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**RE-CONCEIVING DOMESTIC VIOLENCE IN INDIA: MODIFYING THE  
GENDERED AND ARCHAIC LAWS**- Nimisha Jaiswal & Edwin Jerald<sup>1</sup>**I. ABSTRACT:**

This paper explores the possibility of imposition of gender-balanced laws regarding domestic violence in India through a quick reference to the Depp v. Heard defamation trial. It throws light upon the lacuna in the Indian laws regarding the subject through its comparison with the laws in the USA. The research paper also studies laws in relation to the subject from places across the world to draw inference of the most suitable framework for India. The paper highlights how a non-partisan legal system is impactful and speaks of how criticism is often faced by the Indian judiciary system due to its conceptualized pigeonholing. In addition, the paper deals with giving detailed suggestions for improvement of Indian laws around the subject. Besides this, the paper tackles the obstacles in the implementation of non-gendered laws. Elucidating the observations made throughout the research, the authors vehemently suggest the development of laws regarding domestic violence in India in a manner which ensures men being a beneficiary of such laws.

*Keywords: domestic violence, male victims, biased legal system, India, gender-neutral laws*

**II. INTRODUCTION: A PARADIGM SHIFT**

*“All violence is the illustration of a pathetic stereotype.” - Barbara Kruger<sup>2</sup>*

The reality is even-handed.<sup>3</sup> The rationale that has been primitively put forth in support of gendered domestic violence laws has lost ground today due to a significant revolution in the truth of the households, marriages and intimate relationships.<sup>4</sup>

In a study conducted in a rural area of India in 2019 wherein 1000 married men were interviewed, it was highlighted that 51.5% of these men have been on the receiving end of violence by their female counterparts at least once, emotional abuse being the most prevalent among the sorts.<sup>5</sup> It might take to the disbelief of a person to acknowledge the proven fact that Indian wives rank 3<sup>rd</sup> in the world in the context of physically abusing their

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<sup>2</sup> Barbara Kruger, 'Domestic violence quote for support and strength' (*Everyday power*, 14 July 2022) <<https://everydaypower.com/domestic-violence-quotes/>> accessed 5 August 2022

<sup>3</sup> Anant Kumar, 'Domestic Violence against Men in India: A Perspective, Journal of Human Behavior in the Social Environment' (2012), Journal of Human Behavior in the Social Environment <<https://www.tandfonline.com/doi/abs/10.1080/10911359.2012.655988>> accessed 5 August 2022

<sup>4</sup> Joshita Jothi and Keshavdev J.S, 'Rethinking Rape : Should the Law Still Confine to the Paradigm?' [2013] NLUJ LR 56

<sup>5</sup> Jagbir Singh Malik and Anuradha Nadda, 'A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India' (2019) Vol.44, Indian Journal of Community Medicine <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6437789/>> accessed 5 August 2022

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husbands.<sup>6</sup> Reports confirm that in 50% of the domestic violence cases, wherein both spouses are abusive (which happens in half of the cases)<sup>7</sup>, women are the initiators.<sup>8</sup> Studies also conclude that women are more belligerent in spousal relationships.<sup>9</sup> Indian research stipulates that in 33% to 40% of the reported domestic violence cases, the abusers are inclusive of females in the household.<sup>10</sup> The Supreme Court has also condemned women as culprit in 61% of the cases.<sup>11</sup> Data also reflects that the number of women acquiring employment is higher as compared to the count of men, and confirms the greater count of downfall of the already employed men.<sup>12</sup> Hence, the idea of walking out of a disgraceful relationship for a dependent man becomes well-nigh impossible causing them mental disharmony leading to surrendering to mental illness like anxiety and depression.<sup>13</sup> Therefore, it is noteworthy how the male suicide ratio (especially of those men who fall under the age group of people ought to be married or in intimate relationships) is incomparably high when compared to the female suicide ratio of their counterparts and the probable reason of such a widening gap in the statistics, according to surveys, is the helplessness and unrecognition that the male victims of domestic violence face by the society and under the laws.<sup>14</sup> In 2020, the lockdown period had fanned the flames by exacerbating the violence in households, which can be substantiated by the statistics of the Women Redressal Cell of the Navi Mumbai Police Department which confirmed that 30% of the complainants were males.<sup>15</sup> Despite a dearth of well-grounded record or study on domestic violence against men in India, it is approximated that out of 100 victims of such violence, 40 are regrettably men.<sup>16</sup>

The statistics successfully give substance to the fact that although there is a yawning gap in the cases of domestic violence against women and those against men, it is unjustifiable to confer the same violence faced by men unattended. Hence, there is no reasonable excuse to reject the possibility of women being perpetrators and men being victims albeit the *parti-pris* have inclinations otherwise.

The underlying premises of the paper is not to abolish the existing laws against domestic violence as the author recognizes the soaring numbers of domestic violence against women and sympathizes with them but also concedes to the reality that domestic violence is not gendered violence anymore. The author, through the paper, simply aims at encouraging gender-neutrality in the domestic violence laws in India.

### III. DOMESTIC VIOLENCE: INDIAN PERSPECTIVE

<sup>6</sup> Aditya Pandey, '9 Eye-Opening Facts & Statistics About Domestic Violence Cases Against Indian Men' (*MENSXP*, 02 June 2022) <<https://www.mensxp.com/special-features/features/108932-domestic-violence-cases-on-indian-men-facts-and-statistics.html>> accessed 5 August 2022

<sup>7</sup> Corry, C. E., Fiebert, M. S., & Pizzey, E, 'Controlling domestic violence against men' *US English* (London, 3 December 2001 )17

<sup>8</sup> Alicia Spidel, Caroline Greaves, Tonia L. Nicholls, Julie Goldenson, Donald G. Dutton, 'Personality Disorders, Types of Violence, and Stress Responses in Female Who Perpetrate Intimate Partner Violence' (1990), Vol.4 No. 9B, *Psychology* < <https://scirp.org/reference/referencespapers.aspx?referenceid=949889>>accessed 10 August 2022

<sup>9</sup> Morse, Barbara J, 'Beyond the Conflict Tactics Scale: Assessing Gender Differences in Partner Violence' (2022), Vol 10 Issue 4 , *Violence and Victims* <<https://connect.springerpub.com/content/sgrvv/10/4/251>> accessed 8 August 2022

<sup>10</sup> CATHERINE KOVEROLA, 'The Voices of Battered Women in India' (2005) *VIOLENCE AGAINST WOMEN* <<https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.956.9943&rep=rep1&type=pdf>> accessed 8 August 2022

