
EFFECTIVENESS, GAPS AND JUDICIAL TRENDS UNDER THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

Harshita, ALS, Amity University, Noida

ABSTRACT

This research paper critically examines the effectiveness, implementation gaps, and evolving judicial trends under the Protection of Women from Domestic Violence Act, 2005. Adopting a socio-legal and doctrinal methodology, the study analyzes the transition of Indian jurisprudence from restrictive interpretations of shared households to expansive, purposive constructions that safeguard constitutional rights. The research highlights significant judicial milestones broadening the Act's protective umbrella to encompass constructive residence and non-traditional unions. Concurrently, the paper identifies critical systemic implementation gaps, notably the severe shortage of dedicated Protection Officers, protracted procedural delays, and inadequate institutional infrastructure, which collectively undermine the statute's remedial objectives. Furthermore, the study explores the emerging discourse on gender neutrality and the vulnerability of marginalized groups within the domestic sphere. Ultimately, the paper concludes that while the legislation represents a monumental achievement in human rights protection, its true efficacy remains contingent upon robust administrative enforcement, strict adherence to statutory timelines, and continuous sensitization of the legal machinery.

Keywords: Domestic Violence, PWDVA 2005, Judicial Trends, Shared Household, Implementation Gaps, Gender Neutrality, Human Rights

1. INTRODUCTION

Domestic violence constitutes a pervasive global human rights challenge that affects individuals across all socio-economic, cultural, and demographic boundaries, profoundly undermining personal dignity, equality, and social development. Although theories of gender symmetry acknowledge that intimate partner violence may be perpetrated by both men and women, the disproportionate severity, frequency, and structural nature of violence experienced by women necessitate specialized legal and policy interventions. The recognition of women's rights as an integral component of universal human rights gained substantial international legitimacy through key global instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Vienna Declaration of 1994, and the Beijing Declaration and Platform for Action of 1995. These frameworks collectively reframed domestic violence from a private familial matter into a serious human rights violation that imposes direct obligations upon states to ensure prevention, protection, and redress. In alignment with these international commitments, the Indian judiciary has consistently acknowledged domestic violence as a violation of constitutional and human rights, thereby situating domestic legislation within a broader framework of global accountability.

Within the Indian legal context, the traditional response to matrimonial cruelty was primarily governed by Section 498A of the Indian Penal Code, 1860, which adopted a predominantly criminal justice approach to domestic abuse. While this provision played a significant role in penalizing cruelty, it failed to adequately address the immediate civil and protective needs of survivors, such as residence rights, financial support, and access to protection mechanisms. This legislative inadequacy created a substantial legal vacuum, which was addressed through the enactment of the Protection of Women from Domestic Violence Act (PWDVA), 2005. The PWDVA marked a paradigm shift by introducing a comprehensive civil law framework designed not merely to punish offenders but to secure the constitutional rights of women under Articles 14, 15, and 21 of the Constitution of India. Through this statute, Parliament sought to provide women with immediate, accessible, and effective remedies against violence occurring within domestic relationships, thereby transforming the legal understanding of domestic abuse from isolated criminality to a broader issue of substantive equality and social justice.

Judicial interpretation has further strengthened the transformative character of the PWDVA by expanding its protective scope and emphasizing its constitutional foundations. Landmark decisions such as *V.D. Bhanot v. Savita Bhanot* and *Satish Chander Ahuja v. Sneha Ahuja* have

reinforced the principle that the Act is a milestone in Indian jurisprudence, extending beyond traditional maintenance provisions to recognize broader rights such as residence in a shared household and protection from multiple forms of domestic abuse. These judgments demonstrate the Supreme Court's commitment to interpreting the PWDVA as remedial, rights-based legislation intended to secure women's autonomy, dignity, and safety within familial structures. Consequently, the Act represents a significant departure from purely punitive frameworks by integrating protection, rehabilitation, and empowerment into domestic violence jurisprudence.

