

The logo for iProbonoINDIA is positioned at the top of the page. It features a stylized 'i' in orange and green, followed by 'Probono' in green and 'INDIA' in blue. The background of the entire page is a dark, high-contrast photograph of a building with horizontal window shutters, some of which are slightly open, creating a sense of mystery and security.

iProbonoINDIA

# SAFETY SUPPORT AND SOLUTIONS

A GUIDE TO SUPPORT  
SURVIVORS OF  
DOMESTIC VIOLENCE

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### Disclaimers

*This guide is not a substitute for appropriate legal advice and is intended for general information purposes only. The research for this handbook was carried out in 2023 and responds to the statistics and regulatory framework in effect during this time period.*

*This guide refers to the aggrieved person using the pronoun "she" and the perpetrator as "he" to align with general trends and cases. However, these terms are not meant to exclude or limit the applicability to individuals of other genders.*

*Images have been used for representational purposes only unless otherwise specified. Consent was taken for all the photographs clicked by the iProbono team.*

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This guide serves as a comprehensive resource and sensitisation tool addressing the critical issue of domestic violence. It is designed to simplify complex legal concepts and procedures surrounding domestic violence, making them accessible to community leaders and civil society organisations working with survivors of domestic violence.

This guide encompasses an introduction to the legal framework governing the issue, in precise and clear language. There are key definitions, notable features of different types of abuse, and prescribed court processes under the relevant law. This guide also provides details on the current avenues for aid and emergency support, and reliefs available to survivors. It also includes step-by-step guidance on how the legal system can support a survivor of abuse.

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## I. LEGAL DEFINITION OF DOMESTIC VIOLENCE

Domestic violence was not defined or recognised under the Indian legal framework until 2006 when the Protection of Women from Domestic Violence Act, 2005 (hereinafter the PWDV Act) and the Protection of Women from Domestic Violence Rules, 2006 (hereinafter the PWDV Rules) were enacted [1] This law helps women who have experienced any form of domestic violence access immediate support, protection and relief.

Under the PWDV Act, domestic violence [2] is defined as any act, omission or conduct by the perpetrator that harms the physical or mental well-being of the aggrieved person. This includes physical, sexual, verbal, emotional, or economic abuse. The following actions come under the purview of the Act:

- **Harming or Endangering Health or Well-being:** Actions that cause physical or mental harm, injury, or threaten the well-being, safety, life, limb, or overall health of the aggrieved person. It encompasses physical abuse, sexual abuse, verbal and emotional abuse, as well as economic abuse.
- **Coercion for Dowry or Property:** Actions intended to pressure the aggrieved person or her family to fulfil unlawful demands for dowry, property, or valuable security. Harassment, harm, injury, or endangerment with such intentions fall under this category.
- **Threatening Behaviour:** Actions that include threatening the aggrieved person or her family through behaviour mentioned above.
- **Additional Harm:** Any other action or conduct by the perpetrator that causes harm, whether physical or mental, to the aggrieved person.

### **Dowry**

**Dowry is when one person, or their parents, gives property or valuable items, either directly or indirectly, to another person, or their parents, before, during, or after their marriage. This does not include dower or mahr for individuals following Muslim Personal Law (Shariat).**

[1] Annexure 1 and 2 respectively

[2] Section 3 of the PWDV Act

## TYPES OF ABUSE

Abuse can manifest in multiple ways, extending beyond physical violence. Recognising abuse involves understanding who is in control, noticing manipulative methods, and understanding how these actions can harm a person's body and mind. This includes emotional manipulation, verbal threats, economic control, and social isolation. Each of these is covered by the PWDV Act.

**PHYSICAL ABUSE** <sup>[3]</sup> refers to actions or conduct that cause pain, injury, harm, or danger to a person's body, or life or impair the health or development of the aggrieved person. It includes assault, criminal intimidation and criminal force. The following activities constitute physical abuse:



Beating, slapping, hitting, biting, strangulation, punching, kicking, pushing, shoving



Forcibly evicting a person from their residence



Use of tools or weapons to inflict physical harm



Other acts which may result in fear, injury or even death

**SEXUAL ABUSE** <sup>[4]</sup> refers to any inappropriate behaviour of a sexual nature that harms, embarrasses, or disrespects a woman. It includes forcing a woman into unwanted sexual activities, disrespecting her modesty, or sexually mistreating her. The following activities constitute sexual abuse:



Forced sexual intercourse



Being forced to watch pornography or other obscene material



Forcibly using the aggrieved person to entertain others



Any other act of a sexual nature, abusing, humiliating, degrading that violates a woman's dignity



**Signs:** Certain forms of physical abuse can be identified by visible signs such as:



Scars, untreated or poorly healed injuries due to neglect, and common injuries such as bruises, abrasions, and fractures



Injuries in multiple areas of the body, repeated or chronic injuries, and enduring pain



In some cases, physical abuse could result in Sexually Transmitted Diseases (STDs), or damage to sexual organs and the anus, indicating both physical and sexual abuse.

