

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner what sever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC-NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrish Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpna

Assistant professor of Law

Mrs.S.Kalpna, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law,Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration.10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



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.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN- 2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

**THE EVOLVING JURISPRUDENCE OF DOMESTIC
VIOLENCE IN INDIA: AN ANALYSIS OF CONTEMPORARY
CASE LAWS UNDER THE PROTECTION OF WOMEN
FROM DOMESTIC VIOLENCE ACT, 2005**

AUTHORED BY - SHUBHI SRIVASTAVA

Abstract

The Protection of Women against Domestic Violence Act, 2005 (PWDVA) is a milestone in the field of legislation that focuses on combating domestic violence in India by using civil remedies. Although the Act is progressive in its conception, judicial interpretation has greatly influenced the real implementation of the Act. The current jurisprudence of the PWDVA is examined in the paper by means of a critical review of landmark cases adjudicated by the Supreme Court of India and High Courts. It claims that the judiciary has had a transformative effect in terms of broadening the scope of key provisions including shared household, economic abuse, and definition of respondent through the purposive and rights-based approach in accordance with the constitutional guarantees of dignity and equality. The case of Hiral P. Harsora v. was ruled in landmark cases. Harsora, Kusum Narottamdas, v. Ahuja, Satish Chander (2016). Sneha Ahuja (2021) have played a significant role in refuting limiting interpretations and reinstating the protective purpose of the Act. Nonetheless, even amidst this advancement in jurisprudence, there remain a lot of problems in implementation such as the weakness of the institutions, delays during the procedure, the ineffective enforcement system, and socio-cultural obstacles. The conclusion that can be made in this paper is that although the judicial activism has provided a solid legal base, it is essential to have a combination of efforts by the executive, judiciary, civil society, and the community to realize the full potential of the PWDVA by providing accessible and effective justice to every woman.

Keywords: Domestic Violence, PWDVA 2005, Judiciary, Shared Household, Protection Orders, Case Law, India, Women's Rights.

1. Introduction

Historically legitimised by patriarchal standards and confined to the private domain as a ‘family matter,’ domestic abuse in India experienced a significant legislative transition with the implementation of The Protection of Women from Domestic Abuse Act (PWDVA) in 2005. This law was the result of years of work by the Indian women's movement, which saw violence as a systemic problem that needed to be addressed by the government (Agnes, 2005; Kumar, 2018). The Act was groundbreaking because it was the first time that domestic violence was defined in a complete and all-encompassing way, including physical, sexual, verbal, emotional, and economic abuse (Sec. 3). It also set up a unique system for civil remedies, such as protection orders, residence orders, and monetary reliefs, all within a hybrid civil-criminal procedural system.

Passage of a legislation transforming things is only the tip of the iceberg; the effectiveness and meaning is in the hands of the courts and the users of the legislation. The social welfare law PWDVA was very new and initially had numerous issues. There are sections of the judiciary that did not agree with its wording particularly in relation to critical concepts such as shared household and the definition of respondents (Gautam, 2020). A strongly patriarchal social system and a court system that was interpreted to more conservative and restrictive forms of the family law and rights to property also amounted to the opposition of the Act (Bhattacharya, 2018). An early decision, such as the controversial decision in *S.R. Batra v. Taruna Batra* (2007), which took a limited view of the right of a woman to occupy property that was not her husband.

This paper will argue that the Indian court has indeed had an important and steady impact in creating jurisprudence in respect of domestic abuse by adopting a shift in perspective towards textual interpretation of the matter to a holistic, purposive and victim focus approach. The social transformation has been achieved by the courts which have been guided by the constitutional right to life with dignity in Article 21 (*Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*, 1981). They have expansively construed the provisions of the PWDVA, by a sequence of historic decisions, to be consistent with the purpose and intent of the Act.