Despite its progressive statutory design and judicial endorsement, the implementation of the PWDVA continues to face substantial institutional and administrative barriers that undermine its effectiveness. Persistent deficiencies such as the shortage of Protection Officers, inadequate registration of Service Providers, procedural delays in notice delivery, and weak enforcement infrastructure create a significant gap between legislative intent and practical realization. These shortcomings not only obstruct timely justice but also diminish the accessibility of remedies for victims. Additionally, emerging discourse on domestic violence affecting marginalized communities, including transgender individuals, highlights the limitations of the Act's predominantly gender-binary framework and raises important questions regarding inclusivity and legal reform. Thus, while the PWDVA stands as a landmark legislative achievement, its true efficacy depends upon addressing systemic implementation failures and evolving its protective scope to reflect the diverse realities of domestic violence in contemporary society.

This research therefore critically evaluates the Protection of Women from Domestic Violence Act, 2005, by examining both its normative strengths and operational shortcomings. It explores the constitutional and international legal foundations of the Act, analyzes its statutory architecture and remedial provisions, assesses evolving judicial trends, and scrutinizes the implementation gaps that continue to impede its objectives. Through this multidimensional analysis, the study seeks to determine whether the PWDVA has successfully translated constitutional promises into meaningful protection or whether structural deficiencies continue to limit its transformative potential.

2. LEGAL FRAMEWORK AND ANALYSIS

2.1 STATUTORY FRAMEWORK

The statutory architecture governing domestic violence in India represents a paradigm shift from a purely penal approach to a restorative, rights-based civil framework. The Protection of

Women from Domestic Violence Act, 2005 (PWDVA) was enacted not merely as a statutory remedy, but as a legislative fulfillment of the State's constitutional obligations under Articles 14, 15(3), and 21 of the Constitution of India. The right to a violence-free life within the domestic sphere is an inherent facet of the right to live with dignity.

The judiciary has consistently recognized that the PWDVA serves as the domestic implementation of India's international commitments, specifically the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Vienna Accord.

The Constitution of India, 1950: Articles 14, 15, and 21 form the foundational bedrock of the PWDVA, mandating the State to enact special provisions for the protection of women and ensuring their right to life and personal liberty.

The Supreme Court has explicitly anchored the PWDVA in these constitutional guarantees. *"After considering the constitutional safeguards under Article 21 of the Constitution... the learned Judge held that it was with the view of protecting the rights of women under Articles 14, 15 and 21 of the Constitution that the Parliament enacted the PWD Act, 2005..."*

"...keeping in mind the object of the Act to provide effective protection of the rights of women guaranteed under the Constitution, who are victims of violence of any kind occurring within the family..." - V.D. BHANOT Vs SAVITA BHANOT (Supreme Court of India, 2012) [[2012] 1 S.C.R. 867, 2012 INSC 79]

Furthermore, the international human rights foundation of the Act has been unequivocally affirmed by the apex court. *"The Vienna Accord of 1994 and the Beijing Declaration and the Platform for Action (1995) have acknowledged that domestic violence is undoubtedly a human rights issue."*

"It is, therefore, proposed to enact a law keeping in view the rights guaranteed under articles 14, 15 and 21 of the Constitution to provide for a remedy under the civil law which is intended to protect the woman from being victims of domestic violence..."-KUNAPAREDDY @ NOOKALA SHANKA BALAJI Vs KUNAPAREDDY SWARNA KUMAR! & ANR (Supreme Court of India, 2016)_[[2016] 2 S.C.R. 608, 2016 INSC 323]

The Protection of Women from Domestic Violence Act, 2005 (Section 3): This section

provides an expansive definition of domestic violence, moving beyond physical harm to encompass emotional, verbal, sexual, and economic abuse.

The legislative intent behind Section 3 was to fill the lacunae left by Section 498A of the Indian Penal Code, 1860, which primarily focuses on criminal punishment for matrimonial cruelty. The PWDVA, conversely, focuses on the civil protection of a woman's overall well-being. The Supreme Court has confirmed that the definition contemplates harm to mental and physical well-being.