[3] Section 3(i) of PWDV Act

[4] Section 3(ii) of PWDV Act



### Forced Sexual Intercourse By Husband

Forced sexual intercourse by the husband against his wife is considered to be a form of domestic violence. Any conduct of a sexual nature that abuses, humiliates, or degrades a woman, or violates her dignity, is against the law.

**VERBAL AND EMOTIONAL ABUSE** <sup>[5]</sup> The following activities constitute verbal or emotional abuse:



Insults, ridicule, humiliation and name-calling



Insults or ridicule specially with regard to not having a child or a male child



Repeated threats to cause harm to the aggrieved person's relative/loved one



**Signs:** Identifying verbal and emotional abuse involves understanding how someone's behaviour affects the emotions and well-being of others. Some indications of this abuse are when the aggrieved person is:



Accused of bad character or conduct



Insulted for not bringing dowry



Insulted for not having a male child or for not having a child



Forced to not attend school/college/any other educational institution



Prevented from taking up a job



Restricted from leaving the house



Prohibited from meeting a particular person



Forced to get married against her will



Prevented from marrying a person of her choice

[5] Section 3(iii) of PWDV Act, 2005



**ECONOMIC ABUSE** <sup>[6]</sup> involves controlling a person's ability to acquire, use, and maintain economic resources. The following activities constitute economic abuse:



Withholding any financial support or resources owed to the aggrieved person, whether mandated by law, custom, court order, or other necessity. This includes essentials for the aggrieved person and her children, *stridhan*, jointly or separately owned property, shared household rental payments, and maintenance.



Unauthorised disposal or transfer of assets, whether movable or immovable, valuables, shares, securities, bonds or any property in which the aggrieved person has an interest or entitlement due to the domestic relationship. This encompasses items reasonably required by the aggrieved person, her children, *stridhan*, as well as jointly or separately held property.



Restricting or prohibiting access to resources or facilities that the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship, including access to the shared household.



### Stridhan

Stridhan refers to the possessions a woman receives during her marriage. As per the Hindu Succession Act, 1956, this includes property, money, ornaments or other gifts received by a woman from her own or her husband's family before marriage, at the time of marriage, during childbirth, and in widowhood. The distinction from dowry lies in its voluntary nature: it is a gift given to a woman before or after marriage without coercion. Women have complete ownership over their stridhan. <sup>[7]</sup>

[6] Section 3(iv) of PWDV Act, 2005

[7] Jharkhand State Legal Services Authority's Know Your Law on Stridhan.

[https://jhalsa.org/Jhalsa\\_Booklets\\_Web/2018/17112018/stridhan\\_pamphlet.pdf](https://jhalsa.org/Jhalsa_Booklets_Web/2018/17112018/stridhan_pamphlet.pdf)





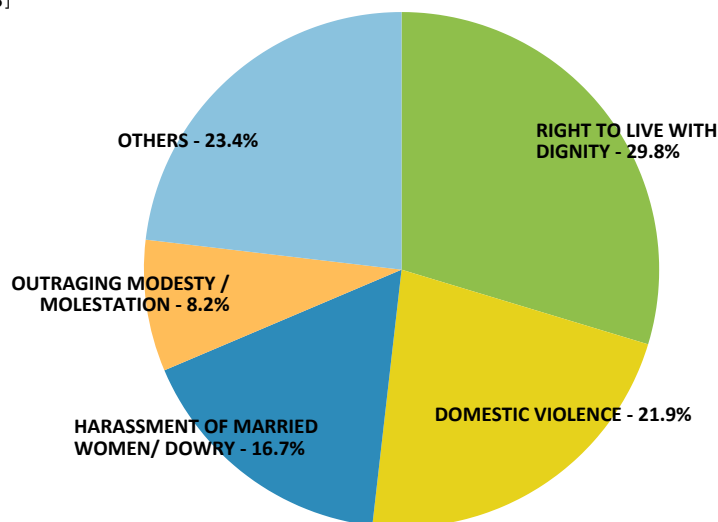
**Signs:** Some indications of economic abuse are when the aggrieved person is:

- Not being given money for maintaining themselves or their children including necessities such as food, clothes, or medicine
- Being forced to leave their house or being denied access to or use of any part of the house they live in
- Being prevented or obstructed from carrying on their employment or not allowed to take up employment
- Not being allowed to use clothes or articles of general household use

It also includes situations where the perpetrator does not pay the rent in case of rented accommodation and/or the house bills, or sells or pawns the stridhan or any other valuables without informing the aggrieved person and without her consent, or makes demands for dowry.

MYTH & FACT	
Domestic violence only includes violence that happens within the four walls of a house.	The scope of domestic violence is not limited by physical boundaries of a house. An act of domestic violence can happen anywhere.