Judiciary has expanded the definition of a respondent as seen in the landmark case of *Hiral P. Harsora v. Kusum Narottamdas Harsora* (2016) where the Supreme Court

construed the term adult male to include female family members, and thus acknowledged the level of violence against women in the domestic sphere. It has redefined shared household and made the connection to be central, rather than just title documents, as was later to be understood in *Satish Chander Ahuja v. Sneha Ahuja* (2021). Furthermore, the concept of economic abuse has been renewed by the courts, and the compensation has been awarded not only to cover the actual damages but also on emotional distress and psychological torture. This is in recognition of the multidimensionality of violence advanced by the feminist theorists like the Catharine MacKinnon (1989) who argues that the law needs to address the structural and economic oppression of women. This article takes a look at recent case laws in order to outline the evolution of a rights-based jurisprudence that reaffirms the state's responsibility to protect women from being subjected to domestic violence. It asserts that the Indian judiciary has emerged as the primary catalyst for actualizing the revolutionary potential of the PWDVA, 2005, through its proactive and empathetic interpretation of the court's decisions.

2. Legislative Intent and Salient Features of the PWDVA, 2005

Overcoming decades of feminist efforts and legal transformation, the Protection of Women from Domestic Violence Act (PWDVA) of 2005 is more than just a criminal statute; it is a social legislation. This act was successful in overcoming these challenges. A strong and easily available civil penalty was the primary goal in addressing the long-standing problem of domestic abuse. According to the Act's Statement of Objects and Reasons, it aims to implement a recommendation from the United Nations Committee on the Convention on the Eradication of All Forms of Discrimination Against Women (CEDAW), which India signed in 1993, and to fill a long-standing legal gap in India's system.

Feminist legal theorists in India, like Flavia Agnes (2005), have long criticized Section 498A of the Indian Penal Code (criminal and focused on cruelty) and civil maintenance proceedings. Fragmented, weak, and often ineffective legal remedies have been attacked. A comprehensive, victim-centred statute that stresses immediate protection and economic empowerment over just punishment was the drive behind the drafting of the PWDVA, which was designed to bring about the desired goals. Pratiksha Baxi (2014) says the Act shifts justice from punitive to protective and preventative. This change recognizes the woman's right to stay in the house safely and dignifiedly. The following are the Act's most important provisions, which the courts have interpreted more:

2.1. A Broad and Inclusive Definition of Domestic Violence (Sec. 3)

Moving far beyond the conventional understanding of physical battery, the Act provides a comprehensive definition that acknowledges the multifaceted nature of abuse. It explicitly recognizes:

- **Physical Abuse:** Acts causing bodily pain, harm, or danger to life.
- **Sexual Abuse:** Abuse of a sexual nature that abuses, humiliates, or degrades the woman.
- **Verbal and Emotional Abuse:** In particular, the woman's family or her infertility have been the targets of insults, mockery, and slurs. *Indra Sarma v. V.K.V. Sarma* (2013), for example, the Supreme Court addressed a live-in relationship and the emotional abuse that occurred within it; this was a direct judicial reaction to the social reality of dowry harassment.
- **Economic Abuse:** Disposal of family assets, stridhan (dowry), and prohibition or restriction on continuous employment are all part of this revolutionary law. One of the main points made by feminists who criticise the family as an economic unit is the idea that financial control may be a powerful tool in abusive relationships (MacKinnon, 1989).

2.2. Expansive Definitions of "Aggrieved Person" and "Respondent" (Sec. 2(a) & (q))

The Act safeguards any woman currently or formerly in a "domestic relationship" with the respondent. A "domestic relationship" is a broad term that includes any relationship between two people who live or have lived together in the same house. This includes marriage, consanguinity, and even relationships that are "in the nature of marriage" (live-in relationships), as was heavily debated in *Indra Sarma v. V.K.V. Sarma* (2013).

