

EVALUATING THE IMPACT OF THE DOMESTIC VIOLENCE ACT 2005/2010: IMPLEMENTATION CHALLENGES IN DELHI/NCR

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ABSTRACT

Domestic violence against women has emerged as a pervasive issue today. It represents a significant social and legal challenge in India, as incidents of domestic violence transcend cultural, socio-economic, educational, religious, and ethnic lines. These incidents often manifest in severe forms, leading to the oppression of women, with rates escalating alarmingly across the country. The widespread nature of domestic violence against women and its serious consequences call for intervention from the state, civil society, and legal frameworks to address the issue effectively. Law plays a crucial role in combating violence against women by challenging their subordinate status and redefining their identities as individuals entitled to equal rights. Although some legislation has been enacted to address issues like dowry and rape, providing legal recourse for victims of domestic violence has remained a significant challenge for women in India. Prior to the enactment of the Domestic Violence Act in 2005, there was a lack of sufficient legal protection for victims suffering from various forms of domestic violence. This paper will examine the structure and key features of this Act, focusing particularly on the obstacles to its effective implementation in the Delhi NCR region, while proposing potential solutions to address the issue of domestic violence. The analysis of ineffective implementation is based on data gathered from interviews with various stakeholders.

Keywords: *Domestic Violence; Intimate Partner Violence (IPV); Violence; Domestic Abuse*

INTRODUCTION

Domestic violence, often referred to as domestic abuse, spousal abuse, or intimate partner violence (IPV), primarily involves violence against women, who are the predominant victims in these situations. This form of violence can be characterized as a recurring pattern of abusive behavior exhibited by one or both partners within intimate relationships, including marriage, dating, familial ties, friendships, or cohabitation. The issue of domestic violence against women is a global concern, and in India, it poses significant social and legal challenges. Daily reports highlight the tragic realities of women being burned alive, beaten to death, or driven to suicide. Incidents of domestic violence transcend cultural, socio-economic, educational, religious, and ethnic lines in India, affecting individuals regardless of caste, class, age, income, or educational

background. Such violence is evident in both rural and urban settings, impacting women across all levels of education and societal sectors. In Delhi, the patterns of domestic violence against women have persisted historically and continue to be a pressing issue today. The law plays a crucial role in combating violence against women by challenging their subordinate status and redefining their identities as individuals entitled to equal rights. As Martin Luther King noted, while the law may not change hearts, it can certainly restrain those who act without compassion. In the 1990s, a variety of factors led to notable reforms in domestic violence laws across numerous nations. The increased visibility of violence against women, driven by women's advocacy and complaints, played a crucial role in elevating the issue. Key United Nations Conferences, such as those held in Vienna (1993), Cairo (1994), and Beijing (1995), affirmed that women's rights are an essential component of universal human rights. Consequently, many countries, including India, enacted laws addressing domestic violence. Historically, family law was rooted in patriarchal norms that positioned women as subordinate within the household. Customary laws often treated women as the property of their husbands, perpetuating a culture of violence against them. Therefore, it became imperative for governments that ratified international conventions and human rights agreements to align their national legislation with these standards, ensuring that victims and survivors receive adequate protection and are not subjected to further victimization.

Objectives of the Study

- To suggest suitable remedial measures to curb the problem of domestic violence.
- To know the awareness level of the respondents about 'The Protection of Women against Domestic Violence Act, 2005/2010' and its usage.
- To assess the implementation level of PWDV Act 2005/2010 in Delhi NCR.

Delhi NCR serves as one of the administrative regions in India. The focus of this study was on the Delhi NCR and its surrounding rural areas, specifically those located within a 10 to 15 km radius from the central city. Both rural and urban settings were included to facilitate a comparative analysis of domestic violence. To gain a comprehensive understanding of the issue, it was essential to consider the perceptions and specific cases from both environments.

The study's sample consisted of 150 women respondents from both rural and urban areas of Delhi NCR. A purposive sampling approach was employed to select participants from these regions. Among the 150 respondents, 100 were identified from rural areas with the assistance of Anganwari workers and supervisors, while 50 urban respondents were selected based on reported cases from the Women Cell, Family Courts, Police Stations, and NGOs. Additionally, a few cases were identified through personal connections.

