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COMPARATIVE ANALYSIS OF DOMESTIC VIOLENCE GENDER NEUTRAL LAWS OTHER NATIONS

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1. Introduction

Domestic violence, as a legal category, has undergone profound transformation across the world over the last five decades. What was once dismissed as a private, familial matter shielded from state intervention by the doctrine of marital sanctity is today widely recognized as a serious human rights violation demanding urgent legislative response. Yet, despite this shared trajectory, the manner in which legal systems have defined domestic violence, identified its victims, and structured remedies varies considerably from jurisdiction to jurisdiction. A critical axis along which these differences are most sharply drawn is the question of gender specifically, whether the law confines its protective gaze exclusively to women, or whether it extends legal recognition to all individuals who suffer abuse within intimate and domestic relationships including men, transgender persons, and members of the LGBTQIA+ community.

India's PWDVA stands as a gender-specific statute. Its definition of an "aggrieved person" is explicitly restricted to a woman, and the law proceeds on the foundational assumption that perpetrators of domestic violence are invariably male. While this approach was historically justified by the overwhelming prevalence of violence against women in the domestic sphere, it has increasingly come under scrutiny as empirical data reveals that domestic violence does not respect gender boundaries. Men and transgender individuals are also subjected to intimate partner violence, yet they remain legally invisible under the PWDVA, 2005¹. The BNS 2023, which replaced the IPC 1860, similarly preserves this gendered architecture across Sec. 63² to 78³, offering no meaningful expansion of protection to survivors beyond the female gender. This chapter undertakes a systematic comparative analysis of domestic violence laws in three jurisdictions the United Kingdom, the United States of America, and South Africa each of which has, in different ways, moved toward a more gender-inclusive legal framework. The purpose of this comparative exercise is not merely academic. It is animated by a practical question: what lessons can India draw from these experiences as it considers the reform of its own domestic violence legislation? Each of the three jurisdictions selected presents a distinct model the United Kingdom offers a comprehensive statutory framework built around the concept of coercive control with explicitly gender neutral language, the United States

demonstrates the evolution from a women centred protective law to one that formally acknowledges the diversity of victimhood and South Africa offers a constitutionally grounded framework of gender-neutral protection that functions within a developing country context broadly comparable to that of India.

The discussion that follows does not mean that laws or systems from other countries can be directly applied in India. Strong patriarchal traditions, caste-based inequality, and a big discrepancy between the law and its practical application are just a few of India's distinct social realities. As a result, any legislative reform needs to be carefully tailored to local circumstances.

At the same time, looking at other countries is useful. It shows that gender-neutral domestic violence laws are not just an idea limited to developed nations. They are practical, constitutionally supported, and have already been successfully implemented in several countries. By studying their approaches and the difficulties they faced, Indian lawmakers can gain better insights and make more informed decisions while designing reforms.

1.1 United Kingdom

1.1.1 Historical Evolution of Domestic Violence Laws in the United Kingdom

The United Kingdom's legal journey on domestic violence mirrors, in many respects, the broader arc of feminist legal advocacy that swept through Western democracies during the 1970s and 1980s. For much of the twentieth century, domestic violence in England and Wales was treated as a matter of private marital conduct, and the common law's historical position crystallised in the old and long-discredited doctrine that a husband could not be guilty of raping his wife reflected a deep institutional reluctance to penetrate the boundary of the domestic sphere.

The first significant statutory intervention came with the Domestic Violence and Matrimonial Proceedings Act, 1976⁴, which introduced injunctions to protect victims of domestic violence. This was followed by the Matrimonial Homes Act, 1983⁵, and subsequently the Family Law Act, 1996⁶, which expanded the range of available protective orders. However, these early instruments were largely civil in character, focused on remedies such as occupation orders and non-molestation orders, and their scope remained primarily oriented toward heterosexual, married women as the presumed victims of abuse. They did not define domestic violence in comprehensive terms, nor did they address the full spectrum of abusive behaviours that characterize controlling relationships.

