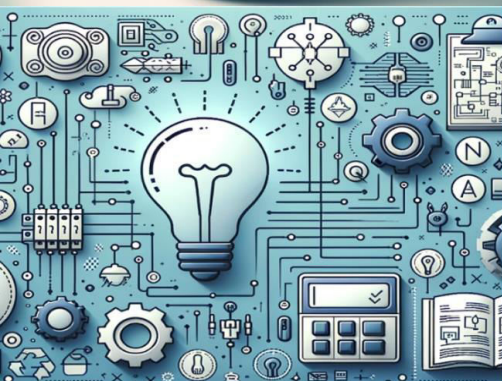


International Journal of Multidisciplinary Research in Science, Engineering and Technology

(A Monthly, Peer Reviewed, Refereed, Scholarly Indexed, Open Access Journal)



Impact Factor: 7.521

Volume 8, Issue 1, January 2025



International Journal of Multidisciplinary Research in Science, Engineering and Technology (IJMRSET)

(A Monthly, Peer Reviewed, Refereed, Scholarly Indexed, Open Access Journal)

Justice for Victims of Domestic Violence: Assessing Indian Procedural Laws

Manju Mandraha, Dr. Patil Shwetali Sajay

Research Scholar, Department of Law, Sunrise University, Alwar, Rajasthan, India

Professor, Department of Law, Sunrise University, Alwar, Rajasthan, India

ABSTRACT: Domestic violence remains a pervasive social issue in India, despite the existence of strong legal frameworks aimed at its prevention and redressal. This paper critically examines the procedural laws related to domestic violence in India, particularly the Protection of Women from Domestic Violence Act, 2005 (PWDVA), and other relevant statutes such as the Indian Penal Code (IPC), the Criminal Procedure Code (CrPC), and the Dowry Prohibition Act. The study explores the effectiveness of these laws in delivering justice to victims, identifies procedural gaps, and suggests reforms to enhance their efficacy.

KEYWORDS: Domestic Violence, Procedural Law, Indian Legal System, Women's Rights, Justice

I. INTRODUCTION

Domestic violence against women is a serious concern in India, affecting their physical, mental, and social well-being. Legal provisions have been established to provide relief and justice to victims, yet challenges remain in their implementation. This paper aims to assess the procedural aspects of the existing legal framework and their effectiveness in ensuring justice for victims. Domestic violence is a pervasive societal issue that transcends geographical, cultural, and economic boundaries, severely impacting the physical, emotional, and psychological well-being of victims. In India, domestic violence is primarily addressed through a combination of civil and criminal laws, yet procedural challenges often hinder the effective delivery of justice. Despite the enactment of the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and relevant provisions under the Indian Penal Code, 1860 (IPC), victims frequently struggle with systemic barriers such as delays in judicial proceedings, inadequate enforcement of protective orders, and the reluctance of law enforcement agencies to intervene effectively. The procedural aspects of these laws play a crucial role in determining the accessibility and efficiency of legal remedies for victims.

The Code of Criminal Procedure, 1973 (CrPC) and the Indian Evidence Act 1872 govern the procedural mechanisms for addressing domestic violence cases. Criminal provisions such as Section 498A IPC (cruelty by husband or relatives) and Section 304B IPC (dowry death) provide avenues for legal action, while Section 125 CrPC ensures maintenance for victims. However, procedural hurdles, such as the burden of proof, reluctance of witnesses, and loopholes in investigative processes, often delay justice. Additionally, victims face social stigma and financial dependence, making it difficult to navigate the legal system without adequate support. The interplay between civil and criminal procedures further complicates the legal process, often leaving victims without immediate relief or protection.

This paper critically examines the procedural framework governing domestic violence cases in India, highlighting the strengths and limitations of existing legal provisions. By analyzing key judicial interpretations, legislative developments, and practical challenges faced by victims, the study aims to assess whether Indian procedural laws effectively ensure justice. It also explores potential reforms to enhance the legal system's responsiveness to domestic violence cases, ensuring a more victim-centric approach to justice.