This research utilized the Structure-Agency theoretical framework, emphasizing how women navigate their agency within a patriarchal context, as domestic violence often arises from patriarchal ideologies and practices. To explore how women experience these incidents, respond to the challenges, and develop coping mechanisms, a phenomenological perspective was adopted. Data collection involved both primary and secondary sources. Secondary sources included documentary evidence from books, reports, journals, newspapers, and online information. Primary data was gathered through fieldwork, employing qualitative methods such as in-depth interviews and structured interview schedules, while quantitative methods were applied for data coding and tabulation.

Law on Domestic Violence against Women

Saroj Iyer, in her analysis titled "The Struggle to be Human: Women's Human Rights" (1999), asserts that women, once revered as goddesses and mothers, are now subjected to both mental and physical oppression in their homes and workplaces. They face discrimination and are often excluded from avenues of self-expression beyond those dictated by societal norms and traditions. Tragically, countless girls and women lose their lives daily due to gender-based discrimination and violence, surpassing fatalities from other forms of human rights violations. A large number of women endure severe torture, mutilation, and even death, while others are sold into sex slavery, all solely because of their gender. The Indian Constitution and the Universal Declaration of Human Rights affirm the rights to liberty, life, security, dignity, and freedom from slavery for every individual. Nevertheless, the persistent denial of gender justice remains a critical issue. The author highlights that the rights of women enshrined in both the Constitution and the Universal Declaration have largely remained unfulfilled in practice.

Padma Iyer's book, *Women's Human Rights and Violence* (2006), explores two forms of violence against women within the context of human rights treaties and agreements designed to safeguard women's rights. It emphasizes the need for government accountability in the implementation of these agreements and offers recommendations for governmental action. The book chronicles the evolution of the women's rights movement, highlighting the struggles and challenges faced by women as they advocate for their rights across various regions of the globe. It addresses a range of atrocities, from minor disputes to severe acts such as rape, domestic violence, torture, and mutilation, framing these issues as violations of human rights.

Jayna Kothari, in her 2005 article "Criminal Law on Domestic Violence" published in *Economic and Political Weekly (EPW)*, argues that addressing domestic violence requires a coordinated and systematic approach from the judicial system. While Section 498-A of the Indian Penal Code stands as a pivotal legal framework for safeguarding women's rights and recognizes domestic violence against women as a criminal offense, there are instances where police fail to enforce it effectively. Kothari emphasizes the necessity of implementing a new empowerment model to enhance the functionality of Section 498-A, which would include pro-arrest protocols and the establishment of social service networks within police stations. Additionally, she highlights the importance of civil law remedies to ensure protection for women who are victims of domestic violence.

Before 1983, domestic violence in India was not addressed by the legal system. It was acknowledged only within various matrimonial laws, where cruelty towards women could serve as grounds for divorce; however, there were no immediate legal measures to prevent such violence within families. The landscape changed in 1983 with the introduction of Section 498-A in the Indian Penal Code, which specifically criminalized cruelty by a husband or his family towards a married woman. This amendment established Section 498A, which outlines the offense of matrimonial cruelty. Under this section, offenders face imprisonment and fines, and the offense is classified as non-bailable, non-compoundable,

and cognizable, allowing victims or their designated relatives to file complaints with the police. The Indian Parliament enacted Article 498A in 1983, categorizing it as a criminal law rather than a civil one. The law states that any husband or relative of a husband who subjects a woman to cruelty may be punished with imprisonment for up to three years and may also incur a fine. The offense is treated as cognizable, non-compoundable, and non-bailable.

