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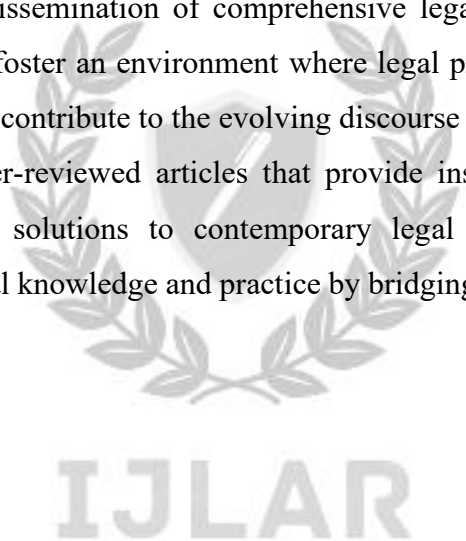
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Introduction

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Preface

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THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005: TWO DECADES OF LEGAL PROTECTION, JUDICIAL INTERPRETATION, AND IMPLEMENTATION CHALLENGES IN INDIA

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Abstract

Domestic violence has been one of the most prevalent forms of gender-based violence in India that impacts on the physical, emotional, sexual, verbal, and financial well-being of women of different socio-economic backgrounds. However, understanding the shortcomings of the current criminal law in dealing with domestic violence, Parliament introduced the Protection of Women against Domestic Violence Act, 2005 (PWDVA) providing a full civil law response to the need to assure prompt protection, residency rights, financial compensation, usual custody and compensation to harmed women. At the time when the Act celebrates twenty years of implementation, it is relevant to determine how effective it has been in delivering its legislative agenda and enhancing access of women to justice. The paper is a critical review of the development and legal context and practical application of the PWDVA applying a doctrinal and analytical research methodology. It examines the constitutional underpinnings of the Act, the interaction between it and the international human rights commitments and the role of judicial precedents in broadening the scope of protection that can be provided to domestic violence victims. The paper also examines the successes of the Act in ensuring that other forms of domestic abuse as well as a rights-based approach are recognized and institutional infrastructure is in place as well as the challenges that remain, such as under-reporting, inadequate institutional infrastructure, slowness in judicial processes, inconsistent implementation, insufficiency of Protective Officer and lack of awareness of stakeholders. The most current legal trends under the Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023 is also taken into account in the paper to evaluate the way these two laws interact with the PWDVA. Using comparative international practices and the policy developments, the paper presents legal and institutional reforms that could improve the

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enforcement, survivor support mechanisms, and access to justice. It concludes that despite the fact that the PWDVA has greatly changed the legal response by the Indian government on domestic violence, its success relies on the concerted efforts, judiciary, institutional responsibility, and long-term commitment by the government to uphold the constitutional rights of women to equality, dignity, and violence free life.

Keywords: Domestic Violence, Protection of Women from Domestic Violence Act, 2005, Gender Justice, Judicial Interpretation, Women's Rights, Access to Justice.

1. Introduction

The domestic violence is one of the most widespread types of women violence and a severe violation of human rights.² It consists of physical abuse, sexual abuse, emotional abuse, verbal abuse and economic abuse which has a negative impact on the dignity of women, health and socio economic well being. Although Article 14 and 15 of the Constitution of India guarantee equality and Article 21 of this Constitution gives a right to life and personal liberty, domestic violence nonetheless is a significant challenge as the concepts of social norms, economic dependence, social stigma, and inefficient institutional support with the help of which it is possible to prevent the issue and determine the scope of its influence remain.³

Prior to the passage of the Protection of Women from Domestic Violence Act, 2005 (PWDVA), legal protection was mainly limited to criminal law, including Section 498A of the Indian Penal Code, 1860 (replaced as of 2023 by equivalent provisions of the Bharatiya Nyaya Sanhita, 2023).⁴ The provisions punished such cruel acts; however, they lacked immediate civil solutions which comprised shelter, sustenance and healing the victims.⁵

The PWDVA also represented a major change in that it shifted to a rights-based and survivor-centred approach. It acknowledges physical, sexual, verbal, emotional and economic abuse and offers civil solutions such as protection orders, residence orders, financial compensation,

² World Health Organization. (2021). *Violence against women prevalence estimates, 2018: Global, regional and national prevalence estimates for intimate partner violence against women and global and regional prevalence estimates for non-partner sexual violence against women*. WHO.

