

# **RECLAIMING SAFE SPACES: A GENDERED UNDERSTANDING OF THE “SHARED HOUSEHOLD” CONCEPT AS PER THE PWDV ACT, 2005**

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## **Abstract**

Despite numerous attempts to reinterpret the concept of a “shared household” in view of the stipulations of the Protection of Women from Domestic Violence Act (PWDVA), we are yet to achieve a comprehensive gender-focused analysis of this matter. This research undertakes a meticulous examination of the legal provisions and societal norms to assess the effectiveness of our legal framework in safeguarding women from “domestic violence” within shared living arrangements. It delves into the intricate dynamics of power, patriarchy, and economic dependency to understand how gender-based power imbalances manifest within “shared households” and subsequently impact instances of “domestic violence”. In this manner, this article aims to provide a holistic understanding of the challenges women face in seeking protection. This article aspires to offer ideas to contribute to enhancing safety and equity within shared living spaces by offering critical insights, recommendations, and constructive critiques aimed at expanding the scope of the law.

**Keywords:** Domestic Violence, Shared Household, Gendered Analysis, PWDV Act, Legal Safeguards

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## **I Introduction**

THE PROTECTION of Women from Domestic Violence Act, 2005 (hereinafter, PWDVA) is a crucial regulation,<sup>1</sup> targeted towards safeguarding women from various forms of domestic abuse.<sup>2</sup> At its core, this article examines the legal framework surrounding “domestic violence”<sup>3</sup>, essentially focusing on the concept of “shared households”<sup>4</sup> as defined by the PWDVA. This legal definition is pivotal in understanding how the law addresses and

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<sup>1</sup>R. Abeyratne and D. Jain, “Domestic Violence Legislation in India: The Pitfalls of a Human Rights Approach to Gender Equality” 21 American University Journal of Gender Social Policy & The Law 333 (2012).

<sup>2</sup> Karp, Aaron, “Unheard and Uncounted: Violence against Women in India” Small Arms Survey, 2015, available at: <http://www.jstor.org/stable/resrep10686> (last visited on September 12, 2023).

<sup>3</sup> The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 3.

<sup>4</sup>The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 2(s).

responds to cases of “domestic violence”, especially within the confines of homes shared by both victims and abusers.<sup>5</sup>

This research is aimed at unearthing the various lines of thought by virtue of which the PWDV Act keeps evolving while trying to engage in a multifaceted exploration of gender dynamics, legal intricacies, and societal implications. By adopting a gendered analysis, this study seeks to unravel how “domestic violence” disproportionately affects women and how legal instruments like the PWDVA,<sup>6</sup> attempt to redress these gender-based imbalances. It delves into the very heart of “shared households”, which are supposed to be the sanctuaries for family members, and questions the efficacy of the law in ensuring that women’s rights are safeguarded and that their safety is ensured within these spaces. Furthermore, the research extends beyond legal provisions to scrutinize the broader social repercussions of “domestic violence,” examining entrenched cultural norms, stereotypes, and biases that may perpetuate violence and hinder women’s access to justice. Ultimately, this research strives to shed light on how the legal system can empower women and provide them with secure environments to help them challenge the prevailing norms that perpetuate gender-based violence within “shared households”. In doing so, it holds the potential to effect meaningful change affecting countless women in India who regularly bear the brunt of “domestic violence”.<sup>7</sup>

The research questions involve dissecting the definition of “shared household” to effectively assess its impact on women’s access to legal protections. The answer to this revolves around the interpretation and application of the “shared household” concept as defined by the PWDVA. This delves into whether this legal definition adequately captures the complex dynamics of “domestic violence” within shared spaces and how it influences women’s ability to seek legal remedies and protection.<sup>8</sup> Thereafter, the article has examined as to what are the gendered power dynamics within “shared households” and their implications for “domestic violence”. In this context, the article explores the power dynamics within “shared households”. Understanding how gender roles and hierarchies manifest within these spaces is crucial in uncovering the root causes of “domestic violence”.

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<sup>5</sup> Meghna Bhat and Sarah E. Ullman, “Examining Marital Violence in India: Review and Recommendations for Future Research and Practice” 15(1) *Trauma, Violence & Abuse* 57 (2014).

<sup>6</sup> The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005).

<sup>7</sup> Flavia Agnes and Audrey D’mello, “Protection of Women from Domestic Violence.” 50(44) *Economic and Political Weekly* 76 (2015).

<sup>8</sup> Renu Vihan, “The Protection of Women from Domestic Violence in India: In Context of Domestic Violence Act 2005” 70(1) *The Indian Journal of Political Science* 49 (2013).

This article also tries to establish a correlation between financial dependency and economic abuse to understand the extent to which the PWDVA effectively addresses economic abuse and financial dependency within “shared households”. As economic abuse is a lesser-discussed aspect of “domestic violence”,<sup>9</sup> investigating whether the PWDVA effectively addresses financial dependency and control within “shared households” is important in understanding how women’s economic vulnerabilities are exploited. Lastly, the article has tried to point out criticisms and recommendations by understanding how societal norms and cultural factors influence women’s decision-making regarding “domestic violence” reporting. Cultural factors and societal norms often have a substantial role to play while women make decisions regarding reporting of domestic violence incidents by going beyond the legal framework.<sup>10</sup> Hence, this article explores how these factors impact women’s choices and their access to safe spaces and support.

This paper is aimed at understanding whether by applying a literal approach towards the definition of “shared Household” in the PWDVA, the Act can positively correlate with access to legal protections by women. Thus, it could be proposed that a clear and comprehensive legal definition of “shared households” is positively associated with increased access to legal protections for women experiencing “domestic violence”. This will also be tested against the backdrop of whether gendered power imbalances within “shared households” are strong predictors of “domestic violence” or not as it has been observed that greater gendered power imbalances within “shared households” lead to an increased possibility of women being affected by “domestic violence”. The situation is also widely known as deeply ingrained societal norms and cultural factors serve as significant barriers to women reporting instances of “domestic violence”, thereby affecting their ability to access safe spaces and support.<sup>11</sup> These research objectives and hypothesis serves as a foundational framework for conducting an in-depth doctrinal analysis of the “shared household” concept under the PWDVA and its implications for women facing “domestic violence” in India, from a gendered perspective.

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<sup>9</sup>GunillaKrantz and Claudia Garcia-Moreno, “Violence against Women” 59(10) *Journal of Epidemiology and Community Health* 818(2005).

<sup>10</sup>Sawmya Ray, “Legal Constructions of Domestic Violence” 55(3) *Sociological Bulletin* 427 (2006).

<sup>11</sup>SanhitaAmbast and Srijoni Sen, “Into the ‘Private’ — The Domestic Violence Act, 2005” 18(1) *Student Bar Review* 112 (2006).

