

Domestic Violence and the Status of Women in India: A Socio-Legal Perspective

¹Rita Garg, ²Dr. Sandeep Saini, ³Prof. (Dr.) Subhash Kumar

¹Research Scholar, Geeta Global Law School, Geeta University

²Associate Professor, Geeta Global Law School, Geeta University

³Principal, Geeta Institute of Law, Panipat

Abstract

Domestic violence against women in India remains a pervasive and deeply entrenched issue that transcends social, economic, and geographic boundaries. Despite legislative progress, particularly through the enactment of the Protection of Women from Domestic Violence Act (PWDVA), 2005, the prevalence of intimate partner violence continues to pose a significant challenge to gender equality, justice, and human rights. This research paper undertakes a socio-legal inquiry into domestic violence in India, examining the historical status of women, the evolving legal framework, and the social and structural conditions that perpetuate abuse. It critically evaluates the PWDVA's effectiveness in addressing the multifaceted nature of domestic violence, focusing on its implementation across diverse social and regional contexts. The study concludes that while the PWDVA is progressive in its intent, its impact is hindered by implementation gaps, lack of awareness, and societal resistance. The paper offers evidence-based recommendations to strengthen legal enforcement, improve support services, and foster societal change aimed at eliminating domestic violence and empowering women in India.

Keywords: Domestic Violence, Women's Rights, Gender Equality, Legal Framework, Patriarchy

Introduction

Domestic violence against women is one of the most persistent and deep-rooted issues confronting Indian society. It cuts across all social, economic, and regional boundaries and remains a severe challenge to the realization of gender equality, women's rights, and social justice. According to national data using a revised form of the Conflict Tactics Scale (CTS), nearly 40% of Indian women report having experienced physical, sexual, or emotional abuse from an intimate partner during their lifetimes¹. The magnitude of this violence, often hidden behind closed doors, reveals a disturbing contradiction in a society where the home is traditionally seen as a safe and sacred space.²

This form of violence takes many shapes - physical assaults, psychological manipulation, sexual coercion, emotional degradation, and economic deprivation. What unites them is the assertion of power and control over women, frequently reinforced by long-standing patriarchal norms. While considerable progress has been made in India's legal and policy frameworks, particularly through the enactment of the Protection of Women from Domestic Violence Act (PWDVA), 2005,³ the ground reality continues to reflect widespread underreporting, inadequate support services, and the silencing of survivors.⁴ India's struggle with domestic violence must be understood in the context of its complex socio-cultural fabric, shaped by deeply entrenched patriarchy, caste hierarchies, and gendered power structures. These norms frequently relegate women to subordinate roles, restrict their mobility and autonomy, and justify the use of violence as a form of control or discipline.

The Protection of Women from Domestic Violence Act, 2005, was introduced as a landmark piece of legislation aimed at comprehensively addressing the issue. Unlike earlier laws that treated domestic violence primarily as a

¹ International Institute for Population Sciences and Ministry of Health and Family Welfare, Government of India, *National Family Health Survey-5 (2019-21): India Fact Sheet* (Government of India, 2021).

² Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press, New Delhi, 1999).

³ The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005).

⁴ Law Commission of India, *Report No. 243: Section 498A IPC* (Government of India, August 2012).

criminal matter under Section 498A of the Indian Penal Code, the PWDVA adopts a more holistic, civil remedy-oriented approach. It recognises multiple forms of abuse, ensures the right of women to reside in the shared household, and provides for protection orders, custody arrangements, and monetary relief.⁵ It also mandates the appointment of Protection Officers and promotes the involvement of support systems such as NGOs and service providers. However, despite its progressive intent, the implementation of the PWDVA has been inconsistent and uneven across states. Numerous challenges have hampered its effectiveness, including lack of awareness among women and law enforcement, inadequate training of officials, absence of support infrastructure like shelter homes or counselling centers, and societal pressures that discourage women from reporting abuse. In many cases, survivors are met with apathy, victim-blaming, or bureaucratic hurdles when seeking help.⁶