A significant conceptual shift occurred in the early 2000s, when researchers, advocates, and

eventually policymakers began to centre the concept of "coercive control" articulated most influentially by sociologist Evan Stark in their understanding of domestic abuse. This framework recognised that domestic violence was not simply a series of discrete violent incidents but rather a sustained pattern of behaviour aimed at dominating, isolating, and subjugating an intimate partner. This reconceptualization had important implications for the gender dimensions of domestic violence law, because it moved the legal conversation away from physical injury where gender asymmetry in victimisation is most pronounced toward patterns of behaviour that could, in principle, affect victims of any gender.

1.1.2 The Domestic Abuse Act, 2021: A Gender-Neutral Framework

The enactment of the DA Act 2021 ⁷represented the most comprehensive and far-reaching legislative intervention on domestic violence in the United Kingdom's history. Critically, for the purposes of this comparative analysis, the Act adopted a framework that is explicitly gender-neutral with respect to the definition of both victims and perpetrators of domestic abuse.

Sec.1 of the Act ⁸defines "domestic abuse" as behaviour by a person ("A") toward another person ("B") where A and B are "personally connected" and the behaviour constitutes abuse. According to the act, abuse is defined broadly to include economic abuse, psychological, emotional, or other abuse, controlling or coercive behavior, violent or threatening behavior, and physical or sexual abuse. Importantly, the definition of "personally connected" goes beyond marriage to include individuals who have had a parenting relationship with a child, members of the same family, and couples who are or have been in intimate personal relationships, without regard to the parties' gender or sexual orientation.

The Act then proceeds to define "victim" in Sec. 3 ⁹as a person of any gender who is subjected to domestic abuse. This is significant because it represents a clean statutory break from the model of gender-specific victimhood that characterised earlier English law and that continues to define the Indian PWDVA, 2005. Under the DA Act 2021, a man who is subjected to coercive control by a female partner, or a transgender individual subjected to abuse by a cisgender partner, is entitled to exactly the same statutory protections as a woman abused by a male intimate partner.

The Act also introduced a statutory definition of "controlling or coercive behaviour" as an offence, building on the earlier Serious Crime Act, 2015 ¹⁰which had first criminalised such behaviour. Under this framework, the criminal law extends to non-physical forms of abuse surveillance, isolation from friends and family, financial control, and repeated psychological

degradation that may be perpetrated by a person of any gender against a partner of any gender. The gender-neutral framing of these offences reflects a legislative judgment that the harm of domestic abuse is defined by the nature of the conduct and its impact on the victim, not by the gender of the parties involved.

1.1.3 Institutional Support Mechanisms

The DA Act, 2021 did not merely redefine the substantive law. It also established an institutional architecture designed to support survivors regardless of their gender. The Act created the role of Domestic Abuse Commissioner, charged with overseeing the provision of support services to all victims of domestic abuse and their children, and with publishing assessments of the adequacy of local authority services. This institutional oversight mechanism is notable because its mandate explicitly includes male victims, LGBTQIA+ survivors, and other underrepresented groups.

The Act further imposed a duty on local authorities in England to provide support for survivors of domestic abuse and their children in "relevant accommodation" a category that includes refuge accommodation, which had historically been almost exclusively oriented toward female survivors. By requiring local authorities to assess and meet the needs of all victims, including men and transgender persons, the Act took a significant step toward ensuring that the gender-neutral principle embedded in its definitional framework was matched by corresponding gender-inclusive service provision.

Scotland adopted its own distinct framework through the Domestic Abuse (Scotland) Act, 2018¹¹, which similarly employs gender-neutral language and places coercive and controlling behaviour at the centre of its definition of domestic abuse. The Scottish Act is particularly noteworthy for its explicit recognition that domestic abuse can occur in same-sex relationships, and for its relatively broad definition of what constitutes an "intimate relationship" for the purpose of the legislation. Together, the English and Scottish frameworks present a coherent model of gender-neutral domestic violence legislation that extends legal protection to all persons in intimate relationships, irrespective of gender.

