
DOMESTIC VIOLENCE ACT, 2005: EFFECTIVENESS, CHALLENGES AND THE NEED FOR REFORMS

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ABSTRACT

The Protection of Women from Domestic Violence Act, 2005 (hereinafter 'PWDVA' or 'the Act') constitutes one of the most significant legislative interventions in Indian family law in the post-independence era. Enacted with the twin objectives of protecting women from domestic abuse and providing effective remedies, the Act departed markedly from the purely punitive approach of the Indian Penal Code, 1860, by introducing a civil remedial framework accessible to aggrieved women. This article critically examines the effectiveness of the PWDVA two decades after its commencement, analyses the structural, procedural, and sociocultural challenges that have impeded its implementation, and proposes a coherent agenda for legislative and institutional reform. Drawing upon judicial pronouncements, legislative history, empirical surveys, and comparative jurisprudence, the article argues that while the Act has made important conceptual advances, systemic gaps including inadequate infrastructure, judicial delays, ambiguities in statutory interpretation, and the exclusion of certain categories of victims have significantly curtailed its transformative potential. The article concludes by mapping a reform agenda that addresses these deficiencies without undermining the Act's protective ethos.

Keywords: Domestic Violence, PWDVA 2005, Protection Officer, Shared Household, Civil Remedies, Gender Justice, Legislative Reform, India.

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I. INTRODUCTION

Domestic violence is one of the most pervasive and under-reported forms of human rights violation across the globe, affecting women irrespective of class, caste, religion, or education. In the Indian context, the legislative response to this phenomenon was for long confined to Section 498A of the Indian Penal Code, 1860, a provision that, while criminal in character, proved inadequate to the multidimensional reality of domestic abuse. The enactment of the Protection of Women from Domestic Violence Act, 2005 represented a watershed moment the statute's Preamble explicitly acknowledged India's obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and declared the legislative intent of protecting women from violence occurring within the domestic sphere.²

The legislative campaign for a comprehensive domestic violence law had its origins in the advocacy of women's rights organisations in the 1990s. Scholars such as Indira Jaising highlighted the inadequacy of criminal law in protecting victims who sought relief short of criminal prosecution relief such as residence rights, maintenance, and injunctions against abusers.³ The PWDVA responded to this lacuna by creating an integrated civil framework operationalised through a network of Protection Officers, Service Providers, and Magistrates.

Yet, nearly two decades after the Act came into force on 26 October 2006, empirical data continues to reveal alarming levels of domestic violence in India. The National Family Health Survey (NFHS-5) for 2019–21 found that 29.3 per cent of ever-married women aged 18–49 had experienced spousal violence.⁴ This figure points to a substantial gap between legislative promise and ground reality, raising fundamental questions about the Act's effectiveness and the structural constraints that impede its operation.

This article proceeds in five parts. Part II surveys the salient features of the PWDVA. Part III assesses its effectiveness through empirical and jurisprudential lenses. Part IV identifies the principal challenges confronting the Act's implementation. Part V proposes a reform agenda. Part VI offers a conclusion.

² Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), Preamble.

³ Indira Jaising, 'Bringing Rights Home: Review of the Campaign for a Law on Domestic Violence' (1995) 30(16) Economic and Political Weekly 952.

⁴ National Family Health Survey (NFHS-5), 2019–21, Ministry of Health and Family Welfare, Government of India, 2022.

II. SALIENT FEATURES OF THE PWDVA, 2005

A. Broad Definitional Framework

One of the Act's most significant contributions is its expansive definition of 'domestic violence'. Section 2(a) defines 'aggrieved person' to include any woman who is or has been in a domestic relationship with the respondent and alleges domestic violence.⁵ The Act covers four types of abuse: physical, sexual, verbal/emotional, and economic.⁶ The inclusion of economic abuse a form of control not previously recognised in Indian law was particularly noteworthy, addressing financial coercion and deprivation of economic resources as recognised forms of harm.⁷