In the book *Women and Crime* (2006), M.U. Qureshi argues that violence against women is a global issue. Across all societies, women and girls experience varying degrees of physical, sexual, and psychological abuse, transcending boundaries of income, culture, caste, and class. The author aims to provide essential insights into the multifaceted nature of crimes against women and the necessary remedial measures. He identifies several critical issues related to violence against women, including domestic violence, dowry-related violence, marital rape, sexual harassment, human trafficking, and forced prostitution, all of which contribute to the worsening plight of women. These violations persist in Indian society not due to a lack of legislation, but because the law has failed to effectively serve as a tool for social change and to challenge entrenched social attitudes.

The enactment of the Domestic Violence Act 2005 represented a significant milestone in the evolution of the women's movement in India. Before this legislation, survivors of domestic violence faced considerable obstacles due to a widespread hesitance to recognize domestic violence as a criminal offense. While the Indian Penal Code and other laws provided avenues for criminal proceedings and injunctions, domestic violence was often treated as a private family issue, leading to a general reluctance among law enforcement and the judiciary to intervene against perpetrators.

The main features of the PWDVA, 2005/2010 can be summarized as:

- It aims at providing quick response of law, through immediate order to prevent further acts of violence (Section 18).
- The Act provides the remedies for women's multi needs which can be addressed through single litigation in one court therefore strongly reducing the time and money spent by aggrieved women on legal interventions.
- This Act recognizes that legal remedies would not be adequate to help the victim live her life with dignity, thus multiple support structures have been created to holistically address women's needs for counseling, shelter, and medical support.
- The Act complements existing matrimonial and criminal laws on domestic violence which provide a wider option in legal provisions to effectively address the specific situations and needs.
- Provides the remedies for women's multi needs which can be addressed through single litigation in one court therefore strongly reducing the time and money spent by aggrieved women on legal interventions.
- The Act clearly states that its basic aim is to provide effective protection from domestic violence.

- It recognizes the right of women to be free from Domestic Violence.
- Domestic Violence has been explicitly recognized as a violation of Women's rights.
- It defines the domestic violence concept which is broad and covers the various aspects of domestic violence which includes- physical, mental, emotional, sexual, and economic- based on women's experience of such violence (Section 3 of PWDVA).
- It recognizes a woman's right to reside in the matrimonial home i.e., shared household, and protection of her from being dispossessed and becoming destitute (Section 17 and 19 of PWDVA).
- Multiple support structures have been created to holistically address women's needs for counseling, shelter, and medical support and the appointment of a Protection Officer to assist the victim of domestic violence.
- Protects and provides remedies to the wife, ex-wife, widow, and women in a relationship or a nature of marriage. In addition, several other categories of women facing domestic violence that were not marital in nature are also covered by this law, such as mother, daughter, sister, joint family member, and children (male and female).
- In case of a complaint, it is not necessary that the women victim or survivor of domestic violence alone can file a complaint under it rather any Protection Officer or any other person who has the reason to believe that an act of domestic violence has been, is being, or is likely to be committed, can file a complaint which includes neighbors, relatives, social workers, or any other concerned citizen.

Implementation of Domestic Violence Act in Delhi NCR

The formulation of this comprehensive law was one of the important steps towards the recognition of women's rights, but many problems arise in the implementation of this law. The effective implementation of this legislation depends on many factors including the efficient role played by the support system like State as well as other implementing agencies. Further, effective implementation requires coordination among the various agencies like police (Women Cell), Social welfare department, health departments, judiciary, and NGO's.

Implementation of the laws related to women is a worldwide problem and the same situation was found while studying the prevalent trends of domestic violence in the Delhi NCR. It was found that there are inherent difficulties in the implementation of the Act though there are cases registered under this law in the Delhi. Various problems which were encountered while studying the nature, forms, magnitude, and existing trend of domestic violence in the Delhi NCR were:

- a) Due to the traditional value system because of which the victims, as well as the family members were found reluctant to register cases due to the reputation and honor of the family in the community and society at large.

- b) The lack of trust in the legal system, which was generally seen as a process of speedy justice but the respondents who have registered their cases in the court found them as a delayed process.
- c) The respondents also faced the invisible cost of securing justice in terms of tension, harassment, fear, and adjustments.
- d) Difficulty in identifying and obtaining accurate data as cases related to domestic violence were highest in number.
- e) The unavailability of an accurate number of domestic violence cases because of the inhibitions on the part of the victims to report the cases of domestic violence as they fear the possibility of more violence in the future.