This research aims to critically analyse the phenomenon of domestic violence in India, situating it within the broader historical and socio-legal context.⁷ The study will examine the status of women through both traditional and contemporary lenses, considering how historical subjugation, colonial legal frameworks, and post-independence reforms have shaped the current environment. Central to this inquiry is an evaluation of the efficacy of the PWDVA, 2005, as a tool of legal redress and empowerment.⁸ It will explore both the strengths and limitations of the Act, identifying gaps in enforcement, disparities across regions and demographics, and barriers to justice for marginalized women. This research seeks to contribute to the academic and policy discourse on gender-based violence in India⁹. By bridging the gap between law and lived reality, the study aspires to offer evidence-based recommendations for strengthening legal protections, improving implementation, and addressing the root causes of domestic violence. Ultimately, the research advocates for a multi-pronged, inclusive approach that empowers women, dismantles patriarchal norms, and upholds their right to safety and dignity.¹⁰

Historical Status of Women

A. Position of Women in Ancient India

In ancient times, a woman's existence was largely predicated on male protection under the roles of father, husband, and son. This concept of masculine guardianship provided women with physical, economic, and social security but also subjected them to numerous physical, mental, and spiritual hardships. Marriage was considered both a religious and social obligation for men and women in ancient India. The ultimate societal goals were Dharma (righteousness), Artha (wealth), Kama (desire), and Moksha (liberation).

Scholars categorize ancient times into four main sub-periods, as outlined below:

(A) Vedic Period

(B) Epic Period

(C) Dharmashastra Era

(D) Period of Religious Unrest/Jainism and Buddhism

Marriage was not mandatory for women. Girls were typically married at the age of 16 or 17, with the period before marriage devoted to education. Daughters were not seen as liabilities or unwelcome guests in their parents' homes. The Rigveda consists of sukta and hymns. Vedic marriage chants emphasize that the bride should take charge of the household immediately upon marriage, often succeeding older relatives in domestic administration. Her opinions frequently carried weight in household matters. During the grihastha (householder), vanaprastha

⁵ Bina Agarwal, 'Gender and Command over Property: A Critical Gap in Economic Analysis and Policy in South Asia' 22(10) *World Development* 1455 (1994).

⁶ S. Anitha, 'Legislating Domestic Violence in India', 17(2) *Viol. Against Women* 141 (2011).

⁷ Kalpana Kannabiran and Ritu Menon, *From Mathura to Manorama: Resisting Violence Against Women in India* (Women Unlimited, New Delhi, 2007) 45.

⁸ Ratna Kapur and Brenda Cossman, *Subversive Sites: Feminist Engagements with Law in India* (Sage Publications, New Delhi, 1996).

⁹ Nishi Mitra, "Domestic Violence Legislation in India: The Journey of 15 Years," 1 *Indian Journal of Gender Studies* (2020).

¹⁰ United Nations Development Programme, Gender Equality Strategy 2023–2027 (UNDP, Bishkek, 2023).

(forest-dweller), and sannyasa (renunciate) stages of life, men considered women as equal partners in managing family affairs. Marriage was viewed as sacrosanct, and divorce was considered a violation of spiritual and occult norms. Widows were allowed to remarry, as evidenced by the common practice of a widow marrying her deceased husband's younger brother. Women who remained unmarried and lived with their parents into old age were referred to as amajur. The prevalence of the sati system is not mentioned in ancient Hindu literature, and there is no evidence of widow-burning during this period. Women's education was regarded as essential; the Atharvaveda states that "the success of a woman in her married life depends on her proper training during brahmacharya" (the stage of celibate learning).

