

## **STATUS OF THE IMPLEMENTATION OF PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005**

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**Abstract:** Indian women live with just laws but unjust application of the laws. India has long held cultural roots that used to include customs such as child marriage, burning the widow on the funeral pyre of her husband, female infanticide, marriage dowries, dowry murders, prohibited remarriage for widows, shunning of widows, rape, and female travel restrictions. Although outlawed, some of these customs appear to continue, i.e., infanticide, aborting female fetuses, marriage dowries, dowry murders, rape, and sex trafficking. Thousands of Indian women per year reportedly die in “bride burning” dowry deaths. The “dowry torture” and “daughter aversion” increase as the dowry tradition of the upper caste/class becomes an “all caste/class phenomenon”; recent changes also include escalating rates of dowry payments. In this paper an attempt is made to present the status of crimes against women under the Protection of Women from Domestic Violence Act, 2005.

**Keywords:** Violence, Incidents, Victims, Laws, Crime Rate.

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**Introduction:** Domestic violence is a form of gender-based violence, intended at subordinating women. The global dimensions of domestic violence are of great concern, both in terms of their scope and extent. Domestic violence is perhaps the most universal, yet one of the most invisible forms of violence against women. No country or society can claim to be free of domestic violence, but the patterns and trends may vary across regions and countries. Violence against women is a serious problem in India. Married women are more likely to experience physical or sexual violence by husbands than by anyone else.

Violence affects the lives of millions of women worldwide, in all the lives of the societies. The status of women in India is not equal to the status of men in terms of, access, participation, and reward. Their situation owes its existence to the patriarchal and feudalistic structure of the society. Women are vital element of society and society’s progress depends lot on them. All societies strive to do everything possible to integrate women in all walks of life in an equitable and just manner. In the ever changing horizon the status of the women remains a fluctuating one.

**Definition of Domestic Violence:** The United Nations defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life Domestic violence occurs daily in homes throughout the world.

Under the ‘Protection of Women from Domestic Violence Act of 2005’, the domestic violence is defined as, any act omission or commission or conduct of the respondent shall constitute domestic violence in case it –

- a) harms or endangers the health, safety, life limb or well being, whether mental or physical of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- b) harasses, harms, injuries or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

- c) has the effect of threatening the aggrieved person or any person related to her by any conduct (mentioned in clause (a) or clause(b)); or;
- d) Otherwise injuries or causes harm, whether physical or mental, to the aggrieved person.

**Laws for Domestic Violence:** The law, significantly, recognizes the need of the abused woman for emergency relief, which will have to be provided by the husband. A woman cannot be stopped from making a complaint/application alleging domestic violence. She has the right to the services and assistance of the Protection Officer and Service Providers, stipulated under the provisions of the law.

A woman who is the victim of domestic violence will have the right to the services of the police, shelter homes and medical establishments. She also has the right to simultaneously file her own complaint under Section 498A of the Indian Penal Code.

Sections 18 to 23 provide a large number of options for legal redressal. She can claim through the courts Protection Orders, Residence Orders, Monetary Relief, Custody Order for her children, Compensation Order and Interim/ Ex parte Orders. If a husband violates any of the above rights of the aggrieved woman, it will be deemed a punishable offence. Charges under Section 498A can be framed by the magistrate, in addition to the charges under this Act. Further, the offences are cognizable and non-bailable. Punishment for violation of the rights enumerated above could extend to one year's imprisonment and/or a maximum fine of Rs. 20,000.

An important aspect of this law is that it aims to ensure that an aggrieved wife, who takes recourse to the law, cannot be harassed for doing so. Thus, if a husband is accused of any of the above forms of violence, he cannot during the pending disposal of the case prohibit/restrict the wife's continued access to resources/ facilities to which she is entitled by virtue of the domestic relationship, including access to the shared household. In short, a husband cannot take away her jewellery or money, or throw her out of the house while they are having a dispute.

If a husband violates any of the above rights of the aggrieved woman, it will be deemed a punishable offence. Charges under Section 498A can be framed by the magistrate, in addition to the charges under this Act. Further, the offences are cognizable and non-bailable. Punishment for violation of the rights enumerated above could extend to one year's imprisonment and/or a maximum fine of Rs. 20,000.

