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## FROM SILENCE TO STATUTE: THE EVOLUTION AND ENFORCEMENT OF DOMESTIC VIOLENCE LAWS IN INDIA

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### ABSTRACT

One of the most widespread human rights abuses in India is still domestic violence, which has its roots in patriarchy and is exacerbated by gender inequality and social silence. Through an analysis of statutory developments, judicial interpretations, and the historical development of women's rights, this research study investigates domestic abuse from a doctrinal legal perspective. It focuses especially on the Protection of Women from Domestic Violence Act, 2005 (PWDVA), which recognised domestic abuse as a public wrong and a breach of the right to live with dignity guaranteed by the constitution, rather than considering it as a private matter.

In addition to highlighting enduring issues like poor implementation, social stigma, and the lack of legal recognition for marital rape, the paper explores how seminal cases like V.D. Bhanot v. Savita Bhanot (2012) and Satish Chander Ahuja v. Sneha Ahuja (2020) have broadened the scope of protection for women. The results show that although India's legal system is extensive, awareness, enforcement, and social change are necessary for it to be effective. In order to guarantee safety, equality, and justice for all women, the study comes to the conclusion that combating domestic abuse necessitates a multifaceted strategy that combines institutional accountability, legal reform, and cultural transformation.

**KEYWORDS:** Domestic, Violence, Women, Society, Law, Wife, Husband, Cruelty, Health.

### INTRODUCTION

One of the most pervasive types of gender-based violence is domestic abuse, which is a reflection of the patriarchy that permeates Indian culture. It includes a variety of abusive behaviour that take place in domestic relationships, including verbal, physical, sexual, emotional, and economic abuse. Despite the assumption that the home is a place of safety, many women experience fear and oppression there. Nearly one in three married women in India had been victims of spousal violence, according to the National Family Health Survey (NFHS-5, 2021), suggesting that domestic abuse is still a common and enduring issue.<sup>1</sup>

Domestic abuse has always been viewed as a

"private" issue that is outside the purview of the law and public discourse. With the rise of feminist groups and the legal acknowledgement of women's rights as human rights in the late 20th century, this view started to shift. Section 498A of the Indian Penal Code (1983),<sup>2</sup> which made cruelty by husbands and in-laws illegal, gave way to the more comprehensive Protection of Women from Domestic Violence Act, 2005 (PWDVA)<sup>3</sup> as India's legal response to domestic violence. By recognising domestic abuse as a breach of the fundamental right to live with dignity and providing civil remedies including residency orders, protection orders, and financial redress, the latter represented a paradigm change.



The lived reality of victims show that despite this progressive law, there are still issues, such as institutional indifference, a lack of awareness, and ineffective enforcement. Fear of social humiliation, economic dependence, and patriarchal attitudes frequently discourage victims from pursuing legal action. Additionally, the PWDVA's execution has been significantly shaped by judicial interpretations that have alternatively reduced and enlarged the extent of protections, as seen in *S.R. Batra v. Taruna Batra* (2007)<sup>4</sup> and *Satish Chander Ahuja v. Sneha Ahuja* (2020)<sup>5</sup>.

Therefore, this study uses a doctrinal examination of statutes, case law, and academic literature to investigate domestic violence as a multifaceted issue that is social, legal, and psychological. It assesses the role of the judiciary, the efficacy of current legislation, and the wider ramifications for gender justice in India.

**RESEARCH QUESTION:** What societal and legal changes are required to guarantee victims receive complete protection, and how well has

the Protection of Women from Domestic Violence Act, 2005, handled the realities of domestic abuse in India?

### RESEARCH METHODOLOGY

The doctrinal technique used in this study of domestic abuse include a methodical examination of current laws, court rulings, and academic publications. This methodology facilitates a comprehensive analysis of the Protection of Women from Domestic Violence Act, 2005, scrutinising its principal provisions, legislative intention, and pragmatic implementation via seminal rulings. The study examines the development of domestic abuse laws in India, analyses judicial interpretations, and gauges the efficacy of the legal protections afforded to women by utilising secondary sources such statutes, case law, commentaries, and scholarly literature. Clarity on theoretical concepts and real-world applications is provided by the doctrinal method, which guarantees an organised, critical, and authoritative comprehension of the legal system.





LITERATURE REVIEW

SR No.	Nature of literature	Name of the literature	Covered/Reviewed	Research Intended	Research Gap
	Empirical and analytical study.	Kavita Alejo, "Long-Term Physical and Mental Health Effects of Domestic Violence" (2014, <i>Themis: Research Journal of Justice Studies &amp; Forensic Science</i> )	focusses on trauma and chronic health issues while examining the long-term psychological and physical repercussions of domestic violence on women.	to relate the effects of domestic violence on one's physical and mental well-being.	ignores legal actions and protective systems in favour of concentrating on health outcomes.
2	Socio-legal and descriptive.	Sudha Chaudhary, "Domestic Violence in India" (2013, <i>Journal of Indian Research</i> )	focusses on cultural aspects when reviewing the incidence, causes, and social acceptance of domestic violence in Indian homes.	To identify socio-cultural roots and the need for awareness and legal literacy among women.	Lacks a detailed evaluation of judicial interpretation and legislative evolution.
3	Journal	Mahadevaswamy M. & Sneha Nathawat, "Understanding	focusses on intervention strategies and the effects on mental	to investigate all-encompassing intervention	does not evaluate the doctrinal efficacy of current



