

ADDRESSING DOMESTIC VIOLENCE: LEGAL PERSPECTIVES

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BEST CITATION – GAURI NIRAJ MISHRA, ADDRESSING DOMESTIC VIOLENCE: LEGAL PERSPECTIVES, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (2) OF 2025, PG. 83-85, APIS – 3920 – 0001 & ISSN – 2583-2344.

This article is published in the collaborated special issue of M.K.E.S. College of Law and the Institute of Legal Education (ILE), titled “Current Trends in Indian Legal Frameworks: A Special Edition” (ISBN: 978-81-968842-8-4).

ABSTRACT

The Domestic Violence Act, introduced in 2005, is a landmark initiative in India aimed at identifying domestic violence as a criminal act. The Protection of Women from Domestic Violence Act, 2005 (PWDVA) in Section 3 articulates the definition of domestic violence and identifies various forms of abuse. Domestic violence in India is a complex issue influenced by various social, economic, cultural, and psychological factors. Addressing domestic violence in India requires stronger law enforcement, education, economic empowerment of women, and a shift in societal attitudes toward gender equality.

Keywords: Domestic violence, the Protection of Women from Domestic Violence Act, 2005, forms of abuse covered in Domestic violence, reason of domestic violence

Introduction

The Domestic Violence Act, introduced in 2005, is a landmark initiative in India aimed at identifying domestic violence as a criminal act. It broadens its scope to protect individuals in live-in relationships and establishes mechanisms for providing urgent support to victims, in addition to facilitating legal avenues for redress.¹⁵¹

As per Section 3(a) of Protection of Women from Domestic Violence Act, 2005,¹⁵²

“Any act, omission or commission or conduct of the respondent shall constitute domestic violence in case 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 and

includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse”

In relationships, like marriage or family ties or shared living arrangements between individuals is where domestic abuse and violence take place when one person asserts dominance over another person through means like physical aggression or emotional manipulation or financial control or sexual coercion.

Physical violence, like hitting or pushing is easily noticeable. Emotional mistreatment can be equally harmful too. Rampant insults, intimidation and manipulation can shatter a person’s self-assurance. Make them feel powerless. Financial manipulation takes place when an abuser seizes control of a victim’s finances or limits their options making them reliant on the abuser, for support. Sexual assault is a type of violence that profoundly affects the

¹⁵¹ <https://www.sethassociates.com/domestic-violence-act-for-womens-empowerment-in-india.html>

¹⁵² https://www.indiacode.nic.in/bitstream/123456789/15436/1/protection_of_women_from_domestic_violence_act%2C_2005.pdf

wellbeing of those who endure forced or unwelcome acts.

Forms of abuse in accordance with Section 3 of Protection of Women From Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) in Section 3 articulates the definition of domestic violence and identifies various forms of abuse. The Act acknowledges the following types of maltreatment:¹⁵³

Physical Abuse

Any action that results in bodily pain, harm, or poses a risk to life, limb, or health, including acts of assault, criminal intimidation, and coercive confinement.

Sexual Abuse

Any sexual conduct that demeans, humiliates, or violates a woman's dignity. This includes instances of forced sexual intercourse or other forms of sexual coercion.

Verbal and Emotional Abuse

This includes insults, ridicule, humiliation, name-calling, threats, or ongoing mental harassment, particularly related to a woman's character, reproductive capabilities, or other personal matters.

Economic Abuse

The act of restricting a woman's access to financial resources, failing to provide for basic necessities, obstructing her employment, disposing of her property without her consent, or limiting her access to shared household resources.

Reasons for Domestic Violence

Domestic violence in India is a complex issue influenced by various social, economic, cultural, and psychological factors. Some of the major reasons include,

Patriarchal Society & Gender Inequality

Deep-rooted patriarchal norms enforce male dominance.

Women are often expected to be submissive, leading to control through violence.

Dowry System & Financial Dependence

Many cases of domestic violence stem from dowry-related disputes.

Women's financial dependence on husbands makes it difficult to leave abusive relationships.

Lack of Legal Awareness & Social Stigma

Victims may not know their legal rights under laws like the Protection of Women from Domestic Violence Act (2005). Fear of social shame discourages women from reporting abuse.

Alcohol & Substance Abuse

Excessive drinking often leads to aggressive behavior and domestic violence.

Cultural Norms & Family Pressures

Many families pressure women to "adjust" rather than leave abusive marriages.

Divorce is still stigmatized in many communities.

Mental Health Issues & Stress

Unaddressed mental health problems in men can contribute to violent behavior.

Financial and work-related stress sometimes escalate into domestic abuse.

Lack of Education & Awareness

Lower levels of education often correlate with higher acceptance of domestic violence. Women with less education may feel powerless to resist abuse.

Judicial Decisions

Sandhya Wankhede v. Manoj Bhimrao Wankhede (2011)

The case of Sandhya Wankhede v. Manoj Bhimrao Wankhede (2011) is a landmark decision of the Supreme Court of India that

¹⁵³ <https://www.lexisnexis.in/blogs/protection-of-women-from-domestic-violence-act-2005/>

clarified the scope of the Protection of Women from Domestic Violence Act, 2005 (PWDVA)

The Supreme Court, however, held that the definition of "respondent" cannot be interpreted too narrowly, pointing out that the Act was intended to safeguard women from all types of domestic violence, including abuse by the male relatives of the husband. The court held that narrowing the scope of the law would be against the legislative intent, which was enacted to provide wide-ranging protection to women who are victims of domestic violence.

Lalita Toppo v. the State of Jharkhand (2018)

The case of Lalita Toppo v. The State of Jharkhand (2018) is a landmark judgment by the Supreme Court of India on women's rights for those in live-in relationships as stated by the PWDVA, 2005

The Supreme Court held women in live-in relationships enjoy the right to seek protection, maintenance, and relief under the Domestic Violence Act. It emphasized that the fundamental purpose behind the Act was to protect women from domestic abuse regardless of marriage status.

This pronouncement strengthened women's rights under the law in live-in relationships, securing them from not being defenseless or without an option for remedies when faced by abuse and disregard.

V.D. Bhanot v. Savita Bhanot (AIR 2012 SC 965)

Supreme Court held that the PWDVA extends to cases of domestic violence even if the violence had occurred prior to the coming into force of the Act.

The law is meant to give protection to women subjected to domestic violence irrespective of the fact that the violence had occurred previously.

This case helped to strengthen the legal protection and made possible for women to seek justice for experiencing domestic violence even prior the act came in force

Legal remedy

The women who is a victim of domestic violence and abuse can seek judicial remedy from Protection of Women from Domestic Violence Act, 2005 (PWDVA) (Chapter IV) deals with Procedure for Obtaining Orders of Reliefs

Conclusion

The Protection of Women from Domestic Violence Act, 2005, is effective tool to safeguard women against domestic violence. The legal framework in the Act ensures protection and maintenance and relief for victims. The landmark legal judgments have also broadened the application of the Act to protect even when it involves male relatives or live-in relationships.

The Domestic Violence Act is a significant legal instrument established to protect individuals from abuse in domestic environments. It provides victims with various legal remedies, including protection orders, legal aid, and access to support services. The Act's purpose is to prevent violence, uphold the rights of victims, and ensure that perpetrators face appropriate consequences for their actions.