At first, the respondent was described as any "adult male person" who was the one who did the crime. This wording became a big topic of debate in court since it seemed to leave out women who did the crime (such mothers-in-law and sisters-in-law). The Supreme Court clarified this ambiguity in the landmark case of *Hiral P. Harsora v. Kusum Narottamdas Harsora* (2016), utilising its judicial review authority to exclude the term "adult male" from the statute, asserting that it would be illogical to shield a woman from violence perpetrated by a male while failing to extend the same protection against violence by a female relative.

2.3. The Contested Concept of "Shared Household" (Sec. 2(s))

This is probably the most important and most contested part of the Act. It says that a "shared household" is one where the person lives or has lived in a domestic partnership, even if she doesn't own, have a legal right to, or have any stake in the property. The purpose of the law was to protect a woman's right to live somewhere and keep her from becoming homeless. But this went against the usual rights of property owners. The first court decision in *S.R. Batra v. Taruna Batra* (2007) set a severe standard by saying that a property owned by a mother-in-law, where the husband has no legal claim, could not be called a "shared household." Many experts, like Dr. Pinki Gautam (2020), criticised this ruling because it went against the objective of the Act. The Supreme Court later made a big change to this restrictive perspective in *Satish Chander Ahuja v. Sneha Ahuja* (2021). The Court said that the test is the character of the relationship and the living arrangements, not the title of the property. This reaffirmed the Act's original objective.

2.4. Civil Nature of Remedies (Sec. 18-23)

The PWDVA is primarily a civil law, designed to provide immediate relief without the rigors and delays of a criminal trial. Its suite of remedies, which can be sought individually or in conjunction, includes:

- **Protection Orders (Sec. 18):** Injunctions prohibiting acts of violence.
- **Residence Orders (Sec. 19):** Orders restraining the respondent from dispossessing the woman or even directing the respondent to be removed from the shared household, a provision that has sparked much debate but is vital for ensuring safety.
- **Monetary Reliefs (Sec. 20):** Compensation for losses suffered, including maintenance, medical expenses, and loss of earnings.
- **Custody Orders (Sec. 21):** Temporary custody of children.
- **Compensation Orders (Sec. 22):** Damages for the mental torture and emotional distress caused by the acts of violence.

This civil framework, as intended by the lawmakers, offers a more accessible, flexible, and comprehensive remedy for survivors, focusing on their immediate safety and economic security.

3. Judicial Interpretation and Evolving Jurisprudence: Key Themes

The court's interpretation of legislation determines its real effectiveness. In response to the revolutionary intentions of the PWDVA, 2005, Indian courts faced the monumental job of

transitioning from rigorous legal theories to more flexible, goal-focused, and victim-oriented ones. Since the strict interpretation of the Act's words to the eventual embrace of its humanitarian purposes, which greatly expanded its protective scope, its jurisprudence has taken an interesting turn.

One of the PWDVA's most radical beliefs was that violence was not limited to typical marriage relationships. The statute, however, had to be construed differently, as a result of the statute's initial phrasing, which had to be resolved by the courts. Section 2(q) referred to an adult male who had committed the crime as a respondent. The word appeared to be negative about selecting female family members as authoritative responses, despite the fact that the Act itself allowed for the prospect of them being aggressive. The apparent discrepancy of language created an apparent conundrum. As a result, numerous applications were submitted to dismiss the cases against the female relatives. Certain lower courts used a school of interpretation known as *interpretatio literalis* when issuing rule-making decisions, emphasising the plain sense of the text rather than the intention of the law at the time of enactment. This viewpoint left a conspicuous vacuum, allowing a large number of offenders to avoid the Act's requirements, so contradicting the Act's primary objective.