1.2 United States of America

1.2.1 Evolution of Domestic Violence Laws in the United States

The legal treatment of domestic violence in the United States has undergone a remarkable transformation since the early 1970s, driven by feminist advocacy, changing social attitudes, and a growing body of empirical research on the nature and prevalence of intimate partner

violence. For most of the twentieth century, domestic violence was effectively excluded from the criminal justice system by a combination of the common law's reluctance to intervene in marital relations, police practices of treating domestic calls as purely private disputes, and prosecutorial discretion that routinely declined to pursue domestic violence cases even when charges were filed.

The feminist movements of the 1970s fundamentally altered this landscape. Advocacy organisations established the first domestic violence shelters, lobbied for mandatory arrest policies, and pressed for legislative reform. By the 1980s, many states had enacted domestic violence statutes, and police departments across the country had adopted pro-arrest or mandatory arrest policies for domestic violence calls. However, these early reforms shared a critical limitation with their British and Indian counterparts: they were largely designed with the heterosexual female victim in mind, and their practical application consistently reproduced the assumption that perpetrators were male and victims were female.

The Violence Against Women Act, 1994 (VAWA) ¹²marked a watershed moment in the federal legislative response to domestic violence. VAWA created federal criminal offences related to domestic violence and stalking, established the Office on Violence Against Women within the Department of Justice, and authorised substantial federal funding for victim services, law enforcement training, and prosecution initiatives. Despite its significant achievements, the original VAWA was criticised by advocates for LGBTQIA+ survivors, men who experienced domestic violence, and immigrant communities for the gaps in its coverage and its assumption of a predominantly female victim population.

1.2.2 VAWA Reauthorisation Act 2022 and the Turn Toward Gender Inclusivity

The reauthorisation of the Violence Against Women Act in 2022 ¹³represented a significant step toward a more gender-inclusive framework for federal domestic violence law. The 2022 reauthorisation explicitly expanded the definition of domestic violence to include abuse suffered by persons of all gender identities, and it prohibited recipient organisations from discriminating against LGBTQIA+ survivors in the provision of services funded under the Act. This provision addressed a long-standing complaint from LGBTQIA+ advocates that domestic violence shelters and service providers many of which received federal VAWA funding routinely turned away male survivors and LGBTQIA+ victims who did not fit the assumed profile of the domestic violence victim.

The 2022 reauthorisation also strengthened protections for male victims of domestic violence by requiring that federally funded programmes treat all survivors consistently regardless of

gender, and by mandating data collection on the experiences of underserved populations, including male survivors and LGBTQIA+ individuals. These provisions reflect a legislative acknowledgment that the exclusive focus on female victimisation, while historically grounded in the statistical predominance of women among domestic violence victims, has come at a cost specifically, the invisibility of a significant population of male and LGBTQIA+ survivors who suffer without legal recognition or access to services.

1.2.3 State-Level Gender-Neutral Domestic Violence Statutes

At the state level, the United States presents a complex and varied picture. The vast majority of American states have enacted domestic violence statutes that employ gender-neutral language in their definitions of both victims and perpetrators. California's Domestic Violence Prevention Act, ¹⁴for instance, defines "domestic violence" as abuse perpetrated against a person who is or was a spouse, cohabitant, fiancée, or dating partner, without specifying the gender of either party. Similarly, New York's Family Court Act ¹⁵defines "family offense" in terms applicable to persons in a broad range of domestic relationships, irrespective of gender or sexual orientation.

Texas, despite its more conservative political context, similarly employs gender-neutral language in its definition of "family violence" under the Texas Family Code¹⁶, extending protection to members of a household or family regardless of gender. These state-level statutes collectively demonstrate that gender-neutral domestic violence legislation is not confined to liberal jurisdictions it has become the prevailing norm across American states with widely differing political cultures and social contexts. The key insight for India is that the adoption of gender-neutral language in domestic violence law does not appear to have undermined the effective protection of female victims in these jurisdictions; rather, it has broadened the universe of persons who can access legal protection while maintaining the substantive focus on patterns of coercive and abusive behaviour.