<sup>11</sup> [file:///C:/Users/jaisw/Downloads/Krishnan\\_Subramaniam\\_CPFV\\_OpenAccess.pdf](file:///C:/Users/jaisw/Downloads/Krishnan_Subramaniam_CPFV_OpenAccess.pdf)

<sup>12</sup> Sarkar, S., Dsouza, R., & Dasgupta, A, 'Domestic violence against men: A lesser explored phenomenon' (2022) Volume 6 Issue 1 *Annals of Indian Psychiatry* <<https://anip.co.in/article.asp?issn=2588-8358;year=2022;volume=6;issue=1;spage=1;epage=3;aulast=Sousa;type=3>> accessed 10 August 2022

<sup>13</sup> *ibid*

<sup>14</sup> Anonymous source, 'Inclusion of male as victims of Domestic Violence Act in India' (*change.org*, 1 June 2018 ) <<https://www.change.org/p/law-commission-of-india-inclusion-of-male-as-victims-of-domestic-violence-act-in-india>> accessed 10 August 10, 2022

<sup>15</sup> Netri Agrawal and Sanya Singh, 'Can Men be Victims of Domestic Violence?' (*The Contemporary Law Forum*, 20 February 2021) <<https://tclf.in/2021/02/20/can-men-be-victims-of-domestic-violence>> accessed 8 August 2022

<sup>16</sup> Anant Kumar (n 2)

### III.1. POSITION IN INDIA:

Section 3<sup>17</sup> of The Protection of Women from Domestic Violence Act, 2005 defines “domestic violence”. According to the definition, domestic violence is inclusive of physical, sexual, verbal/emotional and economic abuse by a male (perpetrator) or his relatives upon a female (victim) in a domestic relationship in the nature of a marriage<sup>18</sup> in a shared household wherein such male and female live or have lived at any point of time<sup>19</sup>. As a matter of fact, the laws against domestic violence in India cater only to the interests of women. Other legislations like the Dowry Prohibition Act, 1961<sup>20</sup> and Section 498(A)<sup>21</sup> of the Indian Penal Code, 1860 also explicitly shelter women.

Such laws in place today are birthed on account of chronological historical events from where the Domestic Violence laws also derive their existence. The Protection of Women from Domestic Violence Act was a consequence of the tradition of dowry prevalent at its peak which led to domestic violence of the wives. This issue further called for an applaudable parliamentary movement in favor of women suffering in households.<sup>22</sup> It was probably because of these events in the history of time which urged the Parliament to shelter only the women of the nation in an over efficient manner which soon started making room for tyranny against the other classes of the society, leaving them vulnerable.<sup>23</sup>

Due to the paradigm shift in reality of domestic relationships, men too are unfortunately subjected to this heinous offence. Nonetheless, the Indian Parliament till date seems dubious about sanctioning it.<sup>24</sup>

### III.2. ATTEMPTS MADE & CRITICISMS FACED BY THE INDIAN JUDICIARY IN CORRECTING THE LOOPHOLES IN THE GENDERED DOMESTIC VIOLENCE LAWS: THE BIASED JUDICIARY

In *Aruna Parmod Shah v. Union of India*, the Delhi High Court affirmed: “*We do not rule out the possibility of a man becoming the victim of domestic violence, but such cases would be few and far between, thus, not requiring or justifying the protection of Parliament.*”<sup>25</sup> This was one of the instances when the judiciary had paid heed to domestic violence against men in the country in the absence of sufficient reliable data regarding the same.<sup>26</sup> On the other hand, it is criticism-worthy how the underlying judicial prejudice rose to the face of it in the form of what had been stated by the Delhi High Court in this case. It is unacceptable how the judiciary took a step back by refusing to insulate the male victims from the offence.<sup>27</sup>

<sup>17</sup> The Protection of Women from Domestic Violence Act 2005, s3.

<sup>18</sup> *Indra Sarma v. V.K.V. Sarma* [2013] 15 SCC 755, [2013]

<sup>19</sup> *Vandhana v. T. Srikanth* [2007] SCC OnLine Mad 553, [2007]

<sup>20</sup> Dowry Prohibition Act, 1961

<sup>21</sup> Indian Penal Code 1860, s498(A)

<sup>22</sup> Abeyratne, Rehan, and Dipika Jain, (2012) "Domestic Violence Legislation in India: The Pitfalls of a Human Rights Approach to Gender Equality." Vol 21, Issue 2 American University Journal of Gender Social Policy and Law

<<https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1596&context=jgspl>> accessed 5 August 2022

<sup>23</sup> Ankita Kumar Gupta, 'Crime of Rape and Laws: Need of Gender Neutral Approach' [2019] VSLR 59 at page 70

<sup>24</sup> Pallavi Arora, 'Proposals to Reform the Law Pertaining to Sexual Offences in India' [2012] JILS 233

<sup>25</sup> *Aruna Parmod Shah v. Union of India* [2008] SCC OnLine Del 457, [2008]

<sup>26</sup> Anupama Sharma, 'Addressing the Roadblocks to Gender Neutrality in Sexual and Domestic Violence Laws : A South Asian Perspective'[2020] JILS 79

<sup>27</sup> Anupama Sharma (n 27) 79

In various other cases, for instance; *Bhagwanti v. Laxmandas Panjwani*<sup>28</sup>, *Vijay Kumar Jain v. Sunita Vijay Kumar Jain*<sup>29</sup> and *Vidya Ramakrishnaiah v. RN Vikram*<sup>30</sup>; the Courts have admitted the existence of physical and verbal abuse against male victims.<sup>31</sup> The fact that even after awareness of facts, the courts have failed to understand such abuse as domestic violence against men and have merely pronounced divorce as the remedy without any ascertainment of the liability attached to such abuse against them.<sup>32</sup>

In *Hiral P. Harsora v. Kusum Narottamdas Harsora*,<sup>33</sup> the Supreme Court repealed the term “adult males” from the definition of “respondents” in the Domestic Violence Act<sup>34</sup> thus, broadening the ambit and meaning of the term to include women. This was an applaudable move of the judiciary since it partially pushed the laws towards gender neutrality.<sup>35</sup> However, a judicial movement to include men in the definition of “aggrieved person” in the Act<sup>36</sup> would have more efficiently fit the bill by bringing absolute harmony with gender neutrality.<sup>37</sup>

In *Catherine Remy v. J. Sahaya Cleetus*<sup>38</sup>, the Supreme Court clarified that under the Domestic Violence Act<sup>39</sup>, a case is maintainable against a woman.<sup>40</sup> The court also further clarified that this statement cannot be inferred to mean that such a case can be filed by an “adult male” despite a woman being the perpetrator.<sup>41</sup>