To resolve this disparity, the Indian Supreme Court stepped in in the seminal case of *Hiral P. Harsora v. Kusum Narottamdas Harsora* (2016). Some have asked the court to rule on whether or not it is permissible to remove the word "adult male" from Section 2(q) in order to allow complaints against adult female respondents. By focussing on the Act's "object and reason" rather than its literal wording, the Court arrived at its decision through a purposive interpretation. To get the most out of it, the PWDVA should be read broadly, since it is a good law. The Supreme Court ruled that it was "absurd" to suggest that lawmakers intended to shield women from male relatives' violent acts but did nothing to prevent female relatives' abuse of male relatives. Since the terms "adult male" violated Article 14 of the Constitution, the Court ruled that they were arbitrary and unconstitutional using the principles of severability. Consequently, they were excluded from the provision. With this decision, the court acknowledged the pervasiveness of patriarchal family systems that perpetrate violence against women and upheld the right of women to file complaints against male relatives of their husbands or male partners.

Alongside the discussion regarding responses was the inquiry of the definition of a "domestic

relationship." The Act encompasses relationships "in the nature of marriage," and the courts were very important in figuring out what this vague term meant. The Supreme Court set out rules in *Indra Sarma v. V.K.V. Sarma* (2013) to help decide if a relationship is "in the nature of marriage." These rules include how long the relationship has been going on, if the couple lives together, whether they share resources, and how they arrange their home life. The case did not give the appellant any help because of the unique facts, but it did make it clear that these kinds of partnerships can be covered by the Act. In *D. Velusamy v. D. Patchaiammal* (2010), the Supreme Court differentiated between a casual relationship and one "in the nature of marriage," underscoring that not all cohabiting relationships meet the criteria and that the woman must demonstrate a level of permanence and mutual obligation akin to a marital relationship.

The principle established in *Hiral P. Harsora* has been repeatedly upheld. For example, the Bombay High Court took a progressive attitude in the case of *Sandhya Manoj Wankhade v. Manoj Bhimrao Wankhade & Ors.* (2011) by saying that the word "relative" cannot solely mean male relatives. This was before the Supreme Court made its final decision. This case, along with others from different High Courts, sparked a lot of judicial opinion that the Supreme Court later confirmed.

This progression in the law is in line with Catharine MacKinnon's (1989) feminist legal theory, which says that the law needs to deal with the fact that women are often subordinate to males, and that this is often done by other women who function as agents of patriarchal norms. By broadening the term of "respondent," the Indian justice shown a nuanced comprehension that the "private" domain of the family constitutes a locus of power relations wherein violence may be perpetuated by various players, rather than solely the male spouse. This shift from a formalistic to a substantive interpretation of the law exemplifies the judiciary's alignment of legal doctrine with social reality.

3.2. Defining the "Shared Household": A Right to Residence vs. A Right to Property

One of the most significant judicial battles that has taken place under the PWDVA is regarding the meaning of "shared household" as it is found in Section 2(s). Both the right to live and long-held beliefs about property ownership are put to the test by this bill. In the case of *S.R. Batra v. Taruna Batra* (2007), the Supreme Court took its first look at this issue and established a stringent criterion that has the potential to undermine the primary objective of the Act. The

court decided that the phrase could not be interpreted as a shared household of the wife in this particular case, in which the husband stayed in a house that was wholly owned by his mother. As a result, the term ought to be restricted to the sense of the husband's household, and not the household of his family. The ruling that was made, which was based on a literal interpretation of property rights, caused a great deal of uncertainty and injustice since it implied that a woman may be made homeless if the marital dwelling was not registered in the name of her husband. It was implied that families had the ability to force women out of their houses by putting property in the name of relatives instead of the women themselves.