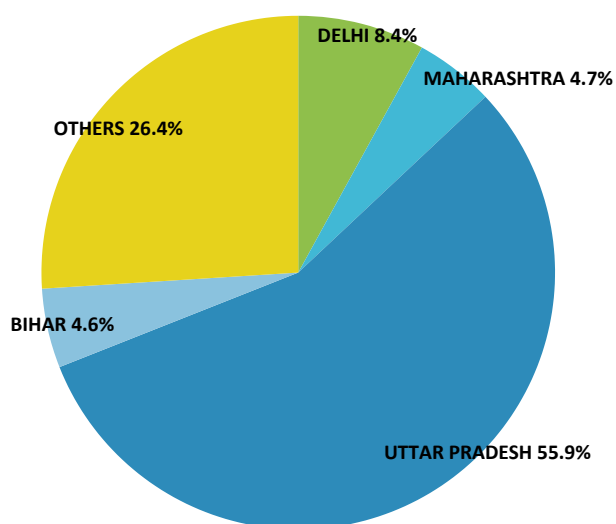
## STATISTICS<sup>[8]</sup>



REPRESENTATION OF DATA ON COMPLAINTS (NATURE WISE)

The National Commission for Women (NCW) registered 28,811 complaints of crime against women in 2023. The highest number of complaints were received in the right to dignity category i.e. 8,579. This was followed by complaints of domestic violence which stood at 6,305, harassment of married women/dowry harassment complaints were 4,820 and molestation complaints were 2,356. The rest of the complaints were on issues like police apathy against women, rape/attempt to rape, sexual harassment, cyber crimes etc.

[8] [https://ncwapps.nic.in/frmComp\\_stat\\_Overview.aspx](https://ncwapps.nic.in/frmComp_stat_Overview.aspx)



The data revealed that Uttar Pradesh leads in crimes against women, with Delhi ranking second and Maharashtra third. Uttar Pradesh reported 16,109 complaints, Delhi reported 2,411, Maharashtra reported 1,343 and Bihar 1,312.

REPRESENTATION OF DATA ON COMPLAINTS (STATE WISE)

MYTH & FACT	
Domestic violence occurs only in lower social-economic classes, and has a correlation with education.	Domestic violence can happen in all kinds of families and is not limited to those of a particular socio-economic class, caste, religion, and region.

### III. SALIENT FEATURES OF THE LAW AGAINST DOMESTIC VIOLENCE

The PWDV Act offers a broad range of rights and remedies to an aggrieved person and outlines how different stakeholders can support a person seeking help. Some key elements and features of the PWDV Act are described below:

#### 1. Who can make a complaint against domestic violence?

- (i) Anyone aware of the abuse: The complainant does not necessarily have to be the victim of domestic violence. Any person having information related to domestic violence, such as a relative or a friend, or any person with knowledge of the abuse, can make a complaint.
- (ii) Aggrieved person: Any woman who is currently or was previously in a domestic relationship with the perpetrator and claims to have experienced any form of domestic violence by the perpetrator. This includes individuals such as a wife or female partner, mother, daughter, sister, mother-in-law, daughter-in-law, or any woman who has shared a domestic relationship with the perpetrator and lived in a shared household.

### Complaint by a Child

A child (a person below the age of 18 years) is also entitled to relief under the PWDV Act and can also make a complaint. The mother of such a child can make an application on behalf of her minor child, regardless of the child's gender.

## 2. Against whom can a complaint be made?

A complaint can be made against an individual with whom the aggrieved person is currently or was previously in a domestic relationship. This extends beyond just the husband and allows an aggrieved person or a woman in a relationship similar to marriage to make a complaint. The aggrieved person can also make a complaint against any relative (male or female) of the husband with whom the aggrieved person is currently or was previously in a domestic relationship.

## 3. What is a domestic relationship?

According to the PWDV Act, a 'domestic relationship' encompasses different relationships in which two individuals who live together or have, at any point of time, lived together in the same shared household. These relationships can be based on blood, marriage, or a marriage-like arrangement (for example a long-term live-in partnership and relationships created due to adoption). Family members living together as a joint family are also considered part of domestic relationships.

## 4. What is a shared household?

According to the PWDV Act, a shared household refers to a place where the aggrieved person lives or has lived, in a domestic relationship, either alone or with the perpetrator. This includes a home that is owned or rented jointly by the aggrieved person and the perpetrator, is owned or rented by either of them, or where one or both of them have any rights or interests in the property. The definition of the latter extends to households that belong to the joint family of the perpetrator, regardless of whether they or the aggrieved person has any specific rights or ownership in that shared household.

### Live-in Relationships

In *Indra Sarma v. V.K.V. Sarma*, the Supreme Court laid down guidelines to help determine when a live-in relationship qualifies as a "relationship in the nature of marriage" under the Protection of Women from Domestic Violence Act (PWDV Act). These guidelines outline conditions such as:

- (1) Duration of relationship and shared household
- (2) Pooling of resources and financial arrangements like financial support, joint bank accounts and shared property ownership
- (3) Domestic arrangements, including assessing responsibility where the woman is entrusted with running the household
- (4) Marriage-like relationship referring to a sexual relationship not just for pleasure but also for emotional intimacy and for the procreation of children, indicating emotional support and companionship
- (5) Having children, with a shared responsibility for raising and supporting them

## MYTH & FACT

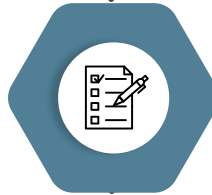
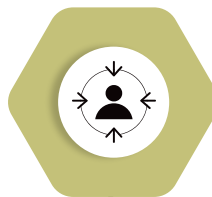
Domestic violence can only be perpetrated by a woman's husband and/or his family members.