Judicial stereotyping, in simple terms, can be understood as that practice of the judiciary wherein it acts in an unduly influential style by coloring their remarks and judgements with their underlying prejudice hammered in their heads. In the case of *Vineet Kumar v. State of U.P.*, the court commented on the powers of the court and held, “*Inherent power given to the High Court under Section 482 Cr.P.C. is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive, the Court has to thwart the attempt at the very threshold.*”<sup>42</sup> Hence, the courts are duty bound to ensure justice and discourage any attempt by anyone against it. Turning ears towards the rights of the accused and a duty towards acknowledging it, the court highlighted, “*...it is clear that the Courts must not be blind to the rights of the accused.*”<sup>43</sup> Confessing the humiliation a false allegation brings to an accused, the court held that, “*An accused has also rights which are to be protected and the possibility of false implication has to be ruled out.*”<sup>44</sup> In *State v. Mr Pherudin Khan*<sup>45</sup>, the court, while sympathizing with the falsely accused, noted, “*His plight may also continue after his acquittal as his implication may have caused an uproar in society but his acquittal*

<sup>28</sup>*Bhagwanti v. Laxmandas Panjwani* [1999] SCC OnLine MP 39, [1999]

<sup>29</sup>*Vijay Kumar Jain v. Sunita Vijay Kumar Jain* [2000] SCC OnLine MP 230, [2000]

<sup>30</sup>*Vidya Ramakrishnaiah v. R.N. Vikram* [2004] SCC OnLine Kar 360, [2004]

<sup>31</sup> Anupama Sharma (n 27) 79

<sup>32</sup> Ibid 79

<sup>33</sup>*Hiral P. Harsora v. Kusum Narottamdas Harsora* [2016] 10 SCC 165 [2016]

<sup>34</sup> The Protection of Women from Domestic Violence Act, 2005

<sup>35</sup> Anupama Sharma (n 27) 79

<sup>36</sup> Ibid 79

<sup>37</sup> Ibid 79

<sup>38</sup>*Catherine Remy v. J. Sahaya Cleetus* [2017] SCC OnLine Mad 37035, [2017]

<sup>39</sup>*Aruna Parmod Shah* (n 26)

<sup>40</sup>*Catherine Remy* (n 39)

<sup>41</sup>*Catherine Remy* (n 39)

<sup>42</sup>*Vineet Kumar v. State of U.P.*, [2017] 13 SCC 369, [2017] para 30

<sup>43</sup>*Jitender Kumar v. State (Govt. of NCT of Delhi)* [2018] SCC OnLine Del 7438, [2018] Para 46

<sup>44</sup>*Rohit Bansal v. State* [2015] VI AD 566 (Delhi), [2015] Para 47

<sup>45</sup>*State vs Pherudin@ Phelu Khan* [2016] Delhi 11 of 2014, [2016]

*may not even be noticed. He would continue to suffer the stigma... ”<sup>46</sup> It further remarked, “It may not be possible to restore the dignity and honour of the accused nor compensate him for the humiliation, misery, distress and monetary loss... No one discusses about the dignity and honour of a man as all are only fighting for the rights, honour and dignity of women. Laws for protection of women are being made which may be misused by a woman but where is the law to protect a man from such a woman where he is being persecuted and implicated in false cases, as in the present case. Perhaps, now it is the time to take a stand for a man.”<sup>47</sup>*

As much as the judiciary resents injustice and false accusations, it seems to be acting quite contrarily to its own believes. In various cases<sup>48</sup> where an attempt is made to fix the loopholes in the Domestic Violence laws<sup>49</sup>, the judiciary has always provoked criticisms due to judicial misandry and its dereliction of duty in safeguarding the rights of the falsely accused men.

### III.3. NEED FOR CHANGE: MISSING RATIONALE

A short time ago, Senior Advocate Tulsi, throwing light upon “gender neutral laws” being the need of the hour, introduced a Bill in the Rajya Sabha proposing amendments in the Indian Penal Code (1860)<sup>50</sup>, Code of Criminal Procedure (1974)<sup>51</sup> and the Evidence Act (1872)<sup>52</sup> conceding to the certitude that men also are vulnerable victims of domestic violence.<sup>53</sup> A male child is protected under the POCSO Act, 2012<sup>54</sup> but as soon as he is eighteen years and one minute old, the law denies him protection.<sup>55</sup> The Verma Committee, after the 2012 case, crystal clearly admitted the actuality of assault against men and the urgent need of amendment in the existing legislatures.<sup>56</sup> However, the government disregarded the concept of gender neutrality and eliminated the same in the Criminal Law (Amendment Act), 2013<sup>57</sup> thus, clarifying its intention to dampen gender neutrality in the nation.<sup>58</sup> According to the Republic of Ireland Law Commission, “(...) *appropriate labelling of offences contributes to the victim's sense of being vindicated and protected by the State and that any description which seems to understate the gravity of an offence or put it in a lesser category will be resented by the victim.*”<sup>59</sup> Despite the truth that a male prey of abuse can institute a case under a few clauses of the existing legislations, there is no substantive law pertaining to domestic violence against men in India.<sup>60</sup>

### III.4. CONSTITUTIONAL VIOLATION- VIOLATION OF FUNDAMENTAL RIGHTS

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<sup>46</sup> Ibid

<sup>47</sup> Ibid

<sup>48</sup> Ibid (n 17-33)

<sup>49</sup> Vidya Ramakrishnaiah (n 31)

<sup>50</sup> Indian Penal Code, 1860

<sup>51</sup> Code of Criminal Procedure, 1974

<sup>52</sup> Indian Evidence Act, 1872

<sup>53</sup> Ankita Kumar Gupta, 'Crime of Rape and Laws: Need of Gender Neutral Approach' [2019] VSLR 59 at page 69

<sup>54</sup> Protection of Children from Sexual Offences Act, s 3&4

<sup>55</sup> Ankita Kumar Gupta (n 54) 70

<sup>56</sup> Harsimran Kalra, 'Report of the Committee on Amendments to Criminal Law, 2013' [2013] PRS Legislative Research 1

<sup>57</sup> The Criminal Law Amendment Act, 1961

<sup>58</sup> Harsimran Kalra (n 57)

<sup>59</sup> Joshita Jothi and Keshavdev J.S, 'Rethinking Rape : Should the Law Still Confine to the Paradigm?' [2013] NLUJ LR 56

<sup>60</sup> Netri Agrawal and Sanya Singh (n 15)

### III.4.1. INFRINGEMENT OF THE RIGHT TO EQUALITY UNDER ARTICLE 14<sup>61</sup> OF THE CONSTITUTION<sup>62</sup>

The Constitution of India<sup>63</sup> envisages the fundamental right to each citizen, including men.<sup>64</sup> Article 14<sup>65</sup> of the Constitution<sup>66</sup> confers the right to equality before law and equal protection under law.<sup>67</sup> This should be interpreted to cater to the dynamic needs of the society guaranteeing a restitution of justice to the male victims<sup>68</sup> for the same offences for which the female victims are ensured legal redressal under the same system<sup>69</sup>.

