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Beyond Protection: Balancing Victims' Rights and Misuse under the Protection of Women from Domestic Violence Act, 2005

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Abstract

Domestic violence is a violation of rights that happens inside the home in India. There is a set of laws that were created to protect women. The Protection of Women from Domestic Violence Act, 2005 was created to protect women from sexual, verbal and emotional violence that happens inside the home. Even though this law has made the protection for women stronger some judges and experts have also shown worries about how this law is used in some marriage-related problems. also many real cases are not told about because of shame, money problems, ideas that men are in charge fear of being hurt and not enough help from the system. This paper looks closely at these two problems that are connected. The study uses a mix of personal research methods based on rules in the constitution, laws, court decisions and books and also includes observations the author made in court. The paper also shows how laws that focus on protecting women have changed over time looks at how courts deal with claims that the law is used wrong and looks at the legal problems that stop victims from talking about domestic violence. It says that even though there are some cases where the law is used wrong the real cases should not be ignored. More attention should be given to making sure investigations are better improving how the system works making sure rules are followed and helping people know their rights. The paper ends by saying that a fair way is

needed to keep the law system strong protect the rights of victims keep people safe from wrong claims and make it easier, for everyone who is affected to get help.

Keywords: *Domestic Violence, Protection of Women from Domestic Violence Act, 2005 (PWDVA), Patriarchy, Misuse of Protective Laws, Underreporting, Women's Rights, Access to Justice.*

Introduction

India is a country which has rich culture heritage. Looking at the domestic front, starting from the vedic age to twenty first century, women in India perhaps have never experienced equal rights and freedom as compared to their male counterparts. Patriarchy has always remained as the main feature of the Indian society which is appreciated by both men and women at domestic as well as public level because it is majorly accepted by women at domestic level and at public level women are made to accept it because they don't hold power in the society. Men not by any chance can tolerate the women at the same place as they are on at every level whether it is in household on the basis of economic independence or women holding political power. According to the Indian society a girl is the responsibility of a father before her marriage and after marriage she became the responsibility of her husband. A girl married as responsibility to her husband by later on she became burden for his husband because we had objectified the women. Rights of the women are just for the sake of paper but the reality is that most of the women didn't even hold the autonomy to take the basic decisions of their life. The main problem behind this is the acceptance by the women toward this behavior of men. Society since ages made women feel that they can't not take their decisions because they are depended on men for their basic survival. The ego booster of the men in society is that they consider themselves as the head of the household as they act as the bread winner of the family and the assigned work for women in society id to cook food and taking care of the children and husbands has full autonomy on the body and life of their wife.¹

Patriarchy has contributed to the perpetuation of domestic violence. Domestic violence take place in four major forms physical, mental, sexual and economic in rural as well as urban households.

¹ HARIHAR SAHOO MANAS RANJAN PRADHAN, DOMESTIC VIOLENCE IN INDIA: AN EMPIRICAL ANALYSIS,2-3(2007)

Women in India consider weak as compared to man in all above mentioned aspects and they get abused by their male counterparts or the family members. We see factors like illiteracy among men and women, lack of awareness among women, economic dependence of women for domestic violence but reality has a different face as well we see women who are economically independent and faced the violence because their husbands can not tolerate women are capable of competing them because their ego comes mainly from the title of the bread winner of the family.

Women faced a lot of discrimination and violence in the four walls of household. Sati practice, pardaha system, dowry demand, dowry death and domestic violence. Legislature plays a good but not satisfactory role in law making as there are many loopholes which can be seen very easily based on these concerns of society. The Commission of Sati (Prevention) Act, 1987, The Dowry Prohibition Act, 1961, Protection of Women from Domestic Violence Act, 2005, Protection of Women from Domestic Violence Act, 2005, Protection of Women from Domestic Violence Act, 2005, Muslim women (protection of rights on marriage) Act, 2019 are the laws made by Indian parliament due to the discrimination faced by women. In year 2008- 2010 there were cases for domestic violence which faced like real and in most of the cases victim get the justice. But from the 2012 India saw its first fake case on domestic violence ²and after it things get more worst and supreme court in 2025 titled Section 498A IPC: A Double-Edged Sword...³