Domestic violence includes not only abuse by a husband and/or his family, but also abuse by the aggrieved person's own birth or adoptive family.

### IV. STAGES OF A DOMESTIC VIOLENCE COMPLAINT

#### STAGE 01

Approach the authorities and make a complaint



#### STAGE 02

Preparation of DIR\* and presenting the application

\*A Domestic Incident Report (DIR) is a form that records a woman's complaint of domestic violence so she can get help and protection from the court.

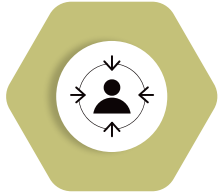
#### STAGE 03

Procedure in Court



#### STAGE 04

Orders and Reliefs



## STAGE 1

### Approach the authorities and make a complaint

To make a complaint under the PWDV Act, an aggrieved person can use several avenues.

They may:

1. Approach the police station, or
2. Make a complaint to a protection officer or service provider, or
3. Directly approach the Magistrate

**(1) Police Station:** An aggrieved person can either approach the police station closest to their location, or any other police station, and make a complaint for domestic violence.

#### Role of a Police Officer:

(i) When an aggrieved person seeks assistance, the police officer must inform her of her rights under the PWDV Act, including:

- Reliefs available
- Access to protection officers and service providers
- Provision of free legal aid
- The choice to file a First Information Report (FIR) or a criminal complaint regarding the matter

#### Criminal action under the Bharatiya Nyaya Sanhita, 2023 (BNS)

In addition to pursuing civil action under the PWDV Act, a woman may opt for criminal action, particularly if she has sustained severe injuries. If she makes a domestic violence complaint with the police that discloses a crime under the BNS, the police officer is obliged to register an FIR and initiate an investigation as prescribed by the law. The aggrieved person has the option to file the complaint under the PWDV Act or the BNS, or both simultaneously.

A complaint filed for cruelty under **Section 85 of the BNS** represents one such criminal remedy. Important points to note regarding a complaint against cruelty:

- Cruelty<sup>[9]</sup> is defined as any conduct of the woman's husband, or his relatives, which might drive the woman to commit suicide, gravely injure herself, or jeopardize her life, limb, or health (both mental and physical). It also includes harassment of the woman or her relatives for unlawful demands related to property or valuable assets such as dowry demands.
- If a police officer has reasonable grounds to believe that an offence of cruelty has been committed, they can make an arrest without a warrant.
- The penalty for cruelty is imprisonment for up to three years and a fine.
- It is intended only for crimes committed by the woman's husband or her husband's relatives. The PWDV Act, on the other hand, provides relief in cases relating to any domestic relationship, not merely a spousal one.

[9] Section 86 of the BNS

#### Helpline Numbers And Contact Details Of Authorities

- Police Helpline Numbers – 100 and 112
- Women Helpline Number – 181
- The National Commission for Women (NCW) helpline – 7827170170
- NCW email addresses: [complaintcell-ncw@nic.in](mailto:complaintcell-ncw@nic.in)  
[chairperson-ncw@nic.in](mailto:chairperson-ncw@nic.in)  
[ncw@nic.in](mailto:ncw@nic.in)



## Additional Criminal Offences Requiring Police Action

Additional criminal offences that may emerge in certain cases of domestic violence requiring separate police action include:

1. **Grievous hurt** <sup>[10]</sup> : Any injury that poses a life-threatening risk, or causes severe pain for at least fifteen days, significantly hindering regular activities.
2. **Wrongful confinement** <sup>[11]</sup> : The act of restraining someone in a way that stops them from moving beyond certain boundaries.
3. **Rape** <sup>[12]</sup> : Unlawful sexual activity, typically involving sexual intercourse, against the will of the victim through force, or threat of force, or with an individual incapable of giving legal consent due to factors such as minor status, mental illness, mental deficiency, intoxication, unconsciousness, or deception.
4. **Dowry death** <sup>[13]</sup> : If a woman dies because of burns, injuries, or in suspicious circumstances within seven years of marriage, and it is shown that her husband or his family harassed her for dowry before her death, the law automatically assumes that the harassment led to her death. The prosecution does not need to prove the direct link in such cases. If the death happens after seven years of marriage, it can still be called a dowry death, but the link between the harassment and the death has to be clearly proven in court.

(ii) The police officer should refer the aggrieved person to a protection officer or service provider for recording a DIR.

(iii) If the aggrieved person reports any physical injury, the police officer must offer immediate medical assistance and arrange for a medical examination.

(iv) The police officer must assist and accompany the protection officer in emergencies and help in the enforcement of court orders.