"The definition of domestic violence in the Protection of Women from Domestic Violence Act, 2005 includes harm or injuries that threaten health, safety, life, limb, or well-being, whether mental or physical, as well as emotional abuse." - Braj Kishore Prasad @ Suraj Prasad Vs The State Of Bihar (Supreme Court of India, 2019) [2019 INSC 485]

The judiciary has recognized that economic deprivation, such as the denial of maintenance or the cancellation of financial resources, constitutes a persisting form of domestic violence. The Bombay High Court provided a granular breakdown of how non-physical acts constitute violence under the Act. - WP/647/2016 of ROHIT JOHN SHENAI AND ORS Vs CRYSTAL ROHIT SHENAI AND ANR (Bombay High Court, 2016)

"The beauty of the Act lies in its definition of 'Domestic Violence', which has been defined in the most widest possible terms to include not only the physical abuse but also all sorts of actual acts, like mental torture, sexual, verbal, emotional or economic abuse and even the threat and apprehension thereof."

"'Domestic Violence' which is defined under this Act, is not limited to the physical harassment or physical violence but it also extends much beyond that and it is with an intention to secure her right to live with dignity, which is guaranteed under Article 21 of the Constitution of India, as fundamental right." - WP/647/2016 of ROHIT JOHN SHENAI AND ORS Vs CRYSTAL ROHIT SHENAI AND ANR (Bombay High Court, 2016)

Aspect of Relief	PWDVA, 2005 (Civil/Protective)	Section 498A IPC (Criminal)	Hindu Marriage Act, 1955 (Matrimonial)
Primary Objective	Protection, residence, and immediate sustenance.	Punishment and deterrence for matrimonial cruelty.	Regulation of marital status (Divorce, Restitution).
Scope of Violence	Broad: Physical, emotional, verbal, sexual, economic.	Narrow: Cruelty likely to drive to suicide or grave injury.	Cruelty as a ground for divorce (Subjective test).
Eligible	Wives, live-in	Legally wedded	Legally
Applicants	partners, sisters, mothers, widows	Wives only	Wedded spouses

2.2 GAPS IN INSTITUTIONS

The PWDVA has a strong legal basis, but systemic implementation deficiencies and administrative failings make it much less effective. Section 12(5) of the Act says that the Magistrate must try to decide every application within sixty days of its first hearing. However, court recognition shows that this schedule is often broken, making the law's protective intent meaningless.

Section 12(5) of the PWDVA, 2005: Sets a 60-day deadline for processing applications to make sure that victims of domestic abuse get justice quickly.

The Supreme Court has publicly said that the long wait for PWDVA petitions goes against the purpose of this social welfare law. - RAJNESH Vs NEHA & ANR (Supreme Court of India, 2020) [2020] 13 S.C.R. 1093, 2020 INSC 631

The main reason for this systemic delay is that there aren't enough committed Protection Officers (POs) and Service Providers aren't being registered. The employment of one

Protection Officer for a whole district has been ruled by the courts to be a mockery of the Act.

- The High Court case WPIL/153/2012 of SUO MOTU Vs STATE OF GUJARAT

The judiciary has also rejected the administrative half-measure of giving existing workers, such Child Development Project Officers, PO tasks as a "additional charge" because it is just a front that does not meet the State's legal obligations. - CWJC/14051/2006 of SHRUTI SINGH, ADVOCATE Vs PRESS COUNCIL OF INDIA and OTHERS (Patna High Court, 2008)

Recent judicial interventions continue to stress the importance of the statutory timelines, forcing Magistrates to follow the law. - BANDANA SHARMA Vs PRAKASH VELCHA, WPMS/3028/2023 (High Court of Uttarakhand, 2023)

In addition to problems with infrastructure, important gaps in procedures make things worse for victims. It can take up to six months to serve notices to respondents, which stops protective measures from starting. Also, "mandatory counselling" often puts keeping the family together ahead of the victim's protection. This method doesn't take into consideration the "learned helplessness" loop, which is when victims of long-term abuse are mentally forced to make up with their abusers, which keeps the cycle going.

The lack of awareness among police and judges makes these institutional failures even worse, turning the legal process into a second source of pain.

