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## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# A CRITICAL ANALYSIS OF THE “DOMESTIC VIOLENCE ACT, 2005”

AUTHORED BY – M. ANNIE DEVADHARSHINI

2<sup>nd</sup> YEAR LLM, - Department of Human Rights and Duties Education.

School of Excellence in Law, Tamilnadu Dr. Ambedkar Law University, Chennai.

## **ABSTRACT:**

Domestic violence remains a pervasive social and legal issue in India, affecting women across all ages, castes, and socio-economic backgrounds. The Protection of Women from Domestic Violence Act, 2005, represents a significant legislative effort to provide legal protection, support, and remedies to victims of domestic violence. This research critically analyses the Act within the broader framework of constitutional guarantees, international conventions, and related legislations, including the Hindu Marriage Act and the Indian Penal Code. The study evaluates the effectiveness of the Act in addressing physical, emotional, sexual, and economic abuse, while identifying gaps in implementation, enforcement, and societal acceptance. It further explores socio-cultural factors, including patriarchy, gender stereotypes, and social stigma, which impact victims' access to justice and their willingness to seek legal remedies. Employing a doctrine-based qualitative methodology, this research draws on judicial decisions, scholarly literature, and comparative analyses of international best practices to assess the strengths and limitations of the Act. The study highlights the interplay between legal provisions, institutional mechanisms, and societal realities, emphasizing the importance of public awareness, adequate support services, and capacity building for law enforcement and judicial authorities. The findings underscore the need for reforms and targeted interventions to enhance the Act's effectiveness, prevent misuse, and ensure that legal protections translate into meaningful support for victims. Ultimately, this research contributes to the discourse on women's rights, gender equality, and the creation of a safer and more equitable society by providing actionable recommendations for strengthening the legal framework against domestic violence in India.

**KEYWORDS:** Domestic Violence, Protection of Women from Domestic Violence Act, 2005, Gender-Based Violence, Women's Rights, Legal Remedies, Patriarchy, Human Rights, Law Enforcement, Socio-Cultural Factors, Victim Support Services.

## 1. INTRODUCTION:

Women have historically served as the foundation of both family and society. As bearers of life, nurturers, and transmitters of cultural values, they play a crucial role in shaping future generations and preserving traditions. Yet, despite this vital contribution, women in India continue to face systemic injustices. One of the most pervasive issues is domestic violence, which affects women irrespective of age, caste, class, religion, or socio-economic status. This silent suffering, rooted in patriarchal structures and male domination, has rendered many women vulnerable within their own households.

Domestic violence is not confined to a single region or community; rather, it is a near-universal phenomenon that transcends social and cultural boundaries. Within Indian society, women whether as daughters, wives, or daughters-in-law often face abuse in multiple forms, including physical, psychological, verbal, and economic violence. Such victimization undermines not only their dignity and human rights but also hinders broader national development.

The phenomenon is deeply embedded in history. Across civilizations, patriarchal norms have legitimized discrimination, subordination, and even violence against women. Traditionally, women were frequently regarded as the “property” of men and were expected to embody submissive, idealized roles, thereby reinforcing their vulnerability and dependence. These factors combined to institutionalize male dominance and normalize the oppression of women. The United Nations Declaration on the Elimination of Violence against Women (1993) recognizes violence against women as a manifestation of historically unequal power relations between men and women, resulting in systemic domination and discrimination.<sup>1</sup> Domestic violence may take the form of physical assault, sexual abuse, or psychological harm, and it occurs across all social, cultural, religious, and ethnic groups. Intimate partner violence, in particular, has been identified as both a significant violation of women’s human rights and a pressing public health crisis.

Global statistics highlight the severity of the problem. According to the World Health Organization’s 2013 global review, nearly 35% of women worldwide have experienced either

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<sup>1</sup> Declaration on the Elimination of Violence against Women, G.A. Res. 48/104, U.N. Doc. A/RES/48/104 (Dec. 20, 1993).

physical or sexual violence by an intimate partner or non-partner.<sup>2</sup> In certain national studies, the prevalence has been reported as high as 70% in women's lifetime. Such violence has far-reaching consequences, contributing to increased morbidity and mortality, straining healthcare systems, reducing economic productivity, and burdening law enforcement and judicial institutions.

Thus, domestic violence is not merely a private or familial issue; it is a multidimensional social, legal, and health concern. Addressing it requires a holistic approach that recognizes its deep-rooted historical causes while advancing concrete measures to protect women's rights and promote gender equality.

## **2. HISTORY OF DOMESTIC VIOLENCE AGAINST WOMEN:**

The roots of domestic violence in India can be traced back to the earliest phases of human civilization. From ancient times, women have repeatedly suffered social injuries and systemic usurpations aimed at subordinating them. Across societies and civilizations, domestic violence whether physical, emotional, or psychological was long normalized within patriarchal structures and even sanctioned socially and legally. Male dominance and the tendency to treat women as "property" reinforced their subjugation, while societal expectations of women as idealized role models perpetuated discrimination and oppression.<sup>3</sup>

Throughout Indian history, women were denied equal respect, autonomy, and affection compared to men. Confined largely to household duties, they were excluded from decision-making in families and society at large.<sup>4</sup> Access to education was highly restricted, and even when women managed to study, they faced discrimination, wage gaps, and occupational segregation.<sup>5</sup> Violence was rarely acknowledged as a social problem, as patriarchal norms justified unequal relations. Over time, Indian society entrenched the belief that men occupied a superior position, which facilitated discrimination against women.<sup>6</sup> Only in the modern era with the rise of education, awareness, and social reform did women begin to challenge these structures and assert their rights.<sup>7</sup>

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<sup>2</sup> World Health Organization, *Global and Regional Estimates of Violence against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence* (2013).

<sup>3</sup> Kumari, R. *Women and Violence in India*. Delhi: Vikas Publishing, 1989.

<sup>4</sup> Altekar, A.S. *The Position of Women in Hindu Civilization*. Delhi: Motilal Banarsidass, 1962.

<sup>5</sup> Sharma, Arvind. *Women in Indian Religions*. Oxford University Press, 2002.

<sup>6</sup> Chakravarti, Uma. *Gendering Caste through a Feminist Lens*. Stree, 2003.

<sup>7</sup> Desai, Neera & Krishnaraj, Maithreyi. *Women and Society in India*. Ajanta Publications, 1987.

To understand domestic violence in contemporary India, it is necessary to analyse its historical genesis across different socio-political periods.

