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INVISIBLE WOUNDS, VISIBLE LAWS: ADDRESSING DOMESTIC VIOLENCE AGAINST WOMEN IN INDIA

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Abstract

The World Conference on Human Rights in Vienna in 1993 affirmed that the rights of women and girl children are "inalienable, integral, and inseparable parts of universal human rights," and that eliminating any kind of sex discrimination is the international community's top goal. Similarly, the Indian Constitution has taken a long leap in the direction of eradicating the lingering effects of such adverse forces so far as women are concerned. It recognises women as a class by itself and permits enactment of laws and reservations favouring them. It prohibits all types of discrimination against women and lays a carpet for securing equal opportunity to women in all walks of life, including education, employment and participation. In spite of all these developments, the truth remains that widespread violations of women's rights continue to persist. Women in India are by far the most vulnerable section of the population. The unfavourable sex ratio, low educational and nutritional status, income disparity, and the frequent use of violence in many forms such as rape, molestation, abduction, murder, and dowry death are all examples of glaring inequities in the socio-economic and political arenas. Domestic violence against women occurs throughout the social spectrum. It has nothing to do with social standing or educational attainment. It takes place in slums, luxurious houses of the wealthy, and ordinary middle-class households. The only difference is in how it is handled. Women's harassment and domestic violence are worrisome and have sent shockwaves throughout our civilised society. Now is the time to put this heinous societal scourge to rest. Governmental policies, legislations and enforcement mechanisms should take this issue seriously and should ensure the protection of women from domestic violence including matrimonial cruelty.

Keywords: Discrimination, Domestic Violence, Equal Opportunity, Indian Constitution, Vulnerable Section

1. Introduction

In India, women constitute the largest vulnerable section in society. Glaring inequalities are manifested in socio-economic and political spheres in the adverse sex ratio, poor educational and nutritional status, inequality in wages and frequent use of violence in various forms like rape, molestation, kidnapping, murder, dowry, and dowry death. Domestic abuse of women happens across the social spectrum. It has nothing to do with either social status or education. It takes place in slums, in the palatial residences of the rich, and in simple middle-class homes. It is found in rural as well as urban areas. The only difference is the way it is dealt with. Harassment of women and domestic violence have an alarming effect and have sent shockwaves through our civilised society. Social reformers, legislators and the judiciary are now perturbed at the ever-increasing brutal violence inflicted on women. It is now important that we bury this pernicious social evil.

Domestic violence occurs when a family member, partner or ex-partner attempts to physically or psychologically dominate or harm the other. The term "intimate partner violence" is often used synonymously, with other terms including "wife beating," "wife battering," "relationship violence," "domestic abuse," "spousal abuse," and "family violence," with some legal jurisdictions having specific definitions. Recent attention to domestic violence began in the women's movement as concern about wives being beaten by their husbands, and has remained a major focus of modern feminism, particularly in terms of "violence against women."

Popular emphasis has tended to be on women as the victims of domestic violence, although with the rise of the men's movement, and particularly men's rights, there is now some advocacy for men as victims, although the statistics concerning the number of male victims given by them are strongly contested by many groups active in research on or working in the field of domestic violence. Domestic violence occurs in all cultures; people of all races, ethnicities, religions, and classes can be perpetrators of domestic violence. It is perpetrated by, and on, both men and women, and occurs in same-sex and opposite-sex relationships. Awareness and documentation of domestic violence differs from country to country. Domestic violence has many forms, including physical violence, sexual abuse, emotional abuse, intimidation, economic deprivation, or threats of violence.

2. Women Rights under Indian Constitution

The Constitution of India establishes gender equality as a foundational principle, granting women equal rights with men to ensure their effective participation in the nation's administration. Part III enshrines Fundamental Rights guaranteeing this equality, with Article 14 conferring equal protection of laws upon all persons, Article 15(1) explicitly prohibiting discrimination on grounds of sex, and crucially, Article 15(3) empowering the State to create special provisions for women and children, thereby enabling affirmative action. Article 16 further ensures equality of opportunity for all citizens in public employment.

Part IV's Directive Principles complement these rights by directing the State through Article 39 to secure equal livelihood opportunities and equal pay for equal work for both men and women, while Article 42 mandates just and humane working conditions and maternity relief. Article 39A reinforces access to justice by requiring free legal aid for economically disadvantaged citizens. Part IVA imposes a fundamental duty upon every citizen under Article 51A(e) to renounce practices derogatory to women's dignity. Additionally, the constitutional amendments through Articles 243D and 243T have institutionalized women's political participation by mandating not less than one-third reservation of seats for women in Panchayats and Municipalities, with similar reservation for the offices of chairperson at all levels, thereby translating constitutional equality into democratic representation.

