



Reforming Justice for Victims of Domestic Violence in India: A Study of the New Criminal Laws

Dyuti Dixit

LL.B. Hons. from Department of Law , University of Lucknow (2020-2025)

Pursuing LLM from Department of Law, University of Lucknow (2025-2027)

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ABSTRACT

In India, domestic violence remains one of the most prevalent forms of gender-based violence. Despite the assurances of non-discrimination and equal rights in the Indian Constitution, women still face various types of domestic violence, such as physical, psychological, sexual, verbal, and financial abuse. In response to this issue, the Indian Government enacted the Protection of Women from Domestic Violence Act (PWDVA) in 2005 to offer victims a civil remedy and legal safeguards. Later, in 2023, the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) were introduced to reform the existing criminal justice system in India. This paper aims to examine the recent legislation aimed at enhancing women's rights in relation to domestic violence; it will assess the legal provisions, judicial interpretations, and implementation challenges of these new laws, as well as determine whether they adequately address the needs of women who experience domestic violence.

Introduction

Domestic violence is characterized as any form of aggression that takes place within the home, which includes, but is not limited to:

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- I. Physical violence (being assaulted or harmed)
- II. Sexual violence (being coerced into sexual acts)
- III. Emotional or psychological harm (being made to feel inadequate or mentally distressed)
- IV. Verbal assault (being insulted or called derogatory names)
- V. Financial abuse (being restricted from accessing funds or achieving financial independence)
- VI. Coercive control (having less authority in your relationship compared to your partner)

In India, domestic violence remains a major social and legal challenge, even though the Constitution guarantees equality before the law and respect for human dignity. Several factors contribute to the persistence of domestic violence against women, including deep-rooted patriarchal beliefs, gender stereotypes, dependence on husbands for financial support, and traditional cultural attitudes toward marriage and family. Marriage, while seen as a crucial aspect of society, can also become a setting where women face various forms of abuse. Common types of abuse experienced by women in marriage include physical violence, emotional manipulation, control over financial matters, and dowry-related harassment. As a result, domestic violence has become not only a personal and family issue but also a significant challenge for public health, human rights, and social justice.

Women's rights in India are protected by the Constitution and enforced through various legal frameworks, including Fundamental Rights and Directive Principles of State Policy.

Article 14 ensures equality before the law and equal application of the law to all. Article 15 prohibits discrimination based on gender and mandates state support for women and children when needed. Article 21 guarantees the right to live with dignity and freedom from abuse and exploitation, a right that has been interpreted by courts to be broader than just the right to exist. India's dedication to gender justice has been reinforced through its participation in international human rights treaties, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which obliges states to implement laws and policies aimed at combating discrimination and violence against women.

Historically, criminal law has been used to address domestic violence. Section 498A of the Indian Penal Code, 1860, criminalizes the act of a husband or his relatives subjecting the wife to cruel treatment, which has aided in the investigation of domestic abuse and dowry-related harassment. Other legal provisions, such as those dealing with dowry deaths, grievous hurt, assault, criminal intimidation, and abetment of suicide,



have also been utilized to tackle various forms of domestic violence. However, despite these legal safeguards, challenges persist in the investigation and prosecution of domestic violence cases. These include the lengthy duration of investigations, the handling of such cases within the criminal justice system, difficulties in meeting evidentiary standards, and a lack of resources for victim support services that can help women escape abusive situations.

The Indian government recognized that the existing criminal laws were not sufficient to address the issue of domestic violence. In response, it introduced the Protection of Women from Domestic Violence Act (PWDVA) in 2005. This law was a major shift from earlier approaches, as it acknowledged not only physical abuse but also emotional, verbal, sexual, and economic abuse. The PWDVA is unique compared to traditional criminal laws because it offers complete civil remedies to victims, including protection orders, residence rights, financial support, custody arrangements, and compensation. The law aims to provide immediate and effective assistance to victims while ensuring their right to remain in the family home.

With the passing of this law, India replaced three older laws, which were under British rule, with three new laws that aim to align criminal justice with current global standards and focus more on the victim. These older laws were: [1] The Indian Penal Code (IPC), [2] The Code of Criminal Procedure (CrPC), and [3] The Indian Evidence Act (IEA).

The new Bharatiya Nyaya Sanhita, 2023 provides protection for women against cruelty and violence and reorganizes and modernizes the existing Indian criminal law provisions related to domestic violence. The Bharatiya Nagarik Suraksha Sanhita introduces new ways of using technology for reporting criminal activities, digitally recording statements in cases of domestic violence, gathering forensic evidence, and conducting timely investigations. The Bharatiya Sakshya Adhiniyam acknowledges electronic records and digital evidence as valid forms of proof in criminal trials. In the context of domestic violence investigations, electronic communications, social media, audio recordings, pictures, and other digital records have become important in establishing a history of abuse. These reforms are significant in the area of domestic violence. Despite these changes, several factors still hinder the delivery of justice to victims, including the persistence of patriarchal norms, underreporting of incidents, lack of awareness of one's rights, inadequate institutional support, and poor law enforcement. There are also many legal and policy challenges that arise from the interaction between the PWDVA and the new criminal laws. It is important to carefully evaluate the impact of these changes to determine whether they have enhanced protection for women or if additional legislative and institutional measures are still required.