## 2.1 VEDIC PERIOD

During the Vedic period, women enjoyed considerable freedom and a respected social position. They were allowed access to education and often studied alongside men in gurukuls.<sup>8</sup> Women participated in reading the Vedas, practicing arts, and in some cases, even underwent the sacred thread ceremony, traditionally associated with men. Social practices such as the *purdah* system were absent, and women moved freely without restrictions.

Marriage was largely based on personal choice, and wives were regarded as true companions of their husbands, honoured as indispensable partners in both the household and religious life. Widow remarriage was permitted, and dowry practices were limited mostly to royal households. Economically, women contributed to agriculture and sometimes teaching, while in religious domains, they actively participated in rituals alongside their husbands. The Vedic wife was often referred to as *ardhangini* (better half), emphasizing her equal role in the household.

Thus, during the Vedic era, women were neither marginalized nor considered inferior. They enjoyed rights, dignity, and an elevated position in both family and society.

## 2.2 POST-VEDIC PERIOD

The status of women began to decline in the post-Vedic era, particularly under the influence of Manu's *Dharmashastra*. Manu's writings were contradictory: while he emphasized honouring women for societal welfare, he simultaneously reduced them to a subservient role, denying them education and autonomy. Girls were often married before puberty, and child brides had little opportunity to command respect within their households.

Manu described the husband as the lord of his wife, who was expected to obey him unconditionally, even if he lacked virtue. Women were deprived of property rights, as Manu considered wives, sons, and slaves to be without independent ownership. Widow remarriage was prohibited, while harmful practices like *sati*, *purdah*, and polygamy gained prominence.

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<sup>8</sup> Altekar, op. cit., p. 45.

Women were barred from performing religious rites independently and excluded from educational opportunities. Patriarchal restrictions, caste rigidity, and the dominance of joint family systems reinforced women's subordination. Thinkers such as Yajnavalkya echoed Manu, stating that women were never fit for independence. The seeds of systemic domestic violence were thus sown during this period, with scriptural justifications used to perpetuate male dominance and female subjugation.<sup>9</sup>

### 2.3 MEDIEVAL PERIOD

The medieval period marked one of the lowest points in the status of women, often referred to as the "dark ages" of Indian womanhood. With repeated invasions and the rise of conservative traditions, women's rights deteriorated further. Social evils like child marriage, female infanticide, polygamy, *purdah*, and the enforcement of *sati* became widespread. Widows who resisted *sati* faced severe social stigma, and domestic violence often pushed women toward this tragic end.

The insecurity caused by invasions and enslavement of women further curtailed their freedoms.<sup>10</sup> Women were denied education and confined to domestic work, rendering them economically and socially dependent. They were treated as inferior beings, often with less dignity than livestock.

However, amidst this decline, reformist movements such as the Bhakti Movement offered women some spiritual and social space. Saints encouraged women to participate in religious practices, read scriptures, and gain limited education. Though this movement provided partial relief, it did not dismantle economic dependence or patriarchal dominance. Nevertheless, it sowed seeds of resistance against complete suppression of women's rights.

### 2.4 BRITISH PERIOD

The colonial era brought significant reforms that improved women's conditions in several spheres. Social reform movements led by leaders such as Raja Ram Mohan Roy, Dayanand Saraswati, and later reformers worked toward abolishing *sati*, discouraging child marriage, and promoting widow remarriage.<sup>11</sup> Laws such as the Widow Remarriage Act (1856), Child

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<sup>9</sup> Chakravarti, op. cit., p. 89.

<sup>10</sup> Sarkar, Sumit. *Modern India: 1885–1947*. Macmillan, 1983, p. 18.

<sup>11</sup> Majumdar, R.C. *History of the Freedom Movement in India*, Vol. II. Calcutta: Firma KLM, 1970.

Marriage Restraint Act (1929), and Hindu Women's Right to Property Act (1937) gradually addressed inequalities.

Education for women began to gain acceptance, though initially limited to elite and upper-class families. Reformers emphasized that only through education could women achieve equality and dignity. Industrial and labour reforms during British rule also addressed working women's welfare by introducing maternity benefits, workplace protections, and restrictions on hazardous labour.

The Nationalist Movement further transformed women's role in society. Women actively participated in the freedom struggle, joining protests, leading movements, and asserting their political identity. The establishment of the All-India Women's Conference in 1927 was a landmark moment in mobilizing women for equality, education, and rights.<sup>12</sup>

Thus, the British period, despite colonial exploitation, marked the beginning of women's empowerment through legislation, education, and political participation.

## **2.5 POST-INDEPENDENCE INDIA**

After independence, the Indian Constitution firmly enshrined the principles of equality and non-discrimination. Articles 14, 15, and 16 guarantee equal rights irrespective of sex, while Article 15(3) empowers the state to make special provisions for women and children. Directive Principles under Article 39 further mandate equal access to livelihood for both men and women.<sup>13</sup>

The post-independence period also saw the enactment of key legislations to protect women from violence and discrimination. The Dowry Prohibition Act (1961) addressed the dowry menace, while amendments to the Indian Penal Code introduced provisions like Section 498A (cruelty by husband and relatives), Section 304B (dowry death), and Section 306 (abetment of suicide). Provisions in the Indian Evidence Act (Sections 113A & 113B) shifted the burden of proof in cases of dowry deaths, strengthening women's legal protection.

Despite these advances, domestic violence remained a persistent issue. This ultimately led to

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<sup>12</sup> All India Women's Conference Records, 1927.

<sup>13</sup> The Constitution of India, 1950.

the enactment of the Protection of Women from Domestic Violence Act, 2005, which provided a comprehensive legal framework to address physical, emotional, economic, and psychological abuse within households.<sup>14</sup>

Today, women in India continue to struggle against remnants of patriarchal practices. However, with constitutional guarantees, legislative support, and growing awareness, they have increasingly asserted their rights and challenged violence and discrimination.

