



Study of The Protection of Women from Domestic Violence Act 2005 (PWDVA) , its benefits and hurdles in implementation.

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Abstract : The Protection of Women from Domestic Violence Act 2005 is an Act of the Parliament of India enacted to protect women from domestic violence. It was brought into force by the Indian government from 26 October 2006. The Act provides for the first time in Indian law a definition of "domestic violence", with this definition being broad and including not only physical violence, but

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also other forms of violence such as emotional/verbal, sexual, and economic abuse. It is a civil law meant primarily for protection orders and not meant to penalize criminally. The act does not extend to Jammu and Kashmir, which has its own laws, and which enacted in 2010 the Jammu and Kashmir Protection of Women from Domestic Violence Act, 2010

Definitions under the PWDVA :

The definition of domestic violence is well written and wide-ranging and holistic. It covers, mental as well as physical abuse, and also threats to do the same. Any form of harassment, coercion, harm to health, safety, limb or well-being is covered. Additionally, there are specific definitions for the following:

Physical abuse: Defined as act or conduct that is of such a nature as to cause bodily pain, harm, or danger to life, limb or health or impair the health or development of the aggrieved person'. Physical abuse also includes assault, criminal intimidation and criminal force.

Sexual abuse: The legislation defines this as conduct of "sexual nature" that 'abuses, humiliates, degrades or otherwise violates the dignity of a woman.'

Verbal and emotional abuse: Insults/ ridicule of any form, including those with regard to inability to have a male child, as well as repeated threats

Economic abuse: Categorized as including deprivation of financial resources required for survival of the victim and her children, the disposing of any assets which the victim has an



interest/stake in and prohibition/restriction of financial resources which the victim is used to while in the domestic relationship.

The definition of “*aggrieved person*” includes any woman who is or has been in a domestic relationship with the respondent and who alleges to have been subjected to domestic violence by them.

The definition of “*respondent*” includes any adult male who has been or is in a domestic relationship with the aggrieved woman, and against whom the woman has sought a relief or any male or female relative of the husband or male partner of a married woman or a woman in a relationship in the nature of marriage.

The definition of “*domestic relationship*” is any relationship 2 persons have lived together in a shared household and these people are:

- Related by consanguinity (blood relations)
- Related by marriage.
- Though a relationship in the nature of marriage (which would include live-in relationships)
- Through adoption
- Are family members living in a joint family.

The definition of “*child*” is any person below the age of eighteen years, and also includes foster, adopted, or step child.

Duties of Authorities

The law imposes certain duties on the main authorities responsible for enforcing this law. When a police officer, Protection Officer, Service Provider or Magistrate comes to know that someone is suffering from domestic violence, they must inform the victim of the following rights:

- The victim can apply for any of the reliefs recognized under this law i.e. a protection order, monetary relief, custody order, residence order or a compensation order.
- The victim can use the services of certain official Service Providers.
- The victim can approach a Protection Officer and ask them for help.
- The victim can ask for free legal aid.



- The victim can also file a criminal complaint under the general law on crimes (the Indian Penal Code, 1860). Please note that filing a criminal complaint can put the offenders in jail for up to three years. The victim must have suffered a graver degree of abuse (i.e. cruelty) to be able to file a complaint.

Benefits of the PWDVA :

This legislation was enacted after a ratification of the CEDAW (Convention on the Elimination of All forms of Discrimination Against Women)

The definition of ‘domestic relationship’ is broad enough to cover all sorts of household arrangements; for example, live-in relationships when the couple is not married. The inclusion of this, as well as relationships which fall under categories of fraudulent or bigamous, was a pioneering step.

With regard to live-in relationships itself, in a distinctive judgement passed in the case of Bharata Matha & Ors v. R. Vijaya Renganathan & Ors, it was decided that a child born out of a live-in relationship is entitled to property (the property owned by the parents, but not ancestral property).

This means that a woman and her child in a live-in relationship cannot be threatened with economic abuse. Of course, although this has more relevance to property ownership and the Hindu Marriage Act, it is gratifying to know that children born out relationships which are not akin to marriage can also have property rights.

Furthermore, the Act also provides relief to domestic violence committed by both male and female relatives of the husband or male partner (which would aid in situations where family members harass the wife etc.). Additionally, the definition of “child” is also inclusive of foster, adopted and stepchildren.

The respondent has a duty to pay the victim compensation and not cut off financial resources, and this protects the victim from not only violence but also protects her interests. The definition



of “shared household” specifies that regardless of whether or not the victim has legal rights/equity over the household; if she has inhabited the house with the respondent, and he has been violent with her, then the respondent is liable under the Act. This means that even if she does not have legal or financial stake in the house, the respondent cannot evict her.

The protection orders are inclusive of most instances where the respondent could have possibly taken advantage of the victim, and again is not limited to that definition alone. Finally, the orders issued by the law should be given free of cost to the victim as proof.

Implementation hurdles :

There seem to be problems with the actual implementation of the regulations. In many districts, instead of employing Protection Officers, existing government officials are given this responsibility as well; and are not equipped to deal with the same (refer link below). Therefore they do not fulfil most of the duties specified in the Act, and because of this victims are not able to make full use of the law for their benefit. Similarly, with regard to shelter homes, the Act specified that there should be as many as deemed enough. However, research into actual implementation has shown that many districts do not have even one shelter home.

Though the Act does have a few defects, and the implementation leaves a lot to be desired; the policy by itself seems to be quite practical.

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