## II Tracing The Legal Background

In the Indian legal landscape, the definition of a “shared household” holds significant importance while discussing issues related to “domestic violence”.<sup>12</sup> The PWDVA in S. 2(s) while defining “shared household” recognizes that “domestic violence” is not confined to a narrow understanding of a marital home but can occur in various familial and residential setups.<sup>13</sup> To address this, the Act employs a comprehensive and inclusive interpretation of a “shared household”.<sup>14</sup>

A “shared household”, according to the PWDVA, extends beyond the mere physical space of a residence.<sup>15</sup> It encompasses any place where the victim and the alleged abuser either currently reside together, have resided together in the past, or even have a right to reside.<sup>16</sup> This definition considers a broad spectrum of domestic arrangements, including but not limited to:

**Marital Homes:** Traditional marital homes fall under this definition, where both spouses live or have lived together. This includes houses owned or rented by either or both partners.

**Live-In Relationships:** The Act recognizes relationships akin to marriage, often referred to as live-in relationships. In such cases, the “shared household” concept applies to the place where the couple resides or has been residing continuously.

**Joint Families:** India has a rich tradition of joint families, where multiple generations and relatives share a common residence. In these setups, the “shared household” concept extends to encompass the entire joint family household.

**Residences Owned by Either Party:** Even if only one of the partners owns or rents the residence, it is considered a “shared household” if the other partner has lived there or has a legal right to reside.

**Previous Residences:** The Act considers past living arrangements as well. If the victim and the abuser lived together in a particular place at any point, it is considered a “shared household”.

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<sup>12</sup>Pooja Badarinath, “The Challenge of Subjectivity within Courts: Interpreting the Domestic Violence Act.” 46(12) *Economic and Political Weekly* 15 (2011).

<sup>13</sup>Indira Jaising, “Bringing Rights Home: Review of the Campaign for a Law on Domestic Violence.” 44(44) *Economic and Political Weekly* 50 (2009).

<sup>14</sup> A. Tyagi, “Judicial Activism and Legal Reforms Relating to Women with Special Reference to Personal Law” 3(3) *Journal of Indian Research* 115 (2015).

<sup>15</sup> M Bhatia, “Domestic violence in India: Cases under the protection of women from domestic violence act, 2005” 32(2) *South Asia Research* 103 (2012).

<sup>16</sup>G. Gangoli and M. Rew, *Strategic Co-Option Indian Feminists, the State and Legal Activism on Domestic Violence In Understanding Gender-Based Violence* 183 (Routledge, London, 1stedn., 2014).

The significance of this broad interpretation lies in its recognition that “domestic violence” can occur across various living arrangements, irrespective of ownership or conventional family structures.<sup>17</sup> By encompassing such a wide range of situations, the PWDVA ensures that victims are not excluded from legal protection based on the specifics of their living conditions.<sup>18</sup> It recognizes that “domestic violence” is a pervasive issue affecting individuals from diverse backgrounds and living arrangements.<sup>19</sup> Moreover, this expansive definition empowers the law to intervene and provide protection to victims in a more effective manner. It ensures that individuals facing “domestic violence” can seek legal remedies and protection, regardless of whether they live in a jointly-owned house, with in-laws, as part of a live-in relationship, or any other residential arrangement where “domestic violence” occurs.<sup>20</sup>

In essence, the “shared household” concept within the PWDVA reflects a progressive approach to addressing “domestic violence” in India.<sup>21</sup> It acknowledges the dynamic nature of households and relationships in contemporary society, aiming to offer comprehensive safeguarding measures to victims in all such contexts.

The PWDVA, enacted in India in 2005, is a novel legislation incorporating legal aspects from both civil as well as criminal laws to address the pervasive issue of “domestic violence” against women in a quick and efficacious manner. It was introduced with the primary objective of providing legal protection and remedies to women who find themselves trapped in situations of domestic abuse, whether within marital relationships or in familial contexts.<sup>22</sup> The Act acknowledges that incidents of “domestic violence” is not a mere a personal affair but a socio-legal issue that requires intervention and redressal at both the legal and societal levels.

At its core, the PWDVA offers a holistic framework for dealing with “domestic violence”. Some of its key provisions include the issuance of protection orders by courts, granting them the authority to ensure that the aggressor or the abuser is restrained from

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<sup>17</sup> Jayna Kothari, “Criminal Law on Domestic Violence: Promises and Limits” 40(46) *Economic and Political Weekly* 4843 (2005).

<sup>18</sup> Giulia Paglione, “Domestic Violence and Housing Rights: A Reinterpretation of the Right to Housing” 28(1) *Human Rights Quarterly*, 120 (2006).

<sup>19</sup> Sawmya Ray, “Legal Constructions of Domestic Violence” 55(3) *Sociological Bulletin* 427 (2006).

<sup>20</sup> G Jan, “India’s “Domestic Violence Act 2005”: A Critical Analysis” 11(1) *Bangladesh E-Journal of Sociology* 18 (2014).

<sup>21</sup> Malavika Karlekar, “Domestic Violence.” 33(27) *Economic and Political Weekly*, 1741 (1998).

<sup>22</sup> Aaron Karp, “Unheard and Uncounted: Violence against Women in India” *Small Arms Survey* 2015, available at: <http://www.jstor.org/stable/resrep10686> (last visited on September 13, 2023).

committing any further acts of violence and even entering the “shared household”, if necessary.<sup>23</sup> Moreover, the Act recognizes a woman’s right over her “shared household”, without taking into consideration any issues relating to legal title or rights over the property.<sup>24</sup> This provision ensures that women are not rendered homeless due to domestic violence.

The PWDVA also extends scope for affording financial aid in to form of monetary relief to victims so that they can also meet expenses for any possible medical treatment or for lack of any source of employment and various other avenues to ensure that the aggrieved lady is protected from any further “domestic violence”, including the recovery of her *stridhan* articles.<sup>25</sup> It addresses the sensitive issue of child custody, prioritizing the best interests of children while making custody decisions. Additionally, the Act emphasizes access to legal aid and assistance, acknowledging that many victims may require support to navigate the legal process effectively. Furthermore, it includes penal provisions to deter and penalize those who violate protection orders issued under the Act.<sup>26</sup>

The origins of the PWDVA can be traced to India’s international commitments, most notably its association with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>27</sup> CEDAW, adopted by the United Nations General Assembly in 1979, is often referred to as the International Bill of Rights for women. It is a comprehensive international accord that outlines various fundamental rights that women have and calls for eradication of discrimination in all spheres of life.

India, as a signatory to CEDAW, has committed itself to aligning its domestic legislation with the principles and objectives of this international convention. CEDAW emphasizes the importance of protecting women’s rights and ensuring their equality in both private as well as public spaces, which includes addressing “domestic violence”. The PWDVA, therefore, can be seen as a direct response to India’s obligations under CEDAW with the nation taking effective steps to combat any form of discrimination or violence because of gender.

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<sup>23</sup> Meghna Bhat and Sarah E. Ullman, “Examining Marital Violence in India: Review and Recommendations for Future Research and Practice.” 15(1) *Trauma, Violence & Abuse* 57 (2014).

<sup>24</sup> B Ghosh and T Choudhuri, “Legal Protection Against Domestic Violence in India: Scope and Limitations” 26 *Journal of Family Violence* 319 (2011).

<sup>25</sup> H. Singh, “Domestic Violence and Judicial Approach in Contemporary India” 4(2) *Indian Journal & Legal Research* 1 (2022).

<sup>26</sup> P. Kumar and I.P. Barwa, “Domestic Violence Against Women: A Judicial Perspective” 15(2) *Perspective* 14 (2017).