The concept of 'domestic relationship' under Section 2(f) is also broadly construed to include relationships by consanguinity, marriage, or a relationship in the nature of marriage, as well as family members living together.⁸ 'Respondent' under Section 2(q) encompasses any adult male member of the household, a definition subsequently subject to judicial expansion.⁹

B. Civil Remedial Framework

Unlike Section 498A IPC which is a criminal provision requiring proof beyond reasonable doubt the PWDVA provides civil remedies obtainable on a lower standard of proof. These include Protection Orders (Section 18), Residence Orders (Section 19), Monetary Relief (Section 20), Custody Orders (Section 21), and Compensation Orders (Section 22). The application mechanism under Section 12 permits an aggrieved person or any person on her behalf to present an application before a Magistrate.¹⁰

C. Institutional Architecture

The Act creates a novel institutional structure centred on the Protection Officer (PO), appointed by the State Government under Section 9.¹¹ The PO assists the aggrieved person in filing applications, ensures provision of medical examination, obtains legal aid, and maintains a list

⁵ Protection of Women from Domestic Violence Act, 2005, s 2(a).

⁶ Protection of Women from Domestic Violence Act, 2005, ss 18–22.

⁷ Protection of Women from Domestic Violence Act, 2005, s 3(iv).

⁸ Protection of Women from Domestic Violence Act, 2005, s 2(f).

⁹ Protection of Women from Domestic Violence Act, 2005, s 2(q).

¹⁰ Protection of Women from Domestic Violence Act, 2005, s 12.

¹¹ Protection of Women from Domestic Violence Act, 2005, s 9.

of Service Providers. Additionally, the State Government is empowered to notify Service Providers registered non-governmental organisations to render assistance to aggrieved persons. This tri-partite structure (Magistrate, Protection Officer, Service Provider) was designed to create a support ecosystem beyond the courts.

III. EFFECTIVENESS OF THE PWDVA: AN ASSESSMENT

A. Positive Contributions

The PWDVA has undeniably advanced gender justice in several respects. First, it has provided a civil forum to women who are unwilling to expose family members to criminal prosecution but nonetheless seek protection and relief. Second, the Act's broad definitional framework has enabled the inclusion of forms of abuse particularly emotional and economic that had been invisible to the law. Third, the residence order under Section 19 has been transformative in recognising a woman's right to reside in the shared household irrespective of her ownership of the property a right of particular significance in a country where very few women hold title to immovable property.¹²

Judicially, the Supreme Court and High Courts have significantly widened the ambit of the Act. In *Indra Sarma v V K V Sarma*,¹³ the Supreme Court held that a live-in relationship could constitute a 'relationship in the nature of marriage' for the purposes of the Act, thereby extending protection to a hitherto excluded category of women. In *Hiral P Harsora v Kusum Narottamdas Harsora*,¹⁴ the Supreme Court struck down the word 'adult' and 'male' from the definition of 'respondent', thereby enabling applications against female relatives and non-adult members a significant expansion of the Act's protective scope.

B. Empirical Record and Limitations

Notwithstanding these advances, the empirical record presents a sobering picture. The National Crime Records Bureau's Crime in India Report 2022 recorded 1,31,930 cases under the PWDVA a figure that, when set against NFHS-5 data suggesting that nearly 30 per cent of married women have faced spousal violence, indicates massive under-reporting and

¹² Aruna Kashyap, 'Treating Women and Girls as Afterthought: India's Response to Sexual Violence' (Human Rights Watch, 2013).

¹³ *Indra Sarma v V K V Sarma* AIR 2014 SC 309.