### III.4.2. INFRINGEMENT OF THE RIGHT TO DIGNITY UNDER ARTICLE 21<sup>70</sup> OF THE CONSTITUTION<sup>71</sup>

The Constitution is supreme and any legislation that is enacted shall be in concord with the Constitutional essence. Article 21<sup>72</sup> of the Constitution bestows the right to life and personal liberty to all citizens, including men, which also encompasses under its meaning the “right to dignity” of all citizens.<sup>73</sup> Controversially, the domestic violence laws in India today accredit the dignity of a woman more than that of a man<sup>74</sup>, the outcome of which is the witnessed institutional failure of the Constitution and its essence.

### III.4.3. INFRINGEMENT OF THE RIGHT TO PRIVACY UNDER ARTICLE 21<sup>75</sup> OF THE CONSTITUTION<sup>76</sup>

Article 21<sup>77</sup> of the Constitution also envelopes in its confines the “right to privacy”, which further sleeves under its meaning, consent and bodily integrity.<sup>78</sup> This, being a part of the fundamental rights now, is ensured to all citizens, let alone men<sup>79</sup>, hence clarifying that domestic violence against men is opposed to the constitutional essence.

### III.5. CONVENTIONAL VIOLATION- VIOLATION OF HUMAN RIGHTS

It is truly described that human rights are proven evidence of a nation’s democracy.<sup>80</sup> Human rights are often referred to as the natural rights of a person<sup>81</sup>, that is, the right a person is entitled to upon his birth for the rest of

<sup>61</sup>The Constitution of India 1949, Article 14

<sup>62</sup>The Constitution of India 1949

<sup>63</sup> ibid

<sup>64</sup> Joshita Jothi and Keshavdev J.S (n 60) 70

<sup>65</sup> IEA 1872

<sup>66</sup> Ankita Kumar Gupta (n 54) 69

<sup>67</sup> V.N. Shukla, Constitution of India (11th edn, Lucknow : Eastern Book Co., 2008) 46

<sup>68</sup> Joshita Jothi and Keshavdev J.S (n 60) 73

<sup>69</sup> Joshita Jothi and Keshavdev J.S (n 60)

<sup>70</sup> The Constitution of India 1949, Article 21

<sup>71</sup> Ankita Kumar Gupta (n 54) 70

<sup>72</sup> COI 1949

<sup>73</sup> Ankita Kumar Gupta (n 54) 71

<sup>74</sup> Ankita Kumar Gupta (n 54) 66

<sup>75</sup> COI 1949

<sup>76</sup> Ankita Kumar Gupta (n 54) 70

<sup>77</sup> COI 1949

<sup>78</sup> *Justice K.S.Puttaswamy(Retd) ... vs Union Of India And Ors* [2012] SC NO 494 OF 2012 [2017]

<sup>79</sup> Ankita Kumar Gupta, (n 54) 68

<sup>80</sup> Jitendra N. Bhatt, 'Gender Justice: Human Rights Perspective Triumph or Turmoil; Victor or Vanquished?' [2006] SCC J-3

<sup>81</sup> Ibid

his life. These are rights possessed by a person for the simple reason of being human irrespective of discrimination on grounds inclusive of caste, creed, color and sex.<sup>82</sup>

India is a signatory to innumerable Covenants, which avouch the right to equality, right to dignity and the right to privacy, regardless of which India has readily opted for a heedless attitude towards all its obligations under these covenants.<sup>83</sup>

### III.6. LESBIAN AND GAY DOMESTIC VIOLENCE- BREAKING GENDER STEREOTYPES

In 2010<sup>84</sup>, the Supreme Court of India legally recognized live-in relationships as a 'right to life' under the ambit of Article 21<sup>85</sup> of the Constitution of India<sup>86</sup> and confirmed that it falls under the meaning of the term "domestic relationships" mentioned in the Domestic Violence Act<sup>87</sup>. Later, in 2018<sup>89</sup>, the Supreme Court further asserted that the female live-in relationship partner shall be bestowed remedy under the Domestic Violence Act<sup>90</sup>. Coincidentally, in the same year, the Supreme Court decriminalized Article 377<sup>92</sup> of the Constitution of India<sup>93</sup> which criminalized homosexual relationships. Hence, in the current time, the law applaudably accepts and encourages gay and lesbian live-in relationships.

Nevertheless, the legislature has ceased to keep abreast of the legal evolution as the domestic violence laws still typecast women as only victims and men as the culprit and never a victim. This typecasting evidently does not deem fit in a homosexual live-in relationship set-up. This is because the laws in place clearly limit their relevancy to spouses in binary relationships and keep unsheltered the male victims of domestic violence in gay live-in relationships and obliterate the concept of a female perpetrator in a lesbian live-in relationship.

Breaking it further, in cases of lesbian domestic violence, the law will fail in guarding the victimized partner since it does not acknowledge the female counterpart as a perpetrator of domestic violence. Similarly, in cases of gay domestic violence, the male perpetrator cannot be sanctioned for committing violence against his counterpart since the law does not recognize the latter as a victim. Thus, the need of the hour is to avoid such institutional neglect and grave injustice of those outside the purview of law.

## IV. LAWS TRACKED DOWN ON THE LINE OF DOMESTIC VIOLENCE ACROSS JURISDICTIONS

### IV.1. USA- *DEPP v. HEARD*

#### IV.1.1. CONCISE VIEW OF THE CASE

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<sup>82</sup> Ibid

<sup>83</sup> Joshita Jothi and Keshavdev J.S (n 60)70

<sup>84</sup> *S. Khushboo vs Kanniammal & Anr* [2010] SC NO. 913 of 2010

<sup>85</sup> The Constitution of India 1949, Article 21

<sup>86</sup> The Constitution of India 1949

<sup>87</sup> THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005

<sup>88</sup> *S. Khushboo* (n 85 )

<sup>89</sup> *Lalita Toppo vs The State Of Jharkhand* [2018] SC 1656/2015 [2018]

<sup>90</sup> THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005

<sup>91</sup> Varchaswa Dubey, 'Landmark Supreme Court judgments concerning the legal standing of live-in relationships' (*iPleaders*, 1 September 2021) <[https://blog.iplayers.in/landmark-supreme-court-judgments-concerning-legal-standing-live-relationships/?amp=1#Supreme\\_Court\\_judgments\\_regarding\\_live-in\\_relationships](https://blog.iplayers.in/landmark-supreme-court-judgments-concerning-legal-standing-live-relationships/?amp=1#Supreme_Court_judgments_regarding_live-in_relationships)> accessed 10 August 2022