		Domestic Violence Against Women: Causes, Consequences and Interventions” (2023, <i>International Journal of Indian Psychology</i> )	health while analysing domestic violence as a psychological, social, and legal issue.	techniques that incorporate both legal and psychological assistance.	legislation, such as the PWDVA, 2005.
4	Empirical and economic analysis.	Nandita Bhatla & Ravi Verma, “Economic Costs of Domestic Violence: Evidence from India” (2016, <i>ICRW Publication</i> )	establishes a connection between gender violence and financial loss by quantifying the economic cost of domestic violence on households and national productivity.	to determine how domestic violence affects the macroeconomy.	focuses on the financial ramifications rather than the legislative means of prevention or remedy.
5	Doctrinal and evaluative.	S. Rajan & P. George, “Legal Framework and Implementation of the Domestic Violence Act, 2005: A Critical Study” (2020, <i>Indian Bar Review</i> )	analyses the PWDVA’s enforcement critically, emphasising administrative difficulties and judicial developments.	to evaluate the Act’s effectiveness in ensuring accountability and protecting women.	identifies lax enforcement but makes no recommendations for institutional or integrated policy changes.



## HISTORICAL EVOLUTION

The development of women's place in Indian society, from respect in ancient customs to subordination under patriarchal standards to eventual acceptance of gender equality as a legal and constitutional objective, is reflected in the history of domestic violence in India.

In Ancient India, At first, women participated in social and intellectual life and were treated with respect and on an equal footing. But when the Vedic era came to an end, women's autonomy diminished and patriarchal systems became more entrenched. Emerging customs including child marriage, purdah, dowries, and sati legitimised husbands' authority over their wives and strengthened male domination. Marital violence was viewed as a personal issue rather than a social or legal transgression.

During the Colonial Period, Domestic abuse was generally ignored by British laws like the Hindu Widow Remarriage Act of 1856<sup>6</sup> and the Bengal Sati Regulation of 1829<sup>7</sup>, which sought to address severe societal problems. Because the colonial legal system viewed the home as a private space, it refrained from interfering with marriages. As a result, domestic violence and psychological abuse went unnoticed by the authorities.

In post independence, Articles 14, 15, and 21 of the Indian Constitution of 1950<sup>8</sup> declared equality and dignity to be essential rights. Nonetheless, domestic abuse continued, leading to judicial and legislative action. The adoption of Section 498A of the Indian Penal Code (1983)<sup>9</sup>, which made cruelty by a spouse or his family members illegal, was a significant milestone. Although this clause signalled the state's recognition of domestic violence as a crime, its criminal focus provided little assistance and frequently resulted in underreporting because of demands to reconcile and stigma.

The Protection of Women from Domestic Violence Act, 2005 (PWDVA)<sup>10</sup> was passed by the legislature in recognition of the need for a more

comprehensive framework. This law focused on protection, housing, and financial assistance rather than punishment, and it completely redefined domestic violence to include verbal, physical, sexual, emotional, and financial abuse. It signified a change in perspective from considering domestic abuse as a personal transgression to considering it a breach of fundamental and human rights.

This area of law has been further clarified by judicial interpretation. While the Supreme Court maintained the PWDVA's retroactive application in *V.D. Bhanot v. Savita Bhanot* (2012),<sup>11</sup> Satish Chander Ahuja v. Sneha Ahuja (2020)<sup>12</sup> broadened the meaning of "shared household," guaranteeing stronger protection for dwelling rights. These decisions show a forward-thinking movement to protect women's liberty and dignity in the home.

Domestic violence is now seen as a social, psychological, and human rights issue in addition to a legal one. The COVID-19 epidemic made the vulnerabilities of women living in abusive situations even more apparent, which made effective enforcement and awareness-raising even more important.

The historical development of domestic abuse in India essentially shows a slow shift from social acceptance to official acknowledgement – a path from inaction to authority. However, persistent patriarchal attitudes and inadequate institutional reactions demonstrate that ongoing social reform and gender awareness must go hand in hand with the legal change.

## LEGAL FRAMEWORK AND CASE LAWS

### IMPORTANT LEGISLATIVE COMPONENTS

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) establishes civil remedies such as protection orders, financial assistance (maintenance/compensation), the right to live in a "shared household" (Section 17),<sup>13</sup> Shelter services, and the designation of Protection Officers. The right to reside is made clear in the text, and the safety of the harmed party is given top priority.



1. **V.D. BHANOT V. SAVITA BHANOT** – temporal scope & remedial availability: The Supreme Court stressed a purposive reading that supports the protection of harmed parties and confirmed that remedies under the PWDVA can be accessible even in cases where the claimed occurrences occurred before the Act's inception (subject to specifics). In some factual matrices, this increased access to redress.

