

“A Study on Laws Related to Domestic Violence in India”

Yash Dwivedi
B.A.LLB (H)
Amity Law School,
Lucknow

ABSTRACT

Largest number of victims as seen in daily life of domestic violence are women in general, since past times and the violence that happens against women is coming from our past and even now in 21st century, it has been witnessed that women are facing domestic violence issues in such educated and modernized era also. Women from every social background irrespective of their cast create color religion happens to be victim of domestic violence.

Although now it is too busy violence is not just limited to women but men as well as children and the elderly people are also becoming victims of domestic violence major number of cases are also been witnessed where men are being victims by their wife or other relationships in our society and such domestic violence occurs at all level in our society.

According to a study,¹ India in 2023 around 30% of women have witnessed domestic violence at least once in their lifetime from the age of 15 to 20 and 5% of pregnant women's have also experienced spousal violence during their pregnancy period. Noticing such issue like domestic violence it requires a comprehensive legal framework for the protection of victims may it be men women children or elderly people in our society and in this research paper we shall explore domestic violence laws in our India with the significance and provisions related for seeking justice and making the readers aware of domestic violence laws in our nation.

Keywords: Domestic Violence, India, Women Empowerment, Constitutional Provisions.

DOMESTIC VIOLENCE: A SOCIAL EVIL

The societal phenomena of domestic violence have garnered widespread attention in recent years. Anywhere and in whatever manner that violence committed by an intimate partner occurs is included in the term "domestic." Any act of gender-based violence that causes, or is likely to cause, bodily, sexual, or psychological injury or suffering to women is considered violence against women.

Domestic violence is indeed “a significant social issue that has garnered increased attention in recent times. It involves the abuse or violence that occurs within a domestic or intimate relationship, often perpetrated by one partner against another”. It can take various forms, including physical, emotional, psychological, sexual, or financial abuse. Increased awareness and advocacy efforts have contributed to bringing this issue to the forefront of public discourse. There's a growing recognition of the prevalence and the devastating impact of domestic violence on individuals, families, and communities. It's crucial to address the root causes of

¹ William smock, Martin R. Huecker, 2023, “Domestic violence”, National library of medicine, available at: www.ncbi.nlm.nih.gov.in

domestic violence, provide support to survivors, and work towards prevention through education, intervention, and policy measures.

WHAT INDICATES DOMESTIC VIOLENCE?

According to “Domestic violence act of 2005”, Domestic violence can be indicated by three activities, as mentioned under:

1. Danger to safety, life, and health. In addition to being mental and physical, it may also involve verbal, sexual, financial, or emotional abuse.
2. Any kind of harassment, including harm done to the victim of coercion or to other persons as a result of illegal demands for money, property, dowries, or valued assets like jewels or other assets.
3. Otherwise causing the victim to suffer hurt or injury, either physically or mentally

DIFFERENT TYPES OF DOMESTIC VIOLENCE

There are majorly three kinds of domestic violence known in general:

- **Physical Abuse**

Any violent act that causes the victim anguish and agony is considered physical abuse (slapping, biting, kicking, striking, beating, etc.) It involves depriving someone of necessary medical care and pressuring them to consume drugs or alcohol.

- **Economical abuse**

This abuse takes place when the abuser violates or abuses the victim by pointing out the financial errors or keeps some kind of economic demands by the victims

- **Technological abuse**

This abuse is related to technological abuse done by the abuser on victims in technological and modern era for controlling their partners

PUNISHMENT FOR DOMESTIC VIOLENCE

Punishment for domestic violence varies by jurisdiction, but generally, it can include fines, imprisonment, restraining orders, mandatory counseling or anger management programs, and community service. However, punishment alone is not enough to address the complex issue of domestic violence. Prevention efforts, support for victims, education on healthy relationships, and addressing the root causes of violence are also crucial.

When it comes to domestic violence, a number of rules or restrictions are in place to protect women. Some of them are discussed below:

1. In accordance with laws such as Section 304B of the Indian Penal Code, which addresses dowry harassment-related deaths

2. Infanticide, which is defined as the forcible termination of a woman's pregnancy, is punished under Sections 313–316 of the Indian Penal Code.
3. Additional Sections for Section 305 and Section 306 of the Indian Penal Code, which deal with aiding and abetting suicide, as well as Sections 340 and 349 of the Indian Penal Code, respectively, are the legal actions that address domestic abuse in India. unjust imprisonment or unfair constraint.
4. In addition, cruelty falls under the purview of domestic violence and can be reported under Section 498A of the Indian Penal Code.

