

DOMESTIC VIOLENCE ACT , 2005 - A CRITICAL ANALYSIS

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Abstract

Domestic violence is a global concern that impedes the progress of communities and the well-being of individuals. It can be defined as a "pattern of abusive behavior within intimate relationships." Our constitution safeguards our individual liberties by acting as a guardian. The foundations of a healthy and flourishing community are undermined by the societal impact of domestic violence, which extends beyond individual suffering. The Indian legal system for dealing with domestic violence is looked at in this article. The rights of victims and the duties of law enforcement are explained.

Women are reluctant to pursue divorce or separation due to their deeply ingrained cultural values. Prior to the implementation of this legislation, it was essential to comprehend the primary concerns that were prioritized by women's rights organizations, international development agencies, civil society, and policymakers. In addition, the 2005 Act was the first legislative framework to address the notion of "domestic violence." Given this, it is imperative to investigate the fundamental rationale behind the implementation of a particular piece of legislation regarding the matter. As a result, the initial section of this report delves into the Act's historical context. Additionally, this section will outline the general parliamentary process that led to the adoption of the legislation, along with the contributions of key agents. Nevertheless, it would be inadequate to evaluate the legislation solely by its provisions. Since the Act was implemented, it has been more than seven years. As a result, it is imperative to evaluate whether the Act has adequately addressed the issue of domestic violence. The second section of this report evaluates the provisions of the law in terms of its advantages and disadvantages, identifies critical areas that pertain to implementation, and examines the pre- and post-adoption scenarios of the Act to determine whether there is a necessity for new or enhanced legislation.

Keywords - Domestic, Violence, Legal, Physical, Discrimination.

Introduction

Indian society regards women as its founding members. Her role is to maintain the unity of values, tradition, culture, family, society, and civilization. She is the bedrock of human civilization and sustains existence on Earth. The value and grandeur of women are indescribable. Indian tradition reveres and regards women as the embodiment of respect. The ancient world regarded women as equals to males and granted them all of the same rights. Nevertheless, the condition of women deteriorated over time. The evolution of a stringent patriarchal society rendered the existence of women meaningless³.

A variety of atrocities, violence, hardships, and restrictions befell women. The incidence of violence, abuse, and torment rose at an unprecedented rate, akin to a wildfire. Domestic violence has become a significant issue for women of all socioeconomic backgrounds. One of the most prevalent crimes against women in India is likely domestic violence.

Domestic violence is not a novel concept in India. It has been extant for an extended period of time and continues to do so. It is a phenomenon that affects nearly all Indian women, regardless of their educational background, wealth, race, or physical appearance. Domestic violence affects victims regardless of whether they wear denim or a veil. However, a small number of women are speaking out against this brutality, although many women have accepted domestic violence as their fate. The majority of them are hesitant to speak out against domestic violence because they believe it is a common occurrence in the lives of women or they fear that speaking out will diminish the honor of their family. Domestic violence is not only a moral violation, but it is also an unlawful offense that is subject to severe legal penalty⁴.

The National Family Health Survey (2019-21) reports that 30% of ever-married women aged 18 to 49 have experienced emotional, physical, or sexual violence by their spouses. Rural women are more likely to experience such violence than urban women. The National Family Health Survey-5 (2019–2021) shows that only 14% of women who have been victims of domestic violence have ever asked for help. This number is much lower in rural areas. 3 The victim's more tolerant attitude and the rising incidence of domestic violence contribute to the offense's mushrooming growth⁵.

Historical Background

In the context of violence against women, we consistently use two categories: intimate partner violence or domestic violence. Domestic violence is the act of one adult in a relationship

³ Ambast, S., & Sen, S. (2006). Into the “Private”-The Domestic Violence Act, 2005. Student Bar Review, 18(1).

⁴ Badrinath, Pooja. (2011). “The Challenge of Subjectivity Within Courts: Interpreting the Domestic Violence Act”, Economic and Political Weekly, (46)15.

