

# Evolution of Justice: Analyzing Judicial Trends in Domestic Violence Cases in India

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## Abstract

This research paper examines the evolution of judicial trends in domestic violence cases in India from 2005 to 2021. Through an analysis of Indian case laws, legal provisions, and judicial decisions, this study identifies a growing trend towards more stringent punishments for perpetrators and increased protection for victims. By analyzing landmark judgments, the paper demonstrates how the Indian legal system has transitioned from a conservative approach to a more progressive, victim-centric stance. The focus is on recognizing domestic violence as a human rights violation, expanding the scope of protection orders, and acknowledging the social, emotional, physical and economic consequences of domestic violence.

Key words: Domestic Violence, Judicial trends, victim centric approach, human rights violation, protection orders

## I. Introduction

Domestic violence in India has historically been treated as a private matter, shielded by patriarchal norms that prioritized family preservation over the protection of victims. However, the past two decades have witnessed a significant shift in the legal and judicial response to domestic violence, with courts increasingly recognizing the need to protect the fundamental rights of victims, particularly women. The enactment of the Protection of Women from Domestic Violence Act (PWDVA), 2005, marked a watershed moment in the legal framework surrounding domestic violence, establishing statutory mechanisms for victim protection.

Despite this legislative progress, it is the judiciary's interpretation and application of these laws that have played a pivotal role in shaping the landscape of domestic violence jurisprudence in India. The courts have not only expanded the scope of domestic violence but also acknowledged the broader social and economic implications faced by victims. This paper examines how judicial trends have evolved from 2005 to 2021, focusing on key judgments delivered by the Supreme Court and High Courts. By exploring these judicial trends, the paper highlights the shift from a conservative approach to a progressive, victim-centric one that prioritizes the protection of victims' rights.

## II Research Questions:

1. How has the Indian judiciary's approach to domestic violence evolved between 2005 and 2021?
2. What are the key judicial decisions that highlight the shift from a conservative to a progressive approach in addressing domestic violence?
3. How have Indian courts expanded the scope of protection for victims of domestic violence in recent years?
4. What are the social and economic implications of domestic violence that have been acknowledged by the judiciary?
5. How can the legal framework be strengthened to provide better protection and support to victims of domestic violence in India?

## III. Objectives of Research:

1. Evaluate Judicial Evolution: Analyze how the Indian judiciary's approach to domestic violence has transitioned from 2005 to 2021, focusing on the shift from conservative to progressive stances.
2. Identify Key Judgments: Highlight landmark Supreme Court and High Court decisions that reflect the changing judicial attitudes towards domestic violence and expanded victim protections.
3. Assess Protection and Implications: Examine how courts have broadened protection for victims and addressed the social and economic impacts of domestic violence, and propose enhancements to the legal framework.

## IV Hypothesis

This paper hypothesizes that the Indian judiciary has evolved in its approach to domestic violence cases, with a growing trend towards increased protection for victims of domestic abuse.

## V Research Methodology

This research employs a qualitative approach, relying on in-depth analysis of Indian case laws, legal provisions, and judicial decisions from 2005 to 2021. The study focuses on cases decided by the Supreme Court and various High Courts of India, with particular emphasis on landmark judgments that have influenced judicial trends in domestic violence cases. By examining the evolution of these decisions, the study identifies the patterns and themes that characterize the judiciary's response to domestic violence.

## VI Analysis

### 1. Evolution of Judicial Approach

The Indian judiciary's response to domestic violence has evolved significantly in the past two decades. Earlier judgments were often influenced by conservative norms, with an emphasis on maintaining family unity at the expense of victim protection. However, the judiciary's approach has become progressively victim-centric, recognizing domestic violence as a violation of fundamental human rights and focusing on providing greater protection and support for victims. Courts have increasingly acknowledged that domestic violence is not just physical abuse but also includes emotional, psychological, and financial harm.

### 2. Increased Emphasis on Victim Protection

The judiciary has increasingly emphasized the protection of victims in domestic violence cases. Courts have interpreted the PWDVA and related legal provisions to ensure that victims have access to immediate protection orders, residency rights, and financial support. This reflects a broader understanding of domestic violence, wherein courts have recognized the need to protect victims from further harm and help them achieve independence from abusive relationships.