<sup>27</sup> Justice R.K. Bag, “Domestic Violence and Crime Against Women: Criminal Justice Response in India.” 39(2/4) *Journal of the Indian Law Institute* 359 (1997).

Another important aspect in this fold is the Beijing Declaration and Platform for Action, that was set in motion because of the Fourth World Conference on Women in 1995 and has also left a profound imprint on the PWDVA.<sup>28</sup> This declaration enshrined upon its members to eliminate violence against women globally, marking a significant step forward towards recognizing the urgency of addressing incidents of violence against women in domestic spaces as a form of gender-based violence. The PWDVA's provisions resonate with the principles articulated in the Beijing Declaration, reinforcing the commitment to ending violence against women in all its forms.<sup>29</sup>

The PWDV Act is a comprehensive legal framework designed to combat “domestic violence” against women in India. Its origins can be linked to India's international commitments, particularly its association with CEDAW, which underscores the need for strong legislation to protect women's rights and eliminate discrimination and violence against them. The PWDVA represents India's dedication to addressing “domestic violence” as a violation of women's rights and ensuring a safer and more equitable environment for women within the domestic sphere.

India's historical context provides a backdrop to understand the prevalence of gender-based violence within “shared households”. Traditional family structures in India often revolved around the concept of joint or extended families, where multiple generations lived together under one roof. While this arrangement had its merits in terms of mutual support and resource sharing, it also created an environment where power dynamics within the household were complex and often favored male members.<sup>30</sup> In such settings, women frequently found themselves vulnerable to various forms of abuse, and the tight-knit nature of these households could make seeking help or escaping violence exceedingly challenging.<sup>31</sup>

Moreover, patriarchal norms have deep roots in Indian society. These norms traditionally placed men in positions of authority within the family, reinforcing gender hierarchies.<sup>32</sup> The prevalent belief in the unquestionable authority of male family members often hindered

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<sup>28</sup> S. Dhar, “Gender and Sustainable Development Goals (SDGs)” 25(1) *Indian Journal of Gender Studies* 47 (2018).

<sup>29</sup> S. Sharma, “Empowerment without Antagonism: A Case for Reformulation of Women's Empowerment Approach” 49(1) *Sociological Bulletin* 19 (2000).

<sup>30</sup> R. Chengappa, and I. TB, “A Study on Judicial Activism: Towards the Use of Women Protection Laws in India” 2 *Indian Journal & Legal Research* 1 (2023).

<sup>31</sup> A. Hornbeck, B. Johnson, M. LaGrotta, and K. Sellman, “The Protection of Women from Domestic Violence Act: Solution or Mere Paper Tiger” 4 *Loyola University Chicago International Law Review* 273 (2006).

<sup>32</sup> N. Bharani, “Domestic violence and Human rights” 2(9) *International Research Journal of Social Sciences* 7 (2013).

women from expressing their grievances or seeking intervention in cases of “domestic violence”. The historical normalization of gender-based violence in “shared households” reflects broader societal attitudes and power imbalances that persisted for centuries.

The legal context surrounding gender-based violence in “shared households” has evolved significantly over time, driven by both domestic and international influences. India’s commitment to international treaties and conventions, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), has played a crucial role in shaping the legal landscape.<sup>33</sup> Before the PWDVA, legal recourse for victims of “domestic violence” was limited. Criminal laws were primarily used to address extreme cases of physical violence, while the subtle but equally harmful forms of abuse, such as emotional and economic abuse, often went unrecognized and unaddressed. The PWDVA, enacted in 2005, marked a pivotal shift by recognizing “domestic violence” as a distinct legal offence and introducing a comprehensive legal framework to address it.

This Act provided women with a range of remedies and protections within “shared households”, including the issuance of protection orders, residence orders, and monetary relief. It acknowledged a woman’s right to reside in the “shared household” and emphasized the importance of child custody decisions in the best interests of the child.<sup>34</sup> The PWDVA also underscored the need for legal aid and assistance for victims, recognizing that many women required support to navigate the legal process effectively.

The historical context of gender-based violence in “shared households” in India is deeply intertwined with traditional family structures and patriarchal norms that have perpetuated unequal power dynamics. The legal context has evolved, with the introduction of the PWDVA representing a significant step toward recognizing and addressing “domestic violence” as a distinct legal offense, offering women greater protection and remedies within “shared households” keeping it in tune with the principles of the Beijing Declaration as well.<sup>35</sup>

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<sup>33</sup>B. Rana, and V. Perrie, “CEDAW: A Tool for Addressing Violence against Women,” Sustainable Development Policy Institute, 2019, *available at*: <https://www.jstor.org/stable/pdf/resrep24393.12.pdf> (last visited on September 18, 2023).

<sup>34</sup>Bora, P., *Between the human, the citizen and the tribal: Reading feminist politics in India’s Northeast* 7 (Routledge, England, 1st edn., 2011).

<sup>35</sup>M. Dragiewicz, and Y. Lindgren, “The Gendered Nature of Domestic Violence: Statistical Data for Lawyers Considering Equal Protection Analysis” 17 *American University of Journal Gender. Social Policy and the Law* 229 (2009).

### III Unearthing The Gendered Realities of “Domestic Violence”

“Domestic violence” in India is characterized by deeply ingrained gender-specific patterns. Women are disproportionately affected by various forms of abuse within the confines of their homes. While “domestic violence” can affect individuals of any gender, most victims are women and the various forms of abuse and discrimination faced in domestic households can be broadly classified into the following categories:

**Patriarchal Norms and Power Dynamics:** At the heart of this issue lies India’s historical and deeply rooted patriarchal norms and power dynamics within households. These norms often place men in positions of authority, not only in terms of decision-making but also in defining gender roles and expectations.<sup>36</sup> This unequal power dynamic can manifest in various ways within “shared households”, resulting in violence against women.

**Physical Violence:** The most visible and tangible form of “domestic violence” is physical abuse. This includes acts of physical harm, such as hitting, slapping, or even more severe forms of violence. In a patriarchal setup, physical violence can be used to control and subjugate women, reinforcing the power of the abuser.<sup>37</sup>

**Emotional and Psychological Abuse:** Equally damaging but less visible are emotional and psychological abuses. These may involve verbal abuse, humiliation, constant criticism, or isolation from family and friends.<sup>38</sup> These tactics are used to erode a woman’s self-esteem and agency, further entrenching the abuser’s control.

**Economic Abuse:** Economic abuse is another gender-specific aspect of “domestic violence” in India.<sup>39</sup> Women are often financially dependent on their spouses or partners, and abusers may use this dependence to control them. This can include withholding money, denying access to resources, or preventing women from working outside the home.

**Cultural Norms and Stigma:** Cultural norms and societal stigma surrounding “domestic violence” also play a significant role. In many cases, women endure abuse silently due to fear

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<sup>36</sup> S. Jana, I. Basu, M.J. Rotheram-Borus, P.A. and Newman, “The Sonagachi Project: a Sustainable Community Intervention Program. AIDS Education and Prevention” 16(5) *The Guilford Press Periodicals* 405 (2004).