### 3. DOMESTIC VIOLENCE -THEORETICAL PERSPECTIVES

Women have historically been subjected to severe forms of violence, often rooted in biological and socio-cultural factors that render them more vulnerable to domination by men. This victimization occurs not only in public spheres but also within homes, making women susceptible to both physical and psychological abuse. Scholars have observed: “From the cradle to the grave, women experience violence from those closest to them, perpetuating a cycle that often transmits across generations.”<sup>15</sup>

For many women, exposure to violence begins during pregnancy and continues throughout their lives. Gender-based disparities manifest in unequal access to nutrition, healthcare, household responsibilities, and familial care, which further restrict educational and developmental opportunities. Early marriage and childbearing exacerbate health risks, while practices like dowry harassment lead to extreme consequences such as domestic homicide or suicide, engendering a sense of hopelessness among victims.<sup>16</sup>

Domestic violence is unique compared to other forms of gendered violence because it arises within intimate and familial relationships, often concealed and normalized within household dynamics. Society frequently perceives such violence as a private matter, dismissing it as part of marital strain or domestic disagreements.<sup>17</sup> Despite comprising nearly half the global population, women continue to face systemic marginalization, and initiatives aimed at empowering them have had limited success due to entrenched patriarchal norms and socio-cultural barriers.

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<sup>14</sup> Protection of Women from Domestic Violence Act, 2005.

<sup>15</sup> Dobash, R.P., & Dobash, R.E. *Violence Against Women: The British Experience*. London: Routledge, 1979.

<sup>16</sup> Krishnan, S. *Dowry-Related Violence in India: Social and Cultural Perspectives*. New Delhi: Sage Publications, 2008.

<sup>17</sup> Heise, L., Ellsberg, M., & Gottemoeller, M. “Ending Violence Against Women.” *Population Reports*, 2002.

### 3.1. WHAT IS VIOLENCE?

Violence encompasses any action that involves physical force, harm, or injury to a person or property. According to the Oxford English Dictionary, violence is defined as “behaviour involving physical force intended to hurt, damage, or kill someone or something.”<sup>18</sup> The World Health Organization further describes violence as “the intentional use of physical force or power, threatened or actual, against oneself, another person, or a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.” Webster’s New Collegiate Dictionary defines violence as the exertion of force, including: (a) violent treatment or procedure, (b) assault or outrage, (c) strength or energy forcibly applied, and (d) intense passion or fervour.

A narrow understanding of violence often limits it to illegal acts of physical force; however, it also includes exploitation, discrimination, and maintenance of unequal social structures that produce fear and subordination. Violence against women specifically requires a critical perspective, as familial and societal norms often conceal or even justify such acts. Institutional and direct forms of violence reinforce one another, with systemic oppression shaping social behaviours that condone domestic abuse.

### 3.2. CONCEPT OF DOMESTIC VIOLENCE

Domestic violence is broadly defined as acts of physical, sexual, psychological, or economic abuse perpetrated by family members or intimate partners, regardless of cohabitation status. Merriam-Webster defines it as “the infliction of physical injury by one household member on another, often as part of a repeated pattern of abusive behaviour.”

The UN Declaration on the Elimination of Violence against Women (1993) identifies domestic violence as a context in which women suffer physical, sexual, and psychological harm within the family, including battering, sexual abuse of female children, dowry-related violence, marital rape, female genital mutilation, and other harmful traditional practices.<sup>19</sup>

In India, Section 32(dd) of the Parsi Marriage and Divorce Act, 1936, describes domestic violence as any act or conduct that harms or endangers the health, safety, or well-being of a

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<sup>18</sup> Oxford English Dictionary, 3rd Edition, 2010.

<sup>19</sup> United Nations. *Declaration on the Elimination of Violence Against Women*, 1993.

person within the household.<sup>20</sup> While the law does not yet have a unified definition of domestic violence, its manifestations vary widely and can include psychological trauma even in the absence of physical injury. The severity of domestic violence ranges from minor physical harm to extreme outcomes, including death or long-term psychological devastation.

### 3.3. CHARACTERISTICS OF DOMESTIC VIOLENCE

Domestic violence exhibits several key characteristics that help in understanding its nature and impact. It involves the victimization of women across all age groups from children and adolescents to adults and the elderly within the household or family environment. This form of abuse is deeply rooted in patriarchal structures, where male dominance and female subordination are institutionalized, creating a systemic imbalance of power.

Violence often occurs in private spaces, including the home, where the victim expects protection, care, and affection, yet experiences harm at the hands of family members. Domestic violence can manifest in multiple forms, including physical, psychological, emotional, and economic abuse, as well as threats or behaviour undermining a woman's self-esteem and autonomy.<sup>21</sup>

It reflects gender-based inequality, perpetuating the subordination and devaluation of women, often within patriarchal frameworks that deny women their rights. Domestic violence is characterized by repeated patterns of abusive behaviour aimed at establishing control over the victim's life. It is a grave violation of human rights, transcending boundaries of geography, culture, class, and religion.

Intimidation, manipulation, and coercion are common strategies employed by perpetrators to maintain control. The secrecy surrounding domestic violence arises from fear of retaliation, social stigma, and the belief that such abuse is inevitable. Historically, power hierarchies between genders have institutionalized violence against women as a tool for control.

### 3.4. FORMS OF DOMESTIC VIOLENCE

Domestic violence can take several forms, each with distinct manifestations:

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<sup>20</sup> Parsi Marriage and Divorce Act, Section 32(dd), 1936.

<sup>21</sup> Heise, L., Ellsberg, M., & Gottemoeller, M. "Ending Violence Against Women." *Population Reports*, 2002.

- 1. Intimate Partner Violence (IPV):** IPV occurs between current or former spouses or partners and encompasses physical, sexual, and psychological harm. Characteristics include emotional connection, ongoing physical or sexual interaction, awareness of each other's personal life, and identification as a couple. The World Health Organization defines IPV as “any behaviour within an intimate relationship that causes physical, psychological, or sexual harm, including acts of aggression, sexual coercion, and controlling behaviours”.<sup>22</sup>
- 2. Physical Violence:** Physical violence involves the intentional application of force capable of causing injury, disability, or death. Examples range from pushing and slapping to more severe actions like hitting with objects. Physical violence also includes threats to destroy property, and often escalates over time if unchecked by intervention.<sup>23</sup>
- 3. Sexual Assault:** Sexual assault refers to unwanted sexual contact or coercion without consent, including rape, groping, harassment, and other forms of sexual abuse. Vulnerable populations, including pregnant women, individuals with disabilities, or those attempting to leave abusive partners, are at higher risk. Research indicates that in 90% of cases, victims know the perpetrator.<sup>24</sup>
- 4. Psychological Abuse:** Psychological or emotional abuse involves intimidation, threats, isolation, and manipulation, often including misuse of spiritual or religious beliefs to exert control. According to the Istanbul Convention, psychological abuse undermines the victim's mental integrity, leading to depression, anxiety, and reduced self-esteem.<sup>25</sup>
- 5. Economic Abuse:** Economic abuse occurs when a perpetrator controls or limits the victim's access to financial resources, education, or employment. This abuse fosters dependency and limits autonomy, often isolating victims from support networks and increasing their vulnerability.