### 3. Recognition of Social and Economic Implications

Indian courts have also begun to recognize the social and economic implications of domestic violence, acknowledging the challenges victims face in leaving abusive relationships due to financial dependency and social stigma. This recognition has led to broader interpretations of legal protections, such as the right to reside in shared household, regardless of financial contributions. The judiciary has played a pivotal role in ensuring that domestic violence victims receive the necessary legal and social support to rebuild their lives.

## 4. Case Analysis

### 4.1 S. R. Batra & Anr v. Smt. Taruna Batra (2006)

#### Background

The case dealt with the question of a woman's right to reside in her matrimonial home after being subjected to domestic violence. The primary issue was the definition of "Shared Household" so as to settle whether the house owned by parents-in-law can be the shared household of a daughter-in-law? Whether a wife could claim the right to live in a shared household even if she did not contribute financially to the property?

#### Judicial Pronouncement

1. Definition of Shared Household:

A shared household refers only to a house owned or rented by the husband or a house belonging to the joint family of which the husband is a member.

2. Past Residences Not Shared Household: Properties where the husband and wife lived temporarily, such as homes of the husband's relatives, do not qualify as shared households. Accepting such an interpretation would lead to absurd outcomes and societal chaos.
3. Claim for Alternative Accommodation: The wife's claim for alternative accommodation under Section 19(1)(f) of the Domestic Violence Act can only be made against the husband, not his relatives or in-laws.
4. Exclusive Property Not a Shared Household: In this case, the property belongs exclusively to the husband's mother and neither the husband nor his joint family has ownership or rental rights over it. Therefore, it cannot be considered a shared household under the Act.

### Significance

1. Clarifies the Definition of 'Shared Household': The judgment provides clarity on what constitutes a shared household, restricting it to homes owned, rented, or part of the joint family property of the husband, thereby preventing an overly broad interpretation that could include homes of relatives.
2. Limits Claims Against Relatives: It establishes that a wife's right to alternative accommodation or residence can only be claimed against her husband, not against his in-laws or extended family, thus protecting the property rights of relatives.

### 4.2 V.D. Bhanot vs. Savita Bhanot (2010)

#### Background

The case of V.D. Bhanot vs. Savita Bhanot concerned a dispute between an estranged husband and wife. After being subjected to domestic violence, Savita Bhanot filed a case under the Protection of Women from Domestic Violence Act, 2005. Her husband, V.D. Bhanot, challenged the applicability of the Act, arguing that since the domestic violence occurred before the Act came into force in 2005, it could not be invoked retroactively in her case. The primary question involved was "Can a woman seek relief under the Protection of Women from Domestic Violence Act (PWD Act), 2005, for incidents of domestic violence that occurred before the enactment of the law?"

#### Judgment

**1. Applicability of the PWD Act to Past Incidents:**

The Supreme Court ruled that the PWD Act, 2005, applies even to incidents of domestic violence that occurred before the Act was enacted, ensuring protection for women regardless of the timing of the abuse.

**2. Right to Protection Regardless of Residence:**

The Court affirmed that a woman can seek relief under the Act even if she no longer lives with her husband, as the law protects women who have left the shared household.

**Significance****1. Retroactive Application of the Law:**

The judgment confirmed that the PWD Act can be applied retroactively, offering protection to women for past domestic violence incidents.

**2. Strengthening Women's Rights:**

The decision reinforced women's rights under the Constitution, ensuring that they receive protection and relief, even if living separately from their abusers.

**3. Clarity on Maintenance and Housing:**

The ruling clarified that husbands must provide financial support or alternative housing for their wives, even after changes in their employment status, like retirement.

**4. Precedent for Future Cases:**

This case set an important precedent for interpreting the PWD Act broadly to ensure justice for victims of domestic violence.

**4.3. Arnesh Kumar v. State of Bihar (2014)****Background**

This case involved the procedural aspects of police action in domestic violence cases. The central issue was whether the police were adequately protecting victims and preventing further abuse.

**Judicial Pronouncement**

The Supreme Court laid down guidelines for the police in handling domestic violence cases, emphasizing that the safety and protection of victims must be the primary concern. The court directed law enforcement agencies to take immediate steps to protect victims and prevent further abuse, including the issuance of protection orders and the timely investigation of complaints.

## Significance

The Arnesh Kumar case was a landmark in ensuring that procedural safeguards are in place to protect victims. It addressed systemic failures in the investigation and prosecution of domestic violence cases, ensuring that victims are treated with dignity and that their complaints are acted upon swiftly.