<sup>37</sup> A.M Stylianou, J.L. Postmus, and S. McMahon, “Measuring Abusive Behaviours: Is Economic Abuse a Unique Form of Abuse?” 28(16) *Journal of Interpersonal Violence* 3186 (2013).

<sup>38</sup> Veena Poonacha, “Gendered Step: Review of Two Decades of Women’s Movement and Women’s Studies.” 29(13) *Economic and Political Weekly* 725 (1994).

<sup>39</sup> R. Naved, F. Samuels, V. Le Masson, A. Talukder, T. Gupta, & K. M. Yount, “Intimate Partner Violence – Definitions, Prevalence Multi-Level Influences. In Understanding Intimate Partner Violence in Rural Bangladesh: Prevention and Response” *ODI* 48 (2017).

of social ostracism or a belief that they must maintain the family's reputation.<sup>40</sup> Reporting "domestic violence" can be seen as a violation of these norms, making it challenging for victims to seek help.

**Legal Protections and Challenges:** India has made significant strides in recognizing and addressing "domestic violence" through laws like the Protection of Women from Domestic Violence Act (PWDVA). However, implementation and awareness of these laws remain uneven, and many women still face obstacles in accessing legal protections.<sup>41</sup> Fear of retaliation, lack of awareness, and inadequate support services are some of the challenges women encounter.

Gender-specific aspects of "domestic violence" in India are deeply interwoven with cultural norms, power imbalances, and societal expectations.<sup>42</sup> Addressing this issue comprehensively requires not only legal protections but also cultural and societal shifts that challenge the patriarchy and empower women to speak out against abuse. Efforts to raise awareness, provide support services, and enforce existing laws are crucial steps toward creating safer environments for women in "shared households".

The impact of "domestic violence" on women within "shared households" in India is profound and multi-faceted, affecting not only their physical health but also their mental, emotional, and socio-economic well-being. Understanding this impact is crucial in recognizing the urgency of addressing "domestic violence" as a critical social issue owing to the varied impacts it has on the victims.<sup>43</sup> "Domestic violence" inflicts severe physical harm on women in "shared households". Victims often suffer from a range of injuries, including bruises, fractures, and burns.<sup>44</sup> These injuries not only cause immediate pain and discomfort but also pose long-term health risks. The constant threat of violence creates a state of hyper-vigilance, leading to chronic stress and related health problems. Additionally, domestic violence can have adverse effects on women's reproductive health, including gynecological

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<sup>40</sup>D.A. Hines, and E.M. Douglas, "An Empirical Test of Johnson's Typology of Intimate Partner Violence in Two Samples of Men" 10(2) *Partner Abuse* (2019).

<sup>41</sup>Anna Aizer, "Poverty, Violence, and Health: The Impact of Domestic Violence During Pregnancy on Newborn Health." 46(3) *The Journal of Human Resources* 518 (2011).

<sup>42</sup>S.A. Graham-Bermann, "Family Worries: Assessment of Interpersonal Anxiety in Children from Violent and Nonviolent Families" 25(3) *Journal of Clinical Child Psychology* 280 (1996).

<sup>43</sup>S. Kumar, L. Jeyaseelan, S. Suresh, and R.C. Ahuja, "Domestic Violence and its Mental Health Correlates in Indian Women" 187(1) *The British Journal of Psychiatry* 62 (2005).

<sup>44</sup>S.P. Cahill, and K. Pontoski, "Post-traumatic Stress Disorder and Acute Stress Disorder I: Their Nature and Assessment Considerations" 2(4) *Psychiatry, Edgmont* 14 (2005).

issues, unwanted pregnancies, and sexually transmitted infections, all of which further deteriorate their physical well-being.<sup>45</sup>

The emotional toll of “domestic violence” is another subject that is often ignored. Women subjected to abuse often experience a wide range of psychological distress, including depression, anxiety, and post-traumatic stress disorder (PTSD).<sup>46</sup> Constant emotional abuse and degradation erode their self-esteem and self-worth, leaving deep emotional scars.<sup>47</sup> The fear of violence and the sense of helplessness contribute to a pervasive atmosphere of emotional turmoil. Furthermore, abusers often employ tactics to isolate women from friends and family, intensifying feelings of loneliness and despair.<sup>48</sup>

Economic abuse is a common feature of “domestic violence”, and it significantly impacts women’s financial independence. Many women in “shared households” are financially dependent on their abusers, making it challenging to escape abusive relationships.<sup>49</sup> Economic abuse may involve withholding money, preventing women from seeking employment or sabotaging their career prospects. These financial barriers can trap women in abusive situations and limit their ability to access resources for themselves and their children.

“Domestic violence” also disrupts women’s educational and employment opportunities. Victims may experience disruptions in their education, hindering their personal and professional growth. The impact extends to their children, who may face difficulties in pursuing education due to the instability created by violence.<sup>50</sup> Maintaining employment becomes difficult due to frequent absenteeism, injuries, and emotional distress. These career limitations further exacerbate women’s financial dependence on their abusers.<sup>51</sup>

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<sup>45</sup>G. Karakurt, and K.E. Silver, “Emotional Abuse in Intimate Relationships: The Role of Gender and Age” 28(5) *Violence and Victims* 804 (2013).

<sup>46</sup>T.P. Sullivan, S. Armeli, H. Tennen, N.H. Weiss, and N.B. Hansen, “Fluctuations in Daily PTSD symptoms are Related to Proximal Alcohol Use: A Micro-Longitudinal Study of Women Victims of Intimate Partner Violence” 46(1) *The American Journal of Drug and Alcohol Abuse* 98(2020).

<sup>47</sup>S.C Swan, L.J. Gambone, J.E. Caldwell, T.P. Sullivan, and D.L. Snow, “A Review of Research on Women’s Use of Violence with Male Intimate Partners” 23(3) *Violence and Victims* 301 (2008).

<sup>48</sup>L.M. Williams, “Understanding Child Abuse and Violence against Women: A Life Course Perspective” 18(4) *Journal of Interpersonal Violence* 441 (2003).

<sup>49</sup>A. Farmer, and J. Tiefenthaler, “The Employment Effects of Domestic Violence. Accounting for Worker Well-Being” *Emerald Group Publishing Limited* 301 (2004).

<sup>50</sup>T.P. Sullivan, J.A. Schroeder, D.N. Dudley, and J.M. Dixon, “Do Differing Types of Victimization and Coping Strategies Influence the Type of Social Reactions Experienced by Current Victims of Intimate Partner Violence?” 16(6) *Violence against women* 638 (2010).

<sup>51</sup>A.A. Levendosky, and S.A. Graham-Bermann, “Parenting in Battered Women: The Effects of Domestic Violence on Women and their Children” 16 *Journal of Family Violence* 171(2001).

Children growing up in households marked by “domestic violence” often suffer severe emotional and psychological consequences.<sup>52</sup> Witnessing violence against their mothers can lead to lasting trauma, behavioral issues, and a perpetuation of violence in the next generation. The toxic environment of abuse can hinder children’s emotional development and have lifelong repercussions on their well-being.<sup>53</sup>

Women facing “domestic violence” encounter various barriers while seeking help. Fear of retaliation from the abuser, threats, and concerns about the societal stigma attached to reporting “domestic violence” often keep victims trapped in abusive relationships.<sup>54</sup> Overcoming these barriers is a complex and daunting process, making it essential to provide victims with safe avenues for seeking assistance and support.

