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MODERN PHASE OF DOMESTIC VIOLENCE

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ABSTRACT

The problem of domestic violence is no longer a private concern but is a chief human rights and public health issue globally. The woman's position in patriarchal society reveals the suppression and justification of women regarding domestic violence. Social-religious belief and education can envisage superiority of a husband. The liberalistic approach, adopting modern standards of life leaving behind the traditional values often considered modernization. When it comes to modernization in respect of dignity, position, marriage, role of gender played by women then it will put impact on domestic violence also. One of the reasons of domestic abuse being so prevalent in ancient times is the orthodox mindset of society which considers female as emotionally and physically weaker than males. The time has come to bring the change in women's existence as women is now educated and is working shoulder to shoulder with men. This research paper throws the light upon readers towards causes leading to domestic violence, legal framework to combat domestic violence at global and an Indian level, role played by bench, how domestic violence becomes a challenging situation, its analytical analysis and the safeguards for preventing domestic violence.

KEYWORDS

Domestic violence, Human right, Education, Modernization, Dignity, Position, Marriage, Public health, Patriarchal society.

INTRODUCTION

The commission of various types of violence within the family is the core treacherous issues faced by society. Domestic violence is committed within the four walls of the house. It means a layout of behaviour that is abusive often used to attain control and authority within an intimate relationship. It is inclusive of emotional, physical, digital, psychological, sexual and economic abuse.¹ In modern society, domestic violence has been recognized as a destruction of human rights and a vital barrier to social development.² As per the United Nations (UN), it is a kind of violence on gender basis often occurring within the private sphere that is relations between the individuals by blood and intimacy.³ Violence against females is also committed through digital mode via use of technological applications either online or offline such as by using smartphones, chatrooms, computers, social websites, online games, GPS trackers and through platforms of video streaming. For instance, sharing personal information online results in stalking, continuous threats and physical violence, publication of bogus manipulation of photos or videos online effects personal life of an individual damaging the reputation. Therefore, the digital violence has augmented not only existing kinds of violence such as stalking, defamation, sexual harassment, misinformation and impersonation but also leads to creation of new types of abuse such as astroturfing, hacking, image and video-based abuse (sharing of intimate photos without consent), doxing, online grooming and cyberbullying.⁴ The harassment with women may be committed on digital platforms in the sections of comment, bombarded with explicit messaging, tracking through GPS or other location access apps and sparking a digital nightmare. Young girls are mostly using technology for learning perspective; to access information and in order to connect to their peers so cases of digital violence are at peak. Moreover, women facing multiple kinds of discrimination like disabled women, indigenous and black women, women of different hue, migrant women, LGBTIQ+ people, defenders of human rights, female activists, journalists and lawmakers all are facing high risk of violence digitally. A study by UNESCO reveals that 73 percent of women journalists are exposed to online violence during the course of their work.⁵ It was found by the Inter- Parliamentary Union

¹ Zenab Hussain & Rama Srivastava, *Domestic Violence Being Normalized*, 6 Int'l J. Adv. Eng'g & Mgmt. (2024).

² Sayantani Manna et al., *Prevalence of Intimate Partner Violence Among Indian Women & Their Determinants: A Cross-Sectional Study from National Family Health Survey-5*, 24 *BMC Women's Health* (2024).

³ *Domestic Violence Act*, NEXT IAS (Sep. 20, 2025), <https://www.nextias.com/ca/current-affairs/20-09-2025/domestic-violence-act> (last visited Mar. 23, 2026)

⁴ *Digital Abuse, Trolling, Stalking and Other Forms of Technology-Facilitated Violence Against Women*, UN WOMEN, <https://www.unwomen.org/en/articles/faqs/digital-abuse-trolling-stalking-and-other-forms-of-technology-facilitated-violence-against-women> (last visited Mar. 21, 2026).

⁵ *Id* at 3.

that 1 in 3 women who were parliamentarians in Asia Pacific had suffered online attacks.⁶

FACTORS CONTRIBUTING TO DOMESTIC VIOLENCE - A STIGMA

There are innumerable causes leading to violence in domestic households which are described as follows: -

1. Cultural and Social factors: -

- a) **Inequality in gender and Patriarchal norms:** Women were viewed as subordinate to men since ages. The acceptance of dominance by male culturally perpetuates violence.
- b) **Accepting violence in silence:** Fear of losing the reputation of family and victim, silence is considered the best option for survivors. So, many cases are often unreported thereby reinforcing the abuse cycle.
- c) **Lack of legal support:** Delay in delivery of justice, lack of establishment of shelter homes and weak implementation of laws often discourage reporting of cases.

