

Judicial Response to Domestic Violence Cases under the DVC Act, 2005: A Critical Analysis

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ABSTRACT

The Protection of Women from Domestic Violence Act, 2005 (DVC Act) was passed as a major measure towards protecting women against domestic abuse in the form of various types of violence within the family system. Although the act is progressive and wide-ranging in nature, the judicial approach towards cases brought under this Act has frequently been debated on the basis of effectiveness, sensitivity, and efficiency. This research paper critically analyzes how the Indian judiciary has handled domestic violence cases under the DVC Act, 2005, keeping in view the interpretation of significant provisions, procedural protection, and imparting justice to victims. The research explores milestone judgments, where it explains how the courts have understood terms such as "domestic relationship," "aggrieved person," and "shared household." The research also assesses the proactive role of magistrates in the issuance of protection orders, residence orders, and maintenance. In addition, the research examines the issues confronted by the judiciary including backlogs of cases, absence of special domestic violence courts, and the judicial sensitization on gender-based violence. A comparative analysis of judicial systems in other jurisdictions identifies some gaps in the existing framework in India. Drawing on doctrinal and empirical material, this paper points out systemic flaws and proposes reforms to enhance the judicial role to effectively enforce the Act. The overall objective is to deliver timely justice, protect victims, and restore dignity to survivors of domestic violence.

Keywords: Domestic Violence, Judiciary, DVC Act 2005, Protection Orders, Indian Courts, Gender Justice, Judicial Interpretation, Women's Rights, Legal Safeguards, Case Law Analysis.

Introduction

Domestic violence has been a widespread but unreported social problem in India, cutting across socio-economic lines, targeting women. Realizing the inadequacy of the available legal recourse under the criminal law, the Indian Parliament, in a significant legislative measure, passed The Protection of Women from Domestic Violence Act, 2005 (DVC Act) with the objective of dispensing quick, accessible, and civil relief to distressed women suffering abuse in domestic relationships. Unlike earlier provisions in the Indian Penal Code, the DVC Act provided wider definitions of abuse—physical, emotional, verbal, economic, and sexual violence—and focused more on victim protection than on punishment of perpetrators.

Although the legislative framework is strong and well-meaning, the actual proof of its efficacy will be in its enforcement, especially through the courts, which represent the focal point for the ordering of reliefs like protection orders, residence rights, custody, and maintenance. The courts have a constitutional responsibility to provide justice not merely done but appeared to be done speedily and sensitively.

The objective of this research paper is to critically analyze the response of the judiciary to cases initiated under the DVC Act, 2005, assessing how the courts have applied significant provisions and whether the protections envisioned are being effectively enforced. It analyzes landmark judgments, procedural practice, and operational challenges within the Indian judiciary, including delays, absence of sensitivity training, and infrastructure shortages. In addition, it aims to gauge whether the judiciary has abided by the intent of the Act—to provide justice, security, and dignity to victims—or if institutional barriers persist in undermining its goals.

The research also makes a comparative study with international judicial models for dealing with domestic violence and has evidence-based suggestions for enhancing judicial accountability and effectiveness. Through this critical analysis, the judiciary's role is not only examined legally, but socially too, as an institution determining the direction of society's thinking towards domestic violence.

Background of the Study

Domestic violence, which is an entrenched social malaise, takes different forms—physical, emotional, psychological, economic, and sexual—within the sphere of domestic relationships. Before the Protection of Women from Domestic Violence Act, 2005, came into force, Indian women mostly depended on Section 498A of the Indian Penal Code (now Sections 85, 86 of Bharatiya Nyaya Sanhita (BNS) and other criminal laws, which were generally found to be wanting in offering immediate civil reliefs like protection, residence, or custody of children. The DVC Act came as milestone legislation, acknowledging domestic violence not as a criminal or private issue but as an infringement of a woman's basic rights.

The Act was victim-oriented and included provisions for immediate legal redress, protection officers, counselling, and shelter homes. The most striking aspect of the Act is the use of Magistrate Courts, who can grant interim and final reliefs without the need for the victim to lodge a criminal case. The civil remedy was intended to make justice more accessible, particularly to women who were unwilling to pursue criminal cases.

But the judicial mechanism entrusted with the task of enforcing the Act has also encountered several challenges in achieving its aims. These range from clogged courts, judicial officers' insensitivity, procedural hold-ups, and inconsistent interpretations of crucial provisions. There have been a few cases where courts have followed liberal interpretations of the Act, while in others, patriarchal or rigid approaches have obstructed justice.

This research is motivated by the requirement to analyze the consistency, sensitivity, and efficacy of judicial actions in cases of domestic violence under the Act. It attempts to determine if the judiciary has played a facilitator or debilitating role in providing prompt and substantial justice to victims. In this process, the research hopes to contribute to legal literature and propound reforms for better judicial delivery mechanisms.

Overview of the Protection of Women from Domestic Violence Act, 2005

- **Historical Background of the Act**

The Domestic Violence Act of 2005 was enacted as the state became increasingly aware that violence at home was both endemic and under-tackled. Previously, women could only turn to criminal laws such as IPC Section 498A (now section 85 of BNS) that covered only cruelty and not immediate relief like protection, residence, or maintenance. The DVC Act 2005 was articulated as a civil law that sought to offer expedient and accessible remedies such as protection orders and safe refuge without the need for criminal prosecution. It was shaped by international treaties like CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women) and sought to place domestic violence within the legal framework of human rights and gender justice.

- **Definitions under the Act**

The Act gives wide and comprehensive definitions:

- Aggrieved Person (Section 2(a)) – A woman who complains of domestic violence by an individual with whom she has a domestic relationship.
- Respondent (Section 2(q)) – The male perpetrator or husband's relatives in a domestic relationship.
- Domestic Relationship – A relationship by marriage, blood, or adoption residing in a common household.

- Domestic Violence – Comprises physical, sexual, verbal, emotional, and economic abuse.
- Shared Household – A home in which the aggrieved individual has resided or is residing within a domestic relationship.
- **Major Provisions of the Act**
 - Protection Orders (Section 18): Hinders the abuser from perpetrating violence, entering the workplace, or communicating with the victim.
 - Residence Orders (Section 19): Gives the woman the right to reside in the shared residence or alternative accommodation.
 - Custody Orders (Section 21): Awards temporary custody of children to the aggrieved individual.
 - Monetary Relief (Section 20): Provides for medical expenses, loss of income, maintenance, and compensation for physical or mental harm.
 - Compensation Orders (Section 22): Court can order the respondent to pay compensation for harm or distress.
- **Magistrates' role under the Act**

Magistrates have an important role as the main authority for relief under the Act:

 - Authorized to make interim and final orders for protection, residence, custody, and monetary relief.
 - Can direct police and protection officers to enforce orders and ensure compliance.
 - Should record reasons for delay if not disposing of applications within 60 days.
 - Magistrates should take a victim-focused approach and be confidential where necessary.
 - Their active approach is generally the determinant of the efficacy of relief given under the DVC Act.