The trauma inflicted by “domestic violence” can have enduring effects on survivors, extending well beyond the abusive relationship itself.<sup>55</sup> The physical and emotional scars may persist for years, impacting survivors’ overall quality of life.<sup>56</sup> Long-term trauma can affect their ability to form healthy relationships, engage in gainful employment, and maintain their mental and emotional well-being, underscoring the urgent need for comprehensive support and healing for survivors of “domestic violence”.

Having taken note of the problems that are faced by aggrieved individuals, the various remedies available under the PWDVA may be noted as such:

**Protection Orders:** One of the primary provisions of the PWDVA is the issuance of protection orders.<sup>57</sup> Under this provision, a woman who has experienced “domestic violence” can seek a protection order from the court.<sup>58</sup> This order restrains the abuser from committing any further acts of violence and can even include provisions to prevent the abuser from

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<sup>52</sup>L.E. Miller, K.H. Howell, and S.A. Graham-Bermann, “Developmental Changes in Threat and Self-Blame for Preschoolers Exposed to Intimate Partner Violence (IPV)” 29(9) *Journal of Interpersonal Violence* 1535 (2014).

<sup>53</sup>H. Sahoo, and M.R. Pradhan, “Domestic Violence in India: An Empirical Analysis” 89(3) *Man in India* 303 (2009).

<sup>54</sup>N. Chowdhary, and V. Patel, “The Effect of Spousal Violence on Women’s Health: Findings from the StreeArogyaShodh in Goa, India” 54(4) *Journal of Postgraduate Medicine* 306 (2008).

<sup>55</sup>Rinki Bhattacharya, *Behind Closed Doors: Domestic Violence in India* 191 (Sage Publications India Pvt. Ltd., Chennai, 1st edn., 2004).

<sup>56</sup>S.R. Kimuna, Y.K. Djamba, G. Ciciurkaite, and S. Cherukuri, “Domestic Violence in India: Insights from the 2005-2006 National Family Health Survey” 28(4) *Journal of Interpersonal Violence*, 773 (2013).

<sup>57</sup>The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 18.

<sup>58</sup>A. Krishnakumar, and S. Verma, “Understanding Domestic Violence in India during COVID-19: A Routine Activity Approach” 16(1) *Asian Journal of Criminology* 19 (2021).

entering the “shared household”. Protection orders are critical in providing immediate relief and safeguarding the physical safety of women within “shared households”.

**Gender-Neutral Application:** While the Act is titled as the “Protection of Women from Domestic Violence Act,” the provisions for protection orders are not gender-specific. This allows for protection orders to be issued to safeguard anyone, regardless of gender, who is a victim of “domestic violence”. This gender-neutral approach helps combat discrimination by recognizing that men can also be victims of “domestic violence”, albeit less frequently and ensures that legal protections are available to all.<sup>59</sup>

**Right to Reside:** The PWDVA recognizes a woman’s right to reside in the “shared household”, irrespective of her ownership or legal rights over the property.<sup>60</sup> This provision is particularly significant as it ensures that women are not rendered homeless or forcibly evicted due to “domestic violence”.<sup>61</sup> It empowers women to continue living in their shared homes, seeking protection and justice without fear of displacement. The provision that grants women the right to reside in the “shared household” acknowledges their equal rights within the domestic sphere. It counters the historical discrimination where women were often considered secondary in decision-making regarding residence. This provision reinforces women’s equal status in “shared households”.

**Monetary Relief:** The Act also includes provisions for monetary relief to victims of “domestic violence”.<sup>62</sup> This relief covers various expenses incurred due to the abuse, including medical expenses, loss of earnings, and any other financial costs resulting from the violence.<sup>63</sup> Monetary relief aims to mitigate the economic hardships faced by women in “shared households”, providing them with financial support during challenging times. “Domestic violence” often involves economic abuse, where abusers control financial resources, as has been noted globally.<sup>64</sup> The provision for monetary relief helps address this aspect by providing financial support to victims. This support empowers women economically, reducing their dependency on the abuser countering gender-based financial discrimination, and providing economic empowerment.

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<sup>59</sup> V. Kapoor, and P. Khanna, “The Protection of Women from Domestic Violence Act, 2005: A Critique” 20 *Law Journal Guru Nanak Dev University* 55 (2012).

<sup>60</sup> The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 19.

<sup>61</sup> M. Mokta, “Empowerment of Women in India: A Critical Analysis” 60(3) *Indian Journal of Public Administration* 473 (2014).

<sup>62</sup> The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 20.

<sup>63</sup> Shalu Nigam, *Domestic Violence Law in India: Myth and Misogyny* 55 (Routledge, Oxon, 1st edn., 2022)

<sup>64</sup> World Health Organization, *Putting women first: ethical and safety recommendations for research on domestic violence against women*, WHO, WHO/FCH/GWH/01.1, 2001.

**Custody Orders:** The PWDVA addresses the issue of child custody within the context of “domestic violence”.<sup>65</sup> It emphasizes the best interests of the child when making custody decisions.<sup>66</sup> This provision ensures that children are not exposed to further harm and violence, acknowledging the importance of their safety and well-being when determining custody arrangements. While custody decisions primarily focus on the best interests of the child, this provision indirectly combats gender-based discrimination. Historically, mothers were often assumed to be the primary caregivers, but this provision ensures that custody decisions are based on the child’s welfare rather than gender stereotypes, thereby promoting gender equality in parenting roles although this is interim, nevertheless this looks at the best interest of the child.

**Right to Legal Assistance:** Recognizing that many victims of “domestic violence” may require legal support, the PWDVA provides legal aid and assistance.<sup>67</sup> Women who are unable to engage legal representatives should be able to access support to pursue their cases effectively.<sup>68</sup> This provision ensures that women have the necessary resources to navigate the legal process and seek justice. The provision for legal assistance ensures that women, regardless of their economic status, have access to legal support. This counters discrimination that could arise from unequal access to the legal system. It levels the playing field, allowing women to seek justice on an equal footing with their abusers and in line with principles of equal access to justice.

**Penalties for Violation:** The Act includes penal provisions to deter and penalize those who violate protection orders issued under the PWDVA.<sup>69</sup> Violation of protection orders can result in penalties, including imprisonment and the same is treated as a distinct offence which is cognizable and non-bailable. These penalties serve as a deterrent and reinforce the seriousness of the legal protections provided under the Act. The provision for penalties against violators of protection orders acts as a deterrent against further violence.<sup>70</sup> By holding perpetrators accountable for their actions, this provision contributes to a culture that does not

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<sup>65</sup>The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 21.

<sup>66</sup>G. Gangoli, and M. Rew, M, “Mothers-in-law against daughters-in-law: Domestic violence and legal discourses around mother-in-law violence against daughters-in-law in India” 34(5) *Women's Studies International Forum* 420 (2011)

<sup>67</sup>The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 5(d).

<sup>68</sup>A.B. Aboh, “Between limited laws and conservative patriarchal system: why the Indian security and justice system is less effective to prevent gender-based violence against women and girls” 16(31) *Global Media Journal* 1(2018).

