



Vidhyayana - ISSN 2454-8596

An International Multidisciplinary Peer-Reviewed E-Journal

www.vidhyayanaejournal.org

Indexed in: ROAD & Google Scholar

Implementation of the Protection of Women from Domestic Violence Act, 2005: A Legal Perspective

Chirag Harishbhai Chauhan

Head, Dept. of Law,

Grace Law College, Rajkot

Chiraghchauhan@gmail.com



Abstract:

To address and fight the pervasive issue of domestic violence against women in India, a landmark law called the "Protection of Women from Domestic Violence Act, 2005" was passed in 2005. This article offers a judicial examination of the enactment and execution of this landmark law. This paper examines and evaluates the Act's key sections, breadth, and techniques for protecting women from domestic violence. The article also delves into the challenges and successes that emerged throughout the implementation of the Act, shedding light on the court judgements and case law that have affected its enforcement. This article evaluates the Act's legislative structure, its effectiveness, and its limitations to provide light on the Act's role in promoting gender justice and protecting the rights of women inside the home sphere. The focus here is on the home environment.

Keywords: Protection of Women, Domestic Violence Act 2005, Legal Perspective, Implementation.

Introduction

Partner-initiated domestic violence (DV) is a major public health risk, affecting 40% of women globally. The "Declaration on the Elimination of Violence against Women" issued by the United Nations in 1993 sparked government action to combat this problem. Family members, supposed to be the protectors in a household, are frequently the perpetrators of domestic violence, which affects individuals of all social and ethnic backgrounds.

Before the "Protection of Women from Domestic Violence Act (PWDA) 2005" was established in September 2005, there was no specific body of civil law in India to handle the nuances of this complex topic. The passage of this law secured the continued protection of women's rights. The Platform for Action (1995), the Vienna Accord (1994), and the Beijing Declaration all agreed that domestic violence constituted a gross human rights abuse.

Domestic violence is a serious issue in India. However, it has received little attention from the media and the general public. As a crime, cruelty perpetrated by a woman's husband or any member of his family against his wife is not adequately addressed by civil law. A measure was introduced in the House to prevent women from becoming victims of domestic abuse by establishing a remedy under civil law to protect them.



Insensitivity to women's rights and economic dependence on men are also major contributors to domestic violence. Horrific stories of the abuse and violence women are forced to undergo, sometimes in the ostensibly safer atmosphere of their homes, can be found at every level of society.

According to the Supreme Court, the aggrieved person's civil rights are consolidated within the remedy provided by the DV Act. To protect women from becoming victims of domestic abuse and to reduce the prevalence of domestic violence in society, legislation was enacted to provide a civil law remedy.

Research Objective:

The information in this study will be used to evaluate the Protection of Women from Domestic Violence Act (PWDVA), enacted in 2005, from a legal perspective. This study aims to assess the Act's success in resolving the problem of domestic violence against women in India, as well as the challenges it has encountered and the outcomes it has produced.

Research Questions:

1. What steps have been taken to put the Protection of Women from Domestic Violence Act of 2005 into effect in everyday life?
2. What are the most important measures and processes the Act provides to prevent women from being victims of domestic abuse?
3. During the process of putting the Act into effect, what difficulties and victories arose?
4. How have court rulings and previous case law affected how the Act is enforced?
5. How much of a contribution has the Act made toward promoting gender justice and the protection of the rights of women within the context of the home sphere?

What are the PWDVA's most significant definitions?

The domestic violence definition is thorough, well-written, and all-inclusive. It includes not only actual violence but also threats of violence, whether verbal or physical. Threats against someone's health, safety, or well-being and coercion are strictly forbidden. The following terms also have specific meanings:



Acts or actions that cause physical pain, harm, or risk to life, limb, or health or that affect the health or development of the injured person are considered acts of physical abuse. Examples of physical abuse include assault, criminal force, and criminal intimidation.

Following the legislation, sexual abuse is defined as any action of a "sexual nature" that "abuses, humiliates, degrades, or otherwise violates the dignity of a woman."

Threats, insults, and humiliation, especially those centred on the inability to have a male child, are all forms of emotional and verbal abuse.

Economic abuse occurs when the abuser deprives the victim and her children of money, property, or other assets necessary for subsistence or when the abuser prevents or severely limits the victim's ability to earn a living outside of the home.

An "aggrieved person" is a woman who is or was in a domestic partnership with the respondent and claims to have been the victim of domestic violence at the respondent's hands. (Check out Section 2(a) of the PWDVA.