3. International Obligations

India has also signed and ratified five international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which was ratified on 9th July 1993 and came into force on 8th August 1993.¹ As a State Party to CEDAW, India has undertaken the obligation to eliminate "any distinction, exclusion or restriction" made on the basis of sex which impairs or nullifies the recognition, enjoyment, or exercise of women's human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field. However, this duty is still waiting due recognition and implementation by the State.²

¹ Permanent Mission of India in Geneva. (1993). *Convention on the Elimination of Discrimination Against Women (CEDAW)*. <https://audit.pmindiaun.gov.in/pageinfo/ODcw>

² Asian Legal Resource Centre. (2014). *INDIA: Reinforcing subordination of women in law and practice*. Asian Human Rights Commission. <http://www.humanrights.asia/news/alrc-news/human-rights-council/hrc26/alrc-cws-26-16-2014/>

4. Legislative Framework for Protecting Women from Domestic Violence

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities, and to provide support services especially to working women.³

4.1. *The Protection of Women from Domestic Violence Act, 2005*

The Protection of Women from Domestic Violence Act (PWDVA), 2005, was enacted to address the pervasive issue of domestic violence against women in India.⁴ Recognising that existing legal provisions were insufficient, the Act aimed to provide a comprehensive framework for protection, prevention, and redressal of domestic violence. Section 3 of the PWDVA defines domestic violence as any act that harms a woman's physical or mental health or endangers her safety, including harassment for unlawful demands.⁵ The Act applies to women in shared households related by blood, marriage, adoption, or marriage-like relationships.

The PWDVA was hailed as a progressive step acknowledging not just physical abuse, but also sexual, verbal, emotional, and economic violence. However, despite its survivor-centric design and visionary framework, survivors continue to face systemic barriers that delay justice, compromise safety, and erode trust in the system.

4.2. *The Dowry Prohibition Act, 1961*

Dowry refers to any valuable items, such as cash, property, or jewellery, given by the bride's or groom's family as a condition of marriage. It is illegal under the Dowry Prohibition Act, which penalizes giving, taking, or demanding dowry. Harassment related to dowry is also punishable under laws like the Bharatiya Nyaya Sanhita (BNS) and the Protection of Women from Domestic Violence Act. If a woman dies under unnatural circumstances within seven years of marriage due to dowry harassment, it is considered dowry death, with severe legal consequences.

³ Vikaspedia. (2020). *Women and the Indian Constitution*. <https://i.vikaspedia.in/social-welfare/women-and-child-development/women-development-1/legal-awareness-for-women/women-and-the-indian-constitution>

⁴ India Development Review. (2025). *How India's domestic violence act can deliver justice*. <https://idronline.org/article/advocacy-government/how-indias-domestic-violence-act-can-deliver-justice/>

⁵ Press Information Bureau. (2025). *India's Commitment to Women's Safety*. Ministry of Women and Child Development. <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=2116557> -5

4.3. Section 498A IPC and Section 85 BNS

Section 498-A of the Indian Penal Code was introduced in 1983 to respond to a familiar, tragic reality: cruelty inside marriage, including dowry-related harassment, that in many cases culminates in grievous injury or death.⁶ Parliament's objective, reinforced by complementary laws such as the Dowry Prohibition Act, 1961, and later the Protection of Women from Domestic Violence Act, 2005, was to create a criminal safety-net for married women who often had no institutional recourse within the private sphere of the family.

With the codification changes under the Bharatiya Nyaya Sanhita, 2023, the protective core of Section 498-A survives as Section 85 BNS (and Section 86 defines "cruelty"), retaining the penal structure and the non-bailable, cognizable character of the offence. That continuity underscores Parliament's intent to keep criminal remedies available where domestic cruelty is alleged. The Bharatiya Nyaya Sanhita, 2023, also introduced stringent penalties for sexual offenses, including the death penalty for the rape of girls below 18 years of age. It increased minimum sentences for rape and expanded the definition of sexual offenses to ensure more comprehensive protection for women and children.⁷

4.4. Other Related Legislations

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, applies to all women, regardless of age, job type, or work sector. It mandates employers to create an Internal Committee in workplaces with over 10 employees. The Prohibition of Child Marriage Act, 2006, was enacted to prevent child marriages and punish those involved. The Immoral Traffic (Prevention) Act, 1956, focuses on preventing human trafficking and the sexual exploitation of individuals for commercial purposes.