³ Constitution of India, arts. 14, 15(3), & 21.

⁴ Indian Penal Code, No. 45 of 1860, sec 498A (repealed); Bharatiya Nyaya Sanhita, No. 45 of 2023, Section 85.

⁵ Law Commission of India. (2012). *Report No. 243: Section 498A IPC*. Government of India.

custody orders, and compensation.⁶ The Act also put in place institutional measures like Protection Officers, Service Providers, shelter homes and medical facilities to enhance access to justice.⁷

In the last twenty years, judicial interpretation has been used to reinforce the coverage of the Act but the application of the Act has still had challenges like under reporting, judicial delays, lack of sufficient institutional infrastructure and lack of awareness amongst women.⁸ These have been the problems that have hampered the proper implementation of the legislation.

It is against this background that this paper critically looks at the legislative framework, judicial interpretation as well as implementation of the PWDVA. It also takes into account the topicality of the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhiniyam, 2023, in the changing legal environment. With a doctrinal research approach, the study analyzes how effective the Act has been in the last twenty years as well as recommends actions that may enhance its application and accessibility to justice by survivors.

2. Concept and Nature of Domestic Violence: Constitutional and International Legal Framework

2.1 Understanding Domestic Violence

Domestic violence is an extreme kind of gender-based violence that includes physical, sexual, emotional, verbal, as well as economic abuse in a domestic relationship. It is not limited to single cases but, in many cases, it is a continuation of the trend of coercion and authority that impacts the dignity of women, their health and financial stability. Protection of Women against Domestic Violence Act, 2005 (PWDVA) acknowledges domestic violence as a loss of the rights of women under Section 3 of the act, which is a broad definition of abusive behaviour, including physical, sexual and verbal abuse, emotional and financial abuse.⁹ The Act covers all types of domestic relations, such as wives, mothers, daughters, sisters, widows and

⁶ Protection of Women from Domestic Violence Act, No. 43 of 2005, Sections 3, 17–23.

⁷ Protection of Women from Domestic Violence Act, No. 43 of 2005, Sections 8–11.

⁸ International Institute for Population Sciences (IIPS) & ICF. (2021). *National Family Health Survey (NFHS-5), 2019–21: India Report*. Ministry of Health and Family Welfare, Government of India.

⁹ Protection of Women from Domestic Violence Act, 2005, No. 43 of 2005, Section 3 (India).

relationships of the nature of marriage, among others.¹⁰

2.2 Constitutional and International Framework

The constitutional basis of the PWDVA is the provisions of the Articles 14, 15(3) of the constitution of India that guarantee equality, allow affirmative action in favor of women and safeguard the right to life, dignity, and personal liberty “Article 39, 39A, 42 of the Directive Principles go on to encourage social justice and access to legal remedies.”¹¹ At the international level, the State has a duty towards the prevention of domestic violence and the need to provide effective legal protection to women as enshrined in the Universal Declaration of Human Rights, 1948, convention on elimination of all forms of discrimination against Women (CEDAW), 1979, the International Covenant on Civil and Political Rights, 1966 (ICCPR), the International Covenant on Economic, Social and cultural Rights, 1966 (ICESCR) and the Sustainable Development Goals.¹²

3. Legislative Framework of the Protection of Women from Domestic Violence Act, 2005

The Protection of Women against Domestic Violence Act, 2005 is a major move away within the purely criminal context to a rights-based approach along the lines of prevention, protection, and rehabilitation.¹³ Before its enactment, Section 498A of the Indian Penal code, 1860 (superseded by section 85 of Bharatiya Nyaya Sanhita, 2023) used to deal with domestic violence through punishment of cruelty but provided few civil rights.¹⁴