⁵ Crimes in India Statistics (2019) Published by National Crime Records Bureau, Ministry of Home Affairs.

abusing their power to exert control over another. It is the implementation of control and dread within a relationship through the use of violence and other forms of abuse.⁶

All forms of physical abuse within a household, including abuse from in-laws, elderly individuals, or children, fall under this broader term. This includes abuse directed at a woman by her companion. The woman is subjected to intimate partner violence by the male. Physical assault, psychological abuse, social abuse, financial abuse, or sexual assault are all forms of domestic violence or intimate partner violence. The violence may be intermittent, chronic, or on-and-off. India, like other nations, experiences these types of violence⁷.

The motif of "patriarchal ideology" has been observed in the majority of domestic violence cases in India. Marriage, active discrimination through maltreatment, and diminished women's agency through limited economic opportunity are all ways in which the patriarchal structure of the Indian household is perceived to impact the agency of women⁸.

The majority of violence in patriarchal Indian households is ascribed to the manifestations of a culture that is tolerant of violence and to patriarchal beliefs. Dowry demands are frequently the cause of domestic violence in India. Dowry can be interpreted as a manifestation of the patriarchal structures in India. In the majority of Indian nuptials, dowry is exchanged. Dowry continues to thrive among the majority of social strata, despite the fact that it was rendered illegal by the Dowry Prohibition Act of 1961. In the context of an arranged marriage, the bride's and groom's families negotiate the transfer of assets to the fiancé and his family in exchange for the bride's marriage. Dissatisfaction with the quantity of dowry may subject the bride to maltreatment⁹.

The need for legislation on domestic violence

Domestic violence is one of the most prevalent and least reported forms of criminal behavior. One cause of this anomaly is that the remedies available to a victim of domestic violence in the civil courts and criminal courts were restricted prior to the enactment of the Domestic Violence Act 2005. The married woman had limited options for addressing domestic violence. The current personal laws (Hindu, Christian, Muslim) and a few secular ones, such as the Special Marriage Act, exclusively address the establishment and dissolution of marriage. None of these provided any protection or entitlement for the woman to reside in tranquility within the matrimonial residence¹⁰.

⁶ Kothari Jayna. "Criminal Law on Domestic Violence: Promises and Limits" *Economic and Political Weekly*, vol. 40, no. 46, 2005, pp. 4843-49

⁷ Gaur, K.D., "The poor victim of uses and abuses of criminal law and process in India", 27 *Indian Bar Review* 39 (2000)

⁸ Acharya N.K, *Protection of Women from Domestic Violence Act*, Asia Law House; 6th edition (2013)

⁹ Nandita Bhatla and Rajan Anuradha, (2003). "Private Concerns in Public Discourses", *Economic and Political Weekly*, (38) 17.

¹⁰ Ray Raka, *FIELDS OF PROTEST: WOMEN'S MOVEMENTS IN INDIA* (1999).

This omission facilitates the simple eviction of a woman from her home, regardless of whether she has a dowry or not, and the coercion of her into a maintenance settlement or divorce. Additionally, the divorcee must maintain chastity and refrain from remarrying in order to continue obtaining such a settlement. Frequently, a woman refrains from pursuing a divorce due to her apprehension about losing guardianship of her children, as the father is regarded as the child's natural guardian¹¹. Despite the introduction of the Dowry Prohibition Act in 1961, it did not provide significant relief. Initially, the offenses under the Act were rendered non-compensable, bailable, and non-compoundable. This has resulted in the Act's inability to function effectively. A hiatus ensued for an additional twenty years¹².

In the 1980s, two significant provisions were implemented that elevated domestic violence from the realm of the private to the public. The first of these was the introduction of Section 498A of the Indian Penal Code, which was introduced through the Criminal Law (Amendment) Act of 1983. This section criminalized both physical and mental violence in marriage that was inflicted on women. Dowry was typically the cause of all domestic violence experienced by women. The introduction of Section 498A of the IPC was therefore necessary to resolve dowry-related violence¹³. Fortunately, the text of Sec 498A was broad enough to apply to other instances of domestic violence, despite its original purpose of safeguarding against dowry harassment. According to Section 498A, a "husband or relative of the husband of a woman who subjected a woman to cruelty¹⁴." The second was the new provisions of Section 304B, Indian Penal Code, and Dowry Prohibition (Amendment) Act, 1986, which, when combined with Section 113B of the Indian Evidence Act, 1872, established a new offense of dowry death¹⁵.