<sup>69</sup>The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 31.

<sup>70</sup>L. Bagchi, and N.D. Karamchandani, “Violence against Women: Reality, Challenges & Perceptions in India” 2(11) *Imperial journal of interdisciplinary research* 85 (2016).

tolerate gender-based violence. It sends a clear message that “domestic violence”, regardless of the gender of the victim, is unacceptable and it serves as a deterrent effect on the abusers.

The PWDVA encompasses a range of provisions aimed at protecting women in “shared households” from “domestic violence”. These provisions include protection orders, the right to reside in the “shared household”, monetary relief, custody arrangements in the best interests of the child, access to legal assistance, and penalties for violations.<sup>71</sup> These legal safeguards collectively work to empower women, offer them protection, and enable them to seek justice and safety within shared households.<sup>72</sup> The provisions of the PWDVA are crafted to address gender-based discrimination comprehensively.<sup>73</sup> They do so by recognizing that “domestic violence” affects individuals of any gender, promoting equal rights within “shared households”, providing economic empowerment to victims, ensuring custody decisions are based on the child’s welfare rather than gender stereotypes, offering equal access to legal assistance, and imposing penalties for violations.<sup>74</sup> These provisions collectively contribute to challenging and eradicating gender-based discrimination within the context of “domestic violence”, striving for greater gender equality in “shared households” and society.

Several important judicial decisions provided interpretations and guidance shaping the jurisprudence regarding the Protection of Women from Domestic Violence (PWDV) Act, specifically about “shared households”. These court decisions have had implications for the application of the Act and the protection of women’s rights within “shared households”. Here are a few significant court decisions and their implications:

***IndraSarma vs. V.K.V. Sarma***<sup>75</sup>: Implication: In this case, the Supreme Court clarified that a “shared household” under the PWDV Act could be any place where the aggrieved person lived with the respondent. It emphasized that the Act’s definition of a “shared household” was not confined to a matrimonial or joint family household.<sup>76</sup> This decision broadened the

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<sup>71</sup>R. Kaur, and S. Garg, “Addressing Domestic Violence Against Women: An Unfinished Agenda” 33(2) *Indian Journal of Community Medicine* 73 (2008).

<sup>72</sup>B. Jhamb, “The Missing Link in the Domestic Violence Act” 46(33) *Economic and Political Weekly* 45 (2011).

<sup>73</sup>B. Ghosh, and T. Choudhuri, “Legal Protection against Domestic Violence in India: Scope and Limitations” 26 *Journal of Family Violence* 319 (2011).

<sup>74</sup>A. Jan, “Violence against Women with Special Reference to Domestic Violence Act, 2005” 3(3) *International Journal of Trend in Scientific Research and Development* 1398 (2019).

<sup>75</sup>AIR 2014 SC 239.

<sup>76</sup>G. Randhawa, “Understanding the Conception of Live-in Relationships in India through the Eyes of the Indian Legal System” 3 *Indian Journal of Integrated Research in Law* 1 (2023).

scope of the Act's application and ensured that women could seek protection even if they were living with the respondent in various living arrangements.

***S.R. Batra vs. Smt. TarunaBatra***<sup>77</sup>: This judgment by the Delhi High Court clarified that the PWDV Act does not create any new right in favor of a woman to claim a share in the property where she had no existing rights. It recognized that the Act primarily aims to protect a woman's right to reside in the "shared household" and seek protection from "domestic violence", rather than awarding property rights. This decision emphasized the Act's focus on safeguarding women's right to live safely and free from violence. However, this has been overruled by the Honorable Supreme Court in 2020<sup>78</sup> and it has now been held that if the period of cohabitation at a particular place had some nature of permanency, then it would fall within the ambit of "shared-household" and that while the claim of the daughter-in-law is taken into consideration, the needs of her father-in-law and mother-in-law also must be taken into consideration.

These judgments have played a crucial role in interpreting and implementing the PWDV Act, especially concerning the definition and scope of a "shared household". They emphasize the Act's broader intent to protect women's rights and ensure their right to reside in a "shared household", regardless of legal ownership or property rights. However, after the decision of *S.R. Batra and Anr v. TaruniBatra*<sup>79</sup>, questions arose regarding the rights of aggrieved persons as the idea of a "shared household" had been narrowed down. Moreover, the Honorable Supreme Court has now redefined the idea of "shared household" to also include joint-family property regardless of the interest of the aggrieved person upon that property. It is not a mandatory requirement for the aggrieved individual to have been physically residing with the individuals accused of the allegations at the time of seeking legal relief.<sup>80</sup> If a woman possesses the legal entitlement to reside in a shared household, she can effectively exercise this right according to Section 17(1) of the PWDV Act.<sup>81</sup> Thus, in case a woman becomes a victim of "domestic violence", she has the option to seek remedies provided by the Domestic Violence Act, including the right to live or stay in the shared household as stipulated in Section 17, in conjunction with Section 19 of the PWDV Act.

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<sup>77</sup> 2007 3 SCC 169.

<sup>78</sup> *Satish Chander Ahuja v. Sneha Ahuja*, 2020 SCC OnLine SC 841.

<sup>79</sup> *Supra* note 77.

<sup>80</sup> *PrabhaTyagiv. Kamlesh Devi*, 2022 SCC OnLine SC 607.

<sup>81</sup> The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 17.

The PWDV Act, through its all-encompassing provisions, especially Section 28(2)<sup>82</sup> which has empowered Courts to frame their procedures in cases where the existing provisions are not fulfilling the need and provided the judiciary with a scope to utilize the golden rule of interpretation<sup>83</sup> to meet the exigencies of the situation. Recent trends have shown how the Judiciary has also ventured into framing legislation solely upon consideration of the plight of the oppressed. Tracing from the cases already mentioned to the recent judgments wherein the Honorable Apex Court has also framed specific guidelines in providing monetary relief to an aggrieved person<sup>84</sup> is a testament to how Courts step in when the legislature fails to provide adequate protection.

#### IV Challenges and Critical Insights

The main challenges and limitations in the implementation of the Protection of Women from Domestic Violence (PWDV) Act in India, may be noted as follows:

**1. Lack of Awareness:** A significant challenge in the implementation of the PWDV Act is the pervasive lack of awareness, particularly among victims themselves. Many women who are subjected to “domestic violence” are unaware of their legal rights and the protections available under the Act. This lack of awareness can lead to underreporting and hinder women from seeking help or pursuing legal action against their abusers. Effective awareness campaigns and education about the Act are crucial to bridge this information gap.

**2. Societal Stigma:** The deeply ingrained societal stigma surrounding “domestic violence” remains a formidable barrier. Victims often face social pressure and the fear of stigmatization when considering reporting abuse. They may hesitate to come forward due to concerns about how their communities and families will perceive them. This stigma can deter women from seeking assistance or legal recourse, perpetuating a culture of silence around domestic violence.

**3. Economic Dependence:** Economic dependence on the abuser is a significant limitation, particularly in cases where women lack financial independence. Many women rely on their abusive partners for financial support, and leaving such relationships can result in economic hardships. The fear of losing financial stability can dissuade women from seeking safety and support, even when faced with severe abuse.