The PWDVA is applicable to women in domestic relationships and it acknowledges physical, sexual, verbal, emotional, and economic abuse.¹⁵ It offers civil solutions which include protection orders, residence orders, monetary orders, custody orders, compensation and interim orders. Section 17 provides a right to a woman to live in the common household and Sections 18 to 23 give power to Magistrates to provide immediate protective measures.¹⁶ The Act also introduces a Protection Officer, Service Providers, shelter homes and medical facilities to

¹⁰ Protection of Women from Domestic Violence Act, 2005, No. 43 of 2005, Section 2(f) (India).

¹¹ Constitution of India, arts. 39, 39A, 42.

¹² Agnes, F. (1999). *Law and gender inequality: The politics of women's rights in India*. Oxford University Press.

¹³ Protection of Women from Domestic Violence Act, 2005, No. 43 of 2005 (India).

¹⁴ Indian Penal Code, 1860, Section 498A (India); Bharatiya Nyaya Sanhita, 2023, Section 85 (India).

¹⁵ Protection of Women from Domestic Violence Act, 2005, Section 3 (India).

¹⁶ Protection of Women from Domestic Violence Act, 2005, Sections 17–23 (India).

enable access to justice and rehabilitate.¹⁷

The PWDVA supports other legislations, such as the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, the Dowry Prohibition Act, 1961, the Family Courts Act, 1984, and the Legal Services Authorities Act, 1987. These laws combined offer civil and criminal solutions to deal with domestic violence.¹⁸

4. Judicial Interpretation of the PWDVA

The Protection of Women against Domestic Violence Act, 2005 has been greatly reinforced through judicial interpretation of the aforementioned act by a purposive approach in line with equality and dignity in the constitution.¹⁹

In the rape case of *S.R. Batra v. Taruna Batra* (2007), the Supreme Court established a restrictive meaning of the term shared household, with residence rights restricted to any property that belonged to the husband or joint family.²⁰ The latter would later be reviewed in *Satish Chander Ahuja v. Sneha Ahuja* (2021) where the Court decided that the right to the residence under Section 17 is independent of ownership, and applies to any shared dwelling where the aggrieved woman had cohabited.²¹

Indra Sarma v. V.K.V. Sarma (2013) and *Hiral P. Harsora v. Kusum Narottamdas Harsora* (2016) further broadened the scope of the Act, when it was found that women in qualifying live-in relationships could now be granted protection, and that the sentence "adult male" in Section 2(q) was unconstitutional, meaning any individual who could result in domestic violence could be prosecuted.²² There is a clear decision in *Prabha Tyagi v. Kamlesh Devi* (2022): the Court clarified that even when the parties do not live together anymore, one can seek a relief with reference to the Act as long as the domestic relationship was in existence previously.²³

The judiciary value the decisions as they illustrate efforts to view the PWDVA as a positive social welfare legislation. However, judicial interpretation is not enough as it will never

¹⁷ Protection of Women from Domestic Violence Act, 2005, Sections 8–10 (India).

¹⁸ Bharatiya Nyaya Sanhita, 2023; Bharatiya Nagarik Suraksha Sanhita, 2023; Dowry Prohibition Act, 1961; Family Courts Act, 1984; Legal Services Authorities Act, 1987.

¹⁹ Agnes, F. (1999). *Law and gender inequality: The politics of women's rights in India*. Oxford University Press.

²⁰ *S.R. Batra v. Taruna Batra*, (2007) 3 SCC 169.

²¹ *Satish Chander Ahuja v. Sneha Ahuja*, (2021) 1 SCC 414.

²² *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755; *Hiral P. Harsora v. Kusum Narottamdas Harsora*, (2016) 10 SCC 165.

