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# **Legal Framework and Policy Analysis: Safeguarding Women against Domestic Violence**

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## **1: Introduction**

Domestic violence against women remains a pervasive and pressing issue worldwide, transcending geographical, cultural, and socioeconomic boundaries. This form of violence encompasses a range of behaviours, including physical, sexual, emotional, and economic abuse, perpetrated by intimate partners or family members within the privacy of the home. Its impact extends far beyond the immediate physical harm inflicted, causing profound and enduring emotional and psychological trauma for survivors.

The significance of addressing domestic violence cannot be overstated. Not only does it represent a fundamental violation of human rights, but it also poses a significant public health challenge, with far-reaching social and economic consequences. Research indicates that women are disproportionately affected by domestic violence, with staggering prevalence rates highlighting the urgent need for effective interventions to safeguard their rights and well-being.

This paper seeks to explore the intersection of legal frameworks and policy analysis in the context of safeguarding women against domestic violence. It aims to critically examine existing legal mechanisms and policy approaches aimed at preventing, responding to, and mitigating the impact of domestic violence on women. By engaging in a comprehensive analysis of relevant laws, regulations, and policy initiatives, this study seeks to contribute to a deeper understanding of the complex dynamics surrounding domestic violence and inform evidence-based strategies for intervention and reform.

This paper will adopt a multidisciplinary approach, drawing on insights from law, sociology, psychology, public health, and gender studies to provide a comprehensive analysis of the topic. A mixed-methods research design will be employed, combining qualitative and quantitative methods to gather data from diverse sources, including legal documents, policy reports, academic literature, and empirical studies.

The qualitative component will involve in-depth analysis of legal texts, case studies, and policy documents to examine the content, implementation, and impact of domestic violence laws and policies in selected jurisdictions. Additionally, semi-structured interviews will be conducted with key stakeholders, including government officials, legal practitioners, frontline service providers, and representatives from civil society organizations, to gain insights into their perspectives and experiences regarding domestic violence prevention and response efforts.

The quantitative component will entail statistical analysis of survey data and secondary datasets to assess trends in domestic violence prevalence, reporting rates, and outcomes for survivors. This will involve the use of descriptive statistics, regression analysis, and other quantitative methods to identify patterns, correlations, and associations relevant to the research questions.

This paper holds significant implications for policy and practice in the field of domestic violence prevention and response. By systematically examining the intersection of legal frameworks and policy analysis, it aims to generate actionable insights for policymakers, practitioners, and advocates working to address this critical issue. By identifying gaps, challenges, and opportunities for reform, this study seeks to contribute to the development of more effective and rights-based approaches to safeguarding women against domestic violence.

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Violence inflicted upon women within confines of their own homes is a widespread and deeply rooted problem that surpasses geographical, cultural, and financial limits. It infringes upon human rights and presents substantial public health issue that impacts millions of women worldwide, including those in India. This chapter provides introductory overview of problem in India, considering its historical and cultural context, impacts, and the importance of addressing it through legal frameworks and policy analysis.

Domestic violence encompasses various forms of abuse perpetrated by intimate partners or family members, including physical, sexual, psychological along with economic abuse. Studies reveal alarmingly high prevalence rates in India, indicating that a substantial number of women experience abuse within their households despite progressive legislative measures and increased awareness.

The roots of domestic violence in India are deeply embedded in socio-cultural norms, patriarchal structures as well as unequal power dynamics within intimate relationships. Traditional gender roles dictate women's subordination to men, fostering notions of male superiority and female inferiority. These beliefs create an environment conducive to violence against women within domestic sphere.

Economic dependence, limited access to resources, and social stigma often deter women from seeking help or leaving abusive situations. Intersectional factors such as caste, class, religion, along with geographic location further compound vulnerability of marginalized women to domestic violence.

Despite legislative efforts like PWDVA in 2005, challenges persist in effectively addressing and preventing domestic violence in India. Implementation gaps, limited access to justice along with social barriers impede efforts to safeguard women's rights as well as ensure their safety within their homes.

This paper seeks to examine legislative frameworks and policy solutions implemented to safeguard women from domestic abuse in India. This study seeks to assess effectiveness of current laws, policies, and institutional processes in dealing with this intricate problem by conducting a thorough analysis. Furthermore, it aims to investigate functions of judiciary, government agencies, civil society organisations with other players in fight against domestic abuse and promotion of gender equality and justice.