2. **S.R. BATRA VS TARUN BATRA** – 'share household and right of residence: In this previous decision, the Supreme Court interpreted "shared household" in a quite limited way, concluding that a wife could not live on property that was exclusively owned by her mother-in-law (in which case the husband had no interest). Early uses of Section 17 were limited by this ruling, which also sparked criticism and later remedial jurisprudence.

3. **SATISH CHANDER AHUJA VS SNEHA AHUJA** – re-interpretation of share household : A subsequent bench of the Supreme Court re-examined Taruna Batra and broadened the interpretation, recognising that a woman could live in a household that served as a shared family home even if the senior family member's name held the legal title. This strengthened the protections for daughters-in-law and realigned the Act with its protective intent. This decision materially shifted jurisprudence in favor of aggrieved persons.

4. **ARNESH KUMAR VS STATE OF BIHAR**- arrest under dowry / cruelty provisions: Though not a PWDVA case, Arnesh Kumar is crucial for the domestic-violence ecosystem because it instructed police and magistrates to avoid mechanical arrests under provisions like Section 498A IPC; arrest without application of judicial/administrative safeguards was condemned, and arrest was treated as an exception. This case shaped law- enforcement behaviour and sparked debate over rights protection vs. misuse.<sup>14</sup>

5. **INDEPENDENT THOUGHT VS UNION OF INDIA** – marital rape: The Supreme Court narrowly interpreted Exception 2 to Section 375<sup>15</sup> to protect child brides by stating that sexual contact with a wife under the age of 18 would be considered rape; however, the exception for consensual or non-consensual sex between adult spouses is still a legal loophole that courts and petitioners continue to challenge.<sup>16</sup>

#### ANALYSIS

##### STRENGTHS OF LEGAL FRAMEWORK:

**Rights-Oriented Civil Route:** PWDVA offers prompt, adaptable remedies that can be quicker and more survivor-centered than criminal trials through its rights-based civil design (protection orders, right of residency, and financial relief). One significant development that acknowledges shelter as a human-rights essential is the statutory right to reside (Section 17).

**Judicial Reform Throughout Time:** Supreme Court rulings, such as Ahuja, demonstrate a readiness to reinterpret PWDVA standards in order to better protect survivors, particularly with regard to residence rights.

##### IMPLEMENTATION GAPS:

**Civil And Criminal Regimes Are Fragmented:** PWDVA remedies coexist with criminal provisions like IPC Section 498A; courts and practitioners are still struggling to understand how offences, civil relief, and family law remedies work together cohesively. Arnesh Kumar's arrest rules created questions over access to prompt criminal enforcement when necessary, despite their stated goal of protecting liberty.

**Low Conviction/Realization Rates And Enforcement Gaps:** According to official and media- reported data, there are a lot of cases filed under the PWDVA and cruelty processes, but in some jurisdictions, the conviction or enforcement rate is quite low. This suggests that there are systemic bottlenecks in the system



(police training, magistrate capacity, shelter availability). The number of "cruelty by husband/relatives" filings is highlighted by national criminal reporting.

Many forms of abuse are protected by the PWDVA and related jurisprudence, but adult marital rape—defined as non-consensual sexual relations between adult spouses—remains essentially outside the purview of Section 375 (unless the wife is a minor). This is a stark legal gap with significant implications for public health and human rights. There is ongoing legal and policy discussion about this gap.

### HEALTH AND SOCIAL IMPACTS THAT MAKE LEGAL REFORM

The frequency of spousal violence is estimated to be 29% among married women, according to large nationwide surveys (NFHS-5). This prevalence translates into millions of victims and a substantial public health cost.

Long-term physical and mental health harms: Clinical research and systematic reviews show that survivors are more likely to experience despair, PTSD, substance abuse, chronic illness, and traumatic brain injury. As a result, legal remedies must be connected to social, mental, and health services. The multi-domain impact of domestic violence and the intricate risk variables during crises like COVID-19 are documented by the PMC review and recent research, such as the Frontiers 2023 examination of intra-family dynamics.

### CONCLUSION AND RECOMMENDATIONS

According to the report, social stigma, ingrained patriarchy, and poor execution are the key reasons why domestic violence persists in India despite progressive laws like the Protection of Women from Domestic Violence Act, 2005. By acknowledging women's right to live in a shared household and extending the definition of domestic abuse, judicial interpretations in instances such as *V.D. Bhanot v. Savita Bhanot* (2012) and *Satish Chander Ahuja v. Sneha Ahuja* (2020) have broadened the protective

framework. However, institutional indifference, delayed assistance, and victim ignorance still hinder effective enforcement. The lack of explicit legal acknowledgement of marital rape and the ineffective performance of protection officers continue to be major obstacles.

Thus, it is determined that although the law offers a solid basis, regular application and social change are necessary for real efficacy. The study suggests bolstering institutional frameworks, guaranteeing the responsibility of law enforcement, and increasing the availability of legal assistance and psychological support for survivors. The patriarchal traditions that normalise domestic abuse must be challenged through education and community awareness campaigns. In the end, ending domestic abuse necessitates not only stricter legislation but also a shift in public perceptions so that all women can live in their homes with equality, security, and dignity.

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