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<sup>82</sup>*Id.*, s. 28(2).

<sup>83</sup> N. Sohoni, “A Perspective of Live-in Relationships in India through Legal, Judicial and Societal Spectacles” 2 *Indian Journal of Law & Legal Research* 1 (2021).

<sup>84</sup> *Rajnesh v. Neha*, 2021 2 SCC 324.

**4. Resource Constraints:** The limited availability of shelters and support services poses a substantial challenge. India faces a shortage of shelters and facilities dedicated to domestic violence victims. This dearth of safe spaces can leave women with nowhere to turn for immediate protection and assistance, further complicating their efforts to escape abusive situations.

**5. Ineffective Police Response:** Instances of police apathy or insensitivity to domestic violence complaints can be a significant limitation in the implementation of the PWDV Act. In some cases, law enforcement may not take reports of domestic violence seriously or may fail to respond promptly and effectively. This can discourage victims from seeking legal remedies and contribute to a lack of confidence in the justice system.

**6. Lengthy Legal Processes:** Legal proceedings under the PWDV Act can be time-consuming and complex. The lengthy legal processes, including court hearings and the collection of evidence, can be mentally and emotionally draining for victims. Delays in obtaining protection orders or other remedies can impact the effectiveness of the Act in providing swift relief to victims in urgent situations.

Hence, while the PWDV Act represents significant progress in addressing domestic violence in India, its implementation faces a range of challenges and limitations. These include low awareness among victims, societal stigma, economic dependence, limited resources, police apathy, and lengthy legal processes. Addressing these challenges requires a multi-faceted approach that combines legal reforms, awareness campaigns, support services, and community engagement to ensure the Act's effective implementation and the protection of women from domestic violence.

## **V Recommendations and Conclusion**

One significant criticism directed at the PWDV Act pertains to its limited coverage. The Act primarily focuses on protecting women in domestic relationships, specifically within shared households. While this focus is essential, it leaves out other vulnerable groups, such as men, LGBTQ+ individuals,<sup>85</sup> and the elderly, who may also experience domestic violence in various settings. Critics argue that this narrow scope restricts the Act's applicability and may

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<sup>85</sup>S. Gupta, "Judicial Exposition of Gender Justice as a Constitutional Mandate: A Narrative from India" 7(2) *Brawijaya Law Journal* 176 (2020).

leave certain victims without adequate legal protections and support.<sup>86</sup> Expanding the Act to encompass a broader range of victims could address this limitation and ensure that all individuals facing domestic violence receive appropriate assistance and safeguards. This when coupled with the fact that the PWDV Act does not criminalize domestic violence points towards the potential chinks in the law made for the protection of women.

Unlike criminal laws that address offenses like physical assault, the Act treats domestic violence as a civil matter. While it provides civil remedies such as protection orders, it does not impose criminal penalties on perpetrators. Critics argue that this absence of criminalization may not act as a sufficient deterrent for abusers.<sup>87</sup> The lack of criminal consequences could potentially fail to provide the strong legal disincentives needed to combat domestic violence effectively. As a result, some advocate for the integration of criminal sanctions within the legal framework to bolster its efficacy.<sup>88</sup> Moreover, enforcement and implementation challenges represent a significant criticism of the PWDV Act. While the Act provides various remedies and protections for victims, its effectiveness can be undermined by uneven enforcement and implementation across different regions and jurisdictions within India. The lack of standardized procedures and variations in the interpretation of the Act by law enforcement and judicial authorities can lead to inconsistent outcomes for victims.<sup>89</sup> In some cases, protection orders may not be promptly enforced, or victims may encounter delays and obstacles in accessing legal remedies. Addressing these challenges and ensuring uniform enforcement across the country is crucial to optimizing the Act's impact.

Given our position regarding resource constraints in terms of shelter facilities and support services for victims of "domestic violence", these reveal significant gaps within the legal framework. The Act envisions the availability of shelters and resources to provide immediate protection and assistance to victims. However, there is a shortage of such facilities, leaving many women with nowhere to turn for safety and support.<sup>90</sup> The inadequacy of resources can

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<sup>86</sup>R. Abeyratne, and D. Jain, "Domestic Violence Legislation in India: The Pitfalls of a Human Rights Approach to Gender Equality" 21 *American University Journal of Gender Social Policy & The Law* 333(2012).

<sup>87</sup>K. Saurav, and A. Anant, "Socio-Legal Aspects of Live-in Relationships: Indian Scenario. Part 1" 2 *Indian Journal Integrated Research in Law* 1 (2022).

<sup>88</sup>B. Ghosh, and T. Choudhuri, "Legal Protection against Domestic Violence in India: Scope and Limitations" 26 *Journal of Family Violence* 319 (2011).

<sup>89</sup>S. Dhanaraj, and V. Mahambare, "Male Backlash and Female Guilt: Women's Employment and Intimate Partner Violence in Urban India" 28(1) *Feminist Economics* 170 (2022).

<sup>90</sup>J.L. Postmus, K. Nikolova, H.F. Lin, and L. Johnson, "Women's Economic Abuse Experiences: Results from the UN Multi-Country Study on Men and Violence in Asia and the Pacific" 37 (15-16) *Journal of Interpersonal Violence* 13115 (2022).

limit the Act's effectiveness in providing immediate relief to victims in urgent situations. Addressing this gap requires substantial investment in establishing and maintaining support infrastructure. Critics have also highlighted the issue of delayed legal processes within the framework of the PWDV Act. Legal proceedings, including court hearings and evidence collection, can be lengthy and cumbersome. Delays in obtaining protection orders or other remedies may leave victims in abusive situations for extended periods. The protracted legal processes can lead to further physical, emotional, and psychological harm.<sup>91</sup> Streamlining legal proceedings and expediting the resolution of cases is crucial to ensuring timely relief for victims and reducing the trauma associated with prolonged legal battles.

The PWDV Act, although important in addressing “domestic violence” and protecting the rights of women, yet the legislation faces valid criticisms amid concerning gaps. These include limited coverage, the absence of criminalization, challenges in enforcement and implementation, resource constraints, and delayed legal processes.<sup>92</sup> Addressing these criticisms and closing these gaps is essential for the Act to be more comprehensive, effective, and responsive to the complex and evolving dynamics of “domestic violence” in India.

Developing Indian law to provide safe spaces for women who are victims of “domestic violence”, regardless of their relationship with the abuser, is a complex task that would require careful consideration and legal reforms. Here are some potential steps and ideas that could be explored:

**1. Expanding the Definition of “Shared Household”:** Broaden the definition of a “shared household” within the Protection of Women from Domestic Violence Act (PWDV Act) to include various living arrangements, not limited to marital relationships. This could encompass cohabitation, family members, and even non-relatives sharing a residence.

**2. Non-Discrimination Principle:** Explicitly include a non-discrimination principle in the PWDV Act, emphasizing that protection against “domestic violence” should be provided to all individuals, regardless of their relationship to the abuser. This could help advance protection to individuals who may be engaged as domestic help and owing to their economic conditions are not always empowered to raise their voice against the abuser.