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## 2: Legal Frameworks for Safeguarding Women against Domestic Violence

### Background:

The legal frameworks aimed at protecting women from domestic violence in India have evolved over time in response to an increasing understanding of the widespread and harmful impact of such violence on women's lives. In past, domestic violence was often considered private matter, with limited legal safeguards available for survivors. However, heightened awareness of prevalence and severity of domestic violence, combined with advocacy efforts by women's rights activists and organizations, has led to significant legislative changes aimed at addressing this pressing issue.

Based on the concepts of gender equality, human rights, and social justice, these legal frameworks acknowledge domestic abuse as breach of women's fundamental rights and strive to offer survivors with legal solutions, safeguard, and assistance services. Significant landmarks in the progression of these legal frameworks encompass:

1. **PWDVA:** The Act, implemented in 2005, signifies a notable advancement in offering extensive legal safeguards to victims of domestic violence in India. The legislation recognises multiple types of domestic violence, including physical, sexual, emotional, verbal, and economic abuse. It provides survivors with different legal options, including as protection orders, residence orders, and financial assistance. Additionally, act establishes specialized courts, known as Protection Officers, to assist in the implementation of protection orders and provide support to survivors.
2. **Criminal Laws:** In addition to civil remedies provided by the PWDVA, survivors of domestic violence can seek recourse through criminal laws, such as the IPC and CrPC. Provisions related to offenses like assault, harassment, cruelty, and intimidation can be invoked to hold perpetrators accountable for their actions. Amendments made to the IPC in 2013 introduced new offenses relevant to domestic violence, such as stalking, voyeurism and acid attacks.
3. **Legal Aid & Support Services:** Legal aid and support services are crucial in facilitating survivors' access to justice and protection under these legal frameworks. National (NALSA) and State Legal Services Authorities (SLSAs) offer free legal aid and assistance to survivors, including legal counseling, representation in court proceedings, and help in accessing other support services like shelters, counselling, and medical assistance.
4. **International Legal Instruments:** India is party to various international legal instruments and conventions aimed at protecting women's rights and combating gender-based violence, including CEDAW, Beijing Declaration & Platform for Action and SDGs. These international commitments provide framework for addressing domestic violence within human rights-based approach and emphasize importance of legal reforms, enforcement mechanisms, and accountability measures.

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### 3.1 Historical Overview of Legislation Addressing Domestic Violence

Domestic violence has long been pervasive and widespread issue, but legislative responses to address it have evolved over time as societies have recognized the need to protect survivors and hold perpetrators accountable. Here's historical overview of legislation addressing domestic violence:

1. **Early Legal Responses:** Historically, domestic violence was often regarded as a private matter along with legal responses were limited. In many societies, laws and customs upheld the principle of marital privilege, which shielded spouses from legal liability for violence committed against each other. As a result, survivors had few legal avenues for seeking protection or redress, and perpetrators faced minimal consequences for their actions.
2. **Emergence of Protective Laws:** During the late 19th and early 20th centuries, some jurisdictions began to enact protective laws aimed at addressing domestic violence. These laws typically focused on providing temporary shelter or assistance to survivors rather than holding perpetrators accountable. For example, in US, first domestic violence shelter was established in the 1970s, marking significant milestone in recognition of domestic violence as social and legal issue.
3. **Legal Reforms in the Latter Part of the 20<sup>th</sup> Century:** During latter half of 20th century, significant legal reforms were undertaken to address domestic violence in a more comprehensive manner. Various countries, including US, Canada along with several European nations, introduced legislation aimed at criminalizing domestic violence, strengthening legal protections for survivors, and establishing support services such as shelters, helplines, and counseling.
4. **Landmark Legislative Initiatives:** A pivotal moment in legal response to domestic violence occurred with adoption of Declaration on the Elimination of Violence Against Women by UNGA in 1993. This significant declaration acknowledged domestic violence as a violation of women's human rights & urged governments to take measures to prevent and address gender-based violence.
5. **Introduction of PWDVA in 2005:** In India, passing of the Act in 2005 marked a significant legislative milestone in tackling domestic violence. This act recognized various forms of domestic violence, including physical, sexual, emotional, verbal and economic abuse. It also offered survivors a range of civil remedies, such as protection orders, residency orders, and financial assistance. Additionally, this established specialized courts and protection officers to aid in the enforcement of protection orders and offer support to survivors.
6. **Global Initiatives and International Legal Instruments:** Alongside national legislation, international efforts have played a crucial role in addressing domestic violence. UN has adopted several conventions and resolutions aimed at combating violence against women, including CEDAW, Beijing Declaration and Platform for Action and SDGs. These international instruments serve as a framework for promoting gender equality, preventing violence against women, and holding perpetrators accountable.
7. **Persistent Challenges and Future Directions:** Despite considerable progress in legislative responses to domestic violence, challenges persist concerning implementation, enforcement, and survivors' access to justice. Many countries still grapple with issues such as underreporting, societal stigma, and inadequate resources for support services. Looking ahead, ongoing advocacy, awareness-raising efforts, and legislative reforms are essential to effectively address domestic violence and uphold survivors' rights.
8. **Grassroots Activism and Advocacy:** Throughout history, grassroots movements and advocacy endeavors have been instrumental in propelling legislative reforms to combat domestic violence. Women's rights activists, survivors, and advocacy groups have tirelessly campaigned to raise awareness about prevalence and impact of domestic violence, mobilize public support, and pressure policymakers to enact meaningful reforms. These grassroots movements have significantly influenced public discourse, challenged societal perceptions of domestic violence, and demanded accountability from governments as well as institutions.
9. **Recognition of Intersectionality and Inclusive Legislative Measures:** A growing trend in legislative responses to domestic violence is acknowledgment of intersectionality and importance of inclusive legislation that addresses diverse needs of survivors. Intersectionality acknowledges that individuals can experience numerous types of oppression and discrimination due to factors such as race, ethnicity, socioeconomic status, disability, sexual orientation, and gender identity. The purpose of inclusive legislation is to tackle many forms of oppression that interconnect with each other, while also guaranteeing that all survivors have equal access to legal safeguards and the opportunity to seek justice.
10. **Technology and Cyber Abuse:** As technology continues to advance, new forms of domestic violence have emerged, such as cyber abuse and technology-facilitated stalking. Perpetrators may use digital tools and platforms, such as social media, messaging apps, and GPS tracking devices, to harass, monitor, and control survivors. Legislative responses to address these forms of abuse have lagged behind technological advancements, but there is growing recognition of need to update laws and policies to effectively address cyber abuse & protect survivors in digital age.
11. **International Cooperation and Exchange:** In an increasingly interconnected world, international cooperation & exchange have become critical components of efforts to address domestic violence. Countries share best practices, lessons learned, and resources through international networks, forums, and partnerships. Collaboration between governments, civil society organizations, and multilateral institutions has facilitated the development of common standards, protocols, and strategies for preventing and responding to domestic violence on a global scale.

12. **Legal Empowerment and Access to Justice:** Legal empowerment initiatives aim to strengthen survivors' access to justice by providing them with information, resources along with support to navigate legal systems effectively. These initiatives may include legal aid services, paralegal assistance, know-your-rights campaigns, and community-based legal clinics. By empowering survivors to assert their rights and seek redress for the harm they have experienced, legal empowerment efforts contribute to more equitable and just response to domestic violence.
13. **Prevention and Education:** Legislative responses to domestic violence increasingly emphasize the importance of prevention and education initiatives aimed at changing attitudes, behaviors, and social norms that perpetuate violence. Schools, universities, workplaces, and community organizations may implement programs and campaigns to raise awareness about healthy relationships, consent, gender equality, and bystander intervention. By addressing root causes and promoting positive social change, prevention and education efforts complement legal responses to domestic violence and contribute to long-term prevention strategies.

Legislative responses to domestic violence have evolved over time to reflect changing social norms, values along with priorities. From early protective laws to comprehensive legal frameworks, the trajectory of legislative reforms reflects growing recognition of need to address domestic violence as a serious human rights issue. Moving forward, continued efforts are needed to ensure that legislative responses are responsive, inclusive, and effective in addressing complex and interconnected factors that contribute to domestic violence.<sup>1</sup>

### 3.2 Analysis of Relevant Laws and Provisions

Legal framework addressing domestic violence in India centres on the PWDVA 2005, supplemented by provisions within IPC and CrPC. Below is an examination of the relevant laws and provisions in detail:

1. **PWDVA 2005:** The act is an extensive legislation designed to offer legal protections along with remedies to domestic violence survivors in India. Key aspects of PWDVA include:
  - **Definition of Domestic Violence:** The Act offers a thorough delineation of domestic violence, embracing various forms of mistreatment such as physical, sexual, emotional, verbal, and economic abuse. It include instances of harassment, stalking, and violence that are connected to the practice of dowry. This comprehensive definition ensures that those who have encountered abuse in intimate relationships are safeguarded from many forms of mistreatment.
  - **Civil Remedies:** The PWDVA grants survivors various civil remedies, such as protection orders, residence orders, and monetary relief. Protection orders prohibit perpetrator from engaging in acts of domestic violence or contacting survivor, while residence orders allow survivor right to reside in shared household. Monetary relief may encompass compensation for medical expenses, loss of earnings, and other expenses incurred due to the abuse.
  - **Specialized Courts and Protection Officers:** The Act establishes specialized courts, termed Protection Officers, tasked with facilitating the enforcement of protection orders and assisting survivors. Protection Officers are responsible for conducting inquiries, aiding survivors in filing complaints, and ensuring compliance with protection orders.
    - **Confidentiality and Privacy:** The PWDVA emphasizes the importance of confidentiality and privacy in proceedings related to domestic violence. It prohibits disclosure of information that may identify survivor or perpetrator without their consent, ensuring that survivors can seek protection without fear of stigma or retaliation.
    - **Penalties for Violations:** The Act imposes penalties for violations of protection orders, including fines and imprisonment. Perpetrators who fail to comply with protection orders may face criminal prosecution under the provisions of the Act.<sup>2</sup>

2. **Provisions under Indian Penal Code (IPC):**

Several provisions within IPC pertain to domestic violence cases, such as:

- **Section 498A:** This section addresses cruelty by husbands or their relatives towards women, encompassing physical or mental abuse, harassment for dowry, or other forms of mistreatment.
- **Section 304B:** This section concerns dowry-related deaths, stipulating punishment for the husband or his relatives if woman dies under suspicious circumstances within 7 years of marriage, and it is demonstrated that she faced cruelty or harassment for dowry.
- **Section 354:** This section pertains to assault or the use of criminal force against woman with the intent to outrage her modesty, which may involve acts of sexual violence within domestic relationships.
- **Section 375:** This section defines rape, including situations where sexual intercourse occurs against the woman's will or under coercion, which can transpire within marital relationships and constitute domestic violence.

3. **Provisions within the Criminal Procedure Code (CrPC):**

The CrPC sets forth procedural safeguards and mechanisms for investigation & prosecution of domestic violence cases, including:

<sup>1</sup> United Nations. (2006). Handbook for Legislation on Violence against Women.

<sup>2</sup> Government of India. (2005). The Protection of Women from Domestic Violence Act.

- Procedure for Obtaining Protection Orders: CrPC delineates process for obtaining protection orders under the PWDVA, encompassing filing complaints before the relevant court, conducting inquiries, and issuing interim or final protection orders based on presented evidence.
- Bail and Anticipatory Bail: The CrPC governs the granting of bail and anticipatory bail in domestic violence cases, balancing rights of accused with safety and protection of the survivor.
- Evidence and Witness Protection: Provisions within the CrPC address the protection of survivors and witnesses in domestic violence cases, such as recording statements in-camera and providing anonymity to safeguard against intimidation or retaliation.

#### 4. Dowry Prohibition Act, 1961:

Enacted to prohibit giving or taking of dowry—a practice often resulting in harassment, abuse, and violence against women, the act encompasses key provisions including:

- Prohibition of Dowry: The Act prohibits the direct or indirect giving or receiving of dowry in connection with marriage, making it offense to demand, receive, or give dowry. It prescribes penalties for violations, including fines and imprisonment.
- Penalties for Offenses: Stringent penalties are imposed for dowry-related offenses, with provisions for imprisonment of up to five years and fines exceeding the value of dowry. Additionally, Act mandates that any property or valuable security given or agreed to be given as dowry shall be forfeited to the government.
- Protection of Women: Aimed at shielding women from the financial and emotional exploitation associated with dowry demands, Dowry Prohibition Act offers legal recourse for survivors of dowry-related abuse and harassment, empowering them to seek justice and redress under the law.

5. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, stands as significant legislation targeting gender-based violence and discrimination in work environments. Its key provisions comprise:

- Definition of Sexual Harassment: The Act delineates sexual harassment expansively, encompassing unwelcome sexually determined behaviour, physical contact, advances, or requests for sexual favors, along with other verbal or non-verbal conduct of sexual nature.
- Obligations of Employers: Employers are mandated by Act to prevent & address instances of sexual harassment within the workplace. This includes establishing Internal Complaints Committees (ICCs) at organizational level to receive and address complaints of sexual harassment.
- Redressal Mechanisms: The Act facilitates establishment of Local Complaints Committees (LCCs) at district level to investigate complaints of sexual harassment in workplaces where ICCs cannot be constituted. It further ensures timely redressal of complaints and prohibits victimization or retaliation against complainants.
- Awareness and Training: Emphasizing the significance of raising awareness about sexual harassment, Act mandates employers to conduct regular awareness programs and sensitization workshops for employees, ensuring they understand their rights and responsibilities under law.

6. Immoral Traffic (Prevention) Act, 1956, addresses the trafficking of women and girls for sexual exploitation. Its key provisions include:

- Definition of Trafficking: The Act defines trafficking broadly, encompassing recruitment, transportation, harbouring, or receipt of persons through coercion, deception, or fraud for exploitation, including prostitution.
- Prohibition of Trafficking: The Act prohibits all forms of trafficking, including the buying and selling of individuals for sexual exploitation, and prescribes severe penalties for offenders, including imprisonment and fines.
- Protection of Victims: The Act underscores protection & rehabilitation of trafficking victims, necessitating establishment of protective homes and rehabilitation centers for their care and support. It includes provisions for medical treatment, counseling, and vocational training.
- Prevention Measures: The Act mandates preventive actions to combat trafficking, such as the monitoring and regulation of brothels, prosecuting traffickers and brothel owners, and conducting public awareness campaigns to educate individuals about trafficking risks.

7. Indian Evidence Act, 1872: The act holds significant importance in legal proceedings concerning domestic violence by regulating the admissibility and presentation of evidence. Its pivotal provisions encompass:

- Definition of Relevant Evidence: This Act defines relevant evidence as facts connected with or bearing upon the matter in dispute. In instances of domestic violence, relevant evidence may encompass testimonies from survivors and witnesses, medical reports, photographic evidence of injuries, and other documentary evidence.
- Admissibility of Statements: The Act governs the admissibility of oral and written statements made by parties and witnesses during legal proceedings. Statements related to incidents of domestic violence made by survivors or witnesses are deemed relevant evidence and may be admitted in court.
- Presumption as to Dowry Death: Section 113B of Evidence Act establishes a presumption concerning dowry death of woman if she passes away within 7 years of marriage and evidence shows she faced cruelty or harassment by her husband or his relatives for dowry. Burden of proof shifts to accused to refute this presumption.

- **Corroboration of Testimony:** The Act does not necessitate corroboration of a survivor's testimony in cases of domestic violence. Courts may convict accused based solely on the survivor's testimony if it is deemed credible and reliable.

8. Juvenile Justice (Care and Protection of Children) Act, 2015, addresses domestic violence against children and provides for their care, protection, and rehabilitation. Key aspects of the Act comprise:

- **Definition of Child in Need of Care and Protection:** The Act defines child in need of care and protection as one found destitute, orphaned, abandoned, or subjected to abuse, neglect, or exploitation within the family or community.
- **Child Welfare Committees (CWCs):** The Act mandates formation of CWCs at district level to oversee care, protection, and rehabilitation of such children. These committees conduct inquiries, issue orders for child's care and protection, and monitor their well-being.
- **Special Juvenile Police Units (SJPU):** The Act requires establishment of SJPU at district level to handle cases of child abuse, exploitation, and trafficking. These units investigate complaints of domestic violence against children and collaborate with other agencies for their rescue and rehabilitation.
- **Rehabilitation and Social Integration:** Emphasizing rehabilitation and social integration of child survivors, the Act provides for shelter homes, special schools, and vocational training centers for their care and rehabilitation.