B. Position of Women during Medieval Period

The rise of Islam in the 11th century raised aspirations for advancing the interests of oppressed populations. However, it also introduced attitudes and behaviors that neither improved women's status nor freed them from their societal bonds. When Hindu culture clashed with a culture vastly different from its own, societal leaders began creating rules and regulations to protect their interests, particularly concerning the status of women. Consequently, women were subjected to stringent limitations. Practices such as polygamy, sati, jauhar, child marriage, and the harsh treatment of widows—already prevalent during the Dharamshastric era—gained further traction throughout the medieval period. Women's lives became increasingly precarious, with growing restrictions on their rights and freedoms compounding their difficulties.¹¹

Before the arrival of Muslims, the purdah system was primarily practiced by royal families, nobles, and wealthy merchants, but it later extended to lower classes as well. Strict adherence to purdah led to the isolation of women from men outside their immediate families and from the outside world. The indigenous population sought to protect their women from what they perceived as the threat of Muslim invaders, who practiced polygamy and often captured women to keep in their harems. To safeguard their dignity, women's freedoms were further curtailed. Female infanticide became widespread, with girl children being buried alive to prevent dishonor. Among the Rajput's, the practice of sati—where women chose death over capture by invaders—was seen as the lesser evil. In Muslim society, marriage was a contractual agreement, and men had the unilateral right to divorce their wives. One man could marry multiple women and divorce them with minimal formalities. Without a system of alimony or post-divorce support, women were often left to fend for themselves. A woman's role was reduced to that of a man's plaything, a decorative ornament for the home. Her diversions were limited to activities such as knitting, painting, and music, while her duties revolved around cooking and cleaning.¹²

Child marriage was strictly enforced during this time. Girls were often married before puberty, with the age of eight being considered ideal. Early marriage led to early childbearing, which increased maternal mortality rates. Widows, particularly those without family support, were viewed as burdens. To escape the stigma and potential exploitation, many were coerced into self-immolation (sati), which was seen as a path to heavenly salvation. These and other oppressive customs significantly curtailed women's freedoms. As a result, during the medieval period, the position of women deteriorated to such an extent that they were stripped of almost all rights. With no access to education or resources, women were surrounded by ignorance and prejudice, leaving them in a state of perpetual subjugation.

C. Position of Women in Post-Independence Period

The period of independence began with a broad developmental strategy aimed at eradicating poverty, particularly addressing the needs of disadvantaged groups in the country, especially women. The framers of the Indian Constitution were acutely aware of the subservient and backward condition of women in India and made earnest efforts to improve their overall status. The introduction of the principle of equality through various provisions of the Indian Constitution, supplemented by legislation on issues such as marriage, divorce, inheritance,

¹¹ Rekha Singh, "Status of Women in Indian Society", 7 *Paideia Archive* 47 (1998).

¹² A. Surya Kumari, *Women's Studies: An Emerging Academic Discipline* (Gyan Publishing House, New Delhi, 1st edn., 1993).

maintenance, widow remarriage, the abolition of sati, dowry, and child marriage, laid the foundation for the progress of women in India.

As part of the Community Development Program, women's welfare machinery was established to oversee programs for women and children. This initiative also facilitated the promotion of Mahila Mandals, which were later strengthened and integrated into schemes for the development of women and children in rural areas.

The government has taken several measures to address violence against women in Indian society, including the establishment of commissions to investigate such cases. Recognizing the need for an organization dedicated to protecting women from violence, the government established the National Commission for Women under the National Commission for Women Act of 1990. Additionally, the Central Government enacted another significant law, the Protection of Human Rights Act of 1993, to further safeguard human rights, including those of women.

Concept Of Domestic Violence

The United Nations, in its 1993 Declaration, defined "violence against women" as any act of gender-based violence resulting in, or likely to result in, physical, sexual, or psychological harm or suffering to women, including threats, coercion, or arbitrary deprivation of liberty, in both public and private life. It recognizes three areas of violence: within the home, in wider society, and violence sanctioned or committed by the state.

"Domestic violence," according to the UN, involves acts or omissions within relationships, often referring to physical assaults including physical and sexual harm. Consequences range from bruises to death, and seemingly minor incidents may intensify over time. Psychological abuse—repeated insults, confinement, and deprivation of resources—is also included. Scholars Johanna Bond and Robin Phillips stress that gender-based violence undermines women's safety and autonomy.¹³

Domestic violence refers to intentional acts by a man or his family that harm a woman, causing her to flee, self-harm, or suffer physical or mental damage. This includes harassment leading to distress or coercing her into unwanted sexual activity. Omissions or behaviors causing mental agony, such as treating her as a burden or using derogatory language, also fall within this definition.¹⁴