<sup>92</sup> The Constitution of India 1949, Article 377

<sup>93</sup> The Constitution of India 1949

The couple split in 2016<sup>94</sup>. They battled in court over an op-ed Heard wrote for The Washington Post in 2018, in which she described surviving domestic violence without mentioning Depp by name.<sup>95</sup>

Depp sued for \$50 million in damages.<sup>96</sup> The jury unanimously found that Heard could not substantiate her allegations against Depp and that she knew her claims of abuse were false when she published her 2018 essay.<sup>97</sup> The jury determined that Heard acted with actual malice when writing her op-ed. The jury awarded Depp \$10 million in compensatory damages and \$5 million in punitive damages in his defamation suit.<sup>98</sup>

Heard had countersued for \$100 million and said she was only ever violent with Depp in self-defense or defense of her younger sister.<sup>99</sup> Heard's countersuit centered around three statements made by Depp's former attorney Adam Waldman in 2020 to the Daily Mail, in which he described Heard's allegations of abuse as a "hoax."<sup>100</sup>

The jury found that Depp, through Waldman, defamed Heard on one count. The jury awarded Heard \$2 million in compensatory damages, but \$0 in punitive damages.<sup>101</sup>

#### IV.1.2. THE PIVOTAL POINT IN THE CASE

In the op-ed written by Heard, she stated, *"I had the rare vantage point of seeing, in real time, how institutions protect men accused of abuse."*<sup>102</sup> The statement made by Heard was the starting point and even though Depp's name was not mentioned anywhere, it was held defamatory under the court as it was proven beyond doubt.<sup>103</sup>

This case brought the issue of domestic violence against men in the limelight. A sensational point was when Ms. Amber Heard in an audio said the following, *"Tell them, I, Johnny Depp, I'm a victim of domestic abuse..... and see how many people believe or side with you."*<sup>104</sup> The uproar and the backlash that came after the audio being played was too much to handle by Ms. Heard. The case itself revolves around this statement.

#### IV.1.3. MEN, THE PREY

In April 2022, Depp's team presented this recording at the trial in Fairfax during Depp's testimony. Depp's lawyer asked him how he responded when Heard proposed he tell the world he was a victim of domestic violence, and Depp replied, *"I said, 'Yes, I am.'"*<sup>105</sup>

The world went in disbelief when such statement was made in the Court. The case helped in bringing out the fact that even men can be a victim of domestic violence and it is gradually becoming common.<sup>106</sup>

<sup>94</sup> Khalan Rosenblatt 'Johnny Depp and Amber Heard defamation trial: Summary and timeline' (News, 27 April 2022)

<<https://www.nbcnews.com/news/amp/rcna26136>> accessed on 10 August 2022

<sup>95</sup> ibid

<sup>96</sup> ibid

<sup>97</sup> ibid

<sup>98</sup> ibid

<sup>99</sup> ibid

<sup>100</sup> ibid

<sup>101</sup> ibid

<sup>102</sup> Editorial, 'Explained: Johnny Depp vs Amber Heard -How US Jury Answered Defamation Claims Against Each Other?' *LIVELAW NEWS NETWORK* (California, 2 June 2022) <<https://www.livelaw.in/amp/news-updates/explained-johnny-depp-vs-amber-heard-how-us-jury-answered-defamation-claims-against-each-other-200676>> accessed 10 August 2022

<sup>103</sup> ibid

<sup>104</sup> Rachel Sharp, 'Amber Heard grilled over recording of her pushing Johnny Depp to 'tell the world he's an abuse victim' (Independent, 16 May 2022) <<https://www.independent.co.uk/news/world/americas/amber-heard-johnny-depp-abuse-b2080369.html?amp>> accessed 10 August 2022

<sup>105</sup> Constance Grady, 'Johnny Depp, Amber Heard, and their \$50 million defamation suit, explained' *Vox* (London, 1 June 2022) <<https://www.vox.com/platform/amp/culture/23043519/johnny-depp-amber-heard-defamation-trial-fairfax-county-domestic-abuse-violence-me-too>> accessed 10 August 2022



#### IV.1.4. GENDER INCLUSIVITY IN DOMESTIC VIOLENCE LAWS

The idea behind referring to the Depp v. Heard trial is that most cases of men facing domestic violence is unheard and unprecedented in a fast-moving country like the USA too.<sup>107</sup> Nevertheless, the case brings out the necessity of the gender-neutral laws where the representation of the plaintiff can be owned by all genders, including men.

Even though it was a high-profile case, the liability put forth on Mr. Johnny Depp was immeasurable, not because he was an actor but because he was a man who was a victim of domestic violence. Imagining that to be happening to a normal person, the consequences might be graver. Therefore, it is a prime necessity to enforce a legislation like the Domestic Violence Act by making it more inclusive which shall protect the victims of domestic violence, irrespective of gendered discrimination.

#### IV.2. OTHER COUNTRIES AND THEIR PROVISIONS FOR DOMESTIC VIOLENCE LAWS:

The Indian Constitution is considered the lengthiest in the world. Yet, there is a lot to inspire from.

##### IV.2.1. SOUTH ASIAN COUNTRIES – THE INSPIRATION

*“Case law in some form and to some extent is found wherever there is law. . .In any judicial system rules of law arise sooner or later out of the solution of practical problems, whether such formulations are desired, intended or consciously recognized. These generalizations contained in, or built upon, past decisions, when taken as normative for future disputes, create a legal system.”<sup>108</sup>*

The other countries may not be of similar size, cultural or legal background, but they are making attempts at improvements and inclusivity to the field of domestic violence by the means of laws and provisions which is inspiring. Proceeding further, first we shall identify and analyze the neighboring countries and see their progression in the field. The neighboring countries are meant for better comparison as they have the customs and traditions like those prevailing in India.

*For example: An athlete is required to participate within localities first before challenging athlete at the peak performance, like that he has a chance to fight against those athletes by slow growth.*

This implies in the current scenario. India first shall compare its domestic violence laws with the fellow neighboring South Asian countries to acquire a realistic and suitable framework for itself in the area due to the excessive similarity in the circumstances among them.

##### IV.2.1.2. SRI LANKA

*“Section 2 (1)<sup>109</sup> A person, in respect of whom an act of domestic violence has been, is, or is likely to be, committed (hereinafter referred to as “an aggrieved person”) may make an application to the Magistrate’s Court for a Protection Order, for the prevention of such act of domestic violence.”*

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<sup>106</sup> ibid

<sup>107</sup> ibid

<sup>108</sup> Llewellyn, Case Law, 3 EncYc. Soc. Sci. 249 (1930) ; see PATTERSON, JURISPRUDENCE: MEN AND IDEAS OF THE LAW 205 (1953).