II. LEGAL FRAMEWORK ON DOMESTIC VIOLENCE

The legal framework governing domestic violence in India consists of a combination of civil and criminal laws designed to provide protection, relief, and punishment for offenders. The Protection of Women from Domestic Violence Act, 2005 (PWDVA) is the primary civil law that provides immediate relief to victims through protection orders, residence orders, monetary relief, and custody arrangements. It broadens the definition of domestic violence to include physical, emotional,



International Journal of Multidisciplinary Research in Science, Engineering and Technology (IJMRSET)

(A Monthly, Peer Reviewed, Refereed, Scholarly Indexed, Open Access Journal)

sexual, and economic abuse, ensuring a more comprehensive approach to victim protection. In addition to the PWDVA, criminal provisions under the Indian Penal Code, 1860 (IPC), such as Section 498A (cruelty by husband or relatives) and Section 304B (dowry death), criminalize acts of domestic abuse. The Code of Criminal Procedure, 1973 (CrPC) supplements these provisions by outlining the procedural mechanisms for filing complaints, seeking maintenance under Section 125, and ensuring protection through judicial intervention. The Indian Evidence Act, 1872 also plays a crucial role, particularly Section 114A, which presumes the absence of consent in cases of sexual violence within domestic settings. Despite these legal safeguards, challenges such as delays in judicial processes, underreporting, and misuse of legal provisions persist. Strengthening implementation mechanisms, sensitizing law enforcement agencies, and ensuring swift judicial redressal remain crucial for enhancing the effectiveness of the legal framework on domestic violence in India.

III. PROCEDURAL CHALLENGES IN SEEKING JUSTICE

Despite the existence of legal provisions addressing domestic violence, victims in India face numerous procedural challenges in seeking justice. One of the primary obstacles is delayed judicial proceedings, as courts often take years to resolve cases, leaving victims without immediate relief. The burden of proof also poses a significant challenge, particularly in cases of psychological or economic abuse, where tangible evidence is difficult to produce. Law enforcement agencies, often lacking gender-sensitive training, may dismiss complaints as domestic disputes, leading to underreporting and reluctance in filing First Information Reports (FIRs). Additionally, victims frequently encounter societal and familial pressure to withdraw complaints, further weakening their access to justice. The interplay between civil and criminal remedies creates further confusion, as victims must navigate different legal processes for protection orders under the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and criminal prosecution under Sections 498A and 304B of the Indian Penal Code, 1860 (IPC). Financial dependence on the abuser, lack of legal awareness, and limited access to legal aid further exacerbate the situation, making it difficult for victims to sustain prolonged legal battles. Addressing these procedural barriers requires judicial reforms, better enforcement mechanisms, and a more victim-centric approach to ensure timely and effective justice for survivors of domestic violence.

IV. JUDICIAL INTERPRETATIONS AND PRECEDENTS

Indian courts have played a crucial role in interpreting laws on domestic violence. Landmark judgments such as *Indra Sarma v. V.K.V. Sarma* (2013) have expanded the scope of PWDVA, recognizing live-in relationships under its ambit. However, inconsistent application of laws by lower courts remains an issue. Judicial interpretations play a crucial role in shaping the legal landscape of domestic violence laws in India, influencing both procedural and substantive aspects of justice delivery. The Supreme Court and various High Courts have provided landmark rulings that clarify the scope and application of laws protecting victims. In *Rajesh Sharma v. State of UP* (2018), the Supreme Court addressed concerns regarding the misuse of Section 498A IPC and emphasized the need for a balanced approach to prevent undue harassment of the accused while ensuring justice for victims. Similarly, in *Indra Sarma v. VKV Sarma* (2013), the Court expanded the definition of “domestic relationship” under the Protection of Women from Domestic Violence Act, 2005 (PWDVA) to include relationships beyond formal marriage, thereby extending protection to women in live-in relationships. Another significant ruling in *Lalita Kumari v. Government of UP* (2014) mandated the compulsory registration of FIRs in cases of cognizable offenses, reinforcing law enforcement’s duty to act promptly in domestic violence cases. Additionally, in *Shivani Bhalla v. Inderjeet Bhalla* (2015), the Delhi High Court underscored the importance of timely monetary relief and residence orders under the PWDVA, ensuring immediate protection for victims. These judicial pronouncements have been instrumental in interpreting procedural laws to safeguard victims' rights, but challenges remain in their consistent implementation at lower courts and law enforcement levels. Strengthening judicial accountability and ensuring uniform application of these precedents can enhance the effectiveness of domestic violence laws in India.