5. Matrimonial Cruelty as a Form of Domestic Violence

Marriage is the oldest social institution of the world which influences the moral and social values of man. The dimensions of marital relationship are ever-changing, resulting in socio-legal problems relating to marriage such as domestic violence, dowry, annulment, child marriage, divorce, etc. Under patriarchy, the wife came under the control of the husband, and he had the right to use force against her in order to ensure that she fulfilled her wifely

⁶ Jadaun, S. (2025). Judicial safeguards or overreach? Rethinking the Supreme Court's approach to Section 85 BNS. *Bar and Bench*. <https://www.barandbench.com/columns/judicial-safeguards-or-judicial-overreach-rethinking-the-supreme-courts-approach-to-section-85-bns>

⁷ Press Information Bureau. (2025). *India's Commitment to Women's Safety*. Ministry of Women and Child Development. <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=2116557>

obligations, which included the consummation of marriage, co-habitation and maintenance of conjugal rights, sexual fidelity, and general obedience and respect for his wishes. She was considered a "mere chattel."

The customs and traditions which upheld womanly obligations later got moulded into the personal laws governing the matrimonial matters of the people in India. The Hindu Marriage Act, 1955, is the first all-Indian enactment dealing with matrimonial causes specifically governing Hindus. The Indian Divorce Act, 1869; the Special Marriage Act, 1954; and the Hindu Marriage Act, 1955, are the three most important matrimonial causes statutes in India.

Besides these, there are other matrimonial statutes in force in India, namely, the Parsi Marriage and Divorce Act, 1936, applicable to the members of the Parsi community, and the Dissolution of Muslim Marriage Act, 1939, which permits a Muslim wife to seek divorce on certain grounds. All these Acts prescribe cruelty as one of the grounds for obtaining matrimonial relief. Cruelty is a ground for divorce as well as judicial separation under all the personal laws in India.

Under the Dissolution of Muslim Marriage Act, 1939, cruelty has been included as a ground on which a woman can obtain divorce. It is the only personal law which enables a woman to divorce if her husband attempts to dispose of her legal property or prevent her from exercising rights over her property. It also expressly recognizes physical violence as cruelty and as a ground for divorce. The negative aspect relating to Muslim law is that a man can divorce his wife without resorting to the grounds stipulated through the practice of "talaq," whereas a Muslim woman can only secure divorce through the grounds of the Act.

The limitation recognized while defining cruelty by the personal laws is that it addresses only spousal abuse within a matrimonial set-up, which forms only a portion of the larger framework of the problem of domestic violence. Human rights violations of other family members occurring within a family have been discarded. Hence, matrimonial laws in India have also proved to be unsuitable in addressing domestic violence as they deal mainly with issues surrounding marriage and its dissolution.

6. The Current Landscape of Domestic Violence in India

Government data reveal the uncomfortable reality of domestic violence in India. The National Family Health Survey (NFHS-5, 2019–21) reported that 29.3% of ever-married women in India had experienced physical, sexual, or emotional violence at the hands of their spouses.⁸ This represents a slight decline from 31.2% in 2015-16 -5. The statistic is staggering because it isn't an isolated percentage. It represents millions of women across urban high-rises and rural hamlets alike, underscoring how domestic violence cuts across caste, class, and geography, embedding itself as an everyday reality in Indian households.⁹

According to the National Crime Records Bureau (NCRB), more than 4.4 lakh cases were registered under "crimes against women" in 2022, with cruelty by husbands and relatives consistently making up the largest share.¹⁰ NCRB data further shows that even as registered offences under Section 498-A/85 BNS rose from about 1.1 lakh in 2015 to over 1.4 lakh in 2022, arrests actually declined from nearly 1.9 lakh to 1.45 lakh in the same period. This suggests that existing statutory and judicial safeguards have already rationalised arrest powers without extinguishing access to justice.

7. The Gap Between Law and Lived Experience

The law, on paper, appears robust. The Protection of Women from Domestic Violence Act (PWDVA), 2005, was hailed as a progressive step acknowledging not just physical abuse, but also sexual, verbal, emotional, and economic violence. Yet, the gap between law and lived experience is wide. Courts often reduce women's testimonies to "marital disputes," police stations continue to act as negotiation chambers urging "compromise," and families, especially in small towns, encourage silence over dignity -8. For every case reported, several never see the light of day.¹¹

8. Challenges in Implementation

Despite progressive legislation, survivors of domestic violence continue to face systemic barriers that delay justice, compromise safety, and erode trust in the system.

