

Protection of Women Against Domestic Violence Act, 2005

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Society for women's Action and
Training Initiatives

**Hailed as representing
a watershed for
Indian Women's
Movement**

PWDVA Passed In 2005 And Implemented Since October 2006.

The Act is the outcome of years of struggle by the women's movement in India to get an Act that provides comprehensive protection to women against DV

- *The Act broadens the definition of domestic violence.
- *The Act broadens the definition of domestic relationships to include mothers, wives, sister in-laws , daughters, daughter in-laws and women in marriage like relationships

not recognized by law

A Rights Based Law

*PWDVA recognizes a life free of violence and fear, as a woman's right and makes the state responsible for extending protection against domestic violence to women.

Protection Against Inequality Based In Patriarchal Norms

*In a society where women are often denied their rights and dominant structure of family state and civil society are still

patriarchal, PWDVA seeks to protect women from all forms of domestic violence and check harassment and exploitation by family members or relatives.

- *The PWDVA is a powerful tool in the hands of women as it affords them protection and the right to continue to live in the shared household.
- *The first and immediate consequence, if a woman files a complaints against DV is dispossession- throwing the woman out of the house and taking custody of children. PWDVA protects a woman against this and empowers her to claim immediate maintenance and compensation.

The Impact Of This Rights Based Law On

Male Behavior and Masculinities

*The limited but very real achievements of women's movement in India in the field of institutional policy reform have always provoked reactionary and anxious behavior from men , who have sought to protect their (supposedly) threatened rights.
(Dr. Mangesh K. Breaking the

Moulds,)

- *In spite of a slack pace of implementation, PWDVA has been in the news, often for the wrong reasons. The Act has drawn protests , mostly from groups of men .
- *These groups have been publicly vocal on their demand for retraction of PWDVA in the electronic and the print medium. They seem to be led by upper middle class men who are technology savvy and are using every possible medium including the internet to gain support for their views.

Did such groups exist prior to PWDVA

***Purush Hakka Samrakshan**

Samiti , active in Mumbai and Nasik in the 90s. This and several other groups emerged in several parts of the country to safe guard the interests of harassed husbands and their relatives who are said to be victims of 498A (1983) of the IPC.

***They provide legal aid to the accused husbands and assist them in dealing with the police**

contd-

*498A makes the harassment of a woman in her marital home a non-bailable, non-compoundable, cognizable offence

*The demand is legal intervention to make the section non-cognizable, bailable and

compoundable.

Motivated by a sense of vulnerability
rooted in
perception of feminists indiscriminate
emphasis on
women's victim hood and men's
culpability, these
groups sought support for their cause by:
*Dubbing women's organizations as anti
family home breakers.. rather than
protectors of women's rights
*Organized conventions and lobbied
with the home and law ministries..
But did not have much impact.

Criticized strongly by feminists and

progressive groups
and seen as anti women's empowerment ,
their visible
militancy declined.

*However they remained active and on
every 8th march or more recently on
25th November (the international day
on Violence against Women) stage
public protest. But merely token in
nature and not more than 25 to 30
persons. They were also given media
coverage, out of curiosity and
amusement rather than with any
serious thought for their cause

The Difference - Then and Now

498A and PWDVA, 2005

- *The advent of PWDVA has galvanized a barrage of protests, from disparate groups of mostly men.
- *It can be assumed that these are groups who were earlier active against 498A . But the number seems to have swelled with online /cyber groups such as the Save family foundation, My nation, Honor network, U R voice, joining the rank and file.

*The groups seem to have found support in the higher judiciary when justice Mr. Batra of Delhi high court called it a poorly drafted law.

Excerpts from the material posted on some of the popular internet sites

Some excerpts...

Who is behind this sabotage of society?

(Rajendra K. Gupta on the internet site: India Force)

What the dirty , over fed and corrupt politicians

and misguided women in various forums and organizations is causing widespread damage to India's social fabric

Excerpts...

*PWDVA is a gender biased law .. very soon the Indian civilized institution of marriage system going to close to the animal society principal and in coming years there will be huge fatherless children

(Source: Violence at home a reality for Indian husband, study of Indian husbands by Save Family and My Nation)

Excerpts...

A comment by one Narendra
kumar Rana , January 13, 08
says...