²³ *Prabha Tyagi v. Kamlesh Devi*, (2022) 8 SCC 90.

succeed in providing effective protection without efficient implementation, institutional infrastructure, and access to justice in a timely manner.²⁴

5. Two Decades of Legal Protection: Evaluating the Effectiveness of the Protection of Women from Domestic Violence Act, 2005

In India, a shift in the way law was viewed in relation to domestic violence occurred with the introduction of the Protection of Women from Domestic Violence Act, 2005 (PWDVA) whereby the nature of the legal response to the issue no longer relied on a punitive criminal law approach but on a rights/protection/access to justice framework. The Act has, in the last 20 years, increased the legal acknowledgment of domestic violence, enhanced women rights and has also impacted judicial interpretation and social policy. However, it is not that effective only due to its progressive legislative framework, but because it is practically implemented.²⁵

The most significant accomplishment of the PWDVA is its all-encompassing definition of domestic violence. Contrary to more savage legal provisions of the past that mainly dealt with physical cruelty, the Act embraces physical, sexual, verbal, emotional, and economic terrorism hence relating to the dynamic character of violence against women in domestic relationships. The key aspect of inclusion of economic abuse is that in most cases, financial dependence does not allow the victims to move out of abusive situations. The Act would grant greater legal protection than the old criminal law through its ability to identify various types of abuse.²⁶

By offering various civil remedies that include protection order, residence order, monetary relief, custody order, compensation and interim relief, the PWDVA has ensured that women have enhanced their legal rights as well. Designation by the Act of the right of a woman to live in the common home, regardless of the ownership, speaks to guaranteeing residential safety and eliminating arbitrary expulsion. These remedies enable the survivors to seek immediate protection without necessarily going to criminal proceedings and this renders the law more user-friendly and survivor-oriented.²⁷

This has also been supplemented by judicial interpretation to make the Act effective. Case law

²⁴ United Nations. (2006). *Ending violence against women: From words to action*. United Nations Publications.

²⁵ Protection of Women from Domestic Violence Act, 2005, No. 43 of 2005 (India).

²⁶ Dobash, R. E., & Dobash, R. P. (1992). *Women, violence and social change*. Routledge.

²⁷ Agnes, F. (1999). *Law and gender inequality: The politics of women's rights in India*. Oxford University Press.

like *Hiral P. Harsora v. Kusum Narottamdas Harsora* (2016),²⁸ *Satish Chander Ahuja v. Sneha Ahuja* (2021),²⁹ and *Prabha Tyagi v. Kamlesh Devi* (2022)³⁰ have extended the protection by expanding the list of possible respondents, solidifying the right to residence, and adopting a liberal view of domestic relationships. In these conclusions, the Supreme Court has repeatedly highlighted that the PWDVA is a positive law of social welfare, that should be interpreted in the context of the constitutional values of equality, dignity, and justice accessibility.

The Act has also helped to raise awareness among the larger population with respect to domestic violence and the media of recourse to the law. Intervention programmes by the government, Legal Services Authorities, and other civil society organisations have helped to publicize awareness among more women so that they are better able to treat domestic violence as a crime and do not just consider it a family issue.³¹ Even though domestic violence is significantly under-reported, the fact that over the years there has been an increase in reporting is evidence that there is confidence in legal institutions and that more victims are willing to go to court to avail themselves of judicial protection.

Through these successes, there are high implementation shortcomings that limit the overall effectiveness of the PWDVA. Statistics released by national crime records bureau and the results of national family health survey (NFHS-5) have diligently proved that, in spite of this elaborate legislation, domestic violence is very rampant. This implies that legal reformality cannot do away with domestic violence without institutional assistance, right time and societal transformation. Therefore, although the PWDVA has significantly empowered women with legal protection, its success in the long run will be pegged on the effective implementation, institutional responsibility, and long term commitment of the government.³²

6. Implementation Challenges and Policy Gaps

Despite the fact that the Protection of Women against Domestic Violence Act, 2005 offers a detailed legal framework, it has a number of implementation issues to address, which still render it ineffective. The loophole between the rights indicated in the statute and their practical

²⁸ (2016) 10 SCC 165

²⁹ (2021) 1 SCC 414.

³⁰ (2022) 8 SCC 90.