All male adult relatives of the husband or male partner of a married woman or a woman in a relationship that has the characteristics of marriage are also included in the definition of "respondent," as are any male or female relatives of the aggrieved woman.

Two people are said to be in a "domestic relationship" if they have lived together.

Married or otherwise related by blood or marriage.

Although they may have an arrangement similar to marriage (such as a live-in relationship), they are still considered members of different families.

"child" refers to anybody under eighteen, including biological, adopted, and stepchildren.

Domestic Violence

The word "domestic violence" refers to a wide category of cruel acts that may take place inside a family. This category covers not only physical abuse but also psychological abuse, sexual abuse, economic abuse, and any other kind of mistreatment that may take place. One kind of violence that falls under this umbrella is



beating, but there are many other forms. Assaults of a sexual nature, monetary abuse, and other forms of cruelty are all included within the broader category of "violence." "Any act, omission, commission, or conduct of the respondent shall constitute domestic violence if it— (a) harms or injures or endangers the health, safety, life, limb, or well-being, whether mental or physical, of the aggrieved person or tends to do so, including by causing physical abuse, sexual abuse, verbal and emotional abuse, and economic abuse; or (b) harasses." This portion of the definition of "domestic violence"

Domestic Violence, UDHR and NHRC:

As the 70th year since the adoption of the Universal Declaration of Human Rights (UDHR) text has just come to a close, this is an excellent opportunity to bring to the attention of our government the question, "How are violations of articles in UDHR done via domestic violence?" The Universal Declaration of Human Rights (UDHR) has thirty articles addressing a different basic human right. Someone who commits a crime against a woman inadvertently violates most of the basic human rights reserved for women. However, according to the results of my study, articles 3, 4, 5, 13, and 19 are the ones that are violated the most regularly in India. The bulk of these articles are broken daily. Article 19 is the one that is infringed the most frequently in India. Although Article 3 of the Indian Constitution states that "Everyone has the right to life, liberty, and security of person," a woman in India loses her life due to dowry-related reasons on average once every 76 hours. Article 4 of the Constitution of India stipulates that "no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms." Even though millions of women are bought and sold in India as slave brides, this provision exists. However, slavery and the slave trade are both illegal.

On the other hand, the survey results showed that sixty per cent of males admitted to having abused their wives or girlfriends at some point throughout their marriages. Although Article 5 of the Declaration of Human Rights specifies that "No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment," the poll indicated that sixty per cent of males had struck their spouses at some point. Article 13 of the Constitution of the United States declares that "Everyone has the right to freedom of movement and residence within the borders of each State." On the other hand, many people in India subscribe to the notion that a woman is her husband's "Doosreki Amanat," which translates to "the property of her husband." In addition, Indian tradition dictates that a married woman should never go back to live with her parents; even if she does visit them, she should do so solely as a visitor. According to the findings



of the Fourth National Family and Health Survey, 16% of married women in India do not have the opportunity to participate in the decision-making process about their families. It is not true that "Everyone has the right to freedom of opinion and expression," as stated in Article 19 of the Constitution of the United States of America. The Universal Declaration of Human Rights is the sole item found on the National Human Rights Commission webpage on India's official website. This is because India upholds all human rights outlined in the UDHR. In addition, the government of India has published a proclamation which states that there would be no discrimination against women; nevertheless, this statement does not address the problem of violence against women.

Problems in the implementation of the “Protection of Women from Domestic Violence Act, 2005” (PDVA):

Protection officers are the point of contact for anybody who desires to report episodes of domestic violence that have happened, are now happening, or are on the brink of occurring. The PWDV Act describes the responsibilities of protection officers, and protection officers are the point of contact. The function of the protection officer is to help the victim get any available legal aid, file their report under the IPC, and carry out other duties as assigned. According to Jagori, a women's resource centre in Delhi, protection officers have excessive work, are not informed about their function and responsibilities, and are not supplied with appropriate guidance about implementing their requirements linked with the PDVA act. In addition, protection officers have much work to do because they are not informed about their functions and responsibilities. Even though these policemen are overworked and poorly trained, this continues to be the case. According to a survey conducted by Lawyers Collective, 57% of protection officers believe domestic violence is just a problem that affects families. This is one of the main points of contention in the survey's conclusions. In addition, the research results suggested that to deliver properly coordinated responses, organizations such as NGOs, Protection Officers, Service Providers, Police, and Lawyers, amongst others, need suitable training and building appropriate frameworks.