<sup>109</sup> PREVENTION OF DOMESTIC VIOLENCE ACT No.34 OF 2005, s 2

**Interpretation:** The Sri Lankan domestic violence law definition for the 'abused person' has no gender discrimination. Individuals who are aggrieved of domestic violence can exercise their rights under PREVENTION OF DOMESTIC VIOLENCE ACT No.34 OF 2005. The aggrieved person may make an application to the Magistrate's Court for the Protection Order for the prevention of further act of domestic violence. The limitation of gender is eliminated entirely in the Act. The violence upon the families or domestic relationship disregards gender and brings justice to the aggrieved person.

**Comparison:** "THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT" applicable in India is the act in conformity to protect women from domestic violence. The literal interpretation of the Act suggests that the proposed regulations are for the protection of women and women alone. The Act is gender biased and indirectly infringing men in exercising their rights against domestic violence. The Sri Lankan Act, "PREVENTION OF DOMESTIC VIOLENCE ACT" reflects the gender inclusivity and that anyone can be a victim of domestic violence.

**Assertion:** In India, "THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005" is still limited to 'women' being the 'aggrieved person'. It does not consider a wider spectrum of people who can be aggrieved exclusive of women. The application to the Magistrates Court of Sri Lanka extends equal opportunity to make a case against domestic violence to all genders, including men. All genders can exercise their rights under PREVENTION OF DOMESTIC VIOLENCE ACT No.34 OF 2005.

#### IV.2.1.3 PAKISTAN

*"Section 2 (a)<sup>110</sup> "aggrieved person" means any woman, child or any vulnerable person who is or has been in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent"*

**Interpretation:** In Pakistan, domestic violence laws impose that the general term 'aggrieved person' is as mentioned in the Sri Lankan law. It has further been defined under Section 2(a) relating to the aggrieved person as to any women, child or any vulnerable person who are in a domestic relationship. The law also disregarded the grey area in the definition of the act of domestic violence 'any vulnerable person who are in a domestic relationship'. We may safely assume that a man can be considered as a 'vulnerable person' under the PREVENTION OF DOMESTIC VIOLENCE ACT No.34 OF 2005.

**Comparison:** The Act does not necessarily protect women solely but the children and vulnerable person as well. This can be inferred from the Act "PREVENTION OF DOMESTIC VIOLENCE ACT No.34 OF 2005". Divergent from the Indian law, there exists an interpretation of 'vulnerable person' in the Pakistani Laws. It is possible for men to exercise their rights against the act of domestic violence. The Indian Law does not have a similar and liberal interpretation as women are the only ones who can exercise their rights against the act of domestic violence under "THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT" of India.

**Assertion:** The law considered the possibility of someone being the 'vulnerable person' exclusive of women. The definition is not gender neutral, but it mentions the classification which may include other genders. Hence, this law accepts the possibility of the male gender also to be victims of domestic violence. Hence the term

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<sup>110</sup> Domestic Violence (Prevention and Protection) Act 2012, s 2

‘vulnerable person’ can be interpreted in a way through which men can be included under the definition of the term ‘aggrieved person’.

#### IV.2.1.4. NEPAL

*“Section 2 (a)<sup>111</sup> "Domestic Violence" means any form of physical, mental, sexual, and economic harm perpetrated by person to a person with whom he/she has a family relationship, and this word also includes any acts of reprimand or emotional harm.”*

**Interpretation:** As per the Nepali laws, ‘domestic violence’ is the act ‘by a person to a person’ who are in a family relationship. The act of domestic violence also includes ‘acts of reprimand or emotional harm’. The term ‘by person to person’ has broadened the horizons against perpetrators and not to mention the victims as well. There is no comprehensive meaning like ‘aggrieved or vulnerable’ instead a broad suggestion that any person can harm another person.

**Comparison:** The Indian law regarding the act of the domestic violence is inadequate when compared with the Nepali laws. The domestic violence law in order does not act on gender biasness. The prime concern is that domestic violence is prevalent against all genders, including men, whereas the Act “THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT” not only focuses on the rights of women against the act of domestic violence but also exclusively focusses on women being the aggrieved person.

**Assertion:** “Domestic Violence (Offence and Punishment) Act 2066 (2009)”, defines domestic violence referring to the ‘aggrieved person’ without prejudice by resorting to the gender-neutral terminology ‘person to a person’. The usage of the terminology has made space for a possibility for any person to exercise their right against the act of domestic violence. The neutrality is exhibited by the interpretation of the term ‘person’ under the definition against the act of domestic violence.

#### IV.2.1.5 BHUTAN

*“Section 3<sup>112</sup> For the purpose of this Act, domestic violence means violence against a person by another person with whom that person is or has been in a domestic relationship.”*

**Interpretation:** The Bhutan domestic violence law further simplifies the interpretation of domestic violence. It lays that ‘domestic violence’ means ‘any act, omission or behavior towards a person which results in physical, sexual, emotional or economic abuse’ which simply means any kind of domestic violence by a person against another person. Also, the phrase “with whom that person is or has been in a domestic relationship.” helps in sheltering victims of the past and the present.

**Comparison:** The definition under “Domestic Violence Prevention Act of Bhutan 2013” has summarized and simplified the violence implicated and the probable victims. The Indian law defined the term ‘domestic violence’ under section 3 and the timeline of the ‘domestic relationship’ under section 2 (f) of the Act “THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT”.

<sup>111</sup> Domestic Violence (Offence and Punishment) Act 2066 (2009), s 2(a)

<sup>112</sup> Domestic Violence Prevention Act of Bhutan 2013, s 3

**Assertion:** The Bhutani law interprets the definition of the act of domestic violence to ensure justice for all who come under the term 'person' as per their laws and meets the requirement of being in a domestic relationship. The Bhutani law is very similar to the Nepali law, but it is even more simplified ensuring better understanding and easy interpretation. Therefore, any person who was or is in a domestic relationship and was a victim of abuse by another person can exercise their rights under the "Domestic Violence Prevention Act of Bhutan 2013".

#### IV.2.1.6. UK

"Section 1

- 1) This section defines "domestic abuse" for the purposes of this Act.
- (2) Behavior of a person ("A") towards another person ("B") is "domestic abuse" if—
  - (a) A and B are each aged 16 or over and are personally connected to each other, and
  - (b) the behavior is abusive."<sup>113</sup>

**Interpretation:** The UK domestic violence law understands domestic abuse or violence as the abusive behavior 'of a person ("A") towards another person ("B")'. It is considered domestic abuse only if both "A" and "B" are personally connected to each other and over the age of 16. The definition does not end abruptly but continues that the behavior ought to be abusive in nature. The behavior also matters as any behavior which is not abusive does not qualify to be an act of domestic violence.