¹⁴ *Hiral P Harsora v Kusum Narottamdas Harsora* (2016) 10 SCC 165.

underutilisation of the statute.¹⁵

The Lawyers Collective's Monitoring and Evaluation Reports have repeatedly documented the gap between the legislative scheme and its implementation. The Seventh Report (2018) found that many States had not appointed sufficient numbers of Protection Officers, that Service Providers were underfunded, and that Magistrates who are also exercising jurisdiction under multiple other statutes were unable to comply with the Act's requirement of deciding applications within sixty days.¹⁶

IV. CHALLENGES IN IMPLEMENTATION

A. Infrastructural and Institutional Deficits

The most fundamental challenge facing the PWDVA is the inadequacy of the institutional infrastructure on which it depends. Protection Officers are frequently overburdened officials drawn from government departments typically social welfare who lack specialised training in domestic violence law and victim assistance.¹⁷ Several State Governments have appointed POs only in district headquarters, leaving sub-divisional and rural areas unserved.¹⁸ The absence of a dedicated cadre of Protection Officers, envisaged by the Act but not realised in practice, has critically impaired the first point of contact for victims.

Service Providers the voluntary organisations expected to supplement State capacity operate under severe resource constraints. Their notification by State Governments has been uneven and their funding inadequate.¹⁹ Some States have notified only a handful of Service

Providers, creating deserts of support for victims in large parts of the country.²⁰

B. Judicial Delays and Pendency

The Act mandates a hearing within three days of receipt of an application and disposal within

¹⁵ National Crime Records Bureau, 'Crime in India 2022' (Ministry of Home Affairs, Government of India, 2023) Table 5.1.

¹⁶ Lawyers Collective, 'Staying Alive: Monitoring & Evaluation Report on the Protection of Women from Domestic Violence Act, 2005' (7th Monitoring & Evaluation Report, 2018) 42.

¹⁷ Protection of Women from Domestic Violence Act, 2005, s 8; Protection of Women from Domestic Violence Rules, 2006, Rule 6.

¹⁸ Ministry of Women and Child Development, 'Report of the Expert Committee on the PWDVA, 2005' (Government of India, 2018) 14–15.

¹⁹ Lawyers Collective (n 16),55.

²⁰ *Ibid.*,56-58.

sixty days. In practice, these timelines are honoured in the breach. Domestic violence cases are heard by Magistrates who are simultaneously managing heavy criminal dockets. The resulting pendency, often spanning years, defeats the statute's urgency-oriented design.²¹ Long delays also heighten the risk that victims, particularly those in continuing domestic relationships, will withdraw complaints under pressure or economic compulsion.²²

C. Definitional and Interpretive Ambiguities

Several definitional ambiguities have generated inconsistent judicial interpretation. The concept of 'shared household' under Section 2(s) was controversially interpreted by the Supreme Court in *S R Batra v Taruna Batra*,²³ where it was held that a shared household could only be one in which the husband had a right or title. This narrow reading has been widely criticised as undermining the Act's residence rights and has been distinguished in subsequent High Court decisions.²⁴ Scholars have argued that the *Batra* interpretation renders Section 19 residence orders largely illusory in cases where the matrimonial home belongs to in-laws.²⁵

Similarly, the determination of what constitutes a 'relationship in the nature of marriage' for the purposes of live-in couples under Section 2(f) has led to divergent judicial outcomes,²⁶ with some courts imposing conditions such as cohabitation for a significant period that are not stipulated by the statute and that may exclude vulnerable women.²⁷

D. Sociocultural and Attitudinal Barriers

Implementation of the PWDVA is also constrained by deep-seated patriarchal attitudes within the apparatus of law enforcement and the judiciary. Research has documented instances of Magistrates advising parties to reconcile rather than adjudicating protection applications, and of police officers discouraging victims from filing domestic incident reports.²⁸ Such attitudes

²¹ Law Commission of India, '253rd Report on Commercial Division and Commercial Appellate Division of High Courts and Commercial Courts Bill, 2015' (2015); for domestic violence pendency see National Judicial Data Grid, district court pendency statistics (accessed 10 April 2026).

²² Mrinal Satish, 'Discretion, Discrimination and the Rule of Law: Reforming Rape Sentencing in India' (Cambridge University Press, 2017) 16.

²³ *S R Batra v Taruna Batra* (2007) 3 SCC 169.

²⁴ *Malathi v State of Kerala* (2014) 2 KHC 597 (Kerala HC).

²⁵ Jayna Kothari, 'The Protective Discrimination Regime and Domestic Violence: A Constitutional Analysis' (2008) 2 NUJS Law Review 47.