But lower courts and later Supreme Court benches started to make *Batra* less clear and less useful. Instead, they focused on the Act's goal of stopping homelessness. Several High Courts, particularly in *Shumita Didi Sandhu v. Sanjay Singh Sandhu* (2007), underscored that the right to reside is associated with the existence of a domestic connection rather than ownership rights, so showing that the essence of residence, rather than title deeds, is the determining factor. The important case of *Satish Chander Ahuja v. Sneha Ahuja* (2020) marked the end of this expanding body of law. The Supreme Court made a very clear decision to change course. The Court said clearly that the *Batra* explanation was too restrictive and "not the correct law." It said that the term "shared household" cannot be confined to buildings owned or rented by the spouse. The Court said that the only need is that the woman who was wronged must have lived in the household in a domestic partnership, even if the property was held by in-laws or was part of a joint family property. The Court made an important distinction between a "right to reside" and a "right to title." It made it clear that the Act only gives people a temporary, non-transferable right to live in a place as a way to protect them from becoming homeless, not a right to own the property. This change in the law means that the courts have succeeded in using a rights-based approach to protect people's dignity and provide shelter under Article 21 instead of just focussing on property rights. This brings the interpretation back in line with the Act's humanitarian goals.

3.3. Interpreting "Economic Abuse" and Monetary Reliefs: Beyond Mere Maintenance

When it comes to establishing control and authority beyond monetary help, the role of the judiciary in bringing attention to economic abuse as a means of getting control and authority is exceptionally important. Through the use of a broad interpretation of Section 3(iv) of the PWDVA, the courts have acknowledged a variety of forms of economic abuse. These include removing essential resources like food, clothing, and shelter from the household; unlawfully

dispossessing of stridhan and personal property; intentionally hindering individuals from obtaining jobs that would make them financially dependent; and intentionally not paying household bills to create an unwelcoming living environment. Courts have used Sections 20 and 22 to offer full financial stability, matching this extensive information with similarly broad means to receive support. The Supreme Court of India upheld verdicts that included both monthly maintenance and compensation for mental agony and emotional hardship. This precedent was set by the landmark decision of *K. Srinivas Rao v. D.A. Deepa* (2013), which established a precedent that the Supreme Court greatly endorsed. Damages for things like lost income, medical and mental treatment, rehabilitation, and legal fees are now considered to be routine procedure in the majority of cases that are being heard recently. Not only does this illustrate the far-reaching repercussions of domestic violence, but it also guarantees that the solutions will be as all-encompassing as possible. According to feminist economic theory, which supports this legal approach, women remain in abusive situations in large part because they are economically dependent on their abusers. It empowers women to escape violence and start over by providing strong financial assistance.

3.4. The Interplay with Personal Laws and CrPC: A Remedy in Addition

For a clear explanation of how the PWDVA interacts with other statutes, see Section 36 of that law. It specifies that the remedies provided by the Act are complementary to, and not in lieu of, those provided by any other legislation. The courts' consistent backing of this concept has resulted in a multi-tiered system of legal protections for survivors. Separate and concurrently pursueable remedies exist under the PWDVA and Section 125 of the CrPC, as established by the Supreme Court in *K. Srinivas Rao v. D.A. Deepa* (2013). The Court made it quite clear that pursuing financial assistance under one statute does not prevent pursuing further funding under another. Financial compensation under the PWDVA covers a broader range of losses and damages, especially those caused by domestic violence, while Section 125 of the CrPC deals with basic maintenance. The court has acknowledged this distinction based on its understanding of the features of the reliefs that have been granted. In light of this, women might get full financial security by utilising remedies from various legal systems. Separate from personal legislation such as the Hindu Marriage Act (1955), courts have allowed protection or residency orders imposed under the PWDVA to coexist with divorce proceedings. As a result, a woman's right to emergency safety and shelter will not be delayed, even during the lengthy and sometimes excruciating divorce proceedings. This strengthens the Act's goal of providing prompt and efficient protection.

3.5. Procedural Innovations and a Victim-Centric Approach

The justice officials were dynamic and creative in introducing the PWDVA based on fears that the procedural liberty would compromise the law protectionist emergency intention. Such a victim-oriented procedural orientation has led to many impressive outcomes. The courts have passed rulings to deal with institutional failures and have enforced that sufficient Protection Officers need to be recruited, well equipped and trained in the field. These are the criteria such that appointment of Protection Officers is not discretionary but it is a decision of the government. The magistrates also have been invited to exercise liberality in granting ex-parte interim protection and residence orders on an interim basis as there is an urgent need to act immediately to curb the further violence before the respondents can receive formal notice. The case of Krishna Bhattacharjee v. by the Supreme Court. Providing many reasons in favor of this practice, Sarathi Choudhury (2016), which forbade the rejection of the applications only on technical grounds and demanded careful analysis of the provisions of the Act in order to provide the substantive justice, offered many arguments. Combined, these procedural novelties have turned the PWDVA not only into a law, but a formidable engine of justice that can work on its victims and provide the latter with the justice they deserve so much.