Domestic violence manifests in four main forms: physical, mental, sexual, and economic abuse. While physical violence is the most visible, all forms can have lasting effects. Physical Abuse includes forceful acts like choking, slapping, punching, kicking, and the use of weapons. It may involve locking victims in/out, forced drug use, or denial of food, medicine, or sleep. Emotional Abuse attacks the victim's self-esteem with constant insults and humiliation. This may include blaming, comparisons, silent treatment, or emotional blackmail such as threatening self-harm. Sexual Abuse involves sexual assault, harassment, or coercion. Examples include pressuring for sex, harming genital areas, using degrading language, or controlling reproductive rights. Financial Abuse includes restricting access to money, providing minimal funds, preventing employment, forcing signatures, or controlling joint resources. Psychological Abuse refers to intimidation and fear tactics. Persistent and serious behavior such as isolating the victim, restricting movement, or threats of violence qualify. A single incident usually isn't enough for legal action. Spiritual or Religious Abuse manipulates beliefs for control. It includes using religious doctrine to justify abuse, forcing religious practices, denying medical care for religious reasons, or using religious leaders to dominate the victim.

Indian Perspective on Domestic Violence

Domestic abuse affects women across all ages, ethnicities, marital statuses, education levels, occupations, family structures, financial conditions, and geographical locations. While it occurs within families, its effects extend far beyond, impacting women's autonomy, productivity, ability to care for themselves and their children, and overall quality of life. Domestic abuse involves not only physical harm but also coercion, threats, or force to compel a spouse into actions, including sexual acts, against their will. It can also include confining or detaining the spouse

¹³ P.V. Kane, *History of Dharmaśāstra*, Vol. II 316 (Bhandarkar Oriental Research Institute, Poona, 1974).

¹⁴ A.S. Altekar, *The Position of Women in Hindu Civilization* 9 (Motilal Banarsidass, Delhi, 1962).

without consent. These actions collectively constitute a gross violation of women's human rights, depriving them of dignity, safety, and self-respect.¹⁵

Domestic violence against women often manifests as a cycle of abuse, recurring in various forms throughout their lives. In societies with a strong preference for male children, girls may face violence as early as infancy through practices such as sex-selective abortions or female infanticide. These discriminatory practices continue during childhood and youth, where violence may take the form of forced hunger, denial of medical care and education, incest, female genital mutilation, early marriage, or forced prostitution or bonded labour. In adulthood, many women endure physical violence, sexual assault, and even murder at the hands of intimate partners. Additional forms of violence include forced pregnancy, abortion, or sterilization, along with harmful cultural practices such as dowry violence, sati, and honour killings. In later life, widows and elderly women may face coercion into suicide or homicide due to economic motives, alongside sexual, physical, and psychological abuse, often perpetuated by close relatives or caregivers.

I. Criminal Law Dealing with Domestic Violence

The Indian Penal Code (IPC) provides several provisions to protect women from domestic violence. These laws address crimes targeting women's mental and physical well-being. Some relevant provisions are as follows:

(i) Dowry Death

The practice of dowry involves gifts or money given to a bride by her family during her wedding. Over time, this tradition has turned into a source of exploitation. In some cases, if a bride's family fails to meet dowry demands, the bride may be tortured or even killed by her husband and in-laws. Section 304-B of the IPC, introduced in 1986, addresses dowry deaths. It defines dowry death as the death of a woman caused by burns, bodily injuries, or under unusual circumstances within seven years of marriage, provided it is established that she was subjected to cruelty or harassment by her husband or in-laws in connection with dowry demands. Perpetrators can face imprisonment of at least seven years, extendable to life imprisonment.

The Indian Penal Code provides a very stringent punishment for persons convicted under Section 304-B. Any person who commits dowry death shall be punished with imprisonment for a term which - (i) Shall not be less than seven years. (ii) But may be extended to imprisonment for life.