According to Section 305, Indian Penal Code, often victims of domestic violence, especially brides harassed for dowry, are driven to commit suicide. Abetment of suicide of a delirious person is an offence punishable with death or life imprisonment. Abetment of suicide is also an offence punishable with ten years imprisonment.

Various forms of domestic violence like female infanticide, forcing the wife to terminate her pregnancy had already been recognized under Sections 313 to 316 of Indian Penal Code.

**Protection of Women from Domestic Violence Act, 2005:** It has been landmark legislation as it made domestic violence a punishable offense. It covers violence against both women and children. The Act provides a comprehensive opportunity to all the victims of domestic violence, who otherwise undergo humiliation for longer period of time before reporting. It is a liberal and forward looking Act and gives women the right to continue living in shared household even when the dispute is on. The Act therefore, has tried to protect the physical, psychological as well as financial well being of the women complainant. Legal redressal is ensured to women through this Act and the needy ones are to be provided with medical aid, security as well as shelter facility. This Act protects women from any act/conduct/omission/commission that harms, injures or potential to harm is to be considered as domestic violence. It protects the women from physical, sexual, emotional, verbal, psychological, economic abuse.

**Review of Literature:** Bina Agarwal and Pradeep Panda (2007) in their paper focuses on a serious and neglected form of un-freedom- domestic violence-and argues that freedom from such violence must be integral to evaluating developmental progress. Conceptually, it notes that a person's well-being can depend not only on absolute measures of capabilities and functioning but also on relative capabilities and functioning within families; and this can even lead to perverse effects. Empirically the paper focuses especially on a hitherto unexplored factor- a woman's property status-and demonstrates that owning a house or land significantly reduces her risk of marital violence. Employment, by contrast, unless it is regular, makes little difference. Immovable property provides a woman economic and physical security, enhances her self-esteem, and visibly signals the strength of her fall-back position and tangible exit option. It can both deter violence and provide an escape if violence occurs. Also unlike employment, property ownership is not found to be associated with perverse outcomes, in that a propertied woman married to a property less man is not subject to greater violence.

Lee Anthony Curran (2010) in his paper offers a critical examination of the police response to domestic violence. The findings of the research suggest that until the late 1980s the criminal justice system paid little attention to the victims of domestic violence. A number of early studies documented the dismissive and derogatory way in which police officers tended to handle 'domestic disputes'. The researcher found that from 1986, onwards, the need for changes in police practice to domestic violence was accepted by the Home Office, and domestic violence is now viewed as a crime both by practitioners in the criminal justice system and by government itself. In the past ten years in particular, there have been significant improvements in police policy and practice in response to domestic violence. By contrast, research is showing that enthusiasm for change presents the danger of inappropriate arrests of those they set out to protect.

Sunil S. Kadam and Vinod A. Chaudhari (2011) in their research paper considers that since the past 2 to 3 decades, there are lot of efforts made by the NGO's, social activist and time to time by the Government to curb domestic violence against women and safe guard her constitutional rights, but still there is a rise in domestic violence. The reason being incorrect implementation and misuse of these laws by the miscreants; may it be the accused, the police or the lawyers. If applied correctly the Protection of Women against Domestic Violence Act 2005 (PWDVA) is a powerful act. After the implementation of the act wide range of cases were filed across the states of India and judgments delivered under PWDVA by the family courts, civil courts and in few by the supreme courts.

Kavitha V. R. S. (2012) in her paper, an attempt is made to identify the prevalence rate, forms and the factors correlated with the forms of the violence and to examine help seeking behaviour of men and women. At all India level, 35 percent of ever married women had experienced physical spousal violence, whereas 16 percent and 10 percent had encountered emotional and sexual violence, respectively. Further, these magnitudes vary considerably across the states and union territories of India. The correlation analysis of the research revealed that, with a few exceptions, the magnitude of all the three forms of spousal violence has a negative correlation with percentage of women and men who have 10 + years of education, who are exposed to mass media, and also with the percentage of households wealth index that falls under 4 - 5 quintiles (richer and richest) at different levels of significance. Conversely, the levels of either 1 or 2 types of spousal violence positively correlated with the percentage of women belonging to Hindu and Scheduled Caste (SC)/Scheduled Tribe (ST) communities as well as with the percentage of men and women employed during 12 months preceding the survey.