**Comparison:** The Act "THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT" protects women and enables them to exercise their rights against act of domestic violence. There exists a single gender which benefits out of the Act as it clearly mentions 'protection of women' as its objective. When compared to the Act "Domestic Abuse Act 2021" which is comprehensive and gender neutral and professes majorly on the behavior of a person considered to be an abuse, the Indian laws around the subject of importance can be considered to have a narrower objective.

**Assertion:** The Act "Domestic Abuse Act 2021" has been in motion since 2021. The definition of domestic violence as per this Act is so far the most detailed one. This gives a clear-cut explanation using examples of person 'A' to 'B' which as a matter of fact takes into consideration every person. The age of persons is also well taken care of so that even young persons in domestic relationships of any sort are also protected. Even though the country is quite different in various perspectives when compared to India, it having a progressive and liberal law can be taken as an inspiring example and a measure as to where we stand internationally.

## V. BEST FRAMEWORK AND OTHER SUGGESTIONS: THE PATH AHEAD

### V.1. NEUTRALITY

Domestic violence should be viewed as a violation against a person rather than a violation against a specific gender. The authors feel that gender inclusivity with respect to the laws related to domestic violence must be encouraged and promoted by the legislative, executive and the judiciary while carrying out their respective roles. To ensure that protection under law is extended towards men who are victims of domestic violence, the

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<sup>113</sup> Domestic Abuse Act 2021, s 1

three pillars of the government must ensure that laws have interpretations liberal enough to hold a person accountable for the offence irrespective of his/her gender. To go a little further, significant efforts by the appropriate bodies are also desperately needed to put statutes in place that expressly lay protection for such victims of the offence.

## V.2. BENEFITS

The authors are of the belief that neutrality in the domestic violence laws in India will breed gender inclusivity when it comes to who the laws cater to. Neutrality in the laws shall be a catalyst in making larger the subject of the domestic violence laws as an amendment in the existing laws or introduction of new laws related to the subject will cater to all sections of the society, including the victimized men. The introduction of neutral laws shall also keep a check on the misuse of laws by any one section of society as it would equally provide for all sections of society, unlike the existing laws.

## V.3. COMMITTEE

The authors suggest that committees be constituted in the courts of the State which shall oversee the matters of domestic violence, while ensuring efforts to implement the non-gendered approach, that ought to be dealt with by the courts. The committees shall aid in ascertaining the manner in which such matters shall be dealt with, whether inside the court or outside it.

The committee shall constitute of eminent and efficient persons, for instance, retired judges, victims of domestic violence, female and male social activists with adequate exposure to such matters, retired human rights representatives and other persons who may deem fit for the role.

The allotment of members shall be in equal representation of both men and women and every person shall have equal voting rights. The head or chairperson of the committee shall vote only in case of a divided opinion among the members which can be ascertained based on the counting of votes they cast. Decisions shall be taken based on the majority of votes cast by members present and voting.

The matter submitted to the committee, in order to ensure efficient and speedy delivery of justice, should be addressed by it within 15-30 days from the date the matter is submitted to it, with an extension of up to 15 days under special circumstances.

## V.4. BENEFITS

The authors believe that the committee shall reduce the burden on the courts by dealing with matters regarding domestic violence. It shall also act as a savior of the precious time of the court. Since the committee shall hold specialization in dealing with a certain kind of matter, it shall also be efficient in doing the same.

It reduces the time consumed by the court in addressing the issue wherein it simultaneously exercises its jurisdiction efficiently, without much dependence on the court and very well keeping in mind and limiting their approach to the new gender-neutral laws.

## V.5. DEGREE OF CRIME

The authors opine that domestic violence under the purview of law shall be categorized into different degrees based on the seriousness of the offence and the evidence present to substantiate the same. For instance, in the

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case of Ezekiel Elliot (Accusations Against an NFL Star), his former girlfriend pressed charges on him, and he was ordered suspension for 6 games. Later, the charges were dropped because of inconsistency of evidence<sup>114</sup>

The consequence of false accusations is so much that at times a man has no other choice but to live with it and bear with the society looking down upon him. The determination of what actions follow an allegation of domestic violence against a man shall be based on the graveness of the alleged offence as per the proven facts of a case and on the evidence available to substantiate what is being alleged. Briefly saying, a man cannot be blindly and wrongfully made to suffer in silence with the undeserved weight of the shame and humiliation that comes even with a false allegation of committing the offence, unless the allegation is substantial.

Categorization of the offence into the following three categories on the basis of the graveness of the offence and the evidence to substantiate it would help safeguard men against false allegations of domestic violence against them and would also help in reducing misuse of the laws by the women.

Degree Of Offence	Way the offence of a degree shall be dealt with
<b>Degree 1:</b> Alleged offence only plausible domestic violence without any concrete evidence.	The identity of the accused of this degree of offence, whether a man or a woman, shall not be revealed unless either there is adequate evidence to substantiate the same or both the parties consent to revealing it. This is to prevent undeserved shame and humility that tags along with untrue accusations.
<b>Degree 2:</b> Alleged offence of domestic violence which is partially established based on demonstration through evidence.	The identity of the accused of this degree of offence, whether a man or a woman, may be permitted to be revealed if the court deems it fit and offence can be established to a certain extent.
<b>Degree 3:</b> Alleged offence of domestic violence which is established based on demonstration through evidence.	The identity of the accused of this degree of offence, whether a man or a woman, shall be revealed.

## V.6. BENEFITS

The authors are of the opinion that introduction of the concept of categorization of the offence of domestic violence into different degrees would help eliminate or at least reduce the possibility of false accusations of the offence on an accused. Such a system in place shall ensure that justice be provided as fair, appropriate and deserved actions only shall follow an accusation depending upon its graveness and evidence available to establish the same. This system shall also save the wrongly accused from undeserved shame and humility in the society that obviously comes along with false accusations as it shall have no adverse effect on the accused

<sup>114</sup> Michael Kraut, 'High Profile Cases Spotlight Domestic Violence: Lessons for Defendants' ( Los Angeles Criminal Defense Attorney Blog, 18 September 2017) <<https://www.losangelescriminaldefenseattorneyblog.com/high-profile-cases-spotlight-domestic-violence-lessons-defendants/>> accessed 10 August 2022

without any evidence against him. The authors also believe that this system shall breed a fair justice system as it does not deny accountability of the accused if his liability is established through adequate evidence against him.