³¹ Ministry of Women and Child Development. (2012). *National Mission for Empowerment of Women: Framework for implementation*. Government of India.

³² Protection of Women from Domestic Violence Act, 2005, No. 43 of 2005 (India).

implementation is one of the main barriers to attaining the goals of the legislation. The lack of resources, procedural delays and institutional weaknesses, as well as obvious socio-cultural barriers, frequently do not allow the survivors to access timely and effective relief.³³

Under-reporting of domestic violence is one of the greatest challenges. There are a lot of women who are afraid to file cases to the proper authority due to the fear of being retaliated, economical reliance, social shame, worry about the future of the children and to maintain the family ties. In economically disadvantaged and rural areas, there is poor legal awareness and access to support services, which further deter reporting. As a result official statistics are generally thought to be reflecting a portion of the potentially existing domestic violence incidence.³⁴

Another issue that influences the actualization of the Act is institutional deficiencies. Protection Officers are a key figure in supporting survivors and organizing legal and support services and are often overworked, under-trained and under-resourced. In a number of other States, unfilled positions, inadequate infrastructure, and extra executive duties decrease their capacity to effectively fulfill their statutory role. The same is the case regarding shelter homes, counselling services, medical facilities, and rehabilitation programmes, much of which are underfunded and unevenly spread all over the country.³⁵

Another issue of concern is judicial delay. Despite the fact that the vision of the PWDVA is to dispose applications in a timely manner, often processing them takes much longer than the designated amount of time because of the large volumes of cases, delays in procedures, and a lack of judicial officers. The efficacy of the Act is often diminished with delayed protection orders and leaves the survivors in danger of further mistreatment. Enhancement of judicial infrastructure and prompt disposal of domestic violence cases thus will continue to be critical to effective access to justice.³⁶

A good implementation also involves integration of effort among the judiciary, police, Protection Officers, healthcare institutions, Legal Services Authorities, and service providers

³³ United Nations. (2006). *Ending violence against women: From words to action*. United Nations Publications.

³⁴ Ministry of Home Affairs, Government of India.

³⁵ *National Mission for Empowerment of Women: Framework for Implementation*.

³⁶ Law Commission of India. (2015). *Report No. 245: Arrears and backlog: Creating additional judicial (wo)manpower*. Government of India.

in making the implementation effective. Nonetheless, lack of standard operating procedures and poor inter-agency coordination often leads to a situation of fragmented service delivery and delay in service delivery. More institutional collaboration and combined support systems are thus required in order to simultaneously provide holistic protection to survivors.³⁷

The other critical issue is due to new manifestations of domestic violence in the digital age. The rising cases of cyberstalking, internet surveillance, online harassment, shaping the youths and stealing money using digital connections, and the transmission of intimate images without consent attests to the fact that domestic abuse has entered a new dimension. As most of these may fall under the jurisdiction of the Information Technology Act, 2000 as well as under Bharatiya Nyaya Sanhita, 2023, legally recognizing technology-mediated domestic violence under PWDVA would enhance a sense of legal certainty and enhancement of protection against victims.³⁸

Lastly, reforms in the law cannot be a solution to deeply-instilled patriarchal attitudes that still crystalize domestic violence in society. To introduce a sustainable implementation of the Act, there is a necessity to have more awareness of legality, training stakeholders with gender sensitivity, financial investment, greater institutional capacity, and constant monitoring of implementing the Act. In the absence of these, it would be impossible to realise the transformative goals of the PWDVA.³⁹

Generally, the Protection of Women against Domestic Violence Act, 2005 has provided a solid legal basis to curb domestic violence against women. Nonetheless, its further efficacy relies on enhancing the implementation procedures, creating improved institutional responsibility and making sure that the rights provided by the legislation are converted into logical and convenient solutions to the survivors.⁴⁰

³⁷ United Nations Entity for Gender Equality and the Empowerment of Women (UN Women). (2015). *A framework to underpin action to prevent violence against women*. United Nations.

³⁸ Information Technology Act, 2000, No. 21 of 2000 (India); Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023 (India).

