

Domestic Violence Legislation:- Protecting Victims and Ensuring Justice

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1. INTRODUCTION

Domestic violence legislation is crucial for safeguarding victims and upholding justice in communities. It prevents, addresses, and prosecutes abuse within intimate relationships or households, providing protection, support, and recourse for victims. Key components include restraining orders, emergency protection orders, and shelters. Victims are empowered through counseling, advocacy, and financial assistance. Criminal legislation emphasizes accountability, holding offenders legally responsible for their actions. This aims to deter future abuse and send a clear message that abuse will not be tolerated. Domestic violence legislation fosters safer, more equitable communities.

2. Definition of Domestic Violence and Forms of Domestic Violence

Domestic violence is defined under section 3 of domestic violence act, 2005. Which says that "For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it--

- any act harming the aggrieved person's health, safety, life, or well-being.
- Physical abuse includes assault, criminal intimidation, and force.
- Sexual abuse involves humiliating, degrading, or violating women's dignity.
- Verbal and emotional abuse includes insults, ridicule, and repeated threats.
- Economic abuse includes deprivation of resources, disposal of household effects, alienation of assets, and restriction to access to resources.
- Facts and circumstances determine if any act constitutes domestic violence.

Basically, it means that Domestic violence encompasses emotional, psychological, physical, sexual, or economical abuse of intimate partners, parents, or children. It is defined by the Oregon Domestic Violence Council as a pattern of coercive behavior used to control and subordinate another in an intimate relationship. The problem of domestic assault is complicated by cultural and social contexts, making oppression of particular groups possible. Women are the majority of victims, often unaware of their rights and freedoms. The psychological aspect is present in most incidents. Different approaches to explaining the roots of assaultive behavior, including biological, psychoanalytical, and cross-cultural perspectives, are used to understand the problem.

3. The Biological Perspective

The biological approach to understanding intimate partner battering is criticized for overlooking genetics and hereditary factors, requiring further research for empirical support.

4. The psychodynamic perspective

5. The behavioral perspective

Psychodynamic theories, rooted in Freud's psychoanalytic approach, explain assaultive behavior as a conflict between conscious and subconscious mind parts, with early partner abuses influencing future relationships.

6. Effects of domestic violence

Domestic violence survivors often face long-term consequences, including difficulty adjusting to a safe environment, especially if the perpetrator was extremely violent or committed crimes over a long period.

a. Health Issues

Domestic violence causes physical injuries, anxiety, depression, PTSD, weakening immune system, and

substance abuse among victims, increasing susceptibility to illnesses and promoting unhealthy coping mechanisms.

b. Emotional effects

Domestic violence causes emotional issues like fear, anxiety, low self-esteem, trauma, depression, guilt, shame, and long-term effects like PTSD, requiring counseling and support for healing.

c. Financial Issues

Domestic violence victims often face economic abuse and isolation, lacking financial resources and specialized skills to find work. This lack of resources is a significant factor in homelessness, with one in three women experiencing homelessness due to leaving a domestic violence relationship.

d. Effects on children

Children exposed to domestic violence suffer profound and enduring consequences, including psychological trauma, developmental delays, and behavioral issues. Such exposure violates their rights to safety, well-being, and a nurturing environment. Legal interventions must prioritize their protection, ensuring access to support services and opportunities for recovery and development.

7. Institution of Protection Officers

The 2005 Domestic Violence Act created a post of Protection Officers. Section 8 says that these officers may be appointed by the State Government and should, as far as possible, be women. Their duties range from guiding a victim of domestic violence through redressal mechanisms as well as aiding them in gaining access to shelters or medical facilities. A Protection Officer may also present an application of litigation to the Magistrate on the aggrieved's behalf.

8. Measures for relief

The Act talks about the ways in which Courts might be approached and the measures of relief provided. Section 17 guarantees the right to residence in the shared household. The Act also provides for temporary custody of a child. Further, the Courts are allowed to appoint welfare experts (Section 15) and counsellors (Section 14) for the aggrieved parties.

Decisions must be made within 60 days, and multiple judgments can occur in a single case. PWDV Act cases can be initiated, and both parties can appeal.

9. Landmark domestic violence cases in India

- ❖ Lalita Toppo v. the State of Jharkhand, (2018)

Facts of the case

In the case of Lalita Toppo v. the State of Jharkhand and Anr. (2018) involved a live-in relationship and child support case. The Appellant sought maintenance under the Protection of Women from Domestic Violence Act, 2005, arguing she couldn't under Section 125 of the Code of Criminal Procedure, 1973. The High Court ruled in favor of her partner.

Issue involved in the case

- Whether a live-in partner can seek maintenance under the Domestic Violence Act, 2005?

Judgement given by the Court

The Supreme Court ruled that a live-in partner can seek more relief than under Section 125 of the Code of Criminal Procedure, 1973, under the Domestic Violence Act. The court also noted that domestic violence includes economic abuse, despite the petitioner not being a legally wedded wife.

- ❖ Ajay Kumar v. Lata @ Sharuti, (2019)

Facts of the case

The Supreme Court lawsuit states that the Appellant, Lata, is not obligated to pay maintenance to his brother's widow, unless they are in a business partnership.

Section 12 of the DV Act states that a person may approach a magistrate for relief or financial relief to compensate for loss sustained by her or her child as a result of domestic violence, however, this does not include the order of maintenance under Section 125 of the Code of Criminal Procedure or any other law. The lady said that after her husband died, she was not permitted to dwell in her matrimonial house and was driven out with her kid, and she now has no means of support for herself and her child.

Issue involved in the case

- Whether brother-in-law comes under the definition of "Respondent" under Section 2(q) of the DV Act?

Judgement given by the Court

In this case, the Supreme Court ruled that under the Domestic Violence Act, 2005, maintenance to a widow can also be provided by a brother-in-law. The Supreme Court rejected the Appellant's allegation that Section 2(q) of the Protection Women from DV Act defines "Respondent" as any adult male individual who is or has been in a domestic relationship with a partner against whom the remedy is sought. The Supreme Court drafted a domestic connection between the woman and her brother-in-law, stating that the brother-in-law and the woman are a joint family.

10. Redressal mechanisms

➤ Helpline Numbers

- Police: 100
- Women's helpline: 181 or 1091
- Domestic violence helpline: +91 7217735372
- Single emergency helpline: 112
- Emergency number for transgender and MSM community: 1800-2000-113

REFERENCE

- [1] https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00008_200543_1517807325788§ionId=12899§ionno=3&orderno=3
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- [5] Domestic violence act,2005