4. Critical Analysis and Persistent Challenges

Despite the fact that the Protection of Women from Domestic Violence Act (PWDVA), 2005 has been progressively enhanced over the years, there are still a great deal of challenges that need to be conquered in order to put the law into practice. Systemic faults, socio-cultural impediments, and logistical limitations all contribute to the frequently poor execution of the law, which continues to exist despite the fact that it was written with the intention of bringing about a transition.

One of the shortcomings of the system is that it does not have an adequate mechanism for providing institutional support, as required by the Act." Networks of shelters, service providers, and protection officers (POs) are crucial to the PWDV. On the other hand, the Indian states do not provide a enough amount of funding for this network. The Centre for Law and Policy Research (CLPR) has performed research on the appointments that were made in 2019, and the findings of this research have revealed that the individuals assigned to various positions do not possess the resources necessary to properly carry out their responsibilities, despite the fact that they have a greater amount of work to complete. Significant Domestic Incident Reports (DIRs) are delayed in preparation, collaboration with law enforcement is insufficient and court orders

are not taken due to this system error. The problem is made much more severe by the absence of legitimate medical facilities and shelters that are supported by the public. Many survivors are forced to make the tough and unfathomable choice of returning to an abusive situation or becoming homeless as a result of the present shelter system's lack of financing, geographical spread, and overcrowding. Additionally, there is a dearth of private, efficient medical examination facilities that can speedily gather crucial evidence for judicial proceedings.

Ineffective institutional support from the Act is a major system problem. PWDVA success depends on building a network of POs, service providers, and shelter homes. This network helps the company succeed. However, most Indian states invest little on the network. The Centre for Law and Policy Research (CLPR) found in 2019 that most appointed officials had too much work without administrative aid, office space, or transportation. This systematic issue causes poor law enforcement collaboration, delays in Domestic Incident Reports (DIRs), and a lack of court order oversight. Insufficient state shelters and support worsen the issue. Due to the financial crisis, geographical remoteness, and congestion, many survivors have had to choose between returning to abuse or living on the streets. Lawsuit-ready evidence cannot be obtained without discreet, effective, and fast medical examination facilities.

As a result of this, the law's revolutionary potential is perpetually limited by the pervasive socio-cultural obstacles that are present in the world. Although there have been more and more progressive rulings addressing these concerns, a large percentage of women continue to choose not to seek legal counsel due to the deeply ingrained guilt that is connected with divorce and domestic abuse. This is the case despite the fact that there have been more and more progressive verdicts regarding these matters. It is typical for victims to remain silent because they are terrified of the social stigma, they are concerned about the safety of their children, and they have strong convictions about the honor of their family. All of these factors contribute to the victims' decision to remain silent. One of the contributing factors that makes the situation even more precarious is the fact that women who originate from families with poor earnings and those who reside in rural areas are especially uninformed of the specialized protections that are provided by the PWDVA. The fact that economic, emotional, and verbal abuse are all deemed to be different types of criminal offenses, as well as the fact that there are civil remedies, such as residency orders, in addition to criminal operations, is something that a substantial number of women still do not fully appreciate. The absence of legal literacy prevents individuals who have the greatest need for it from having access to the empowering jurisprudence that the court

system provides. As a result, these individuals are able to continue to be stuck in a vicious cycle of silence and impunity.