The data collected from a range of sources, including advocates, academics, and police officials, particularly the Station House Officer (SHO) of the Women Cell, reveals significant challenges in the enforcement of the PWDV Act in the Delhi NCR region. Interviews with several advocates indicated that while they handle 8 to 10 domestic violence cases daily, the implementation of the Act does not adhere to the established guidelines, and victims often do not receive the reliefs stipulated by the law. A primary shortcoming in the Act's execution in Delhi is the absence of appointed Protection Officers and Service Providers, the lack of established Shelter Homes, and the unavailability of dedicated medical facilities for victims of domestic violence when necessary. According to the Act, it is the responsibility of the state government to appoint Protection Officers and Service Providers and to set up Shelter Homes equipped with medical services. Various agencies have been assigned specific powers and responsibilities under the Act.

1. Protection Officer

Protection officers facilitate access to court and support systems and take action to prevent further domestic violence (Lawyer Collective 2009, 37). Protection Officer (P.O.) can also file a Domestic Incident Report (DIR) on behalf of the aggrieved woman with police and the concerned magistrate. Looking in the context of the Delhi NCR it has been found that to perform all the above-mentioned duties there are no Protection Officers appointed by the state government as yet. The reasons for the non-appointment of the P.O. were investigated but no satisfactory responses were received. As per the information collected through the ICDS office, it was revealed that CDPOs have been assigned the additional duty to act as Protection Officers. However, this was only a verbal communication as there was no written order that states or assigns duties to CDPOs to act as Protection Officers. They also revealed that they are not provided with any specific training as well as they are under-qualified and sometimes too overloaded with other works to effectively cater to their additional duties as P.O.'s. This kind of arrangement done by the State government is only an eyewash.

Another interesting fact that was revealed by the SHO Women Cell was that in the Delhi NCR the duty of the protection officers is discharged by the SHO Women Cell or the police officials of the concerned Police Station where the DIR is reported regarding the domestic violence. The various sections under

PWDV Act explain the different provisions to be provided to the victim of domestic violence but in actuality very few of them like compensation or monetary relief, residence order were accessed by the victims in the case of the Delhi NCR. Moreover, the settlement of a large number of cases indicates that by and large SHO's who are acting as Protection Officers were into counseling, leading to under-utilization of the various provisions granted under the PWDV Act.

Another important factor that led to the under-utilization and implementation of the Act is the lack of awareness among the people. It was found during the research that the respondents were almost unaware of any such provision. They just know about the Women Cell where they approached through friends or relatives. Some of the respondents even quoted that it was only through the Women Cell they came to know that there is some Act for dealing with the cases of domestic violence.

The information collected by the personal interviews with some police officials, and advocates revealed that cases of domestic violence are filed and registered under 498- A first rather than under the Domestic Violence Act. This revealed that police officials were not aware of the procedures and benefits of the Act.

2. Service Providers

Service providers are the voluntary organization or companies registered under the Societies Registration Act, 1860, and companies registered under the Companies Act, 1956 to protect the rights and the interests of women. There are recognized women organizations and women's NGOs which played and are playing a pivotal role in providing services to women facing domestic violence. They provide facilities like counseling, shelter, medical aid, legal aid, financial support, etc. The service providers are required to provide assistance by recording the domestic incidence report and forward a copy of it to Magistrate and Protection Officer if the victim so desires; to facilitate victim to have access to other support services for example: get the aggrieved personal medically examined, ensure the provision of shelter in the shelter home etc. The PWDVA protects all the action taken in good faith by service providers towards the prevention of commission of domestic violence. A shelter is a place that provides protection and basic needs to the individual. Shelter Home/Short stay home can be registered under PWDV Act. In the Delhi NCR, no separate shelter/short stay homes were available for the victims of domestic violence. The victims had managed on their own whenever they are evacuated from matrimonial homes due to domestic violence. It was also found in the study that many of the victims were either helped by parents, relatives, friends, and neighbors in the time of need when they were badly abused and thrown out of the matrimonial home. Thus, it can be said that the basic facilities through these agencies, which are required and recommended under PWDV Act were missing in the context of the Delhi NCR.