## Domestic Incident Report (DIR)

When someone reaches out to a Protection Officer or Service Provider to report domestic violence, they are asked to share detailed information about the abusive incidents they have experienced. This information is used to create a Domestic Incident Report (DIR).

The DIR is a formal report filled out in a specific format when a person reports domestic violence. Its purpose is to document the incidents of abuse in a clear and unbiased way, providing a summary of what happened.

[10] Section 116 of the BNS

[11] Section 127 of the BNS

[12] Section 63 of the BNS

[13] Section 80 of the BNS

### Definition of Court Under PWDV Act

“Court” for the purpose of the PWDV Act is the Judicial Magistrate of the first class or the Metropolitan Magistrate within whose local limits either of the parties reside, or are employed, or where the domestic violence has been committed.

## MYTH & FACT

**MYTH**  
Making a domestic violence complaint always leads to the perpetrator's arrest.

**FACT**  
A perpetrator cannot be arrested based solely on a complaint made under this law, unless a protection order is being violated. Arrest depends on the extent of the abuse and whether a criminal complaint has been filed. If an aggrieved person files a criminal complaint, then the perpetrator may be arrested for offences under the BNS.

**(2) Protection Officer:** A protection officer is appointed by the state government to support and protect victims of domestic violence. They are usually the first point of contact for an aggrieved person and have an essential role in providing support. They are responsible for facilitating legal aid, medical aid, counselling and safe shelter.

### Role of a Protection Officer

Any person who suspects that an act of domestic violence has occurred, is occurring or is likely to occur, can provide information to the protection officer within their jurisdiction. This information can be conveyed either verbally or in writing. The duties of a protection officer include:

- Documenting the information they receive in writing and ensure that the person providing this information signs it. A free copy of the recorded information should immediately be given to the informant;
- Preparing a DIR for the Magistrate upon receiving details of the domestic violence complaint. Copies of the DIR should also be sent to the police officer in charge of the area where the incident occurred, as well as to the service providers operating within the jurisdiction;
- Developing a ‘safety plan’ in consultation with the aggrieved person which outlines measures to prevent further domestic violence after assessing the potential risks in the situation;

### List Of Protection Officers

A list of protection officers of the State is available on the website of the respective State Women and Child Department (WCD), State Social Welfare Boards as well as in every police station.

## Safety Plan

A safety plan is a document prescribed as a Form in the Protection of Women from Domestic Violence Rules, 2006 (PWDV Rules), to be submitted to the court. It encompasses details about the violence committed by the perpetrator, consequences suffered by the aggrieved person as a result of this violence, apprehensions of the aggrieved person concerning potential future violence, safety measures required for protection and orders sought from the court.

- Ensuring that the aggrieved person receives free legal aid as prescribed under the Legal Services Authorities Act, 1987;<sup>[14]</sup>
- Keeping a record of all service providers in the region offering free legal assistance, counselling services, shelter homes, and medical facilities, to support aggrieved persons;
- Assisting the person in making any application to the Magistrate. If the aggrieved person is unable to read, the protection officer should read the application and explain its contents;
- Ensuring that the aggrieved person receives proper medical care if she has sustained injuries or is otherwise affected, and ensure she has shelter if that is her preference;
- Assisting the court during the case proceedings and ensure the order is enforced. This may include:

- (a) Conducting a home visit to the shared household premises and initiating a preliminary inquiry if the court requires;
- (b) After conducting an inquiry, filing a report on assets, bank accounts, or any other documents as directed by the court;
- (c) Restoring the possession of personal effects, including gifts and jewellery, to the aggrieved person
- (d) Assisting the aggrieved person to regain custody of children and secure visitation rights under the court's supervision as directed;
- (e) Assisting the court in enforcing orders throughout the proceedings;
- (f) Seeking police assistance, if required, to confiscate any weapon involved in the alleged domestic violence;

- Offer every possible assistance to the aggrieved person and her children to ensure that they are not subjected to victimisation or pressure as a result of reporting the incident. This includes safeguarding them from any further acts of violence;
- To liaise between the aggrieved person or persons, police and service providers in the manner provided under the PWDV Act and Rules.

## Right to Free Support

An aggrieved person is not required to pay the protection officer/police/service provider. It is their duty to help.

[14] Section 9 of the PWDV Act

**(3) Service Providers & Non-Governmental Organisations:** Any voluntary group and/or NGO aiming to safeguard the rights and interests of women through legal, medical, financial, or any other lawful assistance can register as a service provider with the state government. If an aggrieved person needs assistance, she can reach out to a registered service provider or any appropriate NGO who can then in turn connect her with a service provider or a protection officer.