1.2.4 Mandatory Arrest Policies and Their Gender Implications

One of the most instructive and cautionary aspects of the American experience with domestic violence law is the phenomenon of dual arrests, which emerged as an unintended consequence of mandatory arrest policies adopted by many American states and municipalities. Under these policies, police officers responding to domestic violence calls were required to arrest any person who had committed an act of domestic violence, without the need for a complaint from the victim. While designed to ensure accountability for abusers and reduce the pressure on

victims to press charges, mandatory arrest policies led in many jurisdictions to a significant increase in the arrest of women either as dual arrests alongside their male partners, or as primary suspects in cases where the woman had used violence in self-defence.

The American experience with dual arrests illustrates a critical point that is directly relevant to Indian reform discussions: gender-neutral domestic violence legislation, if poorly designed or insensitively enforced, risks becoming a tool for the further victimisation of women. Critics of gender-neutral reform in India have raised exactly this concern those powerful men, or their families, might weaponize gender-neutral provisions to file retaliatory domestic violence complaints against women who assert their rights. The American experience suggests that this risk is real and must be addressed through careful legislative drafting, robust enforcement safeguards, and judicial training oriented toward understanding the dynamics of domestic violence.

1.3 South Africa

1.3.1 Historical and Constitutional Context

South Africa presents a uniquely instructive case for comparative analysis because it is a developing country that, like India, confronts domestic violence against a backdrop of deep socio-economic inequality, entrenched patriarchal cultural norms, and significant enforcement challenges. Yet, South Africa's 1998 DVA¹⁷ adopted a gender-neutral framework from its inception predating similar reforms in the United Kingdom and several American states and did so in a constitutional context that bears meaningful similarities to India's own constitutional framework.

The South African Constitution¹⁸, 1996, adopted in the immediate aftermath of apartheid, is widely regarded as one of the world's most progressive constitutional instruments. Its equality clause S-9¹⁹ prohibits discrimination on the grounds of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, and birth. S-9(3) specifically prohibits direct or indirect discrimination on the grounds of sexual orientation, a provision that was explicitly included to address the historical persecution of LGBTQIA+ persons under apartheid law. This constitutional architecture provided a hospitable foundation for the development of gender-neutral domestic violence legislation, and it mirrors, in significant respects, the guarantees of equality and non-discrimination contained in Art.14²⁰, 15²¹, and 21²² of the Indian Constitution.

1.3.2 The Domestic Violence Act, 1998: A Gender-Neutral Model

The definition of domestic abuse under the DA Act, 116 of 1998 is blatantly gender-neutral. According to Sec 1²³, a "complainant" is any person who has been or is in a domestic relationship with the respondent and has been the victim of domestic abuse. Because it does not restrict protection based on gender, sexual orientation, or any other personal characteristic, the term "any person" is used in a broad and unfettered manner. The law's broad phrasing guarantees that everyone in domestic relationships is protected without exception.

Similarly, the DVA defines "domestic relationship" in terms broad enough to encompass heterosexual and same-sex intimate relationships, family relationships, relationships between persons who share a residence regardless of gender, and relationships between persons who have or had a parenting relationship with respect to a child. The respondent the person against whom a protection order may be sought is also defined without any gender qualification. In practical terms, this means that a man who is subjected to domestic violence by a female intimate partner, or a transgender person who is abused by a cisgender partner of any gender, may apply for a protection order under the DVA on exactly the same footing as a woman abused by a male partner.

The DVA defines "domestic violence" in expansive terms that go well beyond physical violence to include sexual abuse, emotional, verbal, and psychological abuse, economic abuse, intimidation, harassment, stalking, damage to property, entry into the complainant's residence without consent, and any other "controlling or abusive behaviour" toward the complainant. This broad definition is important because it captures the full range of behaviours through which intimate partner abuse occurs behaviours that are not exclusively inflicted by men upon women, and that cause serious harm regardless of the gender configuration of the abusive relationship.

1.3.3 Implementation Challenges and Lessons for India

The South African experience with gender-neutral domestic violence legislation is not, however, an unqualified success story. Significant challenges persist in the implementation and enforcement of the DVA, and these challenges are instructive precisely because they arise in a socio-economic context not entirely dissimilar to India's. Research conducted by organisations such as the Gender Links and the South African Medical Research Council has consistently found that, despite the progressive provisions of the DVA, the rate of intimate partner violence in South Africa remains among the highest in the world. Women continue to bear the overwhelming burden of lethal intimate partner violence: a 2019 study published in

the South African Medical Journal found that South Africa's femicide rate was approximately five times the global average²⁴.