2. Economic factors: -

- a) **Poverty problem:** Poor condition of family and unemployment escalates household stress and domestic violence.
- b) **Financial dependency:** The financial dependence of women on their husbands and in-laws declines her ability to leave abusive relationships.

3. Psychological factors: -

- a) **Dowry conflicts:** Persistent demand for dowry on the part of husband and in-laws' family increases the cases of harassment and violence within the household. Despite of presence of Dowry Prohibition Act 1961, yet the cases of burning of brides and violence relating to dowry are at peak.
- b) **Intoxicant Substance Abuse:** Misuse of drugs or alcohol often impairs the mental capacity and leads to violent behaviour. The conflicts between the couple began to rise, resulting in verbal or physical abuse.

⁶ UN Women, *supra note* at 4.

COMBATING OF DOMESTIC VIOLENCE

- A) GLOBAL OUTLOOK:** Around 22% of women globally have experienced partner violence.⁷ In India, about 31.2% of women reported domestic violence (2019–2021 data).⁸ Globally, 1 in 3 women face sexual or physical violence in their lifetime by their intimate partners.⁹ More than 51,000 girls and women were killed by members of family or partners, that is an estimate of 140 deaths occurred per day.¹⁰ Such data indicates that domestic abuse is still underreported due to fear and stigma. The Convention on the Elimination of all forms of Discrimination against Women (CEDAW), which was adopted by the United Nations (UN) General Assembly in 1979, is working towards reducing discrimination against women in all arenas of life.¹¹ The United Nations Declaration on the Elimination of Violence against Women (DEVAW) in 1993, being the first international instrument which deals with violence against women, provides a set up for national and international action.¹² ‘Safe cities and safe public spaces’ is an initiative taken by United Nations (UN) Women with an aim to prevent sexual harassment and other kinds of violence against girls and women in public spaces. The Beijing platform for action taken in 1995 provides for the actions which are to be taken by governments to prevent the violence against girls and women.
- B) INDIAN OUTLOOK:** According to National Crime Record Bureau (NCRB), about 507 cases had been reported under PWDVA since 2021, 468 cases in 2022. According to National Family Health Survey-5 (NFHS-5), nearly 29.3 percent of women who are married aged 18 to 49 years have suffered spousal violence from 2019 to 2021 and women who are pregnant aged 18 to 49 years have faced physical violence during their stage of pregnancy.¹³ The legislation named as Protection of Women from Domestic Violence Act (PWDVA), 2005 is a very wide-ranging and an auspicious legislation that

⁷ OECD, <https://doi.org/10.1787/918d8db3-en> (last visited Mar. 25, 2026).

⁸ Sanjeeb K. Mishra et al., *Prevalence and Predictors of Domestic Violence in India: Complex Sample Analysis of a Nationally Representative Study Conducted Between 2019 & 2021*, 16(8) *Cureus* 1, 2–3 (2024), https://www.researchgate.net/publication/382853778_Prevalence_and_Predictors_of_Domestic_Violence_in_India_Complex_Sample_Analysis_of_a_Nationality_Representative_Study_Conducted_Between_2019_and_2021.

⁹50 *Eye-Opening Domestic Violence Statistics for 2024*, JOSLYN L. FIRM, <https://www.criminalattorneycolumbus.com/50-eye-opening-domestic-violence-statistics-for-2024/> (last visited Mar. 25, 2026).

¹⁰ NEXT IAS, *supra* note 3.

¹¹ *Protection of Women from Domestic Violence*, DRISHTI IAS, <https://www.drishtias.com/daily-updates/daily-news-analysis/protection-of-women-from-domestic-violence> (last visited Mar. 23, 2026).