V. RECOMMENDATIONS FOR LEGAL REFORMS

To strengthen procedural justice for domestic violence victims, the following reforms are suggested:

- **Fast-Track Courts:** Establishing specialized courts for domestic violence cases to expedite justice.
- **Enhanced Police Training:** Sensitizing law enforcement agencies to handle domestic violence cases effectively.
- **Legal Aid and Awareness:** Increasing access to legal assistance and awareness programs for women.
- **Stricter Enforcement Mechanisms:** Ensuring compliance with PWDVA provisions through regular monitoring and accountability measures.



International Journal of Multidisciplinary Research in Science, Engineering and Technology (IJMRSET)

(A Monthly, Peer Reviewed, Refereed, Scholarly Indexed, Open Access Journal)

- **Balanced Approach to Misuse Allegations:** Implementing safeguards to prevent false accusations without undermining genuine cases.

VI. CONCLUSION

Ensuring justice for victims of domestic violence in India requires not only robust legal provisions but also an efficient procedural framework that facilitates timely and effective redressal. While laws such as the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and Sections 498A and 304B of the Indian Penal Code, 1860 (IPC) provide essential legal protections, procedural challenges such as judicial delays, evidentiary burdens, inadequate enforcement, and societal pressures continue to hinder access to justice. The interplay between civil and criminal remedies often complicates legal proceedings, leaving victims in prolonged distress. Although judicial interpretations have played a significant role in expanding the scope of protections, their inconsistent implementation remains a concern. To enhance justice delivery, there is a pressing need for procedural reforms, including expedited case resolution, enhanced victim support services, better training for law enforcement, and improved access to legal aid. A victim-centric approach, coupled with stringent implementation of legal provisions, is essential to bridge the gap between legal protections and their practical realization. Strengthening procedural efficiency and accountability will not only empower victims but also reinforce the justice system's commitment to combating domestic violence effectively.

REFERENCES

1. Flavia Agnes, Law and Gender Inequality: The Politics of Women's Rights in India (Oxford University Press 1999).
2. Indira Jaising, Handbook on Law of Domestic Violence (LexisNexis 2014).
3. Protection of Women from Domestic Violence Act, 2005 (India).
4. Indian Penal Code, 1860, ss 498A, 304B.
5. Code of Criminal Procedure, 1973, ss 125-128.
6. Indian Evidence Act, 1872, s 114A.
7. Rajesh Sharma v State of UP (2018) 10 SCC 472.
8. Lalita Kumari v Government of Uttar Pradesh (2014) 2 SCC 1.
9. National Commission for Women, Legal Awareness Handbook on Domestic Violence (NCW 2021).
10. UN Committee on the Elimination of Discrimination Against Women (CEDAW), 'General Recommendation No. 19 on Violence against Women' (1992).



INTERNATIONAL
STANDARD
SERIAL
NUMBER
INDIA



INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY RESEARCH IN SCIENCE, ENGINEERING AND TECHNOLOGY

| Mobile No: +91-6381907438 | Whatsapp: +91-6381907438 | ijmrset@gmail.com |

www.ijmrset.com