These findings underscore a critical point for Indian reform debates the adoption of gender-neutral domestic violence legislation does not, in and of itself, resolve the problem of violence against women. Structural enforcement failures under-resourced police services, inadequate court infrastructure, poor access to legal aid, the absence of sufficient shelter facilities, and deeply entrenched social norms that discourage women from reporting abuse can undermine the effectiveness of even the most progressive statutory framework. The South African experience suggests that legislative reform, while necessary, is insufficient without a corresponding investment in enforcement capacity and support services.

At the same time, the South African experience demonstrates that gender-neutral legislation does not, as its critics sometimes allege, divert attention or resources from the primary problem of violence against women. In South Africa, the adoption of gender-neutral language in the DVA has coexisted with a sustained policy focus on female victimisation reflected in the country's National Strategic Plan on Gender-Based Violence and Femicide, 2020-2030 without any evidence that this focus has been undermined by the formal inclusivity of the legal framework²⁵. This experience directly challenges the argument, sometimes advanced in Indian policy discussions, that gender-neutral domestic violence law would inevitably dilute protections for women.

1.4 Implications of Gender-Neutral Domestic Violence Laws in Comparator Countries

A review of the domestic violence frameworks in the United Kingdom, the United States, and South Africa yields several overarching observations that are directly relevant to India's reform trajectory. First, and most fundamentally, all three jurisdictions have demonstrated that it is legally and practically possible to enact domestic violence legislation that does not confine its protective operation to female victims, without thereby undermining the effective protection of women. In each of these countries, the shift to gender-neutral legislative language has been accompanied by a sustained commitment to addressing the statistical reality that women remain the predominant victims of the most severe forms of domestic abuse. Gender-neutrality in the law has not produced gender-blindness in enforcement or service provision.

Second, the comparative analysis reveals that gender-neutral domestic violence legislation tends to be accompanied by a broader conceptual shift in how domestic violence is understood from a series of discrete violent acts perpetrated by men against women to a pattern of coercive

and controlling behaviour that can be directed against any person within a domestic relationship. This conceptual shift is significant because it directs the law's attention to the dynamics of abuse rather than to the demographic characteristics of the parties involved, and because it captures forms of abuse psychological, economic, and technological that physical-violence-focused frameworks tend to neglect. India's PWDVA, 2005, it should be noted, is already relatively broad in its definition of domestic violence, encompassing emotional abuse, economic abuse, and sexual abuse alongside physical violence. The gap lies not in the definition of the forms of abuse but in the gender restriction on who may be legally recognised as a victim.

Third, each of the three jurisdictions examined has grappled, in different ways, with the tension between formal gender-neutrality in legislation and the socio-cultural realities that shape who reports domestic violence, who accesses available services, and how police and prosecutors respond to domestic violence complaints. The American experience with dual arrests, the British experience of underfunded support services for male and LGBTQIA+ survivors, and the South African experience of persistently high rates of femicide despite progressive legislation all illustrate that gender-neutral legislation is a necessary but not sufficient condition for the effective protection of all domestic violence survivors. The institutional architecture of enforcement police training, prosecution practices, judicial sensitisation, and support service provision must be deliberately calibrated to translate the formal inclusivity of the law into substantive protection for all victims.

Fourth, and finally, the comparative analysis reveals a consistent pattern in the evolution of domestic violence law across all three jurisdictions: the initial legislative frameworks were women-centred, reflecting the historical conditions of their enactment, and the movement toward gender-neutrality occurred incrementally, driven by a combination of empirical evidence of male and LGBTQIA+ victimisation, constitutional equality arguments, and sustained advocacy. India currently stands at an earlier point in this trajectory, but the direction of travel dictated both by the constitutional guarantees of Art. 14, 15, and 21 and by the growing empirical evidence of domestic violence against men and transgender persons points clearly toward a more inclusive legislative framework.