¹² *Id.*

¹³ NEXT IAS, *supra* note 3.

is a combination of civil remedies along with criminal procedures ensuring effective protection and providing immediate remedy to the victims of any kind of violence that occurs within the household relationships.¹⁴ The word domestic violence which is defined under the PWDVA is in consonance with the United Nations (UN) Model Legislation on domestic violence. The aggrieved person can avail the protection against any sexual, physical, verbal, emotional and economic abuses. This law recognizes the right of women to a home free of violence. Under this Act, the right of women to reside in the matrimonial home or shared household was viewed as a major revolution in protecting the woman's rights in India. The women cannot be dispossessed from the shared household and in case of eviction they can seek immediate relief in the form of protection order, monetary relief, residence order, custody of children order, free legal aid services, medical assistance and counselling aid with the assistance of the Protection officers or Service Providers. The Act provides for the appointment of Protection Officers by the State Governments in every district which encourages the voluntary associations to participate as service providers. The Ministry of Women and Child Development (MWCD), the National Commission for Women (NCW) and other non-governmental institutions have also taken welcoming steps to spread the remedies that are provided in this Act to the aggrieved women by launching awareness campaigns, seminars at national and international levels, workshops and informing the enforcement agencies.

ROLE PLAYED BY JUDICIARY

In *Velusamy v. D. Patchaiammal*¹⁵, where it was laid down by the Hon'ble Supreme Court the following ingredients to bring 'live-in-relationship' within the ambit of above expression that is 'relationship in the nature of marriage'. 1) The couple should exhibit themselves in the public as being akin to spouses. 2) They hold a legal age to marry. 3) They are otherwise eligible to get into a legal marriage. 4) They must have been voluntarily cohabited together and show themselves in society as spouse for a substantial period of time. 5) Parties must have lived and cohabited together in a shared household. Mere spending weekends together or night stay for one day would not be covered within an expression of domestic relationship. The Hon'ble

¹⁴Protection of Women from Domestic Violence Act, UN WOMEN, <https://data.unwomen.org/global-database-on-violence-against-women/country-profile/India/measures/Protection%20of%20Women%20from%20Domestic%20Violence%20Act> (last visited Mar. 23, 2026).

¹⁵ *Velusamy v. D. Patchaiammal*, (2010) 10 SCC.

Supreme Court again got an opportunity dealing with live-in-relationship in *Indra Sarma v. V.K.V. Sarma*.¹⁶ Certain guidelines have been laid down by the court for testing under which situations a live-in-relationship will fall within the expression relationship in the nature of marriage. 1) Duration of a relationship: The Section 2(f) of the Domestic Violence (DV) Act uses the expression “at any point of time” which means a reasonable time period for maintaining and continuing a relationship which may be distinct from case to case. 2) Sharing of household: The expression “shared household” has already been defined under Section 2(s) of the DV Act which means a household where the person who is aggrieved is living or has lived at any stage of life in a domestic relationship with the respondent party. 3) Sharing of resources and financial set-up: It means support provided to each other or any one of them on financial ground by sharing of bank accounts, attaining immovable properties in joint names of parties or only in the name of women, long-standing investments in business, etc. might be some of the factors considered by courts. 4) Domestic arrangements: Like entrusting the responsibility on the woman alone to run the household or to do household chores such as cooking meals, maintain cleaning and upkeeping the house, etc. which is a depiction of a ‘relationship in the nature of marriage’. 6) Sexual arousal: That relationship which is just for seeking pleasure but for intimate and emotional relationship, for bearing of children for giving emotional support and companionship, etc. 7) Offshoots: Having child is a strong depiction of a ‘relationship in the nature of marriage’. Sharing of the responsibility for procreation of children is also one of the indications. 8) Socialization publicly: Holding out in the public and socializing among the friends, relatives and others as if they are couple is a strong foundation to hold that relationship which is in the nature of marriage. 9) Intention and the conduct of couples as to relationship and their roles and responsibility, these factors primarily determine their nature of relationship.

In *Hiralal P. Harsora v. Kusum Narottamdas Harsora*¹⁷, the Hon’ble Apex Court has dealt with the question regarding the constitutional validity of Section 2(q) of the DV Act and held that the word ‘adult male’ is creating a befuddlement. Therefore, the court expunged the words adult male in said section. Since these words do not square with Article 14 provided under Indian Constitution. Consequently, the proviso to Section 2(q) being rendered useless also stands deleted which was provided only to carve out an exception to a situation of respondent

¹⁶ *Indra Sarma v. V.K.V. Sarma*, AIR 2014 SC 309.

¹⁷ *Hiralal P. Harsora v. Kusum Narottamdas Harsora*, (2016) 10 SCC 165.

not being an adult male. The court also stated that a microscopic difference between male and female, adult and non-adult keeping in mind the objective sought to be achieved by 2005 Act is neither real or substantial nor does it have any rational relation to the objective of legislation. Hence, the court noted that the opposite party who is the respondent may be of any gender. In *Satish Chander Ahuja v. Sneha Ahuja*¹⁸, where it was held by the Hon'ble Supreme Court that the progress of any society counts on his ability to protect the rights of women. However, the pending proceedings under DV Act or any interim or final order passed under said Act under section 19 regarding residence right is not an embargo for an initiating or continuing any civil proceedings.