Nowadays reality say something differently there are cases which are fake and truly most of the cases are fake. The matters which are registered under PWDVA, 2005 are because of marital discord in today's family. Women file case against the husband and his family on the basis of quarrel and marital disputes which cannot be defined as mental and verbal abuse. A significant portion of quarrels and disputes have arisen following refusal of the husband to move to a separate house, late working shifts either by wife or husband, gifts to be given to relatives, stay of relatives, dispute over household responsibilities between mother-in-law, sister-in-law, mother, sister and brother. On the top of everything the real cases of domestic never get registered because many women accepted it as normal and many does not have economic and legal backing which can support them to fight for the justice. Social stigma is also a sorely important issue which triggers

² A. Ashok Vardhan Reddy v. P. Saritha, 2014 SCC OnLine AP 281

³SSC ONLINE, <https://www.sconline.com/blog/post/2025/06/30/498-aipc-ipc498-a-supremecourtjudgments-supremecourt/> (last visited July 26, 2026)

every issue. PWDVA 2005, persistently facing the issue of accused are victims and real victims remains unheard.

In present paper an attempt has been made to showcase the reality of laws which need a major change to give justice to both who suffered wrongly and the real victims of domestic violence. In addition to this an emphasis on the problem to find the solution the problem of unreported cases of domestic violence. Specifically, the objectives of present paper are as follows:

- a) To what extent is the protection of women from Domestic violence Act, 2005 alleged to be misused in India, and what legal, social and institutional factors contribute to such perceived misuse.
- b) Why do a significant number of domestic violence incidents in India remain unreported, and how do social, economic, cultural, and legal barriers affect victims' access to justice?

Research Methodology

The present paper uses a mixed doctrinal and qualitative research methodology. This approach is based on the analysis of primary as well as secondary legal sources. It includes Constitution of India, Protection of Women from Domestic Violence Act, 2005, Bhartiya Naya Sanhita 2023, judicial precedents and research articles. These sources have been examined to make an analytical approach behind the enactment of women centric protective laws. To what extent these laws save the victim as well the misuse of the law concern.

To supplement the doctrinal analysis, the study in corporates non-participant court room observation made by the author during visits of the district court. During these visits, the author observed the proceedings which includes the matrimonial disputes and the matters with the allegations of the domestic violence. These observations give the idea of practical insight into the manner in which the case under PWDVA, 2005 are presented before the court, the nature of relief sort by litigating parties, and the procedural challenges encountered during adjudication.

The court room observations are qualitative anecdotal in nature and have been used solely to enhance the understanding of the law. They do not represent the static based empirical evidence nor it should not be generalized for all over India. Accordingly, the findings of the study are only

based on doctrinal legal analysis while the court room observations serve only as supplementary contextual evidence.

EVOLUTION OF LEGISLATION ENACTED FOR WOMEN PROTECTION

1. The Commission of Sati (Prevention) Act, 1987

The commission of sati (Prevention) Rules, 1988, a key piece of Indian legislation designed to end the barbaric and outmoded practice of sati. The act of a widow self-immolating on her husband's funeral pyre, known as sati, was a deeply embedded social evil that posed a serious threat to women's rights and human dignity.

In order to provide a thorough framework for preventing and combating sati, the commission of sati (prevention) act, 1987 led to the promulgation of the rules. Main aspect of this practice was the oppression of women and patriarchy. Sati was defined and made illegal by the act, which was passed before the rules. It gave the state the authority to take preventive action and made the celebration of sati illegal. The primary objective is to stop and make it illegal for the act to be committed, as well as to glorify it. The act makes a number of sati-related offences illegal, including sati glorifying, and aiding or abetting sati. The 1988 regulations marked a watershed in India's history in the struggle for women's rights and human dignity because they provided a thorough plan for combating this ubiquitous social ill.