#### **Role of a service provider:**

In instances of domestic violence, service providers have certain responsibilities similar to those of protection officers. They play a crucial role:

- Recording the DIR
- Ensuring that the aggrieved person is accommodated in a shelter home if required, and submitting a report to the police station/Magistrate with the details
- Securing legal representation, counselling and/or medical services for the aggrieved person and forwarding the copy of these reports to the concerned Magistrate and protection officers
- Some service providers/NGOs also offer rehabilitation support to the aggrieved person, such as facilitating their enrollment in an educational institution, providing them opportunities for skill development, and assisting them with emotional and trauma management

#### **Action to be Taken in Emergency Situations**

If the protection officer or a service provider receives reliable information through means such as a phone call or over e-mail, from the aggrieved person or anyone with reason to believe that an act of domestic violence is occurring or is likely to occur, they must promptly seek the assistance of the police in dealing with this emergency situation. The police, in turn, should accompany them to the place of occurrence, record the domestic incident report, and present the same to the Magistrate to seek appropriate orders without delays.

#### **Additional sources of support available to women:**

**One-Stop Centres (OSCs):** The Government of India runs the One Stop Centre (OSC) scheme, also known as 'Sakhi', to help women facing violence. These centres support women who experience abuse at home, in public places, at work, or in the community. The scheme is part of a larger program called Mission Shakti<sup>[15]</sup>, which brings together different efforts to ensure women's safety, protection, and empowerment.

#### **List of One-Stop Centres (OSCs)**

Over 704 OSCs are operational in 35 States and Union Territories. This list can be found on the Ministry of Women and Child Development website.

[15] <https://missionshakti.wcd.gov.in/>

OSCs facilitate access to the following services:

- **Emergency Response and Rescue Services:** OSCs provide rescue and referral services to women affected by violence. They are connected with established mechanisms such as emergency medical aid or police helplines. These help to rescue women from the location and refer them to the nearest medical facility or shelter home. OSCs can also assist women in lodging FIR or in providing information for the DIR.
- **Medical Assistance and Psychosocial Support or Counselling:** Women affected by violence are referred by OSCs to the nearest hospital for medical aid/examination, following the guidelines and protocols established by the Ministry of Health and Family Welfare.
- **Legal Aid and Counselling:** To facilitate access to justice for women affected by violence, legal aid and counselling are provided at the OSC through empanelled lawyers or the National/ State/District Legal Service Authority.

## Counseling

Counseling is a collaborative process where individuals, couples or families engage with a trained professional (counsellor) to discuss the issues they are facing. Information shared is kept confidential and free from any judgement. Counselling aims to help women to understand their options, exercise their agency and acquire the skills and knowledge necessary to seek healthcare, and financial and legal support. Additionally, counselling can foster a new perspective on their current situation.

- **Shelter Facilities:** OSCs can provide temporary shelter to the aggrieved women and their children, including girls of all ages and boys up to 12 years of age, for a maximum period of five days. For long-term shelter requirements, arrangements are made with Swadhar Greh/Short Stay Homes managed by or affiliated with the government or NGOs. The eligibility of an aggrieved woman for temporary shelter will be determined at the discretion of the Centre Administrator.
- **Video Conferencing Facility:** To streamline police and court proceedings, OSC can provide a video conferencing facility (using platforms like Skype or Google Conferencing). With this feature, if the aggrieved woman prefers, she can record her statement for the police or the court from the OSC itself. This service can be initiated following a consultation between the Superintendent of Police and the District and Sessions Judge of the concerned district. <sup>[16]</sup>

[16] Ministry of Women and Child Development's One Stop Centre Scheme: Implementation and guidelines - <https://socialwelfare.tripura.gov.in/sites/default/files/GUIDELINES%20FOR%20ONE%20STOP%20CENTER%20SCHEME.pdf> and [https://wcd.gov.in/images/uploaded/1710073163\\_vKz7hsjXBs.pdf](https://wcd.gov.in/images/uploaded/1710073163_vKz7hsjXBs.pdf)



### Time Limit For Making a Complaint

There is no set time limit for making a complaint of domestic violence. However, the aggrieved person should be able to prove that she was in a domestic relationship with the perpetrator when the violence occurred. If there is a delay in reporting incidents of domestic violence, she may be required to provide an explanation for the delay and this may impact her case during trial.

## 4. Magistrate

An aggrieved person also has the option to approach the court directly and seek various relief orders including for protection, monetary relief, custody, residence, and compensation. The Magistrate must inform the aggrieved person of their rights and is authorised to issue the appropriate orders as per the PWDV Act. Moreover, the Magistrate should inform the aggrieved person about service providers and protection officers, her right to free legal services and the option to file a complaint of cruelty under the BNS.

The Magistrate can take action against any violence under the Act within the local limits of which:

- (i) The aggrieved person permanently or temporarily resides, carries on business, or is employed; or
- (ii) The perpetrator resides, carries on business, or is employed; or
- (iii) Where the incident of domestic violence took place. <sup>[17]</sup>

Additionally, the Magistrate is obliged to inform the aggrieved person of their rights to seek various orders, including protection, monetary relief, custody, residence, and compensation. Moreover, the Magistrate should inform the aggrieved person about service providers and protection officers, her right to free legal services and the option to file a complaint of cruelty under the BNS.