In **Shanti v. State of Haryana**, the Supreme Court examined whether Sections 304-B and 498-A of the IPC are mutually exclusive. The Court observed that these provisions address two distinct offenses and are not mutually exclusive. Under Section 304-B, "dowry death" is criminalized, and the death must occur within seven years of marriage. Section 498-A, on the other hand, does not specify any such time frame and applies to cases of cruelty against the wife at any point after marriage. The Court also clarified that nothing in the IPC prevents the application of Section 302 (murder) if the conditions for Section 304-B are met. In cases where dowry death occurs after seven years of marriage, other provisions of the IPC, such as Sections 300, 302, and 304, are applicable.¹⁶

In another case, the Supreme Court criticized ineffective police investigations in a disturbing instance involving a girl named Pushpa. She was allegedly burned by her mother-in-law and locked in the kitchen. Neighbour's, hearing her cries for help, forced open the bolted door and took her to the hospital. Pushpa's husband and mother-in-law, who were present at the house, refused to assist in taking her to the hospital. Before her death, Pushpa provided a statement to the police, corroborated by witnesses, in which she accused her mother-in-law of dousing her with kerosene and setting her on fire. Pushpa made similar statements to the doctor and her father. The Supreme Court observed that the investigation appeared to have been deliberately slowed down by the police. It criticized the police for failing to prosecute Pushpa's brother-in-law, who was seen fleeing the scene, and for not charging Pushpa's husband, whose complicity was evident as he stood by and refused to save her¹⁷.

¹⁵ Sheela Saravanan, *Violence Against Women in India: A Literature Review* (Institute of Social Studies Trust, March 2000).

¹⁶ *Shanti v. State of Haryana*, (1991) 1 SCC 371.

¹⁷ *Lichhama devi v. State of Rajasthan*, AIR (1988) SC 1785.

In the case of **Masood Ahmed v. State**, the Court ruled that the case did not qualify as dowry death because the evidence on record did not establish cruelty or harassment in connection with dowry demands. The trial court had convicted the deceased's in-laws and husband under Sections 304-B and 498-A. However, the Delhi High Court concluded that the demand for Rs. 10,000 and a color television did not constitute dowry. Although the Court acknowledged the demand of Rs. 10,000 for the husband's business, it determined that this did not amount to a dowry demand, and harassment related to this request could not be considered dowry-related. In an ostensibly contradictory ruling, the Court noted that when the deceased's parents expressed their inability to meet these demands, the deceased was subjected to severe harassment. It found that the deceased refused to return to her husband's residence after her mother-in-law spat in her face. While the exact events leading to her death were unclear, the Court concluded that it was evident the girl had committed suicide.¹⁸

(II) Forceful Termination of Pregnancy

Female infanticide and pressuring a wife to terminate her pregnancy are both forms of domestic abuse recognized as crimes under the Indian Penal Code. Sections 312 to 316 of the Indian Penal Code prescribe higher penalties for instances where the offense of miscarriage is deemed more serious. Section 312 makes it illegal to cause a miscarriage with the woman's consent, whereas Section 313 makes it illegal to cause a miscarriage without her consent.

Section 313 of the IPC punishes only the person who procures the abortion, while Section 312 of the IPC penalizes both the woman and the procurer. Section 314 of the IPC imposes punishment if a woman's death is caused by an act done with the intent to induce a miscarriage. If the act is performed without her consent, a higher punishment is prescribed. Section 315 criminalizes any act committed with the intent to prevent a child from being born alive or to cause its death after birth. Sections 315 and 316 of the IPC explicitly make the murder of a female child a criminal offense. The offenses described in Sections 312 to 316 are cognizable, non-bailable, and non-compoundable, and they are triable in the Court of Session.¹⁹

(III) Abetment of Suicide

The laws regarding abetment of suicide often arise in the context of domestic abuse, particularly against women who are harassed for dowry and driven to take their own lives. Courts have ruled that persistent dowry demands, torture, brutal behaviour, and insults—such as accusing a woman of carrying an illegitimate child—that lead to suicide constitute abetment of suicide²⁰. Section 306 of the Indian Penal Code addresses abetment of suicide. In simple terms, abetment of suicide occurs when one person instigates another to commit suicide with a clear intention and takes deliberate actions to drive the other person to do so. Section 306 defines abetment of suicide as an offense punishable by imprisonment for up to 10 years, or, in extreme cases, by the death penalty.