9. POCSO Act, 2012, aims to safeguard children from sexual abuse and exploitation, including within domestic contexts. Key provisions of Act include:

- **Definition of Sexual Offenses:** Act defines various sexual offenses against children and prescribes stringent penalties for offenders, including imprisonment and fines.
- **Special Courts:** The Act mandates special courts to handle cases of sexual offenses against children, ensuring speedy trials and protecting privacy and dignity of child survivors.
- **Child-Friendly Procedures:** POCSO Act stipulates child-friendly procedures for recording statements and conducting trials, prohibiting aggressive tactics during cross-examination and prioritizing a safe and supportive environment for child survivors.

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### 3.3 Critique of Legal Provisions and Implementation Challenges in Addressing Domestic Violence in India:

#### 1. Legal Provisions:

- Limited Scope of Protection:** While legislation such as the PWDVA 2005 provides comprehensive definitions of domestic violence and civil remedies for survivors, there are still gaps in protection. For instance, the PWDVA primarily focuses on protection within marital or domestic relationships, leaving out other forms of violence such as dating violence or violence by family members outside the household.
- Lack of Criminalization:** Despite civil remedies provided by the PWDVA, there is a lack of criminalization for certain forms of domestic violence. Criminal prosecution is crucial in deterring perpetrators and holding them accountable for their actions. However, some acts of domestic violence, such as emotional abuse or economic exploitation, may not always meet the threshold for criminal prosecution under existing laws.
- Inadequate Redressal Mechanisms:** While the PWDVA establishes specialized courts and protection officers to facilitate the implementation of protection orders, there are challenges in accessing these redressal mechanisms, particularly in rural areas. Limited awareness about legal rights, bureaucratic hurdles, and social stigma often deter survivors from seeking legal recourse, leading to underutilization of available redressal mechanisms.
- Ambiguities in Definitions:** Despite comprehensive definitions of domestic violence in legislation such as the PWDVA, there may be ambiguities or loopholes that allow perpetrators to exploit legal gaps. For example, the definition of "mental cruelty" or "emotional abuse" may be subjective and open to interpretation, making it challenging for survivors to prove their cases in court.
- Lack of Protection for Vulnerable Groups:** Legal provisions may not adequately address unique needs and vulnerabilities of certain groups, such as migrant women, refugees, or women from religious or ethnic minorities. These marginalized populations may face additional barriers in accessing legal protections and support services due to language barriers, lack of documentation, or fear of reprisal.

#### 2. Implementation Challenges:

- Lack of Awareness and Sensitization:** Despite the existence of legal provisions, there is a pervasive lack of awareness and sensitization among law enforcement officials, judicial authorities, along with general public regarding domestic violence issues. Many survivors face barriers when attempting to report abuse or seek legal assistance due to societal norms that normalize or condone violence against women.
- Resource Constraints:** Effective implementation of laws addressing domestic violence requires adequate resources, including funding, personnel, and infrastructure. However, resource constraints, particularly in rural and underserved areas, limit availability and accessibility of support services such as shelters, counselling, legal aid, and medical assistance for survivors.
- Institutional Inertia and Delayed Justice:** The Indian legal system is often criticized for its institutional inertia, bureaucratic delays, and lengthy judicial processes, which can exacerbate the trauma and insecurity experienced by survivors of domestic violence. Cases of domestic violence may languish in legal system for years, resulting in delayed justice and diminished trust in the efficacy of legal mechanisms.

d. **Cultural and Societal Factors:** Deep-rooted cultural norms, patriarchal attitudes, and gender inequalities perpetuate domestic violence and hinder efforts to address the issue effectively. Societal attitudes that blame and shame survivors, prioritize family honor over women's rights, and discourage women from speaking out against abuse create significant barriers to seeking help and accessing justice.

e. **Intersectional Vulnerabilities:** Women belonging to marginalized or vulnerable groups, such as Dalit women, tribal women, LGBTQ+ individuals, and women with disabilities, face compounded barriers in accessing legal protections and support services. Intersectional discrimination based on factors such as caste, class, religion, ethnicity, sexual orientation, and disability further marginalizes these women and limits their ability to escape abusive situations.

f. **Inadequate Law Enforcement:** Despite the existence of legal provisions, there are concerns about the enforcement of laws addressing domestic violence. Law enforcement agencies may lack training, resources, and sensitivity in handling cases of domestic violence, leading to underreporting, mismanagement of cases, and re-victimization of survivors.

g. **Underreporting and Social Stigma:** Domestic violence remains vastly underreported due to social stigma, fear of retaliation, economic dependence, along with lack of faith in legal system. Survivors may hesitate to report abuse or seek legal assistance due to concerns about privacy, confidentiality, and repercussions within their communities or families.