³⁹ Dobash, R. E., & Dobash, R. P. (1992). *Women, violence and social change*. Routledge.

⁴⁰ Protection of Women from Domestic Violence Act, 2005, No. 43 of 2005 (India).

7. Comparative Perspectives and Policy Recommendations

7.1 Introduction

Comparative legal analysis can be used to evaluate how well the laws regarding domestic violence have worked by comparing it to similar jurisdictions. Although the Protection of Women from Domestic Violence Act, 2005 (PWDVA) is one of the most progressive civil laws in South Asia, other countries have formulated more robust institutionally centered survivor protection laws such as in the United Kingdom, Australia and South Africa. Their experiences provide valuable lessons on the enhancement of the implementation of the PWDVA.⁴¹

7.2 Comparative Analysis

7.2.1 United Kingdom

Domestic Abuse, The Domestic Abuse Act, 2021 acknowledges coercive or controlling behaviour, sexual, emotional, economical, and physical domestic abuse. It set up a separate Domestic Abuse Commissioner to oversee the implementation and enhance accountability. UK has also specialised domestic violence courts, integrated victim support service, and well coordinated police, healthcare services and local authorities.⁴²

7.2.2 Australia

Australia adheres to a concerted strategy by federal programs and State legislations. Domestic violence involves physical, emotional, financial and technological abuse and coercive control. Specialised risk assessment systems, counselling services, rehabilitation programmes, and technology-enabling reporting reinforce the protection of the survivors as police have the ability to issue emergency protection notices.⁴³

7.2.3 South Africa

The Domestic Violence Act, 1998 imposes legal responsibilities on police officers who must educate the survivors about their rights and help them to access medical assistance, shelter, and protection orders. The use of community-based support centres and awareness programmes at the population level further fortify implementation.⁴⁴

⁴¹ Protection of Women from Domestic Violence Act, 2005, No. 43 of 2005 (India).

⁴² Home Office. (2022). *Domestic abuse statutory guidance framework*. UK Government.

⁴³ Australian Institute of Health and Welfare. (2022). *Family, domestic and sexual violence*. Australian Government.

⁴⁴ South African Department of Social Development. (2020). *National Strategic Plan on Gender-Based Violence and Femicide*. Government of South Africa.

7.3 Comparative Evaluation

The PWDVA has a wide scope of compliance with international standards because it acknowledges various types of domestic violence and offers an all-encompassing civil remedy. Nonetheless, it is not as well implemented as in the United Kingdom, Australia, and South Africa because the institutions are not strong enough to carry it, there is poor monitoring, and poor inter-agency coordination. A boosted implementation by enhancing institutional support, special services, technology-enhanced reporting, sustained training, and effective monitors would adequately enhance the real-life usefulness of the Act.⁴⁵

8. Recommendations

8.1 Strengthening Institutional Capacity

The successful enforcement of the Protection of Women against Domestic Violence Act, 2005 will entail enhancing the institutional structure by recruitment of full-time Protection Officers, provision of better training, and provision of sufficient financial and administrative resources. Shelter homes, counselling centres, medical facilities and rehabilitation should be also increased to offer comprehensive support to the survivors.

8.2 Improving Judicial Efficiency

The successfulness of the Act depends on obtaining justice in a timely manner. Specialised Domestic Violence Courts/specific bench of judges should be instituted so that the cases can be handled in a timely manner. The courts ought also to have good case-management practices and strictly follow the timelines required by the statute as stated in the Act especially the interim relief cases.

8.3 Enhancing Inter-Agency Coordination

Judicial, police, Protection Officer, healthcare institutions, Legal Services Authorities, and civil society organisations have to be included in a coordinated response to effectively implement this. Standard Operating Procedures (SOPs) and frequent coordination systems are to be created in order to produce the legal and support services delivery to the survivors without any interruptions.

⁴⁵ United Nations Entity for Gender Equality and the Empowerment of Women (UN Women). (2015). *A framework to underpin action to prevent violence against women*. United Nations.