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<sup>91</sup>J.C. Campbell, and L.A. Lewandowski, “Mental and Physical Health Effects of Intimate Partner Violence on Women and Children” 20(2) *Psychiatric Clinics of North America*, 353 (1997).

<sup>92</sup> S. Basu, I *The trouble with Marriage: Feminists Confront Law and Violence in India*-210 (University of California Press, California, 1st edn., 2015).

**3. Awareness and Education:** Implement awareness campaigns and educational programs to inform people about their rights and available legal protections against “domestic violence”. This could be targeted at both victims and potential abusers and the mantle in this regard could be taken up by civil societies and NGOs to be in addition to the work done by the judiciary and executive.

**4. Emergency Shelter Facilities:** Establish and fund more emergency shelter facilities specifically designed to accommodate victims of “domestic violence”. These shelters should be accessible to all individuals in need, without regard to their relationship with the abuser. The main problem in this regard is the lack of funds allocated by the government leading to the unavailability of safe spaces for women who have faced domestic abuse and do not have any family members to support them.

**5. Legal Aid and Support Services:** Enhance legal aid and support services for victims, including counseling, legal representation, and assistance in obtaining protection orders.

**6. Cross-Reporting and Cooperation:** Encourage cooperation and cross-reporting of cases between law enforcement, social services, and healthcare providers to ensure comprehensive support for victims.

**7. Protection Orders:** Strengthen the enforcement of protection orders issued under the PWDV Act to ensure the safety of victims, regardless of their relationship to the abuser. This could also be ensured by empowering protection officers with the ability to suo-moto take up complaints and cooperate with law enforcement agencies to ensure the safety of an aggrieved woman.

The road forward would be by investing in research and data collection to better understand the extent of “domestic violence” across all types of living arrangements. This data can inform policy decisions and reforms. This would encourage greater collaborations with civil society organizations and non-governmental organizations (NGOs) that specialize in “domestic violence” prevention and victim support. Moreover, this procedure could also be enhanced by seeking input and feedback from legal experts, activists, and stakeholders in the field of “domestic violence” prevention when considering legal reforms. While conceptualizing such reforms it would also be necessary to study and adapt international best practices and conventions related to “domestic violence” prevention and gender equality. Thereafter by amending the PWDV Act and related legislation, it could be strengthened to align with these proposed changes and provide comprehensive protection.

It is essential to engage in a comprehensive, multi-stakeholder approach when developing and amending laws to address “domestic violence”. Additionally, ongoing evaluation and adaptation of these measures will be necessary to ensure their effectiveness in providing safe spaces for all victims of “domestic violence” to help achieve a just and equitable society when relief is not just based on the relationship with the abuser but is more focused on providing adequate relief to all victims of domestic abuse in an attempt to foster rehabilitation of victims and properly integrating them within their society without neglecting their self-respect or dignity.

“Domestic violence” is a pervasive and deeply concerning issue that affects individuals across the globe, irrespective of their gender. However, it is essential to recognize that the impacts and dynamics of “domestic violence” are often profoundly gendered. In shared households, where family members live together under one roof, understanding and addressing “domestic violence” through a gendered perspective is of paramount importance.<sup>93</sup> This piece of writing emphasizes the significance of adopting such a perspective in comprehending and combating “domestic violence” within shared households. However, it needs to be appreciated that “domestic violence” is not a gender-neutral phenomenon.<sup>94</sup> It predominantly occurs within the context of power imbalances and patriarchal norms that have historically subjugated women. A gendered perspective acknowledges that women, on average, face a higher risk of experiencing physical, emotional, and economic abuse within shared households. This perspective recognizes that “domestic violence” is often a manifestation of broader societal inequalities, where women are disproportionately subjected to violence as a means of control and dominance.<sup>95</sup>

Gendered violence is rooted in power dynamics that position men as the primary authority figures within shared households. These power imbalances can manifest as physical, emotional, or economic abuse, with women often bearing the brunt of these abusive behaviors. Patriarchal norms and gender roles play a pivotal role in perpetuating “domestic violence”. These norms can pressure women to conform to traditional roles and expectations, leading to abusive situations when they resist or seek autonomy.

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<sup>93</sup>L. Jeyaseelan, S. Kumar, N. Neelakantan, A. Peedicayil, R. Pillai, and N. Duvvury, “Physical Spousal Violence against Women in India: Some Risk Factors” 39(5) *Journal of Biosocial Science* 657(2007).

<sup>94</sup>L.L. Heise, “Gender-Based Violence and Women's Reproductive Health” 46(2) *International Journal of Gynecology & Obstetrics* 221 (1994).

<sup>95</sup>R.A.Y. Sawmya, “Right Intention, Not So Right Outcome: Addressing Domestic Violence through Women's Cell” 3(1) *International Journal of Social Sciences and Humanity Studies* 437 (2011).

The importance of a gendered perspective is thus relevant as a gendered perspective allows for the development of tailored interventions and support systems. Recognizing that women are disproportionately affected by “domestic violence” enables policymakers, activists, and service providers to design strategies that specifically address the unique needs and vulnerabilities of female victims.<sup>96</sup> This would also help in preventing re-victimization by acknowledging the gendered nature of “domestic violence”, interventions can focus on breaking the cycle of violence.<sup>97</sup> This involves not only providing immediate safety but also addressing long-term consequences, including trauma and economic dependence, which disproportionately affect women.

We also need to focus on empowering Survivors and having a gendered perspective recognizes the importance of empowering survivors of “domestic violence”.<sup>98</sup> This empowerment involves not only providing legal and psychological support but also challenging societal norms and stereotypes that perpetuate violence against women. It encourages survivors to reclaim their agency and seek justice. To eradicate domestic violence within shared households, societal attitudes and structures must change. A gendered perspective highlights the need for broader social change efforts, including educational programs that challenge traditional gender norms, campaigns that raise awareness about the consequences of violence, and advocacy for legal reforms that protect women’s rights.

Thus, we can conclude that understanding and addressing “domestic violence” within “shared households” through a gendered perspective is imperative for effective intervention and prevention. This perspective acknowledges the historical and societal factors that perpetuate violence against women and allows for targeted efforts to support survivors and challenge the root causes of abuse. It is not a matter of demonizing any gender but rather recognizing that gender inequalities contribute significantly to the prevalence of “domestic violence”. Hence, by adopting a gendered perspective, society can move toward creating “shared households” that are safe and equitable for all.

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<sup>96</sup>S. Malhotra, and R. Shah, 2 “Women and Mental Health in India: An overview” 57 *Indian Journal of Psychiatry* 205 (2015).

<sup>97</sup>C.H. Rocca, S. Rathod, T. Falle, R.P. Pande, and S. Krishnan, “Challenging Assumptions about Women’s Empowerment: Social and Economic Resources and Domestic Violence among Young Married Women in Urban South India” 38(2) *International Journal of Epidemiology* 577 (2009).

<sup>98</sup>R. Richardson, A. Nandi, S. Jaswal, and S. Harper, “The Effect of Intimate Partner Violence on Women’s Mental Distress: a Prospective Cohort Study of 3010 Rural Indian Women” 55 *Social Psychiatry and Psychiatric Epidemiology* 71 (2020).