²⁶ Protection of Women from Domestic Violence Act, 2005, s 2(s); see also *D Velusamy v D Patchaiammal* (2010) 10 SCC 469.

²⁷ *Indra Sarma v V K V Sarma* AIR 2014 SC 309.

²⁸ Lawyers Collective, 'Staying Alive: Monitoring & Evaluation Report on the Protection of Women from

reflect the broader sociocultural normalisation of domestic violence a phenomenon documented by feminist scholars as rooted in the public-private divide that has historically exempted domestic relations from legal scrutiny.²⁹

Victims themselves face significant sociocultural barriers to accessing the Act, including economic dependence on the abuser, fear of social stigma, lack of awareness of legal rights, and concern for children.³⁰ Rural and tribal women face additional barriers of geographical remoteness and the absence of functional legal aid services.³¹

E. Exclusion of Certain Categories

Despite the Act's broad ambit, certain categories of victims remain excluded or inadequately protected. Men in abusive relationships, LGBTQ+ individuals, and same-sex couples cannot access the Act's protections.³² The Act's gender-specific framework though constitutionally justified by the disproportionate impact of domestic violence on women³³ leaves these groups without an equivalent civil remedial framework. Additionally, older women abused by daughters-in-law or female relatives struggled to access the Act prior to the Harsora judgment.³⁴

V. THE NEED FOR REFORMS: A PROPOSED AGENDA

A. Institutional and Infrastructure Reforms

The most urgent reform required is the creation of a dedicated, full-time cadre of Protection Officers with specialised training in domestic violence law, victim assistance, and traumainformed practice. The Expert Committee of the Ministry of Women and Child Development recommended in 2018 that Protection Officers be drawn from the social work profession and be given exclusive charge of domestic violence cases.³⁵ Adequate budgetary

Domestic Violence Act, 2005' (7th Monitoring & Evaluation Report, 2018) 42.

²⁹ Agnes Flavia, 'Law and Gender Inequality: The Politics of Women's Rights in India' (Oxford University Press, 1999) 204.

³⁰ Richa Nagar and Saraswati Raju, 'Women, NGOs and the Contradictions of Empowerment and Disempowerment' (2003) 35(1) *Antipode* 1.

³¹ *Majlis Manch v State of Maharashtra Writ Petition No 696 of 2008* (Bombay HC, 2012).

³² Prabha Kotiswaran, 'Beyond the Criminal Law: Rethinking Domestic Violence in India' (2020) 32(1) *National Law School of India Review* 1, 18–20.

³³ *Ahmedabad Women Action Group v Union of India* (1997) 3 SCC 573.

³⁴ *Hiral P Harsora v Kusum Narottamdas Harsora* (2016) 10 SCC 165.

³⁵ Ministry of Women and Child Development, Government of India, Report of the Expert Committee on Issues Relating to Implementation of the Protection of Women from Domestic Violence Act, 2005 (2018).

allocations must accompany this reform to support a robust network of short-stay homes, legal aid cells, and counselling services co-located with Protection Officer offices.

State Governments must be required through mandatory rules to notify a minimum number of Service Providers in proportion to population, extending coverage to taluka and block levels. Central funding for Service Providers should be institutionalised through a dedicated sub-head under the Nirbhaya Fund or an equivalent mechanism.

B. Statutory Amendments to Resolve Interpretive Ambiguities

Parliament should legislatively overrule the Batra interpretation of 'shared household' by amending Section 2(s) to explicitly include the house of the husband's parents and other relatives with whom the couple has resided. This amendment would align the Act with its protective purpose and with the international obligation under CEDAW to ensure that women are not rendered homeless as a consequence of domestic violence.³⁶

The definition of 'relationship in the nature of marriage' should be clarified by inserting a nonexhaustive list of criteria such as common residence, public representation as a couple, and duration of relationship to reduce judicial discretion and ensure consistency of outcomes for live-in partners.³⁷

Section 2(q) should be further amended to explicitly include female respondents and to clarify the position of non-adult respondents in light of the Harsora judgment, thereby providing legislative certainty.³⁸

C. Procedural Reforms to Address Delays

Fast-track domestic violence courts, similar to those established for sexual offences under the POCSO Act, should be established in all districts. The mandatory timeline of sixty days for disposal must be made enforceable through accountability mechanisms for Magistrates,

³⁶ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), art 2; Beijing Platform for Action (1995) para 125.