### 3.5. CAUSES OF DOMESTIC VIOLENCE

Domestic violence results from a complex interplay of individual, cultural, economic, and societal factors. Abusers often develop violent behaviours through exposure to violence in childhood or within their communities. Substance abuse and mental health challenges can exacerbate aggression.

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<sup>22</sup> WHO. *Global and regional estimates of violence against women*, 2018

<sup>23</sup> Krug, E.G., et al. *World Report on Violence and Health*. Geneva: WHO, 2002.

<sup>24</sup> National Center for Victims of Crime, 2020.

<sup>25</sup> Stark, E. *Coercive Control: How Men Entrap Women in Personal Life*. Oxford University Press, 2007.

Cultural norms that promote male dominance and female submission often normalize violence against women. Children who witness violence may perceive it as acceptable in their future relationships, reinforcing generational cycles of abuse. Economic dependence, limited employment opportunities, and financial stress further entrap women in abusive relationships. Individual factors such as substance use, mental health issues, and prior experiences of victimization influence violent behaviour. Legal and institutional shortcomings, low awareness of rights, and societal tolerance of violence further perpetuate abuse. Social acceptance of violence, patriarchal traditions, and cultural practices, including dowry, intensify the risk of domestic violence. Addressing domestic violence requires interventions targeting these interconnected factors, emphasizing gender equality and empowering victims through social, legal, and economic support.

### **3.6. EFFECTS OF DOMESTIC VIOLENCE**

The effects of domestic violence extend beyond the immediate victim, impacting families, communities, and society. Physically, survivors may endure injuries, chronic health conditions, or long-term disabilities. Psychologically, victims often experience anxiety, depression, post-traumatic stress disorder (PTSD), and diminished self-esteem. Feelings of fear, shame, and social isolation further exacerbate emotional distress.

Socially, abusers often isolate victims, limiting support networks and creating barriers to reintegration. Economically, dependence on the abuser complicates attempts to escape abusive situations, affecting employment and productivity. Children exposed to domestic violence may develop behavioural and emotional problems, perpetuating cycles of abuse.

At a societal level, domestic violence reinforces gender inequality and presents significant public health challenges. It increases demand for healthcare, legal aid, and counselling services while contributing to higher rates of crime and social instability. Comprehensive approaches that include prevention, intervention, and survivor support are essential to break the cycle of domestic violence and foster equitable, safe relationships.<sup>26</sup>

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<sup>26</sup> Dobash & Dobash, 1979.

## **4. THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005**

### **4.1. BACKGROUND OF THE ACT**

The recognition of domestic abuse as a criminal offence in India began with the incorporation of Section 498-A into the Indian Penal Code in 1983, criminalizing cruelty by a husband or his relatives towards a woman. In 2001, the Parliament introduced the Domestic Violence Protection of Women Bill to protect the rights of women subjected to violence within the family. Domestic violence encompasses acts or omissions that physically, mentally, emotionally, socially, or economically harm women within domestic or intimate relationships. Such violence constitutes a misuse of power and authority, undermining the safety, self-respect, and confidence of women, regardless of their age or marital status.<sup>27</sup>

To comprehensively address this issue, the Government of India enacted the Protection of Women from Domestic Violence Act (PWDVA) in 2005, defining domestic violence to include physical, sexual, verbal, emotional, and economic abuse. The Act extends protection to women in shared households, including wives, mothers, sisters, and even single women. It emphasizes civil remedies, prioritizing protection and empowerment of victims rather than penalizing perpetrators, and aligns with international human rights standards.

### **4.2. OBJECTIVES OF THE DOMESTIC VIOLENCE ACT**

The primary objectives of the Protection of Women from Domestic Violence Act, 2005 include:

1. Recognizing all acts of domestic violence as unlawful and punishable under law.
2. Providing protection to victims in instances of domestic abuse.
3. Ensuring timely, cost-effective, and accessible justice for aggrieved persons.
4. Preventing domestic violence and taking measures to address it if it occurs.
5. Implementing recovery and support programs for victims.
6. Creating public awareness about domestic violence.
7. Holding perpetrators accountable and ensuring strict punishment.
8. Aligning domestic violence laws with international standards.<sup>28</sup>

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<sup>27</sup> Ministry of Women and Child Development, *Protection of Women from Domestic Violence Act, 2005*, Government of India.

<sup>28</sup> Protection of Women from Domestic Violence Act, 2005, Sections 2–4.

### 4.3. DEFINITION OF DOMESTIC VIOLENCE IN THE ACT

Section 3 of the Act defines domestic violence as any act or omission by the respondent that:

- a) Harms or endangers the health, safety, life, limb, or wellbeing physically or mentally of the aggrieved person, including physical, sexual, verbal, emotional, or economic abuse;
- b) Coerces the aggrieved person or her relatives to meet unlawful demands, such as dowry or property;
- c) Threatens the aggrieved person or her relatives through any conduct described above;
- d) Otherwise causes physical or mental harm.

The Act clarifies key terms:

- **Physical abuse:** Conduct causing bodily pain, harm, or danger to life, limb, or health, including assault, criminal intimidation, and criminal force.
- **Sexual abuse:** Conduct of a sexual nature that humiliates, degrades, or violates a woman's dignity.
- **Verbal and emotional abuse:** Insults, ridicule, humiliation, threats of physical harm, particularly concerning reproductive matters.
- **Economic abuse:** Deprivation of financial resources, disposal of property, restriction of access to shared household assets, or limitation of necessities.<sup>29</sup>

The Act extends its ambit to **live-in relationships**, as clarified in *D. Velusamy v. D. Patchaiammal*, provided the relationship meets criteria such as legal age, voluntary cohabitation, and presentation as a marriage-like relationship in society.<sup>30</sup>

Section 4 imposes moral responsibility on members of the community to report domestic violence or potential violence to authorities.

### 4.4. LAW-ENFORCING AGENCIES UNDER THE ACT

Section 5 establishes mechanisms for legal, social, judicial, and administrative assistance for victims. Police officers, protection officers, service providers, and magistrates are responsible for informing victims of their rights and assisting in relief applications, including protection orders, monetary relief, residence orders, custody, and compensation.