Institutional Gap	Statutory Mandate	Practical Reality
Disposal Timeline	60 days from the first hearing (Sec 12(5)).	Multi-year pendency; notices undelivered for 6+ months.
Protection Officers	Dedicated, full-time appointments (Sec 8).	"Additional charge" to existing staff; severe understaffing.
Counseling Focus	Victim safety and rehabilitation (Sec 14).	Forced reconciliation; ignoring "learned helplessness".

2.3 GAPS IN THE LEGAL FRAMEWORK

A thorough legal study requires a fair evaluation of the laws that are in place. The PWDVA and Section 498A IPC were created with good intentions, but the courts have noticed that they are being used in ways that are not intended. Moreover, the gender-specific definition of "aggrieved person" in the Act creates a substantial deficiency in the response to domestic violence against cisgender males, prompting essential enquiries about equality under Article 14.

Section 498A of the Indian Penal Code, 1860, punishes husbands and their families for being harsh. The Supreme Court has warned that this provision is often used as a weapon instead of a shield.

The courts have harshly condemned the automatic arrest procedures and the tendency to include whole families in marriage conflicts. - ARNESH KUMAR Vs. STATE OF BIHAR & ANR (Supreme Court of India, 2014) [2014] 8 S.C.R. 128, 2014 INSC 463]

This usage has been theoretically condemned as "legal terrorism," although the Court believes that such misuse does not undermine the legitimacy of the law itself. - SUSHIL KUMAR SHARMA v. UNION OF INDIA AND OTHERS (Supreme Court of India, 2005) [2005] SUPP. 1 S.C.R. 730, 2005 INSC 299]

The primary responsibility for this misuse rests with institutional deficiencies, particularly the investigating agencies operating without due diligence. - SOCIAL ACTION FORUM FOR MANAV ADHIKAR AND ANOTHER VS. UNION OF INDIA MINISTRY OF LAW AND JUSTICE AND OTHER (Supreme Court of India, 2018) [2018] 12 S.C.R. 19, 2018 INSC 820]

Criminal procedures predicated on general and sweeping claims against distant relatives, absent the specification of distinct responsibilities, represent a clear misuse of the legal process. - KAHKASHAN KAUSAR @ SONAM & OTHERS Vs. the State of Bihar & ORS (Supreme Court of India, 2022) [[2022] 1 S.C.R. 558, 2022 INSC 163]

The courts must carefully look at this pattern of retaliatory filings as a "counterblast" to divorce cases. (See: Dara Lakshmi Narayana & Others vs. State of Telangana & Another (Supreme Court of India, 2024) [[2024] 12 S.C.R. 559, 2024 INSC 953]). It is important to note that there are many real cases of systemic abuse for every case of misuse. The probability of misuse is not enough to warrant weakening the protective framework.

The Gender Neutrality Debate: The PWDVA has seen a lot of changes in the courts when it comes to gender neutrality, especially when it comes to the people who commit violence. The Supreme Court ruled that the term "respondent" may not only refer to "adult male persons." This was because they knew that female relatives might also commit domestic violence. - Hiral P. Harsora and others versus Kusum Narottamdas HARSORA AND ORS (Supreme Court of India, 2016) [2016] 9S.C.R. 515, 2016 INSC 955]

This progressive position was preceded by judicial acknowledgement that the legislators did not intend to exclude female relatives from the scope of a complaint. - SOU. SANDHYA MANOJ WANKHADE vs. MANOJ BHIMRAO WANKHADE & ORS (Supreme Court of India, 2011) [[2011] 2 S.C.R. 261, 2011 INSC 83]

Additionally, court interpretation has developed to acknowledge transgender individuals who have transitioned to the female gender as 'aggrieved persons' under the Act. - WP/4037/2021 of VITHAL MANIK KHATRI Vs SAGAR SANJAY KAMBLE @ SAKSHI VITHAL KHATRI AND ANR (Bombay High Court)

Despite these inclusive advances, a significant legislative deficiency persists: cisgender male victims of domestic violence are wholly omitted from the definition of a 'aggrieved person.' While gender-specific protection was a calculated legislative decision addressing established historical disparities, the total absence of civil remedies for male victims under Indian law highlights an urgent necessity for comprehensive, gender-neutral domestic violence legislation.