The data taken from various sources show that large numbers of cases of domestic violence have been registered under the available provision. However, a lot is required to be done on the part of the government for its effective implementation. Somewhere the effective implementation is hampered because of the financial constraint to appoint the Protection Officers and provision of service providers,

shelter/short stay homes and medical facilities that ensure justice to the victims of domestic violence. But the proper implementation cannot be shrugged off by the State under the pretext of financial constraint. On the other hand, awareness of this Act among women is required both in rural and urban areas. When asked about the provision of “Protection of Women from Domestic Violence Act 2005/2010”, it was found that in the urban areas nearly 30 percent of the respondents were aware of the Act whereas 70 percent of them were unaware of such a provision. In the rural areas, 100 percent of the respondents were ignorant about the Act and few were of the view that if ever there is any such law it is not for people like them as they were totally illiterate and ignorant. Few of them were of the view that such type of law is not going to help in reducing the violence as they believed that it is the patriarchal mindset that needs to be changed first. Few of them even said that they are not even allowed to speak or retaliate against the pain or injury which was inflicted on them especially through battering: reaching out to police or taking help of the judicial system is out of question, it will not help even the coming generation of girls, they also have to live with the practice of discrimination, ignorance, and pain. These responses showed that there was a lack of awareness among the women regarding the Act as well as many barriers to accessing the available provisions.

This Act cannot be considered as a panacea of all gender-centric issues as societal mindset requires a rational makeover and it further necessitates some concrete efforts at various levels to eliminate this problem. Although this landmark legislation seeks to deter domestic violence in all forms against women including harassment due to dowry and causes like inability to bear a child or a male child, sexual harassment etc. but there is no honest implementation of the Domestic Violence Act in Delhi NCR. The information and the data collected from various sources show that a large number of cases are dealt with under the PWDV Act, hence signifying the proper usage and implementation but primary information gathered through personal interviews shows the signs of the dismal failure of the Act in Delhi NCR.

Suggestions

To curb the problem of Domestic Violence and proper implementation of the PWDV Act in the Delhi NCR various measures or remedial actions are required:

- It is important to generate awareness among women especially poor and illiterate regarding the provision of various rights and legal safeguard measures provided under this Act.
- There should be proper implementation of the Act in reality as mere enactment of the Act would not help to fight domestic violence.
- Appointment of Protection officers to be made (preferably women) as soon as possible so that the victims get the appropriate person (agency) to approach to lodge the complaint of domestic violence.
- Other facilities like shelter or short stay homes and separate medical facilities for the victim of

domestic violence be provided as these agencies are totally missing in Delhi NCR.

- Social attitudinal changes are much required to consider both sexes as equals, and socialization right from the beginning be done so that both sexes grow as equals.
- Media, both print and electronic should play an important role in highlighting the issues pertaining to violence against women and also educate women regarding available provisions and their legal rights.
- In Jammu, there is the availability of just one Women Cell to report incidences of violence against women. Therefore, one more Women Cell along with women police stations to be established to cater to the needs of a large number of women facing domestic violence.
- Proper Counseling Centres should be established to lower down the rate of divorce. There should be a focus on counseling of men also. The centres should try to reconcile the spouses (in cases of minor issues) so that their homes can be protected which would reduce the number of broken families.
- The focus should not be on relief measures only but on structural changes which would empower women and help them to shun learned helplessness and hence make them less vulnerable to violence. These include education, a good job, and enough property in their name. This would generate self-confidence.
- The PWDV Act 2005/2010 should be centrally sponsored so that it can be implemented wholeheartedly by various States/UT's including Delhi NCR.
- Proper training and appointment of various agencies provided under the Act should be done on priority for better results.
- Lastly, along with the stringent implementation of the Act rational makeover of the mindset and stereotypical thinking need to be changed to bring the actual visible change in the society.

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