## VI. PROBABLE HURDLES AND POSSIBLE REMEDIES: ARGUMENTS AGAINST GENDER NEUTRAL DOMESTIC VIOLENCE LAWS AND ARGUMENTS OVERRULING

The fanatics, since eons ago, have vehemently argued how gender-neutral laws are a poor choice taking into account the detrimental affect such laws can manifest upon women by diminishing the fixated attention on them and their issues without reasonably elaborating upon the negative effects of such shift in attention.<sup>115</sup> Critics have also argued that execution of gender-inclusive laws will put the marginalized women at further disadvantage by creating a scope for the misuse of such laws against them in the form of fallacious counter-accusations.<sup>116</sup> Another point made by the opponents is that the comprehension of sexuality is malformed in India thus justifying the region-based classification of the issue.<sup>117</sup> The linchpin of all arguments is that gender neutral laws overlook the women in a disparaged disposition.<sup>118</sup>

Although the author liaises with the concerns, a failure to spot the fact that the victims of a particular offence are idiosyncratically located is unaffordable.<sup>119</sup> On one hand where detrimental prejudgment clutches women even today, it is of particular interest to note that men are contrived to act within the uncompromising boundaries of toxic masculinity where they are kept away from being human.<sup>120</sup> While the advocates against gender neutrality have contested the contraction of the 'novel' nature of violence, the rationale as to how such contraction happens for the same offence against two genders has not been intricately upon and hence fails the test of reasonability.<sup>121</sup> It has been inferred through surveys<sup>122</sup> that an underreporting of the cases of domestic violence against men has led to an inaccurate empirical data which has, to a large extent, paralyzed the research in the area.<sup>123</sup> Courts have often recapitulated the truth that the gendered domestic violence laws in India have become a weapon more than a shield<sup>124</sup> as well as an instrument<sup>125</sup> of harassment yielding misuse of the laws<sup>125</sup> by the women the law protects, thus feeling the need to make the procedure more hardline in order to diminish such misuse and ensure justice in the system<sup>126</sup>. Hence, it shall be effort-worthy to establish a similar and suitable mechanism in place with the aim of checking the loopholes and narrow down the probability of misuse of laws, if any<sup>127</sup>, as ensuring justice shall be the intent of all laws. It shall also be accentuated that the author advocates for an egalitarian approach towards the issue of domestic violence lodging a balanced redressal for

<sup>115</sup> Anupama Sharma, 'Addressing the Roadblocks to Gender Neutrality in Sexual and Domestic Violence Laws : A South Asian Perspective' [2022] JILS 79

<sup>116</sup> Ibid

<sup>117</sup> Ratna Kapur, 'Gender, Sovereignty and a Sexual Security Regime', [2013]14 (2) Melbourne Journal of International Law 317, 318

<sup>118</sup> Russel P Dobash & Rebecca Emerson Dobash, 'Women's violence to men in intimate relationships: Working on a puzzle', (2004) 44 (3) British Journal of Criminology 324

<sup>119</sup>Novotny (n 122) 744; Naffine (n 122) 25; Mackinnon (n 122) 3; Agnes (n 122) 846; Lillian Artz & Dee Smythe, 'Feminism v. The State? : A Decade of Sexual Offences Law Reform in South Africa', (2007) 7 Empowering Women for Gender Equity 6-9, 11

<sup>120</sup> Virinder S Kalra, 'Between emasculation and hypermasculinity: Theorizing British South Asian masculinities', (2009) 7 (2) South Asian Popular Culture 113; Ramaswami Mahalingam and Sundari Balan, 'Culture, Son Preference, and Beliefs about Masculinity', (2008) 18 (3) Journal of Research on Adolescence 541.

<sup>121</sup> Anupama Sharma (n 119)

<sup>122</sup>Dobash & Dobash (n 122) 324

<sup>123</sup>Kumar (n 122) 290-296, 292.

<sup>124</sup>*Amarjit Kaur and others v. Jaswinder Kaur and another* [2020] HC Punjab & Haryana No.13517 of 2018 [2022]

<sup>125</sup>*Sushil Kumar Sharma vs Union Of India And Ors* [2005] SC 141 of 2005 [2005]

<sup>126</sup>*Chander Bhan v. State* [2008] SCC OnLine Del 883 [2008]

<sup>127</sup> Anupama Sharma (n 119)

both genders and affirms that such an approach shall not discount the suffering of any class but only give asylum to them further<sup>128</sup>.

## VII. CONCLUSION:

Prejudice unveils the hideous face of the society.<sup>129</sup> Despite being among the cliché, gendered inequity is the most cosmic incarnation of institutional destitute.<sup>130</sup> The laws associated with domestic violence in place today have brought the men of the country to forbear legal menace and social extermination.<sup>131</sup> The Indian legislature has always had a tendency of validating reactive laws instead of proactive laws.<sup>132</sup> In India, a grave mishappening is considered to be the 'necessity' leading to the 'invention' of a beneficial law.<sup>133</sup> Hence, the identification of the male class of domestic violence victims under the law shall be a mere unleashing of the rampant known mystery.<sup>134</sup> Laws are good only when they protect against a crime and not a class,<sup>135</sup> meaning thereby; that any individual, irrespective of gender, is vulnerable and marginalized if such person has fallen victim to a crime.<sup>136</sup> Hence, it is crucial that laws are at least so forward-looking that they bear the scrutiny of reasonable application in the times ahead and do not lead to blatant injustice.<sup>137</sup> As wisely asserted by K.T.S Tulsī, the center stage of gender-neutral laws is not to sabotage the women class as victims but only to harbor all victimized sections of the society, inclusive of men<sup>138</sup>. Therefore, it is convincing that there is an urgent call for the legislature to keep up with the societal dynamics to avoid stripping any section of society off of what the Constitution and its essence confers to the citizens of the nation.<sup>139</sup>

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<sup>128</sup> Anupama Sharma (n 119)

<sup>129</sup> Jitendra N. Bhatt (n 81)

<sup>130</sup> Jitendra N. Bhatt (n 81)

<sup>131</sup> Ankita Kumar Gupta (n 54) 70

<sup>132</sup> Bala Nikit, 'Gender Neutrality in Sexual Harassment Bill' (2013) PL April 68 71

<sup>133</sup> Ibid

<sup>134</sup> Joshita Jothi and Keshavdev J.S (n 60) 6

<sup>135</sup> Ankita Kumar Gupta (n 54) 71

<sup>136</sup> Ankita Kumar Gupta (n 54) 71

<sup>137</sup> Ankita Kumar Gupta (n 54) 71

<sup>138</sup> Ankita Kumar Gupta (n 54) 69

<sup>139</sup> Bala Nikit (n 136) 71