2.4 CORPORATE LIABILITY: TRENDS IN INDIA AND AROUND THE WORLD

Domestic violence is conventionally regarded as a private familial affair; nonetheless, its consequences invariably extend into public and corporate domains, especially in relation to economic abuse. The denial of financial resources, coerced resignation, or workplace harassment by an abusive partner directly affects corporate settings. Internationally, frameworks like the ILO Convention

190 acknowledge that domestic abuse influences employment, productivity, and health, hence imposing a responsibility on firms to alleviate its effects by supporting workplace practices. In India, while direct corporate responsibility for domestic violence is still in its early stages, the broad definition of economic abuse in the PWDVA means that businesses must make sure that

their procedures don't accidentally help an abusive spouse steal money.

This junction illustrates the evolving character of domestic violence jurisprudence, particularly evident in the dynamic judicial trends interpreting the fundamental sections of the PWDVA.

2.4.1 The Indian Legal System and Current Court Trends

The Indian court has been the main force behind the PWDVA's growth. Two significant areas of disagreement have shaped this change: the meaning of "shared household" and the acceptance of "live-in partners" as part of domestic partnerships.

Interpretive Battleground 1: The Shared Household (Section 2(s)): *The first judicial approach was very harsh. The Supreme Court confined the notion of a shared household in 2006 to residences owned or rented by the husband. They were worried that a broader definition would cause societal upheaval.* - S.R. BATRA AND ANR. v. SMT. TAR UNA BATRA (Supreme Court of India, 2006) [2006] SUPP. 10 S.C.R. 1206, 2006 INSC 1026]

In 2020, a Three-Judge Bench clearly disregarded this narrow baseline and used a purposive construction instead. The Court ruled that the husband's lack of ownership does not change the fact that the home is a shared household. It called the right to live there a "new and higher right." - SATISH CHANDER AHUJA Vs SNEHA AHUJA (Supreme Court of India, 2020) [2020] 12 S.C.R. 189, 2020 INSC 599]

Year	Landmark Judgment	Judicial Shift in 'Shared Household' Interpretation
2006	<i>S.R. Batra v. Taruna Batra</i>	Restrictive: Limited to property owned/rented by the husband.
2016	<i>Hiral P. Harsora v. Kusum Harsora</i>	Constitutional: Struck down 'adult male', allowing claims against female in-laws.
2020	<i>Satish Chander Ahuja v Sneha Ahuja</i>	Purposive: Overruled Batra; husband's ownership is not required.
2022	<i>Prabha Tyagi v. Kamlesh Devi</i>	Expansive: Established the doctrine of 'constructive residence'.

Interpretive Battleground 2: Live-in Partners (Section 2(f)): The PWDVA marks a significant transformation by acknowledging relationships "in the nature of marriage," thereby providing a protective framework for women in live-in relationships who were before denied marital remedies. - CHANMUNIYA V. VIRENDRA KUMAR SINGH KUSHWAHA & ANR (Supreme Court of India, 2010) [[2010] 12 S.C.R. 223, 2010 INSC 681]

The Supreme Court set the "common law marriage" requirement to stop people from using this statute for "live-in relationships simplicitor." This meant that couples had to act like they were married in public. - The Supreme Court of India ruled in VELUSAMY Vs. D. PATCHAIAMMAL (2010) [2010] 13 S.C.R. 706, 2010 INSC 716.

This was subsequently formalised into a definitive 8-point judicial framework to evaluate the overall nature of the relationship, encompassing duration, resource sharing, and home arrangements. - INDRA SARMA Vs V.K.V. SARMA (Supreme Court of India, 2013) [[2013] 14 S.C.R. 1019, 2013 INSC 786]

2.4.2 The International Legal Framework and Trends in the Courts

The growth of the Indian legal system is similar to the growth of international laws. The Matrimonial Homes Act of 1967 and the Family Law Act of 1996 in the UK were the first to adopt the idea of occupation orders. These laws gave spouses the right not to be evicted no matter who owned the property. The Violence in the United States is also

The Violence Against Women Act (VAWA) stresses the need for full civil protection orders that cover not just physical violence but also economic and psychological abuse. The Indian Supreme Court's interpretation of the PWDVA is in perfect agreement with the CEDAW Committee's General Recommendation No. 19 (and updated No. 35), which says that violence against women is a form of discrimination that makes it very hard for women to enjoy their rights and freedoms on an equal basis with men. By giving the PWDVA a purpose, Indian courts have raised the level of domestic law to match these strict international human rights standards.