The study will examine the relationship between the Protection of Women from Domestic Violence Act, 2005, and the new statutes such as the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and the Bharatiya Sakshya Adhiniyam. It will assess the effectiveness of the new criminal laws in addressing domestic violence, identify ongoing obstacles to their implementation, and suggest recommendations for better protection of women's rights and the fair delivery of justice. Before the enactment of the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhiniyam, 2023, the legal framework protecting women against domestic violence was based on a combination of sources: constitutional guarantees; provisions in the Indian Penal Code (IPC); procedural protections in the Code of Criminal Procedure (CrPC); evidential rules from the Indian Evidence Act (IEA); and specialized remedies under the Protection of Women from Domestic Violence Act, 2005. These sources collectively offered various methods to address domestic violence and provide protection from physical, emotional, psychological, sexual, and economic abuse. Over time, this legal framework evolved from treating domestic violence as a private family matter to viewing it as a violation of human rights that requires state intervention.

The legal foundation for protecting women against domestic violence in India is derived from the Indian Constitution. Article 14 ensures equality before the law, Article 15 prohibits discrimination based on sex, and Article 21 secures the right to life and personal liberty. These rights have been interpreted to include dignity, bodily integrity, mental health, and freedom from violence. Indian courts have consistently held that the right to live with dignity and not to be exploited is part of the right to life under Article 21. Additionally, Articles 39(a), 39(d), and 42 of the Directive Principles of State Policy require the state to ensure equal rights and support for women. Before the Bharatiya Nyaya Sanhita, the most significant criminal law addressing domestic violence was Section 498A of the Indian Penal Code, 1860. This section was introduced in the Criminal Law (Second Amendment) Act, 1983 and criminalized cruelty by a husband or his relatives against a married woman. It included acts likely to cause a woman to commit suicide, cause serious harm to her physical or mental health, or subject her to harassment in connection with a dowry demand. Section 498A is considered one of the most important legal tools for prosecuting domestic violence.

Dowry Death – Domestic Violence Often Leads to Death Due to Dowry-Related Crimes: Section 79 of the Bharatiya Nyaya Sanhita (BNS) deals with the issue of dowry death. If a woman dies within seven years of marriage in an unusual way, and there is proof that she was subjected to attacks or harassment related to dowry before her death, this case will be treated as a dowry death. The husband and his family members can be charged with this crime and may face a minimum prison sentence of seven years or life imprisonment. The law recognizes that domestic violence, especially when combined with dowry-related



harassment, can lead to suspicious deaths of married women. By imposing strict penalties, Section 79 acts as a deterrent and ensures that those involved in such acts are held responsible for their actions within the context of marriage.

Bharatiya Sakshya Adhiniyam, 2023 – Provisions Related to Domestic Violence. Presumption Regarding Abetting of Suicide by Married Women – Section 117: The Bharatiya Sakshya Adhiniyam, 2023, introduces an important evidentiary provision under Section 117. If a married woman commits suicide within seven years of her marriage and there is evidence that she endured cruelty from her husband or his family, the court shall assume that her husband or his relatives abetted the suicide. For the purposes of this section, the definition of cruelty is the same as found under Section 86 of the BNS. Most cases of domestic violence occur in private settings, making it difficult to gather proof. Section 117 helps prosecutors by allowing courts to infer that an abetting offence may have occurred if there is evidence of cruelty and the suicide takes place within the specified time frame. This presumption reflects the legislative belief that there is a link between domestic violence and the suicide of married women. Maintenance under Section 144 of the Bharatiya Nyaya Sanhita, 2023 (Section 125 of the Criminal Procedure Code): This provision aims to protect the financial stability of wives, children, and parents who cannot support themselves. Women who face domestic violence may be abandoned without financial support, leaving them unable to maintain a safe living environment. The maintenance provision allows neglected wives to seek financial help from their husbands to avoid relying on their abusers. Judicial Approach Toward Protection of Women from Domestic Violence: Recent Trends in the New Criminal Law Framework: The Supreme Court set a constitutional foundation for this concept in *Maneka Gandhi v. Union of India*, interpreting Article 21 broadly to include the right to live with dignity. This principle was reaffirmed in *Francis Coralie Mullin v. Administrator of Union Territory of Delhi*, where the Court emphasized that the right to life includes all the essentials needed for a dignified life. These constitutional principles underpinned the courts' development of the concept of domestic violence as a violation of fundamental rights and the creation of legal mechanisms to protect victims.