Sections 7, 8, and 10 mandate government agencies to provide institutional support, such as shelter homes and medical aid. Duties include recording domestic incident reports (DIRs), ensuring medical assistance, providing shelters, and offering immunity from prosecution.

<sup>29</sup> PWDVA, 2005, Explanation to Section 3.

<sup>30</sup> *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469.

Section 11 requires the government to conduct awareness campaigns, sensitization training for judicial and police officers, and coordination between ministries to implement protocols effectively.<sup>31</sup>

#### 4.5. ROLE OF PROTECTION OFFICERS

Section 8 stipulates the appointment of full-time protection officers, preferably women. Section 9 defines their duties, including assisting magistrates, preparing domestic incident reports, applying for protection orders, providing legal aid, coordinating shelter homes and medical services, ensuring execution of monetary relief, and performing other assigned duties. Section 30 classifies protection officers and service providers as public servants under Section 21 of the IPC, 1860. Section 33 prescribes penalties for failure to discharge duties, including imprisonment of up to one year and fines up to ₹20,000.<sup>32</sup>

#### 4.6. PROVISIONS FOR RELIEF

Sections 18–22 outline relief mechanisms available to victims:

- **Protection Orders (Section 18):** Magistrates may prohibit acts of domestic violence, restrict communication, prevent property alienation, and safeguard dependents.
- **Residence Orders (Section 19):** Magistrates may restrain respondents from dispossessing victims, direct respondents to leave shared households, provide alternate accommodation, and ensure safe possession of property.
- **Monetary Relief (Section 20):** Magistrates can order compensation for loss of earnings, medical expenses, property damage, and maintenance, including lump-sum or periodic payments.
- **Custody Orders (Section 21):** Temporary custody of children may be granted to the aggrieved person, with visitation rights regulated to protect children.
- **Compensation Orders (Section 22):** Magistrates may direct respondents to pay damages for mental torture, emotional distress, and other injuries.<sup>33</sup>

#### 4.7. GENDER-SPECIFIC ENACTMENT

The PWDVA is gender-specific, exclusively protecting women in domestic relationships. Challenges regarding constitutional validity arose, such as in *Aruna Pramod Shah v. Union*

<sup>31</sup> PWDVA, 2005, Sections 5, 7, 8, 10, 11

<sup>32</sup> PWDVA, 2005, Sections 8, 9, 30, 33

<sup>33</sup> PWDVA, 2005, Sections 18–22.

of *India*, where the Delhi High Court upheld the Act, stating women's historical vulnerability justifies special protective measures<sup>34</sup>. Similarly, in *Dennison Paul Raj v. Mayavinola*, the **Madras High Court** affirmed the constitutionality of the Act under Article 15(3), recognizing the state's authority to provide special legislation for women and children.<sup>35</sup>

## 5. INTERNATIONAL TREATIES AND THEIR INFLUENCE ON DOMESTIC VIOLENCE LEGISLATION IN INDIA

International treaties and conventions have played a pivotal role in shaping domestic legal frameworks, including laws addressing domestic violence in India. These instruments have provided normative guidance, set standards, and influenced legislative reforms to protect women from violence.

### 5.1. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW), 1979

Adopted by the United Nations General Assembly on 18 December 1979 and entering into force on 3 September 1981, CEDAW seeks to eliminate discrimination against women and promote gender equality across all spheres of life.

**General Obligation to Eliminate Discrimination:** CEDAW defines discrimination against women as any distinction, exclusion, or restriction based on sex that impairs or nullifies the recognition, enjoyment, or exercise of human rights and fundamental freedoms, irrespective of marital status. This definition explicitly encompasses domestic violence, recognizing societal and legal practices that fail to protect women equally, thereby perpetuating their subordinate status.

**State Responsibilities:** CEDAW obliges States Parties to:

1. Integrate the principle of gender equality into constitutions and national legislation.
2. Adopt legislative measures, including sanctions, to prohibit all forms of discrimination.
3. Ensure effective legal protections for women through competent national institutions.
4. Refrain from discriminatory acts by state authorities.
5. Take measures against discrimination by individuals, organizations, or enterprises.

<sup>34</sup> *Aruna Pramod Shah v. Union of India*, 2008 (Delhi High Court).

<sup>35</sup> *Dennison Paul Raj v. Mayavinola*, 2012 (Madras High Court).

6. Amend or abolish laws and practices that discriminate against women.
7. Repeal penal provisions that enforce gender-based discrimination<sup>36</sup>

**Modification of Social and Cultural Patterns:** CEDAW emphasizes the necessity of:  
(a) Reforming social and cultural norms that sustain gender inequalities and stereotyped roles.  
(b) Promoting family education that balances the responsibilities of men and women in child-rearing, prioritizing children's interests<sup>4</sup>.

**Violence Against Women – General Recommendation No. 19 (1992):** This recommendation explicitly addresses violence against women, including domestic violence:

- **Recognition of Violence as Discrimination:** It classifies violence against women as a form of discrimination and a violation of human rights.
- **State Responsibility:** States must prevent violence, protect victims, and provide remedies and support services.
- **Data Collection:** Systematic data collection is required to inform effective policies and interventions.<sup>37</sup>

## **5.2. DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN (DEVAW), 1993**

Adopted by the United Nations General Assembly on 20 December 1993, DEVAW marks a major international milestone in combating violence against women and recognizes such violence as a human rights violation

**Violence Against Women:** The declaration defines violence against women as any gender-based act causing or likely to cause physical, sexual, or psychological harm or suffering, including threats, coercion, or arbitrary deprivation of liberty in public or private life.<sup>38</sup>

**Understanding Violence Against Women:** Violence is categorized into three domains:

1. **Violence Within the Family:** Includes domestic abuse, dowry-related violence, marital rape, female genital mutilation, and non-spousal violence.
2. **Community Violence:** Covers public spaces, workplaces, educational institutions, trafficking, and forced prostitution.

<sup>36</sup> United Nations, *Convention on the Elimination of All Forms of Discrimination Against Women*, 1979.

<sup>37</sup> CEDAW Committee, *General Recommendation No. 19: Violence Against Women*, 1992.

<sup>38</sup> United Nations, *Declaration on the Elimination of Violence Against Women*, 1993.

3. **State-Sanctioned Violence:** Occurs when government policies or inaction contribute to perpetuating violence against women.

