

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

Like the multi-headed serpent Hydra in Greek Mythology, violence against women in India covers many aspects– sexual, social, personal, and public. As you handle one, another ugly aspect rears its head. One of the ugliest aspects is domestic violence.

It is difficult to ascertain the extent of domestic violence incidents taking place. It is a crime which is surreptitiously concealed, unreported, and often goes unacknowledged. For individuals, acknowledging domestic violence can often be perceived as conceding the collapse of a very personal relationship. For society, acknowledging domestic violence would mean recognizing the truth about how one of the most venerated social institutions can be so damaging to women. Keeping this in mind, even the reported numbers are appalling. About once every 5 minutes an incident of domestic violence is reported in [India](#).

In 2005, a new law, called the Protection of Women from Domestic Violence Act was passed to protect women from domestic violence. The law has many unique features– it expanded the definition of domestic violence and brought under its protection all women who are in a domestic relationship, including mothers, sisters, and daughters.

Let's breakdown the law and understand how it protects women from domestic violence.

Domestic Violence: Defined

Domestic violence under this law can include different kinds of abuse and violence. It is any kind of abuse which causes harm to you, your health and well-being. It could include harassing or hurting you or your relatives for dowry, money, or property. The threat to harass or hurt also falls under domestic violence. It also includes any act which causes you physical or mental pain. Being abusive could mean physical, sexual, verbal, and emotional as well as economic abuse. It does not need to be an actual action- not doing something can also be a form of domestic violence. For example, not giving you money to run the household or for the children would fall under the definition of economic abuse as per this act.

'Aggrieved' person as per the law

If you are a woman and any person with whom you are in a domestic relationship with is being abusive, you are a victim or an 'aggrieved person'. This law aims to protect women who are living in the same house with people who are related through:

1. **Blood relationships:** mother-son, father-daughter, sister-brother, widows
2. **Marriage:** husband-wife, daughter-in-law with father-in-law/ mother-in-law and other members of the family, sister-in-law with other members of the family, widows with other members of the family;
3. **Adoption** – for ex. adopted daughter and father;
4. **Relationships in the nature of marriage:** live-in relationships, legally invalid marriages (for e.g. husband has married a second time, husband and wife are related by blood etc.)

The people need not currently be living in a shared home. For example, if the husband threw the wife out of their home, it would still be a shared home.

Who do you approach?

As a victim, you can approach either the 'Protection Officer' or the 'Service Provider' under this law. A Protection Officer is the first point of contact for a victim. The Protection Officer can help start proceedings before the Magistrate and help with providing a safe shelter or medical help. Each

State Government appoints protection officers in their state. The Service Provider is an organization which works towards helping women and is registered under this law. A victim can approach a Service Provider to record her complaint and to get medical help or a safe place to stay. This is a database of all Registered Protection Officers and Service Providers across India.

You can also approach the police or a Magistrate directly. Depending on where you or the offender lives, the Magistrate you approach will be either a Judicial Magistrate (First Class) or a Metropolitan Magistrate. You are more likely to find Metropolitan Magistrates in cities with a population of more than 10 lakhs.

Who can complain about a case of domestic violence?

The victim herself, can obviously make the complaint. Even if you are not the victim, you can approach the Protection officer. If you believe that someone has been or is currently being subject to domestic violence, you can approach a Protection Officer. As someone who has acted in good faith, no one can pull you up in a court of law even if it turns out the information you have given is wrong. In addition, instead of heading to the Protection Officer, the victim can approach the Service Provider to make a complaint. The Service Provider then records the complaint (domestic incident report') and sends a copy to the local Magistrate and the Protection Officer.

As an aggrieved person, what are your rights?

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

- 1. The victim can apply for any of the reliefs recognized under this law i.e. a protection order, monetary relief, custody order, residence order or a compensation order.**
- 2. The victim can use the services of certain official Service Providers.**
- 3. The victim can approach a Protection Officer and ask them for help.**
- 4. The victim can ask for free legal aid.**
- 5. The victim can also file a criminal complaint under the general law on crimes (the Indian Penal Code, 1860). Please note that filing a criminal complaint can put the offenders in jail for up to three years. The victim must have suffered a graver degree of abuse (i.e. cruelty) to be able to file a complaint.**

In addition, state designated shelter homes and hospitals have a duty to provide a safe place to stay and medical help to every victim who approaches them. The victim need not approach directly and can do it through the Protection Officer or the Service Provider

What can you expect from the court when you file a case?

If you as a victim of domestic violence want a more permanent solution to your problems, you can go to the court. The type of judges who are responsible for this Act are called 'Magistrates'. The victim need not make the application herself. The Protection Officer or any other person on her behalf can make the application. One of the things the Magistrate must keep in mind is the complaint which was first recorded by the Protection Officer or the Service Provider.

In addition to filing a domestic violence case under this Act, the victim can also go to court and file a normal civil case. When the victim has also filed a normal civil case, the court will deduct the amount paid under the domestic violence case when deciding how much money she gets.

The Magistrate must start the case within 3 days from the date of the application. Once the Magistrate has started the case, she must try her best to finish the case within 60 days.

This article was written by Nyaaya, which is a free, non-profit resource explaining and documenting all Indian laws. If you want to read more about this law, then go through their explainer on this act, where they have explained the different sections of the law in simple English.