The CRPC and Evidence Act have been amended by both the 1983 and 1986 amendments. Nevertheless, Section 498A of the IPC was restricted in that it failed to account for the daily violence that occurs within the household and delegitimized the violence experienced by married women at the hands of other relatives. Additionally, mental harassment is subject to subjective interpretation, while visible evidence is preferred in the case of physical maltreatment. Consequently, the filing of a complaint was rendered impossible due to the absence of any bruising or traces. Additionally, this provision addressed the exploitation of individuals within the institution of marriage¹⁶.

¹¹ Dave Anjali and Solanki Gopika, *Journey from Violence to Crime: a Study of Domestic Violence in the City of Mumbai*, TATA INSTITUTE OF SOCIAL SCIENCES, MUMBAI (2001).

¹² Ahmed-Ghosh, H. (2004). Chattels of society: Domestic violence in India. *Violence against women*, 10(1), 94-118.

¹³ Mishra, Jyotsana, ed. (2000). *Women and Human Rights*, Kalpaz Publications, New Delhi.

¹⁴ Ray Raka, *supra* note 8.

¹⁵ <https://www.soolegal.com/roar/laws-against-domestic-violence-in-india-1> access on 29 jan 2025.

¹⁶ <https://www.lawjure.com/laws-against-domestic-violence-in-india/> access on 30 jan 2025.

Parliamentary Standing Committee

In reaction to the indignation voiced by women's organizations against the GOI Bill, it was sent to the Parliamentary Standing Committee on Human Resource Development for an evaluation of its contents. From May to December 2002, the committee solicited perspectives from the Department of Women and Child Development, requested submissions from individuals and organizations, and received oral testimonies and presentations from various women's groups, including the Lawyer Collective Women Rights Initiative, NCW, and Sankalp. Significant deficiencies and omissions in the GOI Bill were identified¹⁷.

The committee was made aware that the objectives of reaching settlements and preserving marriages should not be the purpose of legislation concerning domestic abuse. Extensive amendments were proposed to incorporate diverse forms of domestic violence and to enhance protective measures, reaffirming women's human rights standards as outlined by international human rights instruments, thereby ensuring effective protection for women against domestic violence within national legislation and practice. The Committee's Report was submitted to both Houses of Parliament, Lok Sabha and Rajya Sabha, on December 12, 2002¹⁸.

The report indicated that the majority of the recommendations proposed by LC were endorsed by the committee. The State's response regarding the exclusion of women not classified as "relatives" under the Act was that "women who have been in relationships resembling marriage without formal legal unions were not included due to the prevailing cultural ethos of the nation, which does not endorse such relationships." The committee's study indicated that there were, indeed, countless instances of men and women cohabiting without legitimate weddings yet still receiving social approval. Furthermore, the fundamental concern in delivering assistance to women experiencing domestic violence is the acknowledgment of their human right to a dignified existence, rather than the legitimacy of the relationship in question¹⁹.

Introduce and pass Domestic Violence Act

The NDA government presented the initial draft bill on domestic abuse in the 13th Lok Sabha on March 8, 2002. The bill was submitted by the 13th Lok Sabha to the Department-Related Standing Committee on Human Resource Development. Subsequently, the Standing Committee solicited feedback from individuals and institutions, and based on these inputs, the committee formulated various recommendations for amendments to the law.

The dissolution of the 13th Lok Sabha in February 2004 facilitated the acceptance of the Standing Committee's recommendations. Upon the UPA government's inauguration, the

¹⁷ GOI (2002): "Comments by Arun Jaitley, Union Minister For Law And Justice in defence of the GOI Domestic Violence Bill", Meeting, Centre for Social Research

¹⁸ GOI (2005): "National Family Health Survey 2005-06", Volume I, Chapter 15, Ministry of Health and Family Welfare & IIPS

¹⁹ GOI: "The Protection of Women from Domestic Violence Act 2005", Ministry of Women and Child Development

Department of Women and Child Development reassessed the contents of the aforementioned law under the guidance of the Minister of HRD, incorporating the concerns of women's rights organizations throughout its drafting. On 22 August 2005, the Government of India presented a new bill in the 14th Lok Sabha. The bill was approved by the Lok Sabha on August 24 and by the Rajya Sabha on August 29. The President granted consent on 13th September. It becomes effective on October 26, 2006. The Act applies to all of India, excluding the State of Jammu & Kashmir. The new Act requires a hearing to take place within three days and a resolution to the matter within sixty days. It comprises five chapters and thirty-seven sections²⁰.