In *V.D. Bhanot v. Savita Bhanot*, the Supreme Court interpreted the Protection of Women from Domestic Violence Act (PWDVA) widely, allowing a woman to seek protection under the Act for acts of domestic violence even if those acts occurred before the Act was implemented, as long as there was an ongoing domestic relationship. This ruling expanded the scope of protection for domestic violence victims and demonstrated the judiciary's commitment to achieving fair justice. Similarly, in *Hiral P. Harsora v. Kusum Narottamdas Harsora*, the Supreme Court upheld Article 14 of the Constitution and struck down a law that limited the scope of the PWDVA. This decision increased the number of people covered under the Act and enhanced the remedies available to domestic violence victims. The judiciary has also supported the



residential rights of women facing domestic violence through judicial review. In *Satish Chander Ahuja v. Sneha Ahuja*, the High Court rejected a narrow interpretation of a previous ruling and ruled that a woman has a legal right to live in a joint household, even if she does not own the property. The Court stated that the PWDVA is a welfare law meant to be interpreted in favor of victims. This ruling significantly strengthens women's security and housing rights when they face domestic violence. In *Rajnesh v. Neha*, the High Court provided clear guidelines regarding the maintenance and support of women in matrimonial disputes. The Court identified economic abuse as a serious form of domestic violence and emphasized the importance of financial stability for women to access proper justice. The ruling established consistent standards for granting maintenance and aimed to prevent lengthy legal battles.

The courts have made several changes in their interpretation of matrimonial cruelty under Section 498A of the Indian Penal Code, 1860, now Section 85 of the BNS. In *Sushil Kumar Sharma v. Union of India*, the Supreme Court acknowledged that while Section 498A may have been misused in some cases, this does not justify declaring the section unconstitutional, as it was created to protect women. Similarly, in *Arnesh Kumar v. State of Bihar*, the Supreme Court issued clear guidelines to prevent automatic arrests in matrimonial disputes while still recognizing the importance of anti-cruelty provisions in protecting women.

Recent Supreme Court Development: Extension of Section 498A IPC to Live-In Relationships in the Nature of Marriage

A significant recent development in the judicial protection of women against domestic violence is the Supreme Court's decision in *Dr. Lokesh BH & Ors. v. State of Karnataka & Anr.*, reported on 3 August 2026. The Court held that a formal marriage is not an indispensable condition for invoking Section 498A of the Indian Penal Code where the relationship is a live-in relationship that qualifies as a "relationship in the nature of marriage." The Court reasoned that excluding women in such relationships from the protection against domestic cruelty could result in discriminatory treatment.

The decision is important in the context of the changing nature of family and domestic relationships in India. Section 498A IPC was traditionally understood in relation to cruelty by a husband or his relatives towards a married woman. The Supreme Court's approach recognizes that the protective purpose of the provision should not automatically fail merely because the parties have not undergone a formal marriage ceremony, where the relationship possesses the essential characteristics of a marital relationship.

The expression "relationship in the nature of marriage" has previously been examined in the context of the Protection of Women from Domestic Violence Act, 2005. In *Indra Sarma v. V.K.V. Sarma* (2013), the



Supreme Court explained that not every live-in relationship is necessarily a relationship in the nature of marriage. Factors such as the duration of the relationship, shared household, pooling of financial resources, domestic arrangements, the nature of the relationship, children, and the parties' public conduct may assist the court in determining its character. Thus, the recent Section 498A development should be understood as applying to qualifying relationships rather than to every informal or temporary association.

This judicial development strengthens the victim-oriented character of India's domestic-violence framework. It is particularly relevant to the present study because the paper examines the interaction between the Protection of Women from Domestic Violence Act, 2005 and the new criminal-law framework. It demonstrates how constitutional principles of equality, dignity and protection from violence can influence the interpretation of criminal provisions in response to changing social relationships.

At the same time, the judgment raises important questions concerning the boundaries of judicial interpretation. Courts must carefully determine whether a particular live-in relationship genuinely possesses the characteristics of a marital relationship, while ensuring that the protective purpose of the law is not diluted. The development therefore calls for a fact-sensitive judicial approach and clear standards for identifying relationships that fall within the expression “in the nature of marriage.”

Conclusion

Domestic violence is a major problem in India and is one of the most common forms of violence against women. Women from all social classes, education levels, income brackets, and cultures are victims of domestic abuse. A significant part of India's legal system and a large amount of litigation have been dedicated to providing a legal framework for the protection of women. Although India has made progress in developing constitutional law, amending laws, and improving judicial processes, domestic violence continues to pose serious challenges to achieving gender equality, human dignity, and social justice. Domestic violence involves physical, sexual, and verbal abuse, emotional abuse, and economic abuse, showing that it is not just a private family matter but a serious violation of women's fundamental human rights and constitutional rights in India.

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