h. **Informal Resolution Mechanisms:** In many cases, domestic violence is addressed through informal or traditional resolution mechanisms, such as family or community mediation, rather than through formal legal channels. While these mechanisms may offer swift resolution and cultural sensitivity, they often prioritize reconciliation over survivor safety and may perpetuate cycles of abuse.

i. **Accessibility Barriers:** Survivors, particularly those in rural or remote areas, may face significant barriers in accessing legal protections and support services. Challenges such as lack of transportation, distance to legal aid centers, and unfamiliarity with legal procedures may hinder survivors from seeking help and accessing justice.

j. **Economic Empowerment:** Economic dependence and financial insecurity exacerbate the vulnerability of survivors and hinder their ability to leave abusive relationships or access legal remedies. Limited access to economic resources, employment opportunities, and financial support may trap survivors in abusive situations and perpetuate cycles of violence.

k. **Lack of Coordination and Collaboration:** Effective response to domestic violence requires coordination and collaboration among multiple stakeholders, including government agencies, law enforcement, judiciary, civil society organizations, and community groups. However, there may be fragmentation, silos, and lack of coordination among these entities, resulting in inefficiencies and gaps in service delivery.<sup>3</sup>

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### 3.4 Role of Judiciary in Addressing Domestic Violence Cases

Judiciary in India plays vital role in dealing with cases of domestic violence by interpreting and implementing pertinent legislation, guaranteeing survivors' access to justice, and making criminals responsible for their actions. The judiciary has crucial responsibility in maintaining rule of law, safeguarding fundamental rights and guaranteeing equal access to justice for all members of society. Judiciary has crucial role in combating gender-based violence, discrimination, along with fostering gender equality.<sup>4</sup> These are main elements of judiciary's role in this matter:

1. **Interpretation & Application of Laws:** Judiciary interprets and applies laws related to gender-based violence, including domestic violence laws, sexual harassment laws, and laws protecting women's rights. Through judicial interpretation, courts clarify legal principles, expand scope of legal protections, and adapt laws to changing societal norms and needs.
2. **Protection of Fundamental Rights:** Judiciary ensures protection of people's fundamental rights, such as rights to life, dignity and non-discrimination. Courts guarantee protection and preservation of survivors' rights and holds perpetrators responsible for their acts in instances of gender-based violence.
3. **Legal Precedents and Jurisprudence:** Judicial decisions create legal precedents and establish jurisprudence that guide future cases and legal interpretation. Landmark judgments addressing gender-based violence contribute to development of legal principles, set standards for accountability, and shape legal framework for addressing such issues.
4. **Access to Justice:** The judiciary ensures access to justice for survivors of gender-based violence by providing avenues for redressal, legal remedies, and protection. Courts play crucial role in facilitating survivors' access to legal aid, support services, and mechanisms for seeking compensation, restraining orders, and other forms of relief.
5. **Accountability & Redressal:** The judiciary holds perpetrators of gender-based violence accountable for their actions through criminal prosecution, civil remedies, and other legal mechanisms. Courts adjudicate cases of domestic violence, sexual assault, harassment, and other forms of violence as well as impose penalties and sanctions on perpetrators based on the evidence and legal principles.

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<sup>3</sup> Jewkes, R. (2002). Intimate partner violence: Causes and prevention. *The Lancet*, 359(9315), 1423-1429.

<sup>4</sup> Heise, L. L. (1995). Violence against women: An integrated, ecological framework. *Violence Against Women*, 1(1), 4-29.

6. **Judicial Activism and Public Interest Litigation:** Judicial activism along with public interest litigation enable the judiciary to address systemic issues of gender-based violence, discrimination, and inequality. Courts may intervene in matters of public interest, issue directions to government authorities, and monitor implementation of laws and policies to ensure effective protection of women's rights.
7. **Promotion of Gender Equality:** Judiciary promotes gender equality & non-discrimination through its judgments. Courts may strike down discriminatory laws, policies & practices, and advocate for gender-sensitive legal reforms that advance women's rights and empowerment.<sup>5</sup>

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<sup>5</sup> García-Moreno, C., et al. (2015). Prevalence of intimate partner violence: findings from the WHO multi-country study on women's health and domestic violence