In this law the definition of a
woman is restricted
to a Daughter-in-law. The comment
goes on to
say.. In future we have a war with
the neighboring
country... our soldiers will not be
able to fight

...tormented as they are by those
498A girls and
by this (PWDVA) biased and
poorly drafted law.

Excerpt...

***Complete marginalization of
male in a relationship**

The most significant aspect of this
whole act is – the systematic
destruction of any semblance of
the rights of men.

Excerpt...

***Lacks proportionality...** In every country in the world, partners in a relationship accumulate rights and responsibilities based on the duration of the relationship - the longer the duration, the higher the accumulation of such rights and responsibilities. Not so under PWDVA of India. Any woman who seduces a man into a day or two of relationship can claim Domestic violence if the man refuses to **continue his relationship with the whore**. She has same rights under this legislation as the wife of twenty years of a man

Excerpt....

The Indian (Gender-Biased) Domestic Violence Act

According to these legislations, the following is a list of women's rights:

- *The right to control and subjugate the male partner
- *The right to publicly humiliate and physically abuse the male partner and his entire family
- *The right to divest the male partner of all his money and property
- *The right to send the male partner and his entire family to jail on her whims and fancies
- *The right to force the male partner to be a slave

to her family

- *The right to kick out the male partner from HIS house at her will
- *The right to commit adultery (and send the male partner to jail if he dares object)
- *The right to kill an unborn child regardless of the male's partner's wishes
- *The right to have all "rights" and no responsibilities

Excerpt...

The Indian (Gender-Biased) Domestic Violence Act

- *Preventing one's wife from taking up a job or forcing her to leave job are also under the purview of the Act.

Only solution is to save Institute of Marriage and Family of india, we should ask all organizations not to appoint women at any cost.

Another flaw in the Act is inclusion of live-in partners or any sexual partner (Ch.I, S.2(a))

This clause give men to make use of this law, if a lover of man come home , his legally wedded wife cann`t do anything she cann`t kick her out. husbands now take advantage of this bill ? its law against women not in her favor

The Act will actually worsen the domestic problems leading to breakdown in marriages as women will be now encouraged to go to courts ,without giving any chance to settle their differences. The Act discourages women to rectify their mistake. The Act not only gives powers without giving any responsibilities to women but also takes away all the rights of men.

***Protests against PWDVA instead of being based on facts or logical analysis are rooted in a fear and threat psychosis that uses violent, abusive language and predictions of social chaos and doom as**

outcomes, if PWDVA and such laws are implemented.

What requires contemplation and reflection from women's and human rights activists is that these (protests) seem to be garnering popular and institutional support ...

There are unconfirmed reports of the DWCD ministry setting up a committee to review the Act
On 3rd January 2007 TOI carried a news item about DWCD planning for a consultation on PWDVA ...to take on board views of a cross section (other than women) of population.

*An Act that took almost ten years of struggle by the women's movement to come into place, it takes less than a year of almost non-implementation for the ministry to succumb to a review

The reasons...

Lack of an appropriate environment conducive for implementation

*An Act such as the PWDVA questions the basic structures of society and has extended in a top down process the rights denied to

women by that society and institutions set up by the state.

- *The PWDVA by empowering women has actually made men feel powerless (notionally)
- *Working against violence hits at the roots of patriarchal ideology. It means men would have to take responsibility for their actions

Immediate Measures to enable implementation

- ***appropriate trainings** to protection officers, judges, service providers, police and lawyers.
- *Registration of service providers and notification of medical facilities and

shelter homes

- *Appointment of **full time protection officers** and provision of proper infrastructure and other facilities
- ***allocation of adequate budget** for the effective implementation of the law.
- ***mass awareness campaigns** carried out by the government through print and electronic media.

Impacting policy environment in the long term

For the policy to be implemented in spirit it is first and foremost important that the state places into place the enabling environment that

would make
violence free life a reality for
women.

*Based on an analysis of the social institutions and trends of socio-economic development formulate a long term strategy to counter the patriarchy in all its forms and at all levels.

And finally, the state will have to be resilient to the totally unreasonable logic and the mythical research put forth by groups demanding review of

the Act .

*However in a populist democracy such as ours this can come only from a strong women's movement that is grass roots up. Exactly the kind that succeeded in putting the Act into place in the first place.

Thank you