In *Ramachandra Warrior v. Jayasree*¹⁹, the court observed that there is a trend that Hon'ble Supreme Court has time and again held that a divorced wife could invoke the provisions of DV Act for the purpose of enforcing obligations arising from past relationship like custody, maintenance and other monetary relief. Compensation even be orders ensuring personal safety of women and the children under prime considerations and in that context definition of aggrieved person cannot be given restricted meaning. However, in cases of section 19 of the domestic violence (DV) Act, alternative arrangements may be best suited.

In *M/S Nidhi Kaushik v. U.O.I*²⁰, it was observed by Hon'ble Delhi High Court that domestic abuse per se is not an offence provided under the Act. The only offence enlisted under the Act is the breach of order of protection or the offence committed by protection officer by committing breach of his responsibilities. The cognizance of an offence under Bhartiya Nyaya Sanhita (BNS), 2023 cannot be taken by the court that is dealing with section 12 application under DV act as proceedings under said section are of civil nature triable by a civil court, criminal court as well as family court. In case breach of protection order fresh criminal case will be initiated against an accused either FIR or complaint and in that criminal case, at the stage of framing the charge said court is in power to frame the charge under Bhartiya Nyaya Sanhita (BNS), 2023 (erstwhile IPC, 1860) or any other law if facts disclose about the offence has been committed. Fresh complaint under section 31 of the domestic violence (DV) Act would be a criminal case as the respondent is an accused and as per section 31(2). It should preferably be tried by that Magistrate who has passed the order. This is clear from the reading

¹⁸ *Satish Chander Ahuja v. Sneha Ahuja*, AIR ONLINE 2020 SC 784.

¹⁹ *Ramachandra Warrior v. Jayasree*, 2021 SCC Online Ker 1444.

²⁰ *M/S Nidhi Kaushik v. U.O.I*, LPA 736/2013 & CM 15769/2013.

of Section 31(2) and sub sec (3) of DV Act read with Section 5(e) which imposes a duty of Magistrate to inform the complainant to file FIR for any offence committed under Indian Penal Code (IPC), 1860 erstwhile Bhartiya Nyaya Sanhita (BNS), 2023. Further, Section 31(2) of DV provides that upon breach of protection order, separate criminal case has to be initiated which should preferably be tried by the same court and in fresh criminal case under Section 31 of the DV, the Magistrate is vested with the power to frame charges under IPC, 1860 or BNS, 2023. In *Shaurabh Kumar Tripathi v. Vidhi Rawal*²¹, it was observed by Hon'ble Supreme Court that proceedings initiated under the domestic violence (DV) Act are primarily civil in nature with quasi criminal elements designed for swift, victim centric remedies like protection order and maintenance while non-compliance with the orders attract criminal liabilities under section 31. Blending civil reliefs with criminal deterrence for enforceability, the focus is on welfare and immediate redressal using civil procedures but allowing for punitive action for violations, making them distinct from purely criminal cases.

CHALLENGES TOWARDS DOMESTIC VIOLENCE

Some of the challenges to domestic violence are listed as follows: -

- 1. Non-reporting of cases:** - Many of victims refuse to report against the abuse due to fear factor, dogma on their reputation in society, or their dependency on others for survival. Lack of source of income makes the woman remain in the trap of abusive ties. There is hardly any safeguard provided in our system that fully supports and uplifts the victims to speak against abuse. Decline in employment opportunities also become a hindrance for the woman to rise up and raise a voice against the system.
- 2. Non-effective implementation of laws:** - Though laws exist, there is weak implementation of such laws. Delay in reporting incidents, lack of enlightenment among the people and corruption in departments reduce its effectiveness.
- 3. Silent acceptance of an incident:** - The matters of domestic violence are tolerated and justified in some societies as there is a contemplation that it being a family matter ought to remain private. But this normal behaviour of people escalates the cases of domestic abuse within the household and becomes a habitual tactic.
- 4. Non-awareness in villages:** - People who are residents of rural areas are not aware of preventive steps they can seek in case any domestic violence occurs with any female in a family. So, they easily become the victims.

²¹ *Shaurabh Kumar Tripathi v. Vidhi Rawal*, 2025 INSC 734.

