

DOMESTIC VIOLENCE ACT:2005

Introduction

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 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 for meant to be enforced 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.

The Protection of Women from Domestic Violence Act—2005 differ from the provision of the Penal Code—section 498A of the Indian Penal Code—in that it provides a broader definition of domestic violence.

DEFINITION

Domestic violence is defined by Section 3 of the Act as ¹ "any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it:

1. 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; or
2. harasses, harms, injures or endangers the aggrieved person 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
 3. 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
 4. otherwise injures or causes harm, whether physical or mental, to the aggrieved person."

The Act goes on, through the section *Explanation 1*, to define "physical abuse", "sexual abuse", "verbal and emotional abuse" and "economic abuse"

The Domestic Violence Act 2005 is the first significant attempt in India to recognize domestic abuse as a punishable offence to extend its provisions to those in live-in relationships and to provide for emergency relief for the victims, in addition to legal recourse. Domestic violence is amongst the most prevalent and the least reported forms of cruel behavior. Till the year 2005, remedies available to a victim of domestic violence in the civil courts (divorce) and criminal courts (vide Section 498A of the Indian Penal Code) were limited. There was no emergency relief available to the victim; the remedies that were available were linked to matrimonial proceedings, and the court proceedings were always protracted, during which period, the victim was invariably at the mercy of the abuser.

Objectives of Domestic Violence Act

- Also the relationships outside marriage were not recognized. This set of circumstances ensured that a majority of women preferred to suffer in silence. It is essential to address these anomalies and with these objectives the Protection of Women from Domestic Violence Act was passed.
- It empowers women to file a case against a person with whom she is having a 'domestic relationship' in a 'shared household' and who has subjected her to 'domestic violence'.

- Children are also covered by the act; they too can file a case against a parent and parents who are tormenting or torturing them, physically, mentally or economically.
- Any person can file a complaint on behalf of a child.
- Section 3 of the law says any act or conduct or omission or commission that harms or injures or has the potential to harm or injure will be considered 'domestic violence'
- Under this, the law considers physical, sexual, emotional, verbal, psychological, and economic abuse or threats of the same.
- Even a single act of commission or omission may constitute domestic violence—in other words, women do not have to suffer a prolonged period of abuse before taking recourse to the law.
- An important aspect of this law is that its 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 or restrict the wife's continued access to resources or facilities to which she is entitled by virtue of the 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.
-

The salient features of the Protection from Domestic Violence Act, 2005 are as follows:

- The Act seeks to cover those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or a relationship in the nature of marriage, or adoption; in addition relationship with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with

them are entitled to get legal protection under the proposed Act.

- "Domestic violence" includes actual abuse or the threat of abuse that is physical, sexual, verbal, emotional and economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.
- One of the most important features of the Act is the woman's right to secure housing. The Act provides for the woman's right to reside in the matrimonial or shared household, whether or not she has any title or rights in the household. This right is secured by a residence order, which is passed by a court. These residence orders cannot be passed against anyone who is a woman.
- The other relief envisaged under the Act is that of the power of the court to pass protection orders that prevent the abuser from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequented visited by the abused, attempting to communicate with the abused, isolating any assets used by both the parties and causing violence to the abused, her relatives and others who provide her assistance from the domestic violence.
- The draft Act provides for appointment of Protection Officers and [NGOs](#) to provide assistance to the woman w.r.t medical examination, legal aid, safe shelter, etc.
- The Act provides for breach of protection order or interim protection order by the respondent as a cognizable and non-bailable offence punishable with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees or with both. Similarly, non-compliance or discharge of duties by the Protection Officer is also sought to be made an offence under the Act with similar punishment.

While "economic abuse" includes deprivation of all or any economic or financial resources to which the victim is entitled under any law or custom whether payable under an order of a Court or otherwise or which the victim requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, [stridhan](#), property, jointly or separately owned by her, payment of rental related to the shared household and maintenance and disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the victim has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the victim or her children or her stridhan or any other property jointly or separately held by the victim and prohibition restriction to continued access to resources or facilities which the victim is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household, "physical abuse" means any act or conduct which 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 victim and includes assault, criminal intimidation and criminal force.

If your spouse, intimate partner or parent does any of the following, these could be indications of domestic violence:

- Threatens to harm you or kill you
- Deprives you of clothes, food, or medical care
- Abandons you in a place you are not familiar with
- Attacks you with weapons
- Punches, pushes, kicks or bites you, or pulls your hair
- Forces you to have unwanted sex
- Refuses to use a condom or practice birth control, even though you want protective measures
- Restricts your communication with friends or family
- Completely cuts off your relationships with others
- Controls your access to money

DOMESTIC VIOLENCE/RELATIONSHIP ABUSE IS CAUSED BY...

Domestic violence is a **choice** and it is a **learned behavior**. For these reasons, it is difficult to say that domestic violence is caused by any one single factor. However, the following beliefs and attitudes are common for abusers:

- Sense of entitlement
- A belief they should have power and control over their partner
- Belief that they can get away with it
- Learned experience that being abusive gets them what they want
- Belief that their lives should take priority

SOCIAL FORCES

Social forces also play a pivotal role in shaping an abuser's values and attitudes, as well as creating an environment where abusive behavior is rewarded and unpunished. The following social forces may contribute to perpetrators' decision to abuse:

- Gender-role identity – Limited definitions of “appropriate masculine behavior” that glorify aggression, violence, and dominance.
- Family – Messages that men should have the power and make decisions in a household and/or intimate relationship (e.g. “a man’s home is his castle”)
- Media – Portrayals of women as objects; glorification of violence and violent, coerced, and non-consensual sex; limited male and female roles.
- Peer group – Social pressure to conform to a limited definition of masculinity, which centers on devaluing women.
- Sports – Competition, aggression, and dominance are praised. Teammates that demonstrate sexist and/or abusive behavior are not held accountable.
- Impunity – Many perpetrators do not face any negative repercussions for their sexist attitudes and abusive behaviors. If they are challenged, their excuses are accepted (e.g. blaming the behavior on alcohol use, stress, or being provoked by the victim)

What are the Roots of Domestic Violence?