OBJECTIVES OF DOMESTIC VIOLENCE ACT, 2005

The Domestic Violence Act, 2005, enacted in India, has several key objectives aimed at addressing and preventing domestic violence². Here are some of its main objectives:

1. **Protection of Women:** The primary objective of the Domestic Violence Act is to provide protection to women who are victims of domestic violence. It recognizes the right of women to live a life free from violence and abuse within the home.
2. **Prevention of Domestic Violence:** The Act aims to prevent domestic violence by providing legal mechanisms for women to seek protection orders against their abusers. It encourages early intervention and measures to stop violence before it escalates.
3. **Legal Redressal:** Another objective is to provide legal recourse and redressal for victims of domestic violence. The Act allows victims to seek various legal remedies such as protection orders, residence orders, and monetary relief from the court.
4. **Support and Assistance:** The Act seeks to provide support and assistance to victims of domestic violence by facilitating access to medical aid, counseling, shelter, and other essential services.
5. **Awareness and Sensitization:** It aims to raise awareness about the issue of domestic violence and sensitize the society, including law enforcement agencies, judiciary, and the general public, about the rights of women and the legal provisions available for their protection.
6. **Prevention of Eviction:** The Act prohibits the eviction of women from their matrimonial homes in cases of domestic violence, thereby ensuring their right to reside in a safe and secure environment.
7. **Protection of Children:** While primarily focused on protecting women, the Act also aims to safeguard the interests of children who may be affected by domestic violence. It recognizes that children growing up in violent homes can suffer severe psychological and emotional harm.

² Shubhodeep chokroborty,2020, "Laws on domestic violence", available at: www.scconline.com

LEGISLATIVE INTENT OF THE ACT

The legislative intent of enacting the act which is known as production of violence from domestic violence act year 2005 had been deeply analyzed in the landmark is Indira Sarma versus V.K.V. Sarma³ it was held at that the reason for legislation to bring such as mainly the production of rice of women in the family the act says the rights of women from facing domestic violence within the four walls of their home, may it be their maternal home or their marital home

Later in the landmark case from Madras High Court, Vandana V.T. Shreekant further stated that "the production of women from domestic violence act year 2005 is an act to provide for more effective protection for the rights of women which is guaranteed under our Indian constitution to those who are victims of any kind of violence occurring in the family or for the matters connected therewith."

The Domestic Violence Act, 2005, in many countries, including India, was enacted with the primary legislative intent of providing legal protection and recourse to victims of domestic violence. Here are some key legislative intents behind the act:

1. **Protecting Victims:** The act aims to protect victims, predominantly women, from physical, sexual, emotional, and economic abuse within the home. It recognizes that domestic violence is a violation of human rights and seeks to provide legal mechanisms to address it.
2. **Prevention and Redressal:** It aims to prevent occurrences of domestic violence and provide victims with legal remedies for redressal. This includes provisions for obtaining protection orders, residence orders, and monetary relief to victims.
3. **Expansive Definition of Domestic Violence:** The act defines domestic violence broadly to include not only physical abuse but also emotional, verbal, sexual, and economic abuse. It acknowledges that abuse can take various forms and aims to address them comprehensively.
4. **Promotion of Equality and Justice:** The act promotes equality by recognizing the right of every woman to a life free from violence and by providing them with legal recourse against their abusers. It seeks to ensure justice by holding perpetrators accountable for their actions.
5. **Empowerment of Victims:** The act aims to empower victims by providing them with access to legal remedies, support services, and counseling. It encourages victims to come forward and seek help without fear of stigma or retaliation.
6. **Coordination of Support Services:** It mandates the establishment of protection officers and service providers to assist victims in accessing legal, medical, and

³ AIR 2014 SC 309

psychological support services. This ensures a coordinated response to cases of domestic violence.

7. **Education and Awareness:** The act emphasizes the importance of public education and awareness-raising campaigns to prevent domestic violence, challenge societal attitudes that condone abuse, and promote gender equality.

Overall, the legislative intent of the Domestic Violence Act, 2005, is to create a legal framework that addresses domestic violence comprehensively, protects victims, holds perpetrators accountable, and promotes gender equality and justice within the home.

CONCLUSION

When it comes to defending women's rights and ensuring that they feel safe and secure in their own homes, the Act is essential to the Indian legal system. It is a comprehensive piece of legislation that outlines the roles and responsibilities of various authorities, the remedies available to victims, the procedures for reporting domestic abuse, the support offered to victims, the authority and scope of the Indian judiciary, and the Central Government's regulatory authority.

India's domestic violence legislation, which was created by the PWDVA, is an essential instrument for defending victims and advancing gender parity. It acknowledges the complexity of abuse and gives victims a thorough legal framework within which to pursue justice.

To enhance implementation, increase knowledge, and build a society free from prejudice and violence that appreciates and protects everyone's rights, however, ongoing efforts are necessary.

REFERENCES

- <https://www.sconline.com/blog/post/2020/07/27/law-on-domestic-violence-protection-of-women-from-domestic-violence-act-2005/>
- https://www.indiacode.nic.in/bitstream/123456789/15436/1/protection_of_women_from_domestic_violence_act%2C_2005.pdf
- <https://sunderlandsocialsciences.wordpress.com/2018/09/21/how-is-domestic-violence-a-social-problem/>