Raveendran Nair (2014) in his study mainly focuses on the violence against women as human right violation in Indian context and an appraisal of existing laws. Much of the provisions of the human rights are incorporated in the Constitution itself and the Supreme Court and High courts are made the guardian of the human rights. The author feels that inspite of that women are attacked in India and they could not move freely. The author concludes that any kind of attack, whether physical or mental, assault or insult, is an intrusion into the right of equality and liberty, and hence a human right violation as enshrined by the Universal Declaration of Human Rights. All the Nations, signatories of the covenant

are legally liable. As a party to the above said covenant, the Government of India is bound to observe whether that rights enjoyed by the citizens and bound to punish the breachers of the said covenant.

Sunitha P. and D. Usha Rani (2015) in their paper focuses on the domestic violence in relation to women because women being a weak and vulnerable group are exposed more to this menace. According to authors since its enactment, the Protection of Women from Domestic Violence Act is hampered by Limited awareness and inadequate budgets. Women's groups at the national consultation on the Act regretted "the lack of commitment on the government's part to effectively implement it". Crucial factors that aid the implementation of the Act - appointment of protection officers (POs) and counsellors; training of police and judicial officers and awareness generation and publicity - have been neglected, the meet found.

**Cases Registered under Protection of Women from Domestic Violence Act, 2005:** Table 1 presents the data on the state wise crimes registered under Protection of Women from Domestic Violence Act in 2016.

**Table 1**  
**State Wise Crimes Registered under Protection of Women from Domestic Violence Act, 2005 in 2016**

S. No.	State/UT	Protection of Women from Domestic Violence Act, 2005 *			Total - Crime against Women Related SLL Acts *		
		Incidents	Victims	Crime Rate	Incidents	Victims	Crime Rate
1	Andhra Pradesh	0	0	0	786	821	2.3
2	Arunachal Pradesh	0	0	0	1	1	0
3	Assam	2	2	0	302	302	1.5
4	Bihar	171	171	0.3	1290	1294	2.4
5	Chhattisgarh	3	3	0	39	47	0.2
6	Goa	0	0	0	3	4	0
7	Gujarat	0	0	0	83	96	0
8	Haryana	10	10	0.1	97	139	0.1
9	Himachal Pradesh	11	11	0.3	19	20	0.3
10	Jammu & Kashmir	0	0	0	1	1	0
11	Jharkhand	0	0	0	1378	1378	8.3
12	Karnataka	0	0	0	2036	2180	5.5
13	Kerala	111	111	0.6	237	265	0.6
14	Madhya Pradesh	90	90	0.2	138	164	0.3
15	Maharashtra	2	2	0	360	606	0.1
16	Manipur	0	0	0	0	0	0
17	Meghalaya	0	0	0	2	2	0
18	Mizoram	0	0	0	3	4	0
19	Nagaland	0	0	0	0	0	0
20	Odisha	0	0	0	1454	1454	6.6
21	Punjab	2	2	0	75	107	0.1
22	Rajasthan	4	4	0	71	83	0
23	Sikkim	0	0	0	0	0	0
24	Tamil Nadu	0	0	0	730	905	0.9
25	Telangana	1	1	0	248	314	0
26	Tripura	0	0	0	0	0	0
27	Uttar Pradesh	23	23	0	2956	3034	2.8
28	Uttarakhand	1	1	0	41	41	0.5
29	West Bengal	5	5	0	95	232	0
<b>Total States</b>		436	436	0.1	12445	13494	1.7
30	A & N Islands	0	0	0	1	1	0

31	Chandigarh	0	0	0	2	2	0.1
32	D&N Haveli	0	0	0	0	0	0
33	Daman & Diu	0	0	0	4	6	0
34	Delhi UT	1	1	0	25	25	0.2
35	Lakshadweep	0	0	0	0	0	0
36	Puducherry	0	0	0	18	18	2.2
<b>Total UTs</b>		1	1	0	50	52	0.3
<b>Total (All India)</b>		437	437	0.1	12495	13546	1.7

Note: i) \* Women Population is used to calculate Crime Rate

ii) # Excludes 'Publishing or Transmitting of Sexually Explicit Material (Sec 67A IT Act) (930 cases) which are shown as Part of Section 67A - IT Act

**Source:** Crime in India Statistics 2016-National Crime Records Bureau, (Ministry of Home Affairs), Government of India