Domestic violence and other types of violent relationships are based on power and control. If one partner feels the need to dominate the other in any shape or form, it is significantly more likely a relationship will turn violent. Research has shown that people with abusive tendencies generally turn violent when they feel out of control. [The Power and Control Wheel](#), originally developed by the Domestic Abuse Intervention Project in Duluth, Minnesota, shows the abusive and violent pattern perpetrators use to get and maintain power and control.

Childhood experiences

It is possible an abuser may have witnessed domestic violence during childhood and understood violence to be a way to maintain control within a family.

Major life changes

An increased risk of domestic violence may occur during a significant shift in life, such as pregnancy or a family member's illness. The perpetrator may feel left out or neglected and looks to find control in these situations.

Economic circumstances

Job loss, housing foreclosures, or debt can increase stress levels at home, which can lead to violence. Financial difficulties can also limit options for survivors to seek safety or escape.

Insecurity

Victims may try to leave the relationship causing the perpetrator to become more abusive to maintain control. The abuser may feel abandoned or insecure creating a greater risk for abuse for victims.

The effects of domestic and family violence

Domestic and family violence tears lives apart. One in 3 women experience physical or sexual violence, or both, caused by someone known to them. It affects women, children, the family and the community. And it has big personal, social and economic effects.

Effects on the victim

- Death, illness, injury and disability — domestic and family violence is the leading cause of death, illness and disability for women aged under 45
- Emotional and psychological trauma — the devastating impact on an individual's physical, mental and emotional health including depression, shame, anger and suicide
- Homelessness — nearly one-third of people in NSW seeking help from homelessness services say domestic and family violence is an issue
- Use of alcohol and other drugs to deal with the pain
- Physical health injuries and problems, which may not get medically treated

Effects on the family

- Violence and the threat of violence at home creates fear and can destroy family environments and lead to the break-up of families
- Frequent moving to avoid the abuser
- Regular household conflict
- Child protection or police involvement

Effects on the community

- Children growing up without learning about positive and respectful relationships

- Abusers going to prison
- Higher rates of alcohol and other drug use, and mental health problems
- Domestic and family violence is estimated to cost the NSW economy more than \$4.5 billion each year

Effects on children

Of those women who experience violence, more than 50% have children in their care. Children and young people don't have to see the violence to be affected by it. Studies show that living with domestic violence can cause physical and emotional harm to children and young people in the following ways:

- ongoing anxiety and depression
- emotional distress
- eating and sleeping disturbances
- physical symptoms, such as headaches and stomach aches
- find it hard to manage stress
- low self-esteem
- self-harm
- be aggressive towards friends and school mates
- feel guilt or blame themselves for the violence
- have trouble forming positive relationships
- develop phobias and insomnia
- struggle with going to school and doing school work
- use bullying behaviour or become a target of bullying
- difficulty concentrating
- find it hard to solve problems
- have less empathy and caring for others

Children and young people need to grow up in a secure and nurturing environment. Where domestic or family violence exists, the home is not safe or secure and children are scared about what might happen to them and the people they love.

Read more about [the effects of domestic violence on children and young people](#)

Effects of Domestic Violence

Domestic violence survivors can face ongoing and challenging effects after enduring physical, mental, and emotional abuse. It can take time for a survivor to adjust to living in a safe environment, especially if a perpetrator was severely violent and/or committed the actions over an extended period of time.

While addressing this pain can be overwhelming, the healing process can help survivors develop inner strengths and lessen their fear of safety for themselves and their families. On the journey to recovery, survivors and those who support them should understand that **healing takes time**. The effects of this trauma can vary widely person to person due to individuals' responses to stress, age, and the frequency and severity of abuse.

What are common physical effects of domestic violence?

- Bruises
- Bruises on or around the eyes
- Red or purple marks at the neck
- Sprained or broken wrists
- Chronic fatigue
- Shortness of breath
- Muscle tension
- Involuntary shaking
- Changes in eating and sleeping patterns
- Sexual dysfunction
- Menstrual cycle or fertility issues in women

What are common mental effects of domestic violence?

- Post-traumatic stress disorder (PTSD), including flashbacks, nightmares, severe anxiety, and uncontrollable thoughts
- Depression, including prolonged sadness
- Anxiety
- Low self-esteem and questioning sense of self
- Suicidal thoughts or attempts. If you or someone you know is feeling suicidal, contact the National Suicide Prevention Lifeline at 1.800.273.8255.

- Alcohol and drug abuse

What are common emotional and spiritual effects of domestic violence?

- Hopelessness
- Feeling unworthy
- Apprehensive and discouraged about the future
- Inability to trust
- Questioning and doubting spiritual faith
- Unmotivated

What are common effects on children who witness domestic violence?

Whether children witness or experience abuse, it can take a toll on their development. Domestic violence victims are not isolated to intimate partners. Children are at an increased risk for emotional behavioral problems regardless if they were directly abused or not. The effects include:

- Anxiety
- Depression
- Academic problems Fearful

DR. CHANDNI SINHA
Dept. of Sociology
Patna women's college, Patna