5. Conclusion

Through the case law that pertains to the Protection of Women from Domestic Violence Act (PWDVA), 2005, a progressive and socially aware judiciary has been at the forefront of tackling a critical societal issue. Such an issue is the protection of women from domestic violence. In Indian courts, a line of landmark decisions has resulted in the replacement of a rigorous, textual reading of the law with an approach that is more robust, intentional, and focused on the victim. Through the course of this dynamic process, the legislative framework has been given a sense of vitality. Through the use of expansive interpretations of critical definitions, the judiciary has consistently placed a premium on the safety and dignity of women. For example, the term "respondent" in the case of *Hiral P. Harsora v. Kusum Narottamdas Harsora* (2016) was interpreted to include female relatives, and the term "shared household" in the case of *Satish Chander Ahuja v. Sneha Ahuja* (2021) was used to emphasize cohabitation rather than legal title. According to Article 21 of the Constitution, this is in accordance with the original purpose of the Act as well as the constitutional guarantee of a dignified existence. This judicial activism reflects a deep engagement with feminist legal theory, which argues for laws that address the lived reality of women's subordination (MacKinnon, 1989), and aligns with the principles of transformative constitutionalism advocated by scholars like Upendra Baxi, where the law is used as an instrument for social change. The courts have effectively dismantled formalistic barriers to justice, recognizing that economic abuse is a core tactic of control and that remedies must be as multifaceted as the abuse itself.

However, this paper argues that the law's emancipatory promise remains only partially fulfilled. Landmark judgments and progressive jurisprudence are ultimately meaningless if they remain confined to law reports without effective implementation on the ground. The evolution in legal thought must now be urgently matched by a corresponding evolution in administrative will, infrastructural investment, and societal attitudes. The judiciary has undeniably laid a strong and progressive foundation. It is now incumbent upon the executive branch to empower Protection Officers, fund shelter homes, and sensitize police forces; upon the legal community to provide pro bono services and avoid dilatory tactics; and upon society at large to dismantle the stigma that silences victims. Only through such a concerted, multi-stakeholder effort can the gap between legal theory and lived reality be bridged, ultimately creating a nation where every

woman can realize her fundamental right to a life free from violence within her home.

1. Agnes, F. (2005). *Law and gender inequality: The politics of women's rights in India*. Oxford University Press.
2. Baxi, P. (2014). *Public secrets of law: Rape trials in India*. Oxford University Press.
3. Bhattacharya, R. (2018). The Indian judiciary and the protection of women from domestic violence: A critical analysis. *Indian Journal of Gender Studies*, 25(2), 284–303. <https://doi.org/10.1177/0971521518764905>
4. D. Velusamy v. D. Patchaiammal, (2010) 10 SCC 469.
5. Francis Coralie Mullin v. The Administrator, Union Territory of Delhi, AIR 1981 SC 746.
6. Gautam, P. (2020). The concept of 'shared household' under the Protection of Women from Domestic Violence Act: A judicial discourse. *Journal of National Law University Delhi*, 7(1), 1–20.
7. Hiral P. Harsora v. Kusum Narottamdas Harsora, (2016) 10 SCC 165.
8. Indra Sarma v. V.K.V. Sarma, (2013) 15 SCC 755.
9. K. Srinivas Rao v. D.A. Deepa, (2013) 5 SCC 226.
10. Krishna Bhattacharjee v. Sarathi Choudhury, (2016) 2 SCC 705.
11. Kumar, R. (2018). *The history of doing: An illustrated account of movements for women's rights and feminism in India, 1800–1990*. Zubaan Books.
12. MacKinnon, C. A. (1989). *Toward a feminist theory of the state*. Harvard University Press.
13. S.R. Batra v. Taruna Batra, (2007) 3 SCC 169.
14. Sandhya Manoj Wankhade v. Manoj Bhimrao Wankhade & Ors., (2011) 3 SCC 650.
15. Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414.
16. The Protection of Women from Domestic Violence Act, 2005, Act No. 43 of 2005.