There are three ways in which a person can be held responsible for abetment of suicide:

1. Inciting someone to commit suicide,
2. Being a member of a conspiracy to force someone to commit suicide, or
3. Intentionally assisting someone in committing suicide by either acting or failing to act where there is a legal obligation to do so.

In relation to Section 113A of the Indian Evidence Act, the Supreme Court has clarified that courts may infer abetment of a woman's suicide by her husband or relatives if the following two conditions are satisfied:

- (a) the woman committed suicide within seven years of her marriage, and
- (b) her husband or relatives subjected her to cruelty.

¹⁸ *Masood Ahmed v. State*, (1991) 2 HLR 556.

¹⁹ Miscarriage is synonymous with abortion and means expulsion of the immature foetus at any time before it reaches full growth

²⁰ *Gurbachan Singh v. Satpal Singh*, (1990) 1 SCC 445; *Pawan Kumar v. State of Haryana*, (1998) 3 SCC 309; *State of Punjab v. Iqbal Singh*, (1991) 3 SCC 1; *Naresh Kumar v. State of Haryana*, (1994) SCC (Cri) 402).

In *Gurbachan Singh v. Satpal Singh*, Ravinder Kaur was stated to have committed suicide by spraying kerosene oil on her body before setting herself on fire. The girl's father testified that during his visit, his daughter complained about her in-laws mistreating her for dowry and accusing her of having an illegitimate child. Two days before the incident, the girl's sister also visited her and confirmed complaints about the in-laws' abusive behavior. The Supreme Court ruled that, in such circumstances, direct evidence is rarely available, and circumstantial evidence, along with the behavior of the accused, must be considered²¹.

II. Civil Law Relating to Domestic Violence

Indian civil law does not recognise domestic violence as an issue in itself. The only specific recognition of domestic violence is the concept of 'cruelty' as a ground for divorce and judicial separation. Other civil laws relevant to situations of domestic violence are with respect to maintenance, alimony, and matrimonial home. There is no specific remedy to a spouse who does not wish to move for a divorce or judicial separation. Further, domestic violence in a non-matrimonial situation is not recognised. In such cases, one has to resort to general civil law.

Remedies addressing the violence itself, such as non-molestation orders available in other jurisdictions, both in matrimonial and non-matrimonial situations, are not explicitly recognised under Indian civil law. It follows that for civil remedies against domestic violence per se would have to be found in the Specific Relief Act, the Civil Procedure Code, and also, the Law of Torts, which prohibits certain kinds of harmful activities and provide for remedies either damages or injunction or both.

Judicial Separation or Divorce on Ground of Cruelty

Cruelty is a recognized ground for divorce and judicial separation under all Indian personal laws, except the Special Marriage Act. The Dissolution of Muslim Marriages Act, 1939, was the first Indian law to establish cruelty as a ground for divorce, enabling a Muslim wife to seek a divorce if her husband treated her cruelly. This Act defined cruelty broadly, encompassing behaviors beyond physical assault.²²

The Special Marriage Act of 1954 extended relief to a limited group of women by recognizing cruelty as a ground for divorce. However, a Hindu woman married under the Hindu Marriage Act of 1955 had to wait until the 1976 amendment to seek a divorce based on cruelty by her husband.

Similarly, until the 1988 amendment to the Parsi Marriage and Divorce Act, 1936, a Parsi woman could only obtain a divorce for cruelty if her husband inflicted "grievous hurt." This was narrowly defined to include acts such as emasculation, permanent loss of a limb, an eye, or hearing in one ear, permanent disfigurement of the head or face, or any harm endangering her life.

For Christian women, before the Indian Divorce Act of 1869 was amended in 2001, cruelty simpliciter was not sufficient grounds for divorce. It was necessary to prove both cruelty and adultery, with the adultery required to be of an aggravated nature.