1.5 Socio-Cultural Impact of Gender-Neutral Domestic Violence Laws

The adoption of gender-neutral domestic violence legislation in the United Kingdom, the United States, and South Africa has had effects that extend beyond the formal legal domain, influencing social attitudes toward domestic violence, the visibility of previously marginalised

survivor populations, and the institutional culture of organisations engaged in the domestic violence response. These socio-cultural effects are of particular relevance to India, where the resistance to gender-neutral domestic violence reform is often expressed not in legal but in social and cultural terms.

In the United Kingdom, the introduction of the Domestic Abuse Act, 2021 was accompanied by significant public awareness campaigns that, for the first time at a national level, explicitly included male survivors and LGBTQIA+ persons in the imagined universe of domestic violence victims. Research by organisations including Men's Advice Line and the Man Kind Initiative has documented a gradual though still incomplete shift in the willingness of male victims to identify their experiences as domestic abuse and to seek help, a shift that has been at least partially attributed to the greater visibility of male victimisation in official discourse and campaign materials. This suggests that legislative reform, when combined with public education and awareness efforts, can begin to shift the social stigma that prevents many male survivors from coming forward.

In South Africa, the constitutional framing of the DVA has had an important role in legitimising domestic violence claims by LGBTQIA+ persons, whose relationships were historically denied legal recognition and whose experiences of intimate partner violence were effectively invisible in both legal and social terms. Research by the South African organisation GALA (Gay and Lesbian Memory in Action) has documented the specific forms of domestic violence experienced by LGBTQIA+ persons, including "outing" as a form of coercive control and the use of family disapproval as a tool of isolation, and has advocated for the enforcement of DVA protections in these contexts. The gender-neutral framework of the DVA has provided a legal hook for these advocacy efforts, even if enforcement remains inconsistent.

The American experience, as discussed earlier, also illustrates the risks that can accompany a rapid or poorly planned transition to gender-neutral enforcement. The increase in dual arrests and in the arrest of women as domestic violence suspects many of whom had used violence in self-defence demonstrates that gender-neutral legislation can produce perverse outcomes if it is applied without adequate training of police and prosecutors in the dynamics of domestic abuse and the assessment of primary aggressor. India's reformers would be well advised to study these consequences carefully and to design enforcement guidelines that preserve the formal inclusivity of a gender-neutral law while ensuring that its practical operation does not disadvantage the women who remain its primary intended beneficiaries.

1.6 Comparative Analysis with India:

A direct comparison of India's domestic violence legal framework with those of the United Kingdom, the United States, and South Africa reveals both the extent of the gap between India's current law and the gender-neutral models adopted elsewhere, and the constitutional and legislative resources that India already possesses to bridge that gap.

The most fundamental point of divergence between India's PWDVA, 2005 and the comparative frameworks examined in this chapter lies in the definition of the protected class. The aggrieved individual under the PWDVA, 2005 is considered to be any woman who is, or has been, in a domestic relationship with the respondent and who claims to have been the victim of any act of domestic violence by the respondent. This definition is categorical and exclusive: it is only a woman who may be an aggrieved person under the Act, and it is only a male respondent or a female relative acting at the instigation of a male respondent who may be a respondent. In comparison, the UK DA Act, 2021, the American VAWA 2022 and the South African DVA all describe the victims and perpetrators without gender, as well as extending legal coverage to individuals of any gender within qualifying domestic relationships. The second area of major difference is the treatment of the LGBTQIA+ relationships. According to the PWDVA, 2005, the definition of the term domestic relationship is as follows: the relationships between persons who live or have lived in a common household, are related by consanguinity, marriage, or have a relationship in the character of marriage, adoption, or are family members and do not live separately. Some courts have construed the term relationship in the nature of marriage to omit same-sex relationships due to the fact that Indian law does not acknowledge same-sex marriage.

While the Supreme Court's decision in Navtej Singh Johar v. Union of India²⁶, Decriminalised consensual same-sex conduct, it did not confer legal recognition of same-sex relationships. As a result, LGBTQIA+ persons in intimate relationships remain effectively outside the protective ambit of the PWDVA, 2005 a gap that stands in sharp contrast to the explicit LGBTQIA+ inclusion in the UK, American, and South African frameworks.