An Overview of the Protection of Women from Domestic Violence Act, 2005

Domestic Violence

One individual's attempt to exert control and authority over another through physical, emotional, sexual, verbal, or economic means is referred to as domestic violence. In the context of a domestic setting, such as a marital or cohabiting relationship, it is a form of violence. Domestic violence can manifest as physical assaults, threats, intimidation, coercion, isolation, and manipulation, resulting in substantial impairment of the victim's emotional, psychological, and physical well-being²¹. The term encompasses all forms of abuse by an intimate companion, as well as honor-based abuse, such as female genital mutilation and honor killing. Additionally, it includes child abuse. The inequality of power dynamics and gender-based inequalities that persist in society are reflected in domestic violence, which is a violation of human rights²². In India, the Protection of Women from Domestic Violence Act, 2005 governs domestic violence-related matters. Section 3 of the Protection of Women from Domestic Violence Act says that domestic violence is "any act, omission, commission, or conduct of the respondent shall constitute domestic violence in the event that it²³,

- Harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- Harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- Has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

²⁰ <https://pib.gov.in/newsite/erecontent.aspx?relid=21508> access on 15/02/2025.

²¹ MYADVO TECHSERVE PRIVATE LIMITED, 'What Is Domestic Violence? What Are Its Types, Causes, and Effects?' (MyAdvo.in) <<https://www.myadvo.in/blog/domestic-violence-against-women/>> accessed 6 Jan 2025.

²² Bhattacharyya, M.; Bedi, A.S.; Chhachhi, A. Marital violence and women's employment and property status: Evidence from north Indian villages. *World Dev.* 2011, 39, 1676–1689.

²³ Section 3 of the Protection of Women from Domestic Violence Act.

- Otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

In the context of this section, following abuses are further explained:

- Physical abuse means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;
- Sexual abuse includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman Verbal and emotional abuse includes-
 - (a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and
 - (b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.

1. Economic abuse includes²⁴-

- (a) Deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance.
- (b) Disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person
- (c) Prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Eligibility for remedies

An aggrieved individual may pursue remedies under the Domestic Violence Act of 2005; however, the definition of these remedies is specified in Section 2(a) of the Act. It refers to "any woman who is, or has been, in a domestic relationship with the respondent (perpetrator) and who alleges to have been subjected to any act of domestic violence by the respondent (perpetrator)." Even if the woman no longer has a relationship with the perpetrator, she can still pursue the remedies outlined in the Act²⁵.

²⁴ Misra, Preeti (2007): "Domestic Violence Against Women- Legal Control and Judicial Response", Deep & Deep Publications.

²⁵ Misra, Kamal (2007): "Recent Studies on Indian Women", Rawat Publications

Scope of the Domestic Violence Act of 2005

The Domestic Violence Act of 2005 is comprehensive and pertains to all women who have experienced domestic violence, irrespective of their marital status. Also, Section 2(q) of the Act makes it clear that respondents or perpetrators are "any adult male person who is or has been in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act." Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband of the male partner." Conversely, the Supreme Court in the Sandhya Manoj Wankhade vs. Manoj Bhimrao Wankhade & ors. case ruled that the term "relatives" in Section 2(q) of the Act does not necessarily refer to male relatives. It was observed. "It is true that the term "female" was not used in the proviso to section 2(q)²⁶.

However, if the Legislature had intended to exclude females from the scope of the complaint, which can be filed by an aggrieved wife, females would have been specifically excluded, rather than being included in the proviso that a complaint could also be filed against a relative of the husband or the male partner." No restrictive meaning has been assigned to the term "relative," nor has the Domestic Violence Act, 2005, specifically defined it to limit its application to males. The bench also determined that "in such circumstances, it is evident that the legislature never intended to exclude female relatives of the husband or male partner from the scope of a complaint that can be filed under the provisions of the Domestic Violence Act, 2005."²⁷

Important provisions of the Domestic Violence Act, 2005

Duties of Police Officers, Service Providers, and Magistrate (Sec 5): This section requires police officers and magistrates to notify the aggrieved individual of their entitlement to submit an application for relief in the form of a custody order, a protection order, a residence order, a compensation order, an order for monetary relief, and other forms. Additionally, it allocated the respondent the right to submit a complaint pursuant to Section 498A of the Indian Penal Code. The Act's Section 5 requires police officers, service providers, and magistrates to promptly address domestic violence complaints and expedite the process of obtaining protection orders. It makes the point that the provisions of the Act need to be shared with the courts and law enforcement²⁸.