Mental cruelty, a form of domestic violence, includes actions that cause mental or emotional distress. For instance, a husband indulging in extramarital affairs or threatening to marry another woman constitutes cruelty. There is no greater cruelty than forcing a chaste wife to submit to the advances of others for monetary gain, including prostitution.²³

The law also considers it cruel for a husband to demand that his wife reveal marital confidences. Additionally, a mere accusation of unchastity can cause significant mental anguish and qualify as cruelty. Therefore, legal cruelty is not limited to physical violence; it also includes actions that jeopardize a woman's health or significantly affect her happiness. Judicial interpretations have expanded the definition of "cruelty" in the matrimonial context to include the following acts:

²¹ *Gurbachan Singh v. Satpal Singh*, (1990)1 HLR 353 SC.

²² Avinash Kumar, "Private Violence, Public Wrong and Human Rights: Reconceptualizing Domestic Violence in India", 116 CrLJ 269 (Sept. 2010).

²³ Mononita Das, "Cruelty – A Part and Parcel of Domestic Violence: The Legal Relief for Indian Women", XXX(4) Indian Bar Review 681 (2003).

- Refusal to engage in sexual intercourse.
- Insistence on unacceptable sexual activities.
- Beating, kicking, slapping, or punching a spouse.
- Constant quarrelling and nagging.
- Adultery.
- Dowry demands after marriage.

Some of these acts constitute domestic violence, though the behaviour does not have to be illegal to qualify as "cruelty." The legal concept of cruelty is not confined to physical harm; any conduct by the husband that renders cohabitation and the fulfilment of marital duties unbearable or oppressive is considered cruel.

Maintenance

Many women face the recurring problem of insufficient funds to initiate and sustain legal proceedings after their marriage ends. Most personal laws include provisions for providing maintenance to women during legal proceedings, enabling them to continue litigation. Maintenance pendente lite, also known as interim or temporary maintenance, is awarded while the matter is pending in court.

Most personal laws also provide for lifelong alimony to address a practical and serious issue faced by women following divorce: homelessness and lack of financial security. Alimony refers to a court-ordered payment of a specified sum at regular intervals after all legal proceedings have concluded.

In addition to maintenance under marital laws, Hindu women can seek support under the Hindu Adoption and Maintenance Act, 1956. This Act allows a woman to claim maintenance and separate residence from her spouse, without filing for divorce, if he has committed matrimonial offenses such as cruelty or adultery.²⁴

Section 38 of the Indian Divorce Act has been criticized for its adverse impact on women, as it permits the court to appoint a trustee to manage support payments on behalf of the wife. This provision effectively treats a woman as a minor.

Conclusion And Suggestion

Domestic violence in India remains a deeply entrenched social issue, rooted in centuries of patriarchy, cultural norms, and gender inequality. Despite constitutional guarantees of equality and the enactment of the Protection of Women from Domestic Violence Act (PWDVA), 2005, the lived experiences of many Indian women remain marked by violence and oppression. The PWDVA expanded the definition of domestic violence to include not just physical abuse, but also emotional, sexual, verbal, and economic abuse. It also introduced important civil remedies such as protection orders, residence rights, and maintenance. However, the progressive intent of the law is undermined by systemic failures in its implementation and enforcement.

Several barriers limit the effectiveness of the PWDVA. Many women are still unaware of their rights under the law, especially in rural, tribal, and marginalized communities. Protection Officers, who are central to the law's implementation, are either not appointed or lack the training and resources to perform their duties. Shelters, legal aid, and counselling services are often inaccessible or underfunded. Law enforcement agencies and the judiciary frequently display a lack of gender sensitivity, and the slow pace of legal proceedings further discourages victims from seeking justice. Social stigma, fear of retaliation, and concerns about family honour also compel many women to remain silent and endure abuse. Addressing domestic violence requires a multifaceted approach that goes beyond legal remedies. First and foremost, the government must strengthen the implementation infrastructure by ensuring timely appointment and proper training of Protection Officers, expanding and funding shelter homes, establishing One Stop Crisis Centers (OSCCs) in every district, and monitoring the delivery of services. Awareness

²⁴ The Hindu Adoptions and Maintenance Act, 1956 (Act 78 of 1956).

about the PWDVA and women's rights should be promoted through community-based campaigns, school education, and media outreach, with special attention to vulnerable communities.