## STAGE 2

### Preparation of DIR and presenting the application

#### Preparation of DIR:

- (i) The DIR is a formal report filled out by the protection officer/service provider in a specific format when an aggrieved person reports domestic violence. Its purpose is to document the incidents of abuse in a clear and unbiased manner.
- (ii) The PWDV Rules provide a detailed form for the DIR. The format requires the following details:
  - Personal information and contact details of the complainant
  - Details of perpetrators
  - Details of children of an aggrieved person, if any
  - Details of incidents of sexual, verbal, emotional or economic violence

[17] <https://www.scconline.com/blog/post/2020/07/27/law-on-domestic-violence-protection-of-women-from-domestic-violence-act-2005/>

- Harassment through dowry demands
- Details of documents accompanied with the complaint
- Prayers or assistance needed by the aggrieved

(iii) To ensure that the DIR is complete, a protection officer must ask the aggrieved person for relevant documentation to be put on record. These documents constitute crucial evidence that is required if the aggrieved person subsequently opts to make an application for relief.

### **Documents That Can Be Included With The DIR**

- **Medico-Legal Certificate (MLC):** If there is a police complaint, this certificate, issued by a doctor, records injuries from domestic violence
- **Doctor's Certificate or Mental Health Documents:** These documents from a mental health professional detail the aggrieved person's psychological state
- **List of stridhan:** This includes property given to the woman during or after marriage, like gifts from family and friends
- **Other documents:** Previous reports of domestic abuse and complaints made to other authorities (such as the perpetrator's employer or local councils) regarding the domestic violence.

Although having these documents is preferred, they are not mandatory for recording a DIR. However, if an aggrieved person is planning to leave her home, or requires protection, having all her important documents with her can be beneficial. It is advisable to keep important and confidential documents in a safe place where they can be accessed in emergencies. Assistance in this process can also be sought from the local police or a service provider/NGO.

### **Presenting an application:**

- (i) An aggrieved person, a protection officer or any other individual on behalf of the aggrieved person may present an application to the Magistrate, seeking one or more reliefs. These can include applying for a protection order, monetary relief, custody, residence, or compensation order, or a combination of these options. The PWDV Rules provide a detailed format for such applications.
- (ii) The DIR prepared by the protection officer/service provider should be attached to the application or complaint and submitted to the Magistrate. When an aggrieved person makes an application by themselves or with an advocate's assistance, and not through the protection officer or service provider, there is no requirement to submit the DIR to the Magistrate. In that case, the Magistrate may call for a DIR to be prepared.

## Important Supporting Documents

In addition to the documents given during recording of the DIR or the Police at the time of complaint, the following documents can be given to the lawyer that can support claims for relief under the PWDVA:

### (i) To prove a domestic relationship, particularly matrimonial relationships:

1. Ration card
2. Passport
3. Photograph with mangal sutra
4. Invitation cards of the wedding
5. Bills of the marriage hall
6. Photographs or video recordings of the marriage
7. Certificate from the temple or priest who performed the marriage

### (ii) To provide a basis for claiming remedies under the law and for providing evidence of the aggrieved person's standard of living:

All documents relating to joint bank accounts, salary statements, rent receipts, bills and other pertinent financial matters such as pay slips of the respondent, income tax returns, bank papers, share or bond certificates, receipts for significant purchases.

All documents of tuition fees and other expenses of children.

## MYTH & FACT

- A divorced or judicially separated woman cannot make a domestic violence complaint against her husband or in-laws.

- A divorced or judicially separated woman can still seek relief under the PWDV Act even after the marriage has ended, as long as the act of domestic violence occurred while the parties were in a domestic relationship and living in a shared household.



### STAGE 3 Procedure in Court

The court shall try to dispose of every application within a period of 60 days from the date of its first hearing. However, in practice, these cases usually take at least a few months to conclude.



#### Court Directed Counseling

The court may, at any stage of the proceedings, direct the perpetrator or the aggrieved person, either solely or jointly, to undergo counselling with any member of a service provider/NGO who possesses such qualifications and experience. In such cases, the next date of hearing shall be fixed by the court within a period not exceeding two months. <sup>[18]</sup>

[18] Section 14 of the PWDV Act



## STAGE 4

### Orders and Reliefs

#### Interim Relief

The court can pass interim relief orders such as residence order, protection order, order for monetary relief, medical expenses and/or children custody, if it is satisfied that an application based on preliminary analysis discloses that the perpetrator is committing, or has committed, some form of domestic violence or that there is a likelihood that they may commit domestic violence. Such orders can be passed in the absence of the perpetrator as well.

After all the evidence has been recorded, the court grants the final orders. An order granted by a court under the PWDV Act can be enforced in any part of India. There are five types of reliefs available to an aggrieved person for which the court can grant the following orders:

#### (1) Protection Order <sup>[19]</sup>

Protection orders are issued by a Magistrate to help protect the aggrieved person who has experienced or is likely to experience domestic violence, by imposing prohibitions on the perpetrator.