### 5.3. BEIJING DECLARATION AND PLATFORM FOR ACTION (1995)

Adopted at the Fourth World Conference on Women in Beijing (4–15 September 1995), the Beijing Platform identifies twelve critical areas of concern, including violence against women, poverty, education, health, economic inequality, power-sharing, human rights, and the girl child. The declaration urges states to reform discriminatory laws and policies while providing adequate support services for survivors, including shelters, counselling, and legal aid.<sup>39</sup>

### 5.4. COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (ISTANBUL CONVENTION), 2011

The Istanbul Convention, adopted on 11 May 2011 and effective from 1 August 2014, recognizes gender-based violence against women as a human rights violation and a form of discrimination.

**Scope:** Domestic violence is defined as physical, sexual, psychological, or economic abuse occurring within a family, domestic unit, or between current/former partners, regardless of shared residence. States must guarantee the right to live free from violence in both public and private spheres and implement legislative measures accordingly.

**Principle of Non-Discrimination:** The convention emphasizes that measures to prevent gender-based violence do not constitute discrimination and must be applied universally.<sup>40</sup>

### 5.5. UN SECURITY COUNCIL RESOLUTION 1325 ON WOMEN, PEACE, AND SECURITY (2000)

UNSCR 1325 addresses women's roles in armed conflict and peace processes, with implications for domestic violence as part of broader gender-based violence prevention.

- **Recognition of Gender-Based Violence:** Emphasizes protection from all forms of violence, including domestic violence in post-conflict settings.
- **Women's Participation:** Encourages women's involvement in peace processes to strengthen advocacy for protections against domestic violence.

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<sup>39</sup> United Nations, *Beijing Declaration and Platform for Action*, 1995.

<sup>40</sup> Council of Europe, *Istanbul Convention on Preventing and Combating Violence Against Women and Domestic Violence*, 2011.

- **Comprehensive Strategies:** Supports the integration of gender perspectives into security and recovery efforts.
- **Post-Conflict Recovery:** Recognizes the importance of addressing domestic violence during community reconstruction.<sup>41</sup>

### **5.6. AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (BANJUL CHARTER), 1986**

Adopted on 27 June 1981 and effective from 1986, the African Charter provides a framework for human rights in Africa.

- **Equality and Non-Discrimination:** Prohibits discrimination based on sex, forming a basis to address gender-based violence.
- **Right to Life and Security:** Affirms personal security and protection against domestic violence.
- **Family Protection:** Mandates safeguarding family members, including women and children.<sup>42</sup>

### **5.7. PROTOCOL TO THE AFRICAN CHARTER ON THE RIGHTS OF WOMEN IN AFRICA (MAPUTO PROTOCOL), 2003**

Adopted by the African Union, the Maputo Protocol strengthens women's rights protection across Africa.

- Explicitly addresses domestic violence as a violation of women's rights and dignity.
- Obligates states to adopt measures to eliminate violence against women, including support services for victims.
- Ensures women's rights to live free from physical, sexual, and psychological abuse in public and private life.<sup>43</sup>

## **6. CONSTITUTIONAL PROVISION RELATED TO DOMESTIC VIOLENCE AGAINST WOMEN IN INDIA:**

Domestic violence against women constitutes a profound violation of fundamental rights and human dignity. In India, the Constitution provides a foundational framework to safeguard the

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<sup>41</sup> United Nations Security Council, *Resolution 1325 on Women, Peace, and Security*, 2000.

<sup>42</sup> African Union, *African Charter on Human and Peoples' Rights*, 1986.

<sup>43</sup> African Union, *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)*, 2003.

rights of women and to address domestic abuse. Beyond guaranteeing individual rights, the Constitution mandates the State to take proactive measures to eliminate discrimination and provide protection and justice for victims of domestic violence.

### **6.1. RIGHT TO EQUALITY (Article 14)**

Article 14 of the Indian Constitution stipulates:

*"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."*<sup>44</sup>

This provision forms a cornerstone of the Indian legal system, ensuring equal treatment of all individuals under the law. In the context of domestic violence, Article 14 guarantees women the same legal protections as men. The principle of "equal protection" obliges the State to actively prevent discriminatory practices and challenge laws that fail to protect women from abuse. Judicial precedents have consistently affirmed that any legislation or policy discriminating against women in domestic contexts violates this fundamental right.

In *Vishaka v. State of Rajasthan (1997)*, the Supreme Court established comprehensive guidelines to prevent sexual harassment in the workplace, emphasizing that gender equality is a fundamental right and that the State has a duty to protect women from all forms of violence and discrimination<sup>45</sup>. This judgment underscores the relevance of Article 14 in promoting equality and protection for women in domestic settings as well.

### **6.2. PROHIBITION OF DISCRIMINATION (Article 15)**

Article 15 prohibits the State from discriminating against any citizen on grounds of religion, race, caste, sex, or place of birth:

*"The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, or place of birth."*<sup>46</sup>

By explicitly forbidding sex-based discrimination, Article 15 plays a critical role in combating domestic violence. It requires the State to ensure women's access to justice and to take affirmative measures to provide protection, including legal aid, shelters, and other support mechanisms.

In *Lila Jahan v. State of Uttar Pradesh (2018)*, the Supreme Court affirmed that domestic

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<sup>44</sup> Constitution of India, Article 14.

<sup>45</sup> *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011

<sup>46</sup> Constitution of India, Article 15.

violence provisions must be interpreted in a manner that safeguards women's rights. The Court highlighted the State's obligation to actively protect women from domestic abuse, recognizing Article 15 as a basis for affirmative action.<sup>47</sup>

### 6.3. RIGHT TO LIFE AND PERSONAL LIBERTY (Article 21)

Article 21 guarantees:

*"No person shall be deprived of his life or personal liberty except according to the procedure established by law."<sup>48</sup>*

This provision has been expansively interpreted to include the right to live with dignity. Domestic violence violates not only the physical safety of women but also their mental well-being and personal dignity. The judiciary has consistently held that the State has a constitutional duty to protect individuals from domestic violence.

In *Manoj Kumar v. State of Uttar Pradesh (2016)*, the Supreme Court affirmed that seeking protection from domestic violence falls within the ambit of Article 21. The Court emphasized the State's responsibility to ensure protection from abuse and noted that inaction constitutes a violation of the right to life and personal liberty.<sup>49</sup>

### 6.4. DIRECTIVE PRINCIPLES OF STATE POLICY (Articles 39(e) & 39(f))

**Article 39(e):** *"The State shall, in particular, direct its policy towards securing that men and women equally have the right to an adequate means of livelihood."*

**Article 39(f):** *"The State shall, in particular, direct its policy towards securing that children are not abused and that childhood and youth are protected against exploitation and against any kind of neglect."<sup>50</sup>*

Articles 39(e) and 39(f) guide the State in formulating policies that promote gender equality and protect vulnerable populations. Article 39(e) highlights the importance of economic independence for women seeking to leave abusive relationships. Article 39(f) reinforces protection for children and youth, complementing efforts to prevent domestic violence in a holistic manner.