2. Dowry Prohibition Act, 1961

"Dowry," as defined under Section 2 of the Dowry Prohibition Act, 1961, means any property or valuable security given or agreed to be given directly or indirectly by one party

to the other at or before or at any time after marriage. Demand for cash, gold, cars, or any other property type is dowry. Giving, taking, demanding, or even advertising for dowry is an offence. The dowry system began anciently as “voluntary gifts”, but gradually became a demand-based, exploitative practice. This created serious social problems. Then in 1961, Dowry Prohibition Act came which penalized giving or taking dowry and addressed many issues related to dowry.

Section 80 of Bhartiya Nyaya Sanhita penalizes dowry death and defines it as

Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.

3. Protection of Women from Domestic Violence Act, 2005

PWDVA is a comprehensive law and it addresses all issues related to women in the domestic sphere.

In this Act, unless the context otherwise requires —

- (a) “aggrieved person” means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;
- (b) harms or injures 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;

The DV Act provides immediate and effective protection to victims, emphasizing the issuance of protection orders, residence orders, and monetary relief orders. These provisions ensure access to safe housing, financial support, and legal protection, empowering women to break free from abusive relationships and lead lives of dignity.

Before the commencement of Protection of Women from Domestic Violence Act in October, 2006, Section 498A of the Indian Penal code dealt with the cases of cruelty against the women but it only deals with the matter of domestic violence which is related to dowry. PWDVA expanded legal recourse for domestic violence beyond dowry harassment for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family

4. 498A -- Husband or relative of husband of a woman subjecting her to cruelty.

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation. — For the purposes of this section, “cruelty” means—

- (a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

Literature Review

Meghana Gades 2024 research paper, "False Allegations in Women Protection Centric Crimes and Recent Judicial Responses" which was published in the International Journal of Law Management & Humanities talks about women protection laws in India. It tells us how these laws have become stronger over time. The paper looks at things like sati, dowry deaths, honor killings and triple talaq. These problems made the government create laws to protect women.

The study also looks at what the courts have said about being cruel to women, sexual harassment and the Protection of Women from Domestic Violence Act. The paper says that these laws are important to protect women.. It also shows that there is a problem, in the Indian legal system. The laws that were made to protect women are sometimes used in the way. This can hurt people who are accused of something they did not do. It can also hurt women who are really victims. Women protection laws need to be changed so that people who misuse them are punished. This will help women protection laws really protect women.

Case analyses:

Inder Raj Malik v. Sunita Malik (1986) is an important Delhi High Court case where wife alleged the family of her husband for the cruelty for the demand of dowry. She alleged that she was harassed for the ask of dowry and she filed a pretention in the district court under section 498A of IPC. Accused challenged the decision in the high court. But high court upheld the decision of district magistrate and it ruled that harassment for dowry demand does count under cruelty. This shows that how does the India laws evolved for the protection of women in India outside as well as in households. ⁴

Arnesh Kumar vs State of Bihar (2014) it was held by the court that no arrest can be made by police without the proper satisfaction based on the facts. The petitioner alleged her husband and relatives to harass her for the demand of dowry. But it was proven later that in- laws of the petitioner were bedridden and they were living in abroad for a long time. It analyses of this case apparently shows that women are using these laws as weapons against their husbands rather than shield.

The analyses of both the cases shows that the protection which was given to women to safeguard their life inside and outside their home are now often misused by them. Awareness brings a kind of irony with it. During the course of time it has been observed that women have misused it for the revenge instead of protection.⁵

⁴ Inder Raj Malik v. Mrs. Sunita Malik [1986] Cr. L.J. 1510 (Delhi)

⁵ Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273

To what extent is the Protection of Women from Domestic Violence Act, 2005 alleged to be misused in India, and what legal, social and institutional factor contribute to such perceived misuse?