Third, the comparative analysis reveals a significant divergence in the institutional infrastructure available to domestic violence survivors. In the United Kingdom, the Domestic Abuse Act, 2021 imposes a statutory duty on local authorities to provide support services to all domestic abuse survivors, including male victims and LGBTQIA+ persons. In South Africa, the DVA requires courts to inform complainants of available support services and to make referrals to appropriate agencies. In the United States, VAWA 2022 mandates that

federally funded domestic violence programmes provide services to all survivors regardless of gender. In India, by contrast, the institutional infrastructure created by the PWDVA, 2005 Protection Officers, registered service providers, shelter homes, and medical facilities is designed exclusively around the needs of female survivors. Male victims and LGBTQIA+ persons have no institutional recourse under the Act, and there is no statutory obligation on state governments to provide services to these populations.

Despite these differences, the comparative analysis also reveals important areas of convergence and shared constitutional principle that provide a foundation for Indian reform. Like South Africa's Sec.9 and the United States' Fourteenth Amendment, India's Constitution contains strong guarantees of equality and non-discrimination under Articles 14 and 15. The SC has consistently upheld that these constitutional principles forbid discrimination based on gender and demand that the State treat everyone equally before the law.

The exclusion of male and LGBTQIA+ survivors from the PWDVA, 2005 sits in considerable tension with these constitutional guarantees a tension that has been noted by the Supreme Court in the NALSA judgment and by various High Courts in the context of domestic violence cases involving male complainants.

The BNS 2023, which replaced the IPC represented an opportunity to address this constitutional tension through the inclusion of gender-neutral provisions in the criminal law governing sexual offences and domestic abuse. That opportunity was largely missed: the BNS retained the gender-specific framing of its predecessor across Sec. 63 to 78, maintaining the definitional position that sexual violence can only be committed by a man against a woman, and that the criminal law's protective gaze is directed exclusively at female victims. The contrast with the UK, American, and South African frameworks all of which have moved away from this gendered architecture, albeit at different speeds and through different legislative mechanisms is stark and, from a constitutional standpoint, increasingly difficult to defend.

¹ Aparna Chandra, "Domestic Violence Law in India: The PWDVA in Practice" 2015 (14) *Economic and Political Weekly* 52.

² Protection of Women from Domestic Violence Act 2005, s 63

³ Protection of Women from Domestic Violence Act 2005, s 63

⁴ Domestic Violence and Matrimonial Proceedings Act 1976.

⁵ Matrimonial Homes Act 1983.

⁶ the Family Law Act 1996.

⁷ Domestic Abuse Act 2021.

⁸ Domestic Abuse Act 2021, § 1.

⁹ Domestic Abuse Act 2021, § 3.

¹⁰ Serious Crime Act 2015.

- ¹¹ Domestic Abuse (Scotland) Act 2018.
- ¹² Violence Against Women Act 1994.
- ¹³ Violence Against Women Reauthorization Act 2022.
- ¹⁴ Domestic Violence Prevention Act (California Family Code §§ 6200–6409).
- ¹⁵ New York's Family Court Act 1962.
- ¹⁶ Texas Family Code 1997.
- ¹⁷ Domestic Violence Act 116 of 1998 (South Africa).
- ¹⁸ Constitution of the Republic of South Africa 1996.
- ¹⁹ South Africa Constitution 1996, §9.
- ²⁰ The Constitution of India 1950, art 14.
- ²¹ The Constitution of India 1950, art 15
- ²² The Constitution of India 1950, art 21.
- ²³ Domestic Violence Act 1998, §1.
- ²⁴ Domestic Violence and Health Outcomes in South Africa' (2019) *South African Medical Journal*.
- ²⁵ Government of South Africa, National Strategic Plan on Gender-Based Violence and Femicide 2020–2030 (2020).
- ²⁶ Navtej Singh Johar v. Union of India, AIR 2018 SC 4321.

