that these values of federalism, judicial accountability and promotion of social transformation that makes India capable of developing a legal and cultural framework that upholds constitutional guarantees of equality and justice for all. Through this method, perhaps a better society can be realized, where the standards set by the Constitution are embodied both in law and in practice.