Protection of women from domestic violence act came in 2005 to provide protection and relief to the victims of the domestic violence but we need to accept the fact that all laws have the potential to be ‘misused’ and like many other laws, PWDVA also started being misused by women against their male partner. The extent of misuse of PWDVA can be varied from case to case. As the awareness is increasing women are filling fake cases and as this law is more female centric, males are facing consequences of fake complaints. Due to easy accessibility of law, victims are now able to file complaint easily and there is increase in the number of fake complaints as well. Rutledge (2009) documents that false statements in DV cases were so frequent as to be “considered as epidemic with 80-90% victims lying”.⁶

There can be various factors of the fake complaint against men by women like societal factors and legal factors. The law is with the women only as the act PWDVA supports women and Some complainants have been found by courts to have filed false complaints. In many cases, women file complaint by exaggerating the facts and there can be various reasons for misuse like when women want to get rid of the relationship or in case of extra marital affairs also *Arnesh Kumar vs State of Bihar (2014)*.⁷ In most of the cases where fake complaints are filed, men had no remedy and has to go through legal process just to prove that he is not guilty and the worst part of this is that there is no strict law which punishes this offence of filing fake complaint of domestic violence.

During the research it has been found that a case is appealed in Gandhinagar High court where appellant was the accused and he argued in the court that all the allegations imposed on him are fake and as wife demanded the divorce on the basis of cruelty with respect to the law he has to provide maintenance to his wife. The maintenance was more than his salary, he gave statement to his advocate if this case does not get settle in few months then he may commit suicide.

⁶ PARIMAL BAG, BRISHTI GUHA, MANDATORY ARREST VS. ARREST WITH WARRANT, DOMESTIC VIOLENCE AND FALSE ACCUSATION 1(2025)

⁷ Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273

Each and every law should be balanced. If PWDVA,2005 was made to save the rights of women but they should be backed by the provision which can save the accused who is the victim of false allegations. In India average of 15 years are needed to settle down the case. This time period exhaust the victim as well as accused. The concern is when the allegations are false they apparently violate the right of accused who ultimately became the victim of the judicial process as an accused.

The particular PWDVA,2005 act lacks the provision of punishing the false allegator. If laws include the harsh punishment of fake complaints there may be some less false cases regarding domestic violence. In addition to this whatever has been analyzed till now is that if advocates do realize that taking a fake case and give a way to more complaints with false allegation. In some sense it can brutally affect the life of the person who stuck in this loop. Moreover, this can be concluded from this that fake cases also slow down the procedure of legal system and increase the burden and decrease the trust of people in judiciary.

Some judicial observations and scholars have expressed concern regarding instances of misuse of the Act. However, the extent of such misuse remains contested due to limited empirical evidence. Wives misuse this law against their husbands as well as his family members. They give a small argument the notion of mental harassment which indeed is not. If the woman is financially independent or having the support of her family of orientation, she easily has the resources to file the cases. These can be easily seen in urban areas in India.

Why do a significant number of domestic violence incidents in India remain unreported, and how do social, economic, cultural, and legal barriers affect victims' access to justice?

Reporting of the fake cases is different thing but another concern is also lie in India. The reality is that actual cases of the domestic violence never get reported. The problem is not only in rural area but also in urban area. Problem is lie in the dependence of the women financially as well support. Due to lack of awareness in rural areas women accept the cruel behavior of their husband as the part of there cultural. Working women in villages are founded to be more prone to violence. Causes of which are found as police stations deny to write report with the reason that this is the family matter. In Urban areas due to influence if patriarchy in the family and financial dependence of the

female creates a big hurdle in filing of the cases. For women the priority is always lie with their family they kept silence for the reason that they cannot see her children suffer. Women face the violence mentally, physical as well as sexually. One incident of Delhi also shows that women also faced violence during the time of pregnancy as well which never showed up the court. Some women remain silent because of the so-called reputation of their family as well as sometimes society ignores the matters to be considered as personal. The paradox is law is not working as it should work. Protection is gradually become the weapon.

CONCLUSION

If law is protecting the one part of society, it should not violate the rights of others. When protection is granted for the concern then protection should also grant for its misuse. One case shows that police don't charge the complain to call it family matter but other side issues of misuse are also apparent. Awareness and proper education can be the solution for unreported cases. For the false allegations police should strengthen the investigation, provision of mediation should be included as the part of procedure, imposing penalties as well as punishments for knowingly false complaints through existing legal mechanisms where appropriate. As analyzed through the matters victims are on both the sides. Suffers of fake allegations as well as the survivors of unreported violence. Separate provision should be added to these laws so the number of fake cases can be reduced.