United Nations Declaration on the Elimination of Violence against Women Section (K) of Article 4 and India:

Action in Support of the United Nations Declaration to End Violence Against Women and Girls Article 6 of the Declaration on the Elimination of Violence Against Women is titled "Section (K) of Article 4 and India." Section K of Article 4 is particularly noteworthy among these six articles since it requires the state to encourage and fund research on domestic abuse, collect relevant data, and compile relevant statistics, all of which must subsequently be made publicly available. This is a crucial clause that must be included in the agreement. Despite the large sums of money being spent on these initiatives, there is a lack of information on the effectiveness of domestic violence prevention programs in India. This is so, although data on the campaigns and the outcomes of these efforts are scarce. In 2008, the government of India began a public awareness campaign called "Bell Bajao" to raise awareness about the perils of domestic violence against spouses and children. The government of India has established a national hotline number (1091) for women as part of this campaign, and the initiative also includes a web presence. The internet has also been used in this campaign. You may also find this number on the "helpline" section of the National Commission for Women's website, which you can reach by clicking here. Using my computer's web browser, I looked for the "Bell Bajao" campaign's official website at "<http://bellbajao.org>." But I couldn't pull it off. The national hotline for women's suggested website and phone number are both down at the time. The data used in this article was derived from the official Breakthrough in the USA website. There is no mention of the deal or details on what became of the "Bell Bajao" campsite on any official website.

However, in the annual report that Breakthrough puts out, they reference the amount of money the Indian government paid to the company that sponsored the campaign in 2016. The Breakthrough website made it possible for me to learn this stuff. When we consider all of the data, it becomes clear that the Indian government is attempting to mislead the people of India. The question of "Where did those 12 crore rupees go?" naturally arises because both the website and the phone number for the hotline are now dysfunctional. You may also ask, "What did Breakthrough do with 12 crore rupees for India?" It is evident that the Government of India is not adhering to the rules set by the resolution Declaring an End to Violence against Women if it follows the guidelines established by the United Nations and the Universal Declaration of Human Rights.



Government of India's Role in for Safety of Women / Stopping Domestic Violence:

The Government of India has operated Crime against Women (CAW) Cells since 2010 and Stop Centers since 2015. Both of these initiatives are aimed at eradicating domestic abuse. The Indian government spent billions of rupees on these endeavours, yet they have yielded significantly different outcomes than expected. Jeetendra Ghadge, an RTI activist in Mumbai, has revealed data showing that the Crime Against Women section received 1102 complaints in 2015. There were 102 reports of violence against women, 166 reports of sexual harassment, and around 401 reports of domestic abuse, but no convictions.

In addition, 15 reports came in throughout January, 11 of which still had open investigations. The purpose of the cells investigating crimes against women is to increase the number of victims coming forward. However, it seems that this aim has not been reached. The One Stop Center initiative has a similar framework, but it's not working. Women who have been victims of violence may get help and find solutions at these places. When a victim visits the centre, the workers there will question her about the resolution she hopes to find. If she is serious about settling, her husband will also be called in so that they may sign a contract together at the mediation facility. When the facility staff follows up with them, they will also send copies of the agreement to their respective residences. However, a woman seeking a divorce has a very low chance of getting one. The facility's personnel exerts constant mental control over her, telling her she should be concerned about her children's future. Instead of providing legal help to a victim who said her life was in danger and wanted a divorce from her husband, officials urged her to settle the approaching examinations for their children. The Sunday Standard went to 12 one-stop centres to see how they worked in practice but found that many of them were closed and that those that were open were missing crucial resources for crime victims. Some of the centre's supervisors said the entrance is locked until a victim arrives. Considering the instances mentioned above, it is evident that none of the programs can protect women from experiencing domestic abuse or other crimes. The National Commission for Women of India website also lists toll-free numbers that women may call if they need assistance from the Indian government. I've tried contacting the suicide and mental health crisis line: • 5792090.

The Central Social Welfare Board's police hotline, Bell Bajao (1091); the Delhi Police's counselling services for women in crisis (Shakti Shalini (10920); the 3317004 number);



None of the phone numbers listed in the "hotline" portion of the website work. I used the same number many times because I'm afraid that if someone is in trouble, they'll only call the first number they see. This begs the question, "Is this the way to provide essential information on the official portal of the government agency?"

Key Provisions and Mechanisms of the Act:

In 2005, India passed the Protection of Women from Domestic Abuse Act, which established a legal framework to address the pervasive and complicated issue of violence against women in the home. This section analyzes the Act's major provisions, remedies, relief choices, and comprehensive approach to ending domestic abuse.