A protection order can stop the perpetrator from:

- Committing any act of domestic violence
- Helping others commit domestic violence
- Visiting the workplace, school, or any other location regularly attended by the aggrieved person
- Contacting the aggrieved person in any way, like in person, in writing, online, or by phone
- Selling of or transferring shared assets, bank accounts, bank lockers or the aggrieved person's stridhan without permission
- Hurting the aggrieved person's dependents, relatives, or any person who gives the aggrieved person assistance from domestic violence
- Committing any other act as mentioned in the protection order

#### Arrest in case of a breach

A breach of protection order, or of an interim protection order, by the perpetrator is an offence punishable with imprisonment which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

[19] Section 18 of PWDV Act



## **(2) Residence order** <sup>[20]</sup>

Residence orders are issued by a Magistrate to protect the aggrieved person and provide them with a safe place to live. It can include conditions such as:

- Preventing the perpetrator from stopping the aggrieved person from staying in the shared household (even if it is shared with the perpetrator's family or is a rental premises);
- Directing the perpetrator to pay rent for accommodation taken by the aggrieved person, or provide her with equivalent alternate accommodation, should the aggrieved person choose to leave the shared household.
- Restraining the perpetrator and their relatives from entering the portion where the aggrieved person resides;
- Prohibiting the perpetrator from selling or mortgaging the shared household;
- Restraining the perpetrator from renouncing their rights to any property without the magistrate's permission;

The Magistrate can also impose additional safety conditions, like involving the police for protection, imposing financial obligations based on parties' resources, and ordering the return of the aggrieved person's property.

## **(3) Monetary reliefs:** <sup>[21]</sup>

Monetary orders are issued by a Magistrate to cover the expenses and losses suffered by the aggrieved person and her children due to domestic violence. The Magistrate can order the perpetrator to make a lump sum payment or monthly payments, depending on the nature and circumstances of the case.

The monetary relief order can cover:

- Loss of earnings caused due to the domestic violence
- Medical expenses incurred due to the domestic violence
- Loss caused by the destruction, damage, or removal of any property from the control of the aggrieved person
- Maintenance for the aggrieved person and her children, if any. This can be in addition to or separate from maintenance ordered under other laws and should be fair, reasonable, and consistent with the standard of living to which the aggrieved person is accustomed

### **Right to Reside in Shared Household**

**An aggrieved person has the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the property. She cannot be evicted or excluded from the shared household, just because she filed complaint under the PWDV Act.**

[20] Section 19 of the PWDV Act

[21] Section 20 of the PWDV Act

### Enforcing a Monetary Relief Order

(i) The Magistrate must send a copy of the monetary relief order to the parties involved in the application and to the local police station where the perpetrator resides.

(ii) The perpetrator is required to pay the monetary relief within the specified period mentioned in the order. If the perpetrator fails to make the payment as ordered, the Magistrate can direct the perpetrator's employer or debtor to withhold a portion of the perpetrator's wages, salaries, or debts, and either pay it directly to the aggrieved person or deposit it with the court. This amount will then be used to cover the monetary relief owed by the perpetrator.

#### (4) Custody orders: <sup>[22]</sup>

The Magistrate can grant temporary custody of a child or children to either the aggrieved person or the person applying on her behalf (in case the aggrieved person is not in a position to seek custody herself.) The Magistrate can also specify arrangements for the perpetrator to visit the child or children, if necessary. If the Magistrate believes that the perpetrator's visits might harm the child or children, such visits can be refused.

### MYTH & FACT

- An aggrieved person has to tolerate the abuse and be patient for the sake of their children. If they make a domestic violence complaint, they will be separated from their children.

- Witnessing harm being done to a parent can severely impact a child's mental health and personality development. The aggrieved person can seek the services of shelter homes and service providers so that she can be with her children. Depending on the situation, the court may grant temporary custody to the mother.

#### (5) Compensation order: <sup>[23]</sup>

The Magistrate can issue an order directing the perpetrator to pay compensation and damages. This compensation is meant to cover injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by the perpetrator.

[22] Section 21 of the PWDV Act

[23] Section 22 of PWDV Act

## CONCLUSION

According to the National Family Health Survey (NFHS-4) 2015-16, only 14% of women who experienced physical or sexual violence sought help to stop it. This alarming statistic is a reminder of how much work remains. We hope this guide empowers individuals to take a more active role in recognising abuse, offering support, and helping build safer, more just communities where survivors are heard, believed, and protected.



iProbono India is a social justice organisation whose mission is to enable people to access their rights. We were born of the recognition that legal professionals have a responsibility to use their skills to serve and empower individuals and communities who require support. We bring together the legal expertise of our carefully curated community of panel lawyers, the insights of our grassroots partners, and the ethos of social action litigation, to advance justice and equality in India.

Through our panel of litigating lawyers we represent vulnerable individuals before the Supreme Court as well as the High Courts and Trial Courts across India. We work to create systemic change by conducting training sessions and offering knowledge resources to NGOs, lawyers, and communities, building awareness on a variety of laws and carrying out targeted research and policy advocacy efforts.