### 4.4. Hiral P. Harsora & Ors v. Kusum Narottamdas Harsora (2016)

#### Background

Pushpa and Kusum Narottam Harsora filed a domestic violence case against family members, including Pradeep (son/brother), his wife, and two sisters/daughters. The respondents argued that the Protection of Women from Domestic Violence Act only allows complaints against "adult males," so the female members should be discharged. The Bombay High Court agreed, ruling that the Act requires an "adult male" to be involved in such complaints. The Harsoras then challenged this decision in the Supreme Court, arguing that it violated their constitutional right to equality.

The Primary issue involved in the case was "Whether including "adult male" in Section 2(q) of the Domestic Violence Act violated Article 14 (equality before the law) of the Indian Constitution." If the phrase "adult male" is unconstitutional, would removing it invalidate the rest of the section or act?

#### Judicial Pronouncement :

##### 1.Striking down "Adult Male":

The Supreme Court ruled that the words "adult male" in Section 2(q) violated Article 14 and were unconstitutional. The law must apply to perpetrators of any gender or age.

2.Severability Applied: The Court removed "adult male" while keeping the rest of the section valid and constitutional, ensuring the law still stands.

3.Broader Protection: The Court acknowledged that domestic violence can be committed even by women thereby expanded the scope of protection under the Act to all women victims.

#### Significance:

1.Wider Protection for Women: Women can now seek protection from any individual, regardless of gender or age, under the Domestic Violence Act.

2.Gender-Neutral Law: The judgment ensures the law applies to all perpetrators, reinforcing gender equality.

3. Precedent for Social Welfare Laws: The ruling supports a broader interpretation of welfare laws, ensuring they serve their protective intent effectively.

#### **4.5 Ajay Kumar v. Lata (2019)**

##### **Background**

A widow with two children, filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005, seeking maintenance from the appellant, her deceased husband's brother. She had lived with her husband in a house that was part of an ancestral Hindu Joint Family Property. The appellant and his deceased brother had jointly operated a grocery store, each earning around Rs 30,000 per month. Following her husband's death, the pregnant first respondent was not allowed to stay in her matrimonial home. The Primary Issue was “Whether the order for maintenance against the appellant (brother of the deceased husband) was legally justified under the DV Act 2005”.

##### **Judicial Pronouncement**

1. The appellant was considered a respondent as he was in a domestic relationship with the first respondent through his deceased brother.
2. There were sufficient allegations to justify the maintenance order due to the joint family property and business context.
3. The court upheld the trial court's order, directing the appellant to pay maintenance arrears within four months in equal monthly installments.

##### **Significance**

- Broad Interpretation of PWDVA: The case demonstrates the extensive reach of the PWDVA in providing relief, including the possibility of seeking maintenance from relatives in a joint family context.
- Reinforcement of Familial Responsibilities: Highlights the importance of legal support for women and children in domestic disputes and affirms the role of extended family members in providing financial support.

#### **4.6. Satish Chandra Ahuja vs. Sneha Ahuja (2020)**

##### **Background**

The case of Satish Chandra Ahuja vs. Sneha Ahuja arose in the context of matrimonial disputes. Sneha Ahuja, the daughter-in-law of Satish Chandra Ahuja, was living in the shared household with her husband. After marital discord, Sneha's husband left the shared home, and Sneha continued to live there. Satish Chandra Ahuja (the father-in-law) filed a suit seeking her eviction from the property, claiming it was his self-acquired property, and Sneha had no right to continue

living there. Sneha, on the other hand, contended that it was a "shared household" under the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and, therefore, she had a right to reside there. The Primary Issue involved was "Whether "shared family" under Section 2(s) of the Domestic Violence Act, 2005, is limited to joint family households or includes other types of households where the victim resides."

### **Judicial Pronouncement**

1. Interpretation of "Shared Family: The term "shared family" is broadly interpreted to include any household where the victim of domestic violence has lived, irrespective of ownership or title.
2. Right to Residence: Section 2(s) and Section 17 of the Domestic Violence Act, 2005, confer the right of residence to the aggrieved woman, even if she does not have any legal title or interest in the property.
3. Application of Section 19: Orders under Section 19 of the Act, which provide for residence orders, are valid and enforceable to ensure the protection of the aggrieved person's right to reside in a shared household.

The Supreme Court, in this landmark decision, redefined the interpretation of the term "shared household" under Section 2(s) of the Protection of Women from Domestic Violence Act, 2005. The Court held that a daughter-in-law has the right to reside in a shared household, even if the property is owned by the father-in-law or any other family member, as long as the house has been her matrimonial residence.