Provisions for Protection Against Domestic Violence:

The Act covers various abusive behaviours against women, including physical, sexual, emotional, verbal, and financial abuse. Domestic violence extends beyond physical harm and includes more subtle forms of abuse. The Act is described in a way that accounts for the many forms of violence against women, providing a robust framework for addressing the complexities of this issue.

Remedies and Relief Mechanisms:

The Act provides a framework for women who have experienced domestic abuse to pursue legal redress. Examples are protection orders, residence orders, help packages, and custody rulings. Protection orders may compel the offender to leave the shared residence and are intended to deter and punish domestic violence. Thanks to the residence order, the abused woman will have a safe place to live. Compensation funds may be used to cover things like medical bills, missed earnings, and property repairs. Mechanisms for obtaining custody of children are included in the Act to preserve the welfare of the affected mother and her dependents.

Comprehensive Approach to Tackling Domestic Violence:

The Act uses a multifaceted approach to combat domestic abuse. It recognizes the need for several groups to work together, such as law enforcement, security, and service providers. Protection officers, whose mission is to assist aggrieved women in obtaining protection orders and gaining access to support services, enhance



the Act's effectiveness. The Act also encourages establishing counselling programs, shelters, and legal aid to provide domestic violence victims with comprehensive assistance.

Finally, the provisions of the Act provide a forward-thinking approach to ending women's domestic violence. By recognizing the different forms of abuse, establishing several remedies and relief processes, and fostering cooperation among many parties, the Act demonstrates a deep commitment to protecting women's rights in the home domain. This plan helps women gain independence and symbolizes a large-scale societal movement in India to end domestic violence and create a safer, more equitable society for female citizens.

Impact on Gender Justice and Women's Rights:

Regarding women's rights and gender equality in Indian law, the Protection of Women from Domestic Violence Act, 2005, is a game-changer. This section evaluates the Act's impact on gender equality, women's rights protection, shifting cultural norms, and women's empowerment via increased access to the legal system.

Contribution to Promoting Gender Justice and Protecting Women's Rights:

The Act is a landmark in pursuit of gender justice since it addresses the pervasive problem of domestic abuse against women. The Act protects women's rights to be free from violence by outlining the many forms of abuse and offering solutions to these problems. This work advances the greater cultural discourse on gender justice by challenging long-held attitudes that condone violence against women and highlighting the legal imperative of equality.

Changes in Societal Perceptions and Attitudes Toward Domestic Violence:

The Act has sparked a cultural change toward a more nuanced understanding of domestic abuse. It's gotten people talking about gender-based violence in the courtroom and beyond. The Act's formal acknowledgement of non-physical forms of abuse, such as emotional, verbal, and financial ones, has sparked discussions concerning these less obvious but no less destructive forms of domestic violence. This newfound consciousness has prompted a more nuanced view of the problem. It has pushed back against commonplace beliefs that legitimize or minimize such abuse.



Empowerment of Women through Legal Recourse:

One of the Act's most important characteristics is its assurance that women who are victims of domestic violence will have access to legal remedies. According to this Act, women may legally pursue protection orders, financial aid, and safe housing with the help of the law. Women from all walks of life benefit from this movement toward equality, as they are given a formal channel to challenge their abusers. By giving women access to legal recourse in situations where they might otherwise feel helpless, the Act improves their agency and shifts the power balance.

Suggestions for spreading awareness and eliminating domestic violence:

According to a study conducted by the Yugantar Education Society, just 16% of women would report experiencing domestic violence in their first marriage year. However, most women who report experiencing domestic abuse have done so for over five years. More has to be done to educate the public, punish offenders severely, and aid victims of domestic violence. A survey by the Yuganter Education Society found that just 25% of respondents recommended that abuse victims seek legal representation. In comparison, 75% recommended they feel wrath, retribution, or other unpleasant feelings against the offender. Seventy-five per cent is a sizable number of people who think you shouldn't report abuse. This demonstrates the general public's lack of awareness of domestic abuse. As mentioned earlier, the stories demonstrate the importance of bringing attention to domestic abuse. In addition, the Indian government should conduct comprehensive research and make the findings accessible to the entire public, much as Yugantar Education Society did for the poll, so that people may better understand the subject. Males who have been abused or seen violence are twice as likely to become violent themselves, according to a United Nations study on violence in different countries. Educational institutions may play a key role in preventing domestic violence in the next generation. I had a terrible time in moral education classes since our school provided the subject but never taught it in those periods. Some schools may teach students to respect women as part of their moral education curriculum.



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