CRITICAL EVALUATION

Earlier, there was a patriarchal system where a male partner exercised dominance over the female partner. But now the trend has changed. If violence is exercised on the woman, then it becomes a crime and punished. The legislation is made for benefit of the women but they are widely misusing it against their men and in-laws' family. The legislation named as Protection of Women from Domestic Violence Act of 2005 is the most widely misused and litigated matrimonial law in India in 2025.²² Though the DV Act was came into light as a progressive welfare legislation but now the courts in all over India are encountering false, malicious and exaggerated complaints of domestic violence cases. Misuse by way of fabricated and false allegations of mental cruelty, vague claims of shared household rights, self-made incidents without any medical evidence, impleading elderly parents, sisters and distant relatives indiscriminately. Such kind of complaints are often filed only to put pressure on their husband and in-laws, to gain leverage in proceedings of divorce, to claim interim maintenance, protection and residence orders. The courts have repeatedly held that smooth and general accusations without mentioning of specific dates, incidents or any supportive evidence cannot sustain the proceedings of domestic violence. A clarification is given by courts in many cases that maintenance provided under the DV Act is not always an automatic result of filing a complaint. There should be a gap between law and realism. The motto is more towards punishing the offender rather than preventing the crime. The efforts which are taken are often reactive in spite of proactive. The root cause of domestic violence is deeply inbuilt into social structures which make it enigmatic to eradicate this problem completely. There is violation of civil rights with the exercise of domestic abuse such as right to reside with dignity and safety is hampered, right to get equal treatment is also affected. It often depicts injustice with the woman within the family. The incident of domestic violence not only puts an impact on the individual but also the society at large. Woman remains under depression, mental trauma and anxiety leading to intergenerational violence among the children also. Therefore, courts in India are exercising a cautious balance between protection and prevention of misuse of the DV Act. No doubt, victims who are genuinely affected by domestic violence incidents can receive legal protection but abuse of legal process is always discouraging.

²² Nidhi Rajoura & Associates, *Misuse of Domestic Violence Act in India (2025): Legal Remedies, Defence Strategies and Latest Court Trends*, NIDHI RAJOURA & ASSOCIATES BLOG <https://advocatenidhirajoura.com/blog/misuse-of-domestic-violence-act-in-india-2025-legal-remedies-defence-strategies-latest-court-trends.php> (Mar. 23, 2026, 6:48 PM)

CONCLUSION & SUGGESTIONS

The contemporary stage of domestic violence replicates a shift from a silence approach to an acknowledgement and accomplishment. While lawful and gregarious improvements have enhanced enlightenment and support, but domestic violence is regarded as a tenacious matter across the globe. A wide-ranging method including social, legal and technical intrusions is substantial to eradicate domestic ferocity. The need arises to educate the masses and to spread awareness by launching campaigns, organising skits, community functions, raising slogans, conducting seminars and workshops at national and international level. Education should be given regarding gender equality status in all the areas. It should be made part of school curriculum about how to use digital tools so to prevent any kind of digital violence as prevention is better than cure. Laws ought to be strictly enforced in the country from the grassroot level. People must have access to fast-track courts so to avail justice in an expeditious manner without any delay. Those who are victims must undergo counselling sessions to understand their psychology. There should be establishment of shelter homes for domestic abuse victims. No doubt, reporting of cases of domestic violence is an expensive process so victims should be provided with financial aid whenever required so that they should not be deprived of justice. The cooperation between governments, women rights organisations, technology sector and civil society should be enhanced so to uplift policies for protecting the women and to prevent domestic violence. The profiles or portfolios of perpetrators must be checked. Laws and regulations must be developed and implemented after receiving input from organisations dealing with women's disputes and survivors. The data on domestic violence must be published across all digital platforms, ensuring transparency. Empower girls and women to participate and earn prestige in the technology sector by using digital tools without any fear and working in peaceful spaces with no use of violence. With the growing trend and needs of society there is need to change the mentality of people also. Now, the women are no longer an apron string of men. Women have achieved high ranks in every field nowadays. She is no more a puppet in the hands of man. So, women should be given status, rank, place of work, opportunities to show their skills, remuneration on the basis of equality like men. There ought not to be any discrimination made between the men and women in any aspect upholding Article 14 provided under the Indian Constitution.'

***“Violence with Woman vanishes her Dignity,
Voice for Truth maintains her Dignity.”***

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