⁸ *Supra* Note 7

⁹ SheThePeople. (2025). *Behind Closed Doors: India Still Treats Domestic Abuse As Just A 'Family Matter'*. <https://www.shethepeople.tv/opinion/india-domestic-violence-9676940>

¹⁰ *Ibid.*

¹¹ *Ibid.*

8.1. The Problem of "Family Matter" Mentality

Cultural norms continue to shield perpetrators. Patriarchal conditioning frames marriage as sacred, obedience as duty, and silence as virtue. Women internalise blame, fearing stigma more than bruises. In-laws normalise cruelty as "discipline." Communities dismiss assault as a "family matter." Even educated households reproduce the same silence, cloaking abuse under the garb of respectability. Domestic violence in India continues to reveal itself not only as a private nightmare but as a national crisis, one that persists despite decades of legal reforms and awareness campaigns.¹²

8.2. Implementation Gaps in the PWDVA

The implementation of the Protection of Women from Domestic Violence Act, 2005 faces significant procedural and institutional hurdles that obstruct justice for survivors. The e-filing system, though designed for accessibility, proves daunting for women lacking digital literacy or technological resources, as they must upload numerous documents including incident reports, medical records, and evidence of abuse, often hampered by poor court connectivity during urgent filings.

Protection Officers, who are essential for assisting survivors with complaints, legal aid, and support services, remain severely overburdened and under-resourced, their roles reduced to administrative paperwork rather than meaningful case management.¹³ Additionally, frontline service providers offering crucial support remain unrecognized under the Act, hampering their coordination with law enforcement and judiciary. Section 31, which enables criminal proceedings for violation of protection orders, remains critically underutilized, with police often misclassifying such breaches under Section 498A IPC (now Section 86 BNS), thereby denying survivors timely access to residence rights and maintenance.¹⁴

Judicial delays further compound these problems, as rigid trial procedures and strict adherence to the Indian Evidence Act place disproportionate burdens on survivors, while cases heard only once weekly and repeated mediation referrals cause life-altering delays that defeat the legislation's core objective of immediate relief.

Shelter and support gaps present another formidable challenge, as many homes refuse to accommodate women with male children above 12 years, forcing survivors to choose between safety and family, while shelters for women with chronic illnesses or mental health

¹² *Ibid.*

¹³ India Development Review. (2025). *How India's domestic violence act can deliver justice*. Retrieved from <https://idronline.org/article/advocacy-government/how-indias-domestic-violence-act-can-deliver-justice/>

¹⁴ *Ibid.*

conditions remain woefully inadequate. Beyond shelter, survivors grapple with basic survival needs food, clothing, income, and child support particularly when the abusive partner controlled finances. The debate on misuse of laws reveals complex realities: while large numbers of cases are registered under cruelty provisions, conviction rates remain in the low teens according to NCRB data, indicating that convictions represent only a fraction of the actual social problem.¹⁵

However, field research cautions against interpreting rising complaints as mere misuse, emphasizing that increased reporting often reflects greater awareness and willingness to seek justice rather than fabricated litigation.¹⁶ Any meaningful policy response must therefore distinguish between isolated false complaints and the pervasive structural barriers including overburdened functionaries, procedural rigidity, and institutional apathy that systematically deny survivors the protection that Parliament intended when enacting this comprehensive legislation.

9. Conclusion

The forces of globalisation and extremism and the unwillingness of other segments of humanity continue to pose a threat to women's human rights. Structural inequalities and power imbalances facilitate such violations. Urge for easy money, at times greed, facilitating a life full of comforts, possibly luxury, has in recent years made women more susceptible to exploitation and violence. Laws have taken silent and slow steps in the direction of political participation of women, preventing gender biases, and removing lacunae in procedural laws and laws relating to evidence.

The law cannot change a society overnight, but can certainly ensure that the disadvantaged are not given a raw deal. Justice is a combination of various factors: enactment of laws responsive to the changing needs of time, their effective enforcement, progressive and proactive interpretation and application so as to fill the void left by statutory enactments. The law in action, and not just the law in books, is what is important.

Society must have concern about the position, prestige, status, safety, and security of women. Concern creates commitment and commitment brings competence. Special Acts and

¹⁵ *Supra* Note 6.

¹⁶ *Ibid.*

provisions are essential for persecution and punishment of perpetrators of violence against women to maintain gender justice and to bring women to a level of equal safety and security with men. Simultaneously, there should be a change in attitude and mindset, particularly among men. It is absolutely necessary that there should be a change in social attitudes. Very few victims are able to take a stand against violence. It is paramount that the responsiveness of the concerned authorities must increase, and this should be coupled with consistent documentation.

The feminist struggle against domestic violence, therefore, isn't merely about demanding stricter laws. It is about confronting the everyday social habits that allow violence to be excused, ignored, or justified. It is about reimagining safety not as a privilege but as a fundamental right within one's own home. It is about placing accountability on men, not on women, to "adjust." If India must aspire to genuine modernity, it cannot continue to normalise bruises hidden under sarees or WhatsApp status updates that disguise despair. Every statistic here is not just data it is a wound on the nation's conscience, a reminder that the real measure of progress is not skyscrapers or GDP numbers, but whether women can live free of fear inside their own homes.

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