It can be found from table 1 that 437 incidents under domestic violence act have registered in 2016. Among the total cases registered under the Domestic Violence Act highest number of case were registered in 3 states namely Bihar, Kerala and Madhya Pradesh. In these 3 states together registered 85.13 cases under the Domestic Violence Act of 2005. In all cases under the Domestic Violence Act registered only in 14 States and 1 Union Territory. Among the States 1 case each is registered in Telangana and Uttarakhand States. Among the Union Territories 1 case in the Union Territory of Delhi is registered. The crime rate under the Domestic Violence Act is high (0.6 per cent) in Kerala and it is followed by Bihar and Himachal Pradesh States with 0.3 per cent each. With regard the share of incidents under Domestic Violence Act in total crimes against women Madhya Pradesh top the list with 65.22 per cent. It means among total crime incidents against women relates to Domestic Violence Act of 2005. In this regard it is followed by Himachal Pradesh (57.89 per cent) and Kerala (46.84 per cent) in second and third places respectively. More or less same trends can be noticed in case of Victims.

#### Crimes under Domestic Violence Act, 2005 in Metropolitan Cities:

Table 1 gives the data on the city wise crimes registered under Protection of Women from Domestic Violence Act in 2016.

**Table 2:**  
**Crimes under Domestic Violence Act, 2005 in Metropolitan Cities – 2016**

S. No	Name of the City	Protection of Women from Domestic Violence Act, 2005			Total Crime Against Women - SLL Acts#		
		Incidents	Victims	Crime Rate	Incidents	Victims	Crime Rate
1	Ahmadabad(Gujarat)	0	0	0	11	13	0.4
2	Bangalore(Karnataka)	0	0	0	879	969	21.7
3	Chennai(Tamil Nadu)	0	0	0	214	327	5
4	Coimbatore(Tamil Nadu)	0	0	0	41	67	3.8
5	Delhi	1	1	0	14	14	0.2
6	Ghaziabad(Uttar Pradesh)	0	0	0	0	0	0
7	Hyderabad(Telangana)	1	1	0	65	77	1.7
8	Indore(Madhya Pradesh)	1	1	0.1	9	9	0.9
9	Jaipur(Rajasthan)	0	0	0	11	19	0.8
10	Kanpur(Uttar Pradesh)	0	0	0	80	80	6
11	Kochi(Kerala)	2	2	0.2	16	20	1.5
12	Kolkata(West Bengal)	1	1	0	6	6	0.1
13	Kozhikode(Kerala)	1	1	0.1	2	2	0.2
14	Lucknow(Uttar Pradesh)	0	0	0	3	3	0.2
15	Mumbai(Maharashtra)	0	0	0	31	55	0.4
16	Nagpur(Maharashtra)	0	0	0	130	226	10.6

17	Patna(Bihar)	0	0	0	75	75	7.8
18	Pune(Maharashtra)	0	0	0	36	51	1.5
19	Surat(Gujarat)	0	0	0	21	21	1.1
<b>Total Cities</b>		<b>7</b>	<b>7</b>	<b>0</b>	<b>1644</b>	<b>2034</b>	<b>3</b>

Note: # Excludes cases reported under 'Publishing or Transmitting of Sexually Explicit Material which shown under Section 67A of IT Act and '\$' Includes All (Male & Female) Cases under Immoral Trafficking (P) Act

**Source:** Crime in India Statistics 2016-National Crime Records Bureau, (Ministry of Home Affairs), Government of India

Table 2 shows that in 6 out of 19 metropolitan cities cases under Domestic Violence Act were registered. Among these 6 cities 2 cities namely Kochi and Kozhikode were located in Kerala State. Among these 2 metropolitan cities 2 cases in Kochi and 1 case in Kozhikode were registered. The remaining 5 cases were registered in Delhi, Hyderabad, Kolkata and Indore metropolitan cities. It means that most of the cases under Domestic Violence Act of 2005 were registered in non-metropolitan and rural areas of the respective states.

**Conclusion:** Domestic violence is one of the most complex issues in India. Such phenomenon has deep and primordial roots embedded in social-cultural structure of this country; therefore people could hardly deal with the legal aspect separately. One precondition of improving the implementation of the Domestic Violence Act is to increase women's awareness of it. Also, effective trainings for each role of departments involved in the implementation of the Act are necessarily. To complete the system, there should be sufficient budget invested with well superintendence.

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