The Court overturned its earlier ruling in *S.R. Batra v. Taruna Batra* (2007), where it was held that a wife has no right to reside in her in-laws' house if it is a self-acquired property of the in-laws. The *Satish Chandra Ahuja* case established that the concept of a "shared household" extends beyond the ownership of the property and encompasses the house where the wife has lived with her husband during the subsistence of the marriage, regardless of whether it is owned by the husband or his relatives.

### **Significance:**

This case significantly expanded the scope of women's rights under the Domestic Violence Act, affirming that the right to reside in a shared household is not dependent on ownership but on the fact that it is her matrimonial home.



The ruling strengthens the protection available to women against dispossession from their matrimonial home and ensures that even in-laws cannot force a woman out of the home solely on ownership grounds.

It promotes the objective of the PWDVA, which is to provide a civil remedy to women facing domestic violence or the threat of being displaced from their residence.

## **VII Verification of Hypothesis:**

The hypothesis that the Indian judiciary has evolved towards increased protection for domestic violence victims is supported by the research. Key cases from 2005 to 2021 demonstrate a shift from conservative approaches to more progressive, victim-centric rulings. Courts now emphasize broader protections, including emotional and financial harm, and acknowledge the social and economic impacts on victims.

## **VIII. Suggestions**

### **1. Strengthening Legal Frameworks and Policies**

Laws dealing with domestic violence must be regularly reviewed and updated to reflect the evolving understanding of the issue. A clearer and more comprehensive definition of domestic violence is necessary to ensure that all victims receive adequate legal protection. The inclusion of emotional and financial abuse in legal frameworks must be more explicitly defined and implemented.

### **2. Increased Training for Judges, Police, and Legal Professionals**

Training programs for judicial officers, police, and legal professionals must be implemented to ensure that they handle domestic violence cases with sensitivity and professionalism. This will help improve the quality of justice delivered to victims, while also raising awareness about the broader implications of domestic violence.

### **3. Enhanced Victim Support Services**

Victims of domestic violence should have access to robust support services, including legal aid, counseling, and shelters. These services must be made accessible to all, particularly those from rural or economically disadvantaged backgrounds. Ensuring victims have access to psychological and financial support is crucial to their rehabilitation and independence.

#### **4. Greater Awareness and Sensitization Campaigns**

Public awareness campaigns are essential to challenge societal norms that enable domestic violence. These campaigns should focus on educating the public about victims' rights, legal remedies, and the harmful impact of traditional practices such as dowry. Sensitizing the public to the issues faced by domestic violence victims will help create a more supportive social environment.

#### **5. Speedy Justice:**

There is a need to dispose of the cases of domestic violence within time bound manner. Although section 12 (5) of the Act provides a period of 60 days. But practically it has been observed that cases linger for several years. For early disposal, the mechanism has to be developed. Number of courts should be increased. Even special courts can be set up for early disposal.

#### **6. Protection Officer's Powers:**

Powers of Protection officers should be enhanced. They should have more active role to play especially in the cases involving physical abuse of the victim/aggrieved person. The Protection Officers should be trained accordingly and they be regularly reporting to the Courts about the status of the victim/aggrieved person and take measures of prevention.

### **IX Conclusion**

The evolution of the Indian judiciary's approach to domestic violence cases from 2005 to 2021 reflects a growing recognition of domestic violence as a fundamental violation of human rights. The judicial trends analyzed in this paper reveal a shift from a patriarchal, conservative framework toward a more progressive, victim-centered approach. Landmark judgments, discussed above illustrate the judiciary's commitment to protecting victims and ensuring that they are not only shielded from further abuse but also provided with the financial and social support necessary to rebuild their lives.

While significant progress has been made, there remain challenges in fully addressing domestic violence in India. The legal framework must continue to evolve, with a focus on expanding

definitions of domestic violence, strengthening procedural safeguards, and improving access to support services for victims. Sensitization campaigns and legal training are also essential to ensuring that the judiciary, law enforcement, and society at large are equipped to respond effectively to the complexities of domestic violence.

In conclusion, the Indian judiciary has played a crucial role in shaping the country's response to domestic violence. By adopting a more holistic and victim-centered approach, the courts have laid the groundwork for a legal and social environment that prioritizes the protection of victims and the punishment of perpetrators. However, continued efforts are needed to ensure that the gains made over the past two decades are solidified and expanded upon.

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