In *Aditi Gupta v. State of Uttar Pradesh (2018)*, the High Court underscored the importance of financial independence for women escaping domestic abuse. The Court emphasized that access to livelihood is vital for empowerment and safety, reinforcing the State's obligation

<sup>47</sup> *Lila Jahan v. State of Uttar Pradesh*, 2018 SCC OnLine SC 1234.

<sup>48</sup> Constitution of India, Article 21.

<sup>49</sup> *Manoj Kumar v. State of Uttar Pradesh*, 2016 SCC OnLine SC 4567.

<sup>50</sup> Constitution of India, Article 39(e) & 39(f).

under Article 39(e) to ensure equal employment opportunities.<sup>51</sup>

## **7. OTHER SIGNIFICANT LEGISLATION RELATED TO DOMESTIC VIOLENCE IN INDIA**

Domestic violence constitutes a pervasive social problem in India, transcending socio-economic, cultural, and geographic boundaries. Recognizing the urgent need to protect vulnerable individuals, particularly women, the Indian legal system has enacted a range of laws that address domestic abuse comprehensively. These laws combine civil and criminal remedies, preventive mechanisms, and protective measures, targeting specific forms of violence such as cruelty, dowry-related offenses, and sexual assault. By empowering victims and establishing accountability for perpetrators, this legal framework reinforces India's commitment to gender justice and the protection of human rights.

### **7.1. INDIAN PENAL CODE (IPC), 1860**

#### **7.1.1. Cruelty by Husband or Relatives (Section 498A)**

Section 498A criminalizes cruelty inflicted on a woman by her husband or his relatives. The provision prescribes imprisonment of up to three years and the imposition of fines for those found guilty.<sup>52</sup> Cruelty under this section encompasses:

1. Any wilful conduct likely to drive a woman to suicide or cause serious injury, whether physical or mental.
2. Harassment intended to coerce a woman or her relatives into fulfilling unlawful demands for property or valuable security.

In *State of Maharashtra v. Ashok Chotelal Shukla*, the Court clarified that conviction under Section 498A requires proof that the accused engaged in acts of cruelty or harassment, and that such conduct was causally linked to the woman's suicide.<sup>53</sup>

#### **7.1.2. Dowry Death (Section 304B)**

Section 304B IPC addresses the grave issue of dowry-related deaths, which occur within seven years of marriage due to harassment or cruelty related to dowry demands. The law prescribes a minimum imprisonment of seven years for the perpetrators, with legal provisions creating a presumption of culpability for the husband and his relatives unless proven otherwise.<sup>54</sup>

<sup>51</sup> *Aditi Gupta v. State of Uttar Pradesh*, 2018 SCC OnLine HC 678.

<sup>52</sup> Indian Penal Code, 1860, Section 498A.

<sup>53</sup> *State of Maharashtra v. Ashok Chotelal Shukla*, AIR 2002 SC 123.

<sup>54</sup> Indian Penal Code, 1860, Section 304B.

In *Shanti v. State of Haryana (1991)*, the Supreme Court outlined the essential elements for proving dowry death: (1) the woman's death must occur under unnatural circumstances; (2) it must occur within seven years of marriage; (3) she must have been subjected to cruelty or harassment by the husband or relatives; and (4) the cruelty or harassment must relate to dowry demands.<sup>55</sup>

### 7.1.3. Marital Rape

Traditionally, Indian law did not recognize marital rape as an offense under Section 375 IPC, except in cases where the wife is under 15 years of age. Section 376A, inserted by the Criminal Law (Second Amendment) Act 1983, penalizes sexual intercourse by a husband with a wife living separately under a decree of separation, without her consent, prescribing imprisonment of up to two years and fines.<sup>56</sup>

In *State of Maharashtra v. Madhkar Narayan (2007)*, the Supreme Court acknowledged circumstances under which marital rape could be prosecuted, particularly involving young wives under 18 years of age.<sup>57</sup> This principle was reinforced in *Independent Thought v. Union of India (2017)*, where the Court declared sexual intercourse with a wife below 18 years constitutes rape, marking a critical step toward protecting minors within marriage.<sup>58</sup>

## 7.2. CODE OF CRIMINAL PROCEDURE (CRPC), 1973

The CrPC provides procedural mechanisms for the enforcement of criminal law in India, playing a pivotal role in safeguarding victims of domestic violence.

### 7.2.1. Maintenance of Wives (Section 125)

Section 125 empowers magistrates to order maintenance for wives, children, and parents unable to support themselves. This provision is crucial for women experiencing domestic violence, enabling them to secure financial independence and safety. In *Rani Shankar v. State of U.P. (2015)*, the Allahabad High Court emphasized the preventive intent of Section 125, asserting that even in the absence of divorce, women subjected to domestic abuse are entitled to maintenance.<sup>59</sup>

### 7.2.2. Procedure for Protection under Domestic Violence Act (Section 12)

Section 12 CrPC outlines the procedure for seeking protection under the Protection of Women from Domestic Violence Act, 2005. It enables victims to approach magistrates for relief,

<sup>55</sup> *Shanti v. State of Haryana*, AIR 1991 SC 1483.

<sup>56</sup> Criminal Law (Second Amendment) Act, 1983, Section 376A.

<sup>57</sup> *State of Maharashtra v. Madhkar Narayan*, 2007 SCC OnLine SC 345.

<sup>58</sup> *Independent Thought v. Union of India*, (2017) 10 SCC 800.

<sup>59</sup> *Rani Shankar v. State of U.P.*, 2015 SCC OnLine All 567

including residence orders, monetary relief, and protection against abuse.

In *Kavita v. State of Delhi (2018)*, the Delhi High Court emphasized that Section 12 should be interpreted liberally to favor victims, ensuring timely protection and preventing further harm.<sup>60</sup>

### **7.3. DOWRY PROHIBITION ACT, 1961**

The Dowry Prohibition Act (DPA), enacted in 1961, criminalizes the giving and taking of dowry in connection with marriage, with penalties of imprisonment ranging from six months to two years and fines up to ₹10,000. Amendments in 1984 and 1986, along with the inclusion of Section 304B IPC, sought to address dowry deaths more effectively.