Law enforcement personnel, judges, and magistrates should undergo mandatory gender-sensitization training to shift attitudes and reduce victim-blaming. Civil society organizations, NGOs, and local women's groups should be integrated into both prevention and response strategies, as they often have greater community trust and can provide crucial support at the grassroots level. Supporting these organizations through funding and training is essential. Economic empowerment of women is critical in enabling them to leave abusive environments. This can be achieved through skill development programs, employment opportunities, microfinance schemes, and educational initiatives. Including gender equality, consent, and respectful relationships in school curricula can promote long-term attitudinal change among the younger generation. Regular data collection and monitoring, with attention to caste, class, religion, and geography, is essential to design targeted interventions. Establishing fast-track courts for domestic violence cases and providing legal aid and psychological counselling within the court system will help ensure timely and survivor-centred justice.

References

- [1] A.S. Altekar, *The Position of Women in Hindu Civilization* 9 (Motilal Banarsidass, Delhi, 1962).
- [2] Avinash Kumar, "Private Violence, Public Wrong and Human Rights: Reconceptualizing Domestic Violence in India", 116 CrLJ 269 (Sept. 2010).
- [3] Bina Agarwal, 'Gender and Command over Property: A Critical Gap in Economic Analysis and Policy in South Asia' 22(10) *World Development* 1455 (1994).
- [4] Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press, New Delhi, 1999).
- [5] *Gurbachan Singh v. Satpal Singh*, (1990) 1 SCC 445; *Pawan Kumar v. State of Haryana*, (1998) 3 SCC 309; *State of Punjab v. Iqbal Singh*, (1991) 3 SCC 1; *Naresh Kumar v. State of Haryana*, (1994) SCC (Cri) 402).
- [6] *Gurbachan Singh v. Satpal Singh*, (1990)1 HLR 353 SC.
- [7] International Institute for Population Sciences and Ministry of Health and Family Welfare, Government of India, *National Family Health Survey-5 (2019–21): India Fact Sheet* (Government of India, 2021).
- [8] Kalpana Kannabiran and Ritu Menon, *From Mathura to Manorama: Resisting Violence Against Women in India* (Women Unlimited, New Delhi, 2007) 45.
- [9] Law Commission of India, *Report No. 243: Section 498A IPC* (Government of India, August 2012).
- [10] *Lichhama devi v. State of Rajasthan*, AIR (1988) SC 1785.
- [11] *Masood Ahmed v. State*, (1991) 2 HLR 556.
- [12] Miscarriage is synonymous with abortion and means expulsion of the immature foetus at any time before it reaches full growth
- [13] Mononita Das, "Cruelty – A Part and Parcel of Domestic Violence: The Legal Relief for Indian Women", XXX(4) *Indian Bar Review* 681 (2003).
- [14] Nishi Mitra, "Domestic Violence Legislation in India: The Journey of 15 Years," 1 *Indian Journal of Gender Studies* (2020).
- [15] P.V. Kane, *History of Dharmasāstra*, Vol. II 316 (Bhandarkar Oriental Research Institute, Poona, 1974).
- [16] Ratna Kapur and Brenda Cossman, *Subversive Sites: Feminist Engagements with Law in India* (Sage Publications, New Delhi, 1996).
- [17] Rekha Singh, "Status of Women in Indian Society", 7 *Paideia Archive* 47 (1998).

- [18] S. Anitha, 'Legislating Domestic Violence in India', 17(2) *Viol. Against Women* 141 (2011).
- [19] *Shanti v. State of Haryana*, (1991) 1 SCC 371.
- [20] Sheela Saravanan, *Violence Against Women in India: A Literature Review* (Institute of Social Studies Trust, March 2000).
- [21] Surya Kumari, *Women's Studies: An Emerging Academic Discipline* (Gyan Publishing House, New Delhi, 1st edn., 1993).
- [22] The Hindu Adoptions and Maintenance Act, 1956 (Act 78 of 1956).
- [23] The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005).
- [24] United Nations Development Programme, *Gender Equality Strategy 2023–2027* (UNDP, Bishkek, 2023).