2.5 REMEDIES AND RECOMMENDATIONS

To close the gap between the PWDVA's legal intent and how it is actually enforced, real reform is needed. To fix the systematic delays and lack of interest from institutions, targeted measures

must be made:

1. Appointing Dedicated Protection Officers: State Governments shall carefully follow Section 8 of the PWDVA by hiring full-time Protection Officers who are only responsible for protecting people. To make sure that victims get the help they need, it should be against the law to give these tasks to current administrative staff as "additional charge."

2. Setting up Gram Nyayalayas: To clear out the huge backlog of cases and make sure that justice reaches the people, the Gram Nyayalayas must be set up as soon as possible. This will make the process of deciding cases less centralised and help rural victims right away.

3. Speeding up Notice Service: The PWDVA Rules should make digital service methods (e-notifications, WhatsApp, email) legally valid primary modes of service so that respondents don't have to wait up to six months to get their notices.

4. Sensitisation and Training: Police officers, Protection Officers, and judicial magistrates must all go through mandatory, rigorous, and regular sensitisation training. Training modules must explicitly encompass the psychology of "learned helplessness" to avert coerced reconciliations during obligatory counselling sessions.

5. Gender-Neutral Civil Remedies: The legislature must consider the establishment of equivalent civil remedies for male and transgender victims of domestic violence, while preserving the protective emphasis on women, ensuring compliance with the constitutional directive of Article 14 without undermining the specific protections granted to women under the PWDVA.

3. CONCLUSION

Domestic violence remains a pervasive human rights violation, necessitating robust civil remedies beyond the limited criminal scope of Section 498A of the Indian Penal Code, and the Protection of Women from Domestic Violence Act, 2005 represents a transformative shift toward safeguarding victims' dignity and well-being rather than merely punishing offenders. The Indian judiciary has played a crucial role in advancing this welfare legislation through purposive interpretation, recognizing physical, emotional, and verbal abuse as forms of violence, while significantly expanding the concept of a "shared household": although *S. R. Batra v. Taruna Batra* initially adopted a restrictive view limiting residence rights, it was later

overruled in *Satish Chander Ahuja v. Sneha Ahuja*, which broadened protection to include properties owned by relatives of the husband, and further strengthened in *Prabha Tyagi v. Kamlesh Devi* by recognizing constructive residence rights; similarly, the ambit of “aggrieved person” has been widened to include women in relationships in the nature of marriage through cases like *Chanmuniya v. Virendra Kumar Singh Kushwaha*, *Indra Sarma v. V.K.V. Sarma*, and *D. Velusamy v. D. Patchaiammal*, while even extending protection to transgender women as seen in *Vithal Manik Khatri v. Sagar Sanjay Kamble*. Despite these progressive judicial developments, serious structural and institutional deficiencies undermine the Act’s effectiveness, including delays that violate the statutory 60-day disposal mandate highlighted in *Rajnish v. Neha* and the lack of adequate infrastructure, as noted in *Suo Motu v. State of Gujarat* and *Shruti Singh v. Press Council of India*, alongside concerns of misuse addressed in *Arnesh Kumar v. State of Bihar* and *Sushil Kumar Sharma v. Union of India*. Bridging the gap between law and practice requires a multi-pronged reform strategy: ensuring full-time dedicated Protection Officers in every district, enforcing strict judicial oversight of timelines, reassessing mandatory counselling provisions to prioritize victim safety, reconsidering the gender-specific scope of the Act or introducing parallel protections for all genders, and mandating comprehensive training and sensitization for police and the judiciary, as also emphasized in *Social Action Forum for Manav Adhikar v. Union of India*; ultimately, while the Act holds immense potential to secure a life of dignity free from violence, its true effectiveness depends on harmonizing progressive judicial interpretation with strong institutional implementation and continuous legislative reform.

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