³⁷ Indra Sarma v. V.K.V. Sarma, (2013) 15 SCC 755.

³⁸ Hiral P. Harsora v. Kusum Narottamdas Harsora, (2016) 10 SCC 165.

including periodic performance reviews by the respective High Courts.³⁹

The Law Commission of India has recommended rationalisation of the overlap between PWDVA proceedings and matrimonial proceedings under other personal laws.⁴⁰ A unified family court jurisdiction capable of addressing domestic violence, custody, maintenance, and matrimonial relief in a coordinated manner would reduce the burden on victims of having to pursue multiple, fragmented proceedings.

D. Extending the Act's Protective Scope

In light of evolving social realities and constitutional imperatives following the *Navtej Singh Johar v Union of India* judgment decriminalising consensual same-sex conduct, the Parliament should consider enacting a gender-neutral domestic violence law that extends civil protection to all persons irrespective of sex or gender identity in domestic relationships.⁴¹ Alternatively, a parallel statute for male and LGBTQ+ victims may be enacted, modelled on the PWDVA framework.

Economic abuse provisions should be strengthened by explicitly including digital economic abuse such as the fraudulent diversion of digital assets, online accounts, and UPI-linked funds reflecting the increasing digitisation of household finances.

E. Awareness, Training, and Attitudinal Change

Legislative reform alone will not suffice in the absence of concurrent investment in awareness generation, training, and attitudinal transformation. Compulsory domestic violence sensitisation modules should be integrated into the training curricula of the judiciary, police, and administrative services.⁴² Sustained public awareness campaigns, with materials in regional languages and accessible to illiterate populations, should be implemented through Panchayati Raj institutions at the village level.

³⁹ Protection of Women from Domestic Violence Act, 2005, s. 12(5); Protection of Children from Sexual Offences Act, 2012; Law Commission of India, Report No. 245 on Arrears and Backlog: Creating Additional Judicial (Wo)manpower (2014).

⁴⁰ Law Commission of India, '243rd Report on Section 498A IPC' (2012) paras 5.1–5.9.

⁴¹ Prabha Kotiswaran, "Sexuality, Gender and the Law" in *Law and Society in India* (Oxford University Press, 2017).

⁴² Joint Committee on the Domestic Violence Bill, Report (Rajya Sabha Secretariat, 2004) 11.

VI. CONCLUSION

The Protection of Women from Domestic Violence Act, 2005 represents a landmark in India's journey towards gender justice. Its civil remedial framework, broad definitional scope, and institutional architecture were, at the time of enactment, progressive by any comparative standard. The Supreme Court's expansive interpretation of the Act's provisions in decisions such as *Harsora* and *Indra Sarma* has further reinforced its protective potential.

However, the substantial gap between the Act's promise and its performance documented in successive monitoring reports and reflected in macro-level data on the prevalence of domestic violence compels an honest reckoning with the statute's limitations. Infrastructural deficits, judicial delays, interpretive ambiguities, sociocultural barriers, and exclusionary gaps have collectively curtailed the Act's transformative impact. Twenty years after its enactment, the PWDVA stands in need of legislative renewal and institutional reinvigoration.

The reform agenda proposed in this article encompassing institutional restructuring, statutory amendments, procedural reform, scope expansion, and attitudinal change is grounded in the recognition that effective implementation of domestic violence law requires not merely textual precision but a reconfiguration of the State's institutional commitment to protecting its most vulnerable citizens. The PWDVA's potential to serve as an instrument of transformative constitutionalism can only be realised when the State honours, in practice, the solemn legislative promise inscribed in its Preamble.