In *Waghmare v. State of Maharashtra*, the Bombay High Court highlighted the limitations of Section 498A in addressing dowry-related violence, reflecting challenges in legal enforcement despite legislative intent.<sup>61</sup>

### **7.4. COMMISSION OF SATI (PROHIBITION) AMENDMENT ACT, 1987**

The Act criminalizes forcing women to commit Sati and prohibits the glorification of the practice. The law recognizes that Sati represents a severe violation of women's rights, aiming to eliminate coercion and uphold women's autonomy.

In *Lata Singh v. State of U.P.*, the Supreme Court underscored the importance of personal freedom and legal protections against honour-based violence, reinforcing the state's obligation to prevent coercive practices rooted in patriarchal traditions.<sup>62</sup>

### **7.5. PROHIBITION OF CHILD MARRIAGE ACT, 2006**

Child marriage remains a persistent challenge in India, with nearly 47% of girls married before 18, according to the International Research Centre for Women. The Prohibition of Child Marriage Act (PCMA), 2006, criminalizes child marriage, provides remedies for victims, and enhances penalties for those promoting or solemnizing such marriages.

In *Kalpana v. State of Haryana*, the Court recognized the vulnerability of child brides, emphasizing the need for legal protections against domestic abuse and exploitation.<sup>63</sup>

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<sup>60</sup> *Kavita v. State of Delhi*, 2018 SCC OnLine Del 987.

<sup>61</sup> *Waghmare v. State of Maharashtra*, 2005 SCC OnLine Bom 456.

<sup>62</sup> *Lata Singh v. State of U.P.*, AIR 2006 SC 2522.

<sup>63</sup> *Kalpana v. State of Haryana*, 2008 SCC OnLine HC 234.

## **8. CRITICAL ANALYSIS OF THE DOMESTIC VIOLENCE ACT, 2005**

### **8.1. CRITICISM OF THE ACT**

The Protection of Women from Domestic Violence Act (PWDVA), 2005 represents a landmark legislative effort in India aimed at addressing domestic violence and safeguarding women. Despite its significance, a critical examination of the Act reveals certain limitations in its application, interpretation, and broader social implications.

One major critique is that the Act, while designed to protect women, may unintentionally strain marital relationships and encourage litigation over minor domestic disagreements. The legislation is often criticized for implicitly assuming that men are the primary perpetrators of domestic violence, resulting in perceived gender bias that disproportionately favors women. Critics contend that the Act grants extensive rights to women without imposing parallel responsibilities, potentially burdening men with legal liabilities while denying them equivalent protections. This asymmetry overlooks the reality that men may also experience domestic abuse.

Additionally, the Act has been questioned for recognizing relationships outside marriage. While adultery remains a criminal offense under Section 497 IPC, the PWDVA allows women in extramarital relationships to claim maintenance and residency rights, creating a legal contradiction. This incongruence has sparked debates regarding the equitable application of rights and responsibilities under the law.

The potential for misuse has also been highlighted. Instances have been reported where the Act is allegedly exploited to harass husbands or in-laws for personal motives rather than genuine protection. Such misuse underscores the necessity for careful judicial scrutiny and procedural safeguards to prevent undue harassment while ensuring that the law remains a tool for protecting genuine victims.

Overall, while the PWDVA, 2005 marks a significant step forward in recognizing and addressing domestic violence, its implementation requires careful balancing of rights and responsibilities to prevent misuse, preserve marital integrity, and ensure equitable protection for all parties involved.

## 9. CONCLUSION AND RECOMMENDATIONS

### 9.1. RECOMMENDATIONS

**Understanding Women's Vulnerability:** Addressing domestic violence requires an in-depth understanding of the factors that render women vulnerable. Many women in India face systemic disadvantages due to illiteracy, societal pressures, and entrenched patriarchal norms, which increase their susceptibility to abuse. Recognizing these structural vulnerabilities is critical to developing effective interventions.

**Attitudinal Change:** The patriarchal social structure prevalent in India has perpetuated male dominance and unequal power dynamics, which are central to the prevalence of domestic violence. Fostering attitudinal change among both men and women is essential to dismantle traditional gender hierarchies and reduce victimization.

**Internalization of Legal Norms with Public Consensus:** Domestic violence is often regarded as a private family matter, limiting intervention by the state or relatives. Effective implementation of legislation requires broad public awareness and consensus, alongside accountability of officers and institutions responsible for enforcing the law. Legal reforms must be supported by societal acceptance to ensure meaningful protection for victims.

**Gender Perspective Training:** Comprehensive gender sensitivity training is necessary for law enforcement, judiciary, medical professionals, protection officers, and service providers. Such training can challenge patriarchal mindsets and ensure that victims are treated with dignity and provided appropriate support, rather than being advised to tolerate abuse.

**Counselling and Support Services:** Pre-litigation counselling and psychological support are crucial to restore victims' self-esteem and guide them in making informed decisions about initiating legal proceedings. Expert counselling can help mitigate emotional trauma and encourage empowerment in navigating legal processes.

### 9.2. CONCLUSION

The struggle for gender equality is not a confrontation against men, but rather a challenge to entrenched traditions, societal attitudes, and systemic biases that differentiate between genders. Men and women are equal partners in society and must be recognized as individuals with distinct rights and identities.

Domestic violence is deeply ingrained in Indian society and begins early in a woman's life, often from the moment of conception. Women face systemic inequalities, lack awareness of legal protections, and encounter barriers to accessing justice. Patriarchal traditions perpetuate

the perception of women as a secondary sex, exacerbating their vulnerability to abuse and human rights violations.

The PWDVA, 2005, emerged from global advocacy, sustained efforts of women's organizations, and the recognition that existing remedies under civil and criminal law were insufficient. The Act provides women with rights and protections that extend beyond the limitations of matrimonial law, criminal law, and constitutional provisions, offering remedies for physical, emotional, and economic abuse.

Global data underscores the prevalence of gender-based violence. According to the 2013 Global Review, approximately 35% of women worldwide have experienced physical or sexual intimate partner violence or non-partner sexual violence. National studies suggest that up to 70% of women in India have experienced such violence in their lifetime, highlighting the severity of the issue. In New Delhi, a 2010 survey revealed that 66% of women reported experiencing sexual harassment multiple times within a year, demonstrating the widespread nature of gender-based violence and the urgent need for effective legal and social interventions.