8.4 Promoting Legal Awareness and Capacity Building

Programmes aimed at enhancing PWDVA awareness should be introduced as a continuous legal literacy programme so that the masses can know their rights and remedies under the law. In parallel to this, training of judicial officers, police staff, Protection officers, healthcare workers and social workers through regular gender-sensitivity and victim-centred training should be undertaken in order to have a responsive, empathetic, and efficient institutional response.

8.5 Addressing Emerging Forms of Domestic Violence

The legal system must undergo change to respond appropriately to technology-enabled domestic violence (such as cyberstalking, online monitoring and harassment, financial abuse via the digital world, and non-consensual sharing of intimate imageries). These forms of abuse should be expressly recognized in statute in order reinforce the modern applicability of the Act.

9. Conclusion

The Protection of Women against Domestic Violence Act, 2005 is the first step towards updating the law on protection against domestic violence of women in India. The Act has changed the legal discourse on violence in the domestic sphere by making domestic violence a crime of constitutional rights, human dignity, and gender equality instead of being perceived as an individual family issue. Its general definition of domestic violence, which includes, inter alia, physical, sexual, verbal, emotional and financial abuse, as well as its holistic civil remedies, indicate a more progressive, and rights-based intervention that is distinctly different than the traditional criminal law reactions.

An important role in enhancing the goals of the Act over the last two decades has been taken by the judiciary by purposive interpretation and constitutional reasoning. Essential rulings like the Hiral P. Harsora v. Kusum Narottamdas Harsora, Satish Chander Ahuja v. Sneha Ahuja and the Prabha Tyagi v. Kamlesh Devi rulings, have broadened the area of protection afforded to women by bolstering rights to residence, broadening the category of the respondent, and provide more access to legal recourse. These judicial trends show the dynamicism of the PWDVA, as well as the constitutional promise of equality, dignity, and access to justice.

Although these are important legal accomplishments, there are still considerable

implementation challenges associated with the deployment of the Act. The difficulty of effective implementation of the legislation remains due to under-reporting of domestic violence, judicial delays, poor institutional infrastructure, lack of Protection Officers, poor rehabilitation services, a lack of legal awareness and ineffective inter-agency co-ordination. These barriers persist, which signals that it requires both legislative enactment with institutional capacity, administrative responsibility, and long-term government support to eradicate domestic violence.

The comparative examination carried out in the current study also indicates that even though the legislative framework in India is largely in line with those that are used by the rest of the world, other jurisdictions like the United Kingdom, Australia and South Africa have established more effective implementation frameworks by the use of specialised institutions, integrated victims support provision, coordinated enforcement mechanisms and continuous monitoring. These experiences lead to the belief that enhancing the effectiveness of the institutions, instead of enacting massive changes in legislation, should be the key subject of the subsequent reforms in India.

To this end, the protection of women against domestic violence Act, 2005 can only succeed in the long term as a holistic and coordinated strategy that entails legal and good governance, institutionalization” creation of awareness and support services to the survivors. Some of the other measures that can help the Act be well practical in its implementation include bettering in the efficiency of judicial process, increasing the capacity of Protection Officers, increasing rehabilitation centers, improving access to the justice using technology and ensuring inter-agency coordination and effective surveillance mechanisms. Legislative review should also be done periodically with a view to judicial developments, empirical research and international best practice, to ensure the law is open to emerging manifestations of domestic violence and the changing social realities.

Conclusively, the PWDVA has been able to establish a solid legal and constitutional framework to fight domestic violence in India. Nevertheless, its actual efficiency cannot be quantified only with the help of the enactment of statutory provisions or the number of judicial decisions made. Instead, it should be evaluated based on its capacity to achieve significant protection, dignity, and substantive justice against all women victims of domestic violence. To maintain the role

of achieving this goal a long-term partnership is necessary between the legislature, the judiciary, the executive authorities, legal institutions, the civil society organisations and the community as a whole. Such an approach involving heavy coordination and centring on the survivor is the only way, India can be able to fully achieve the constitutional vision of equality, dignity and freeing all women living in the country of violence.

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