²⁶ section 2(q) of Domestic Violence Act of 2005.

²⁷ Singh Devinder, "Human Rights Women & Law"(Allahabad Law Agency, 2022)

²⁸ Protection of women from domestic violence act 2005, Section 5.

Sections 6 and 7: Duties of Shelter Homes and Medical Facilities

The individual responsible for the shelter residences is required to provide shelter to an aggrieved person or a Protection Officer or Service Provider who requests it on her behalf, as per Section 6 of the Act. In the event that an aggrieved person, a Protection Officer, or a Service Provider requests medical aid from the individual responsible for the medical facility, the act's seventh section mandates that the individual provide the requested aid²⁹.

Appointment of Protection Officers sec 8

The appointment of Protection Officers is specified in the Act. The State Government is required to appoint a sufficient number of Protection Officers in each district and to notify the area or areas within which a Protection Officer is permitted to exercise the powers and perform the duties enumerated in or under this Act. This will be done through a notification. The Protection Officers must be women, to the greatest extent possible, and must possess the requisite qualifications and experience. The Protection Officer and the other officers who are subordinate to him shall be subject to the terms and conditions of service that may be established³⁰.

Section 9: Duties and Functions of Protection Officers

- This is to aid the magistrate in the performance of his or her duties as outlined in this Act.
- DIR (Domestic Incident Report) is a report that is submitted to the magistrate upon receiving a complaint of domestic violence from an aggrieved person in the prescribed form.
- If the person who feels threatened wants a protection order, they must follow the Act and make an application to the magistrate.
- To guarantee that the aggrieved individual receives legal assistance in accordance with the Legal Services Authorities Act of 1987.
- To compile a comprehensive list of service providers who offer a variety of services to the aggrieved individual, including legal aid, counseling, shelter homes, and medical facilities.
- To offer medical assistance and a shelter home to the individual who has been wronged. To ensure that the aggrieved individual receives the benefits outlined in Section 20 of the Act.

The magistrate supervises the responsibilities of protection officers.

²⁹ Surpra , Section 6 and 7.

³⁰ Supra , Section 9.

Service Providers: Powers & Privilege (Section 10)

If the aggrieved individual so desires, a service provider is authorized to record the domestic incident report in the prescribed form and forward a copy to the magistrate and the protection officer with jurisdiction over the area where the domestic violence occurred, as described in Section 10 (2). Arrange for the aggrieved individual to undergo a medical examination and submit a copy of the medical report to the Protection Officer and the police station within the local jurisdiction where the domestic violence occurred. Ensure that the aggrieved individual is accommodated in a shelter home if necessary, and submit a report regarding the lodgement of the aggrieved individual in the shelter home to the police station within the local limits of the incident of domestic violence. Any service provider or any member of the service provider who is, or is deemed to be, acting or purporting to act under this Act shall not be subject to any suit, prosecution, or other legal proceeding for any action taken or intended to be taken in good faith in the exercise of powers or the discharge of functions under this Act to prevent the commission of domestic violence, as stipulated in Section 10 (3)³¹.

Section 11: Duties of Government

The Central and State Governments should implement suitable measures to guarantee that the officers of the Central and State Governments receive appropriate periodic sensitization and awareness training on the topics addressed by this Act. Additionally, the public should be informed about the provisions of the Act on a consistent basis through television, print media, and radio. Additionally, governments should guarantee that the services provided by the relevant ministries and departments are effectively coordinated³².

Application to Magistrate (Section 12)

The relief could involve issuing an order for compensation or damages, while maintaining the aggrieved person's right to file a lawsuit for the harm caused by the respondent's domestic violence. Provided that the amount, if any, paid or payable in pursuance of the order made by the magistrate under this Act shall be set off against the amount payable under the decree. The decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law currently in force, be executable for the balance amount, if any, remaining after such set-off. The form and specifics of each application submitted under sub-section (1) must be as prescribed or as close to it as feasible. The initial date of hearing will be determined by the magistrate, and it will typically not exceed three days from the date of the court's receipt of the application. The magistrate shall make every effort to resolve each application submitted under sub-section (1) within sixty days of the initial hearing.

³¹ Supra , Section 10.

³² Supra , Section 11.

Section 17: Right to reside in a shared household

Every woman in a domestic relationship is entitled to live in the shared residence, regardless of whether she has any right, title, or beneficial interest in it. The respondent is prohibited from evicting or excluding the aggrieved individual from the shared domicile or any portion of it, unless the procedure established by law is followed³³.

Types of order issued by the Magistrate

Protection order

This may also be referred to as a "stop violence order." The court has the authority to direct the other party to cease the act of violence immediately through this order. The following actions may be taken by the magistrate in this order: The Magistrate may obstruct the offender from accessing the woman's place of employment and engage in harassment. You may direct the offender not to harm the victim, her relatives, or any other individual who has provided assistance to her. Direct the perpetrator to refrain from engaging in or assisting in domestic violence³⁴. You can instruct the offender to refrain from contacting the victim through personal contact, email, telephone, or any similar medium. These things might be illegal for the offender to do without her permission: selling or giving away their things, using their joint bank account, or using their joint bank locker. The magistrate can issue a "protection order" in a domestic violence case before she makes her final decision if she has some reason to believe that violence has happened or is likely to happen soon³⁵.

Residence Order

A residence order is one of the orders that the magistrate may issue in matters of domestic violence. The following actions may be included in the residence order: She has the authority to direct the perpetrator not to evict the victim from their shared residence. She has the authority to direct the perpetrator to vacate the communal residence³⁶. It is important to acknowledge that she is unable to direct any female relatives of the offender to vacate the premises. She has the authority to prohibit the offender and his relatives from entering the victim's portion of the shared residence. She has the authority to direct the offender not to sell, lease, or mortgage the

³³ Supra, Section 17.

³⁴ Supra, Section 18.

³⁵ Kalyani, Vijaya P., Protection of Women from Domestic Violence Act, 2005: A Critical Appraisal (October 18, 2013). The IUP Law Review, Vol. III, No. 2, April 2013, pp. 36-43

³⁶ Protection of women from domestic violence act 2005, Section 19.

shared residence. She has the authority to prohibit the offender from departing the shared residence without her consent³⁷.

If necessary, she has the authority to require the perpetrator to purchase or finance an additional residence for the victim. The magistrate has the authority to impose supplementary conditions on residence orders to safeguard the victim and her children. Occasionally, the magistrate may require the offender to execute a surety with the court to guarantee that they refrain from engaging in domestic violence. The magistrate has the authority to mandate that the offender obtain sureties, which are individuals who will assume responsibility for their actions. Using their power, the magistrate can ask the local police to help them enforce a residence order for the victim. Using their power, the magistrate can ask the local police to help them enforce a residence order for the victim. If the victim cannot pay, the magistrate can order the offender to pay rent and other fees as part of a residence order. It is possible for the magistrate to request assistance from the local police in assisting the victim in the implementation of a protection order. The magistrate may order the offender to return her stridhan or other valuable security to the victim³⁸.

Monetary relief sec 20

In order to compensate the victim and her children for the injuries and losses they may have sustained because of domestic violence, the magistrate may require the offender to pay for the following: lost income (e.g., if the victim was hospitalized for a month due to her husband's assault); hospital bills and medication expenses; damaged property or property that the offender has taken from the victim; child maintenance (it is important to note that the victim is eligible to claim maintenance under this Act even if she has submitted a separate application under criminal law). The magistrate should determine the amount in accordance with the victim's standard of living. The magistrate has the authority to decree maintenance on a monthly or lump-sum basis. The parties involved in the case and the local police station must receive copies of these decrees³⁹. The offender is required to pay the victim within the designated time frame as outlined in the magistrate's order. In the event that the offender fails to make the payments, the magistrate has the authority to direct the individual who employs the offender or owes money to the offender to pay the court directly. This amount will be subtracted from the amount that the offender is required to pay⁴⁰.

Order of custody under section 21

³⁷ Nigam Shalu (2019) Women and Domestic Violence Law in India: A Quest for Justice.

³⁸ Kumari, P. V. (2013). Harassed husband challenges Domestic Violence Act. The Times of India.

³⁹ Protection of women from domestic violence act 2005, Section 20.

⁴⁰ Uma, Saumaya (2010): "Addressing Domestic Violence Through the Law: A Guide to the Protection of Women from Domestic Violence Act, 2005", Multiple Action Research Group

This law grants the Magistrate the authority to issue an interim custody order at any point during the proceedings. Custody of the children may be granted to the victim or any individual who has filed the case on her behalf. Additionally, she has the option of permitting the perpetrator to visit the children. If the offender's visit has the potential to cause harm to the children, she has the option to decline the visit⁴¹.

Compensation decree pursuant to s. 22 Compensatory orders are an additional form of order that the Magistrate may issue for the payment of money. The Magistrate issues such orders to compensate the victim for emotional distress and mental suffering. The ex-parte or interim order pursuant to s. 23 The law permits the Magistrate to issue temporary orders (prior to the final order being issued) or orders in the absence of the offender (in the event of an imminent threat of violence) due to the nature of domestic violence cases⁴².

Section 31 of the Domestic Violence Act, 2005: It deals with the 'Penalty for breach of protection order by respondent'. If the respondent breaches the protection order, he/she is punished with imprisonment for a term which may extend to 1 year and with a fine which may extend to 20,000 rupees or both⁴³.

Conclusion

Domestic violence is a pressing issue that necessitates immediate attention and action. In summary, it is imperative to emphasize that the term "domestic violence" not only encompasses physical abuse but also encompasses economic, emotional, socio-economic, and financial forms of domestic abuse. Everyone possesses self-respect, and it is imperative that those in their vicinity uphold it. By comprehending the legal framework that governs domestic violence, it is possible to recognize the continuous endeavors to protect the rights and dignity of those affected and strive for a society in which such violence is unheard of. The necessity of such an act was essential in order to resolve violence, which was consistently disregarded as the private affairs of a family member, according to the belief that outsiders were not welcome. The only avenue available to any woman who attempted to raise her voice against such cruelty was the Indian Penal Code (IPC). This law required women to take a bold step, sacrificing their place of domicile, maintenance, and, in many cases, custody of their children, as well as the support of their own people and society. It was a challenging situation for her. Conversely, the husband or in-laws were in a more advantageous position, as the women were at a standstill due to the delay in our legal proceedings, which was exacerbated by the fact that they had been granted

⁴¹ Gayathri M, An Empirical Study on the Existing Legal Framework against Domestic Violence in India with Special Reference to Chennai, Journal of Political Sciences & Public Affairs , 2017,

⁴² Protection of women from domestic violence act 2005, Section 22 and 23.

⁴³ Supra , Section 31.

parole (primarily in 498A). A new ray of hope appeared on the horizon with the introduction of this new legislation. Nevertheless, the PWDVA has provided a platform for women to express their concerns regarding domestic violence without the apprehension of becoming impoverished. Currently, the complainant and respondent are able to reside in the same residence and pursue the case of victimization of women. Given its importance, the Act necessitates additional attention to ensure its effective implementation. We are optimistic that this act will realize its objectives with minimal modifications.

In conclusion, even in the present day, domestic violence remains the most prevalent form of criminal activity against women in India. Even though domestic violence has its own specific legislation in India, the number of cases is still rising. An abrupt rise in domestic violence cases is observed between 2001 and 2018. The number of domestic violence cases increased by 53% between 2001 and 2018. Thirty cases are sufficient to demonstrate the rapid increase in domestic violence incidence each year. This is due to the fact that the majority of domestic violence incidents go unreported, with only 20% of the most severe cases being documented. Women opt to endure their suffering independently, which escalates their suffering on multiple occasions. There is no one who can assist a woman in escaping her anguish until she does speak up for herself. India's domestic violence laws are stringent; however, a woman can only be safeguarded if she discloses the maltreatment she is experiencing behind closed doors. Several nongovernmental organizations (NGOs) are also engaged in the issue of domestic violence in India. Few NGOs enable victims of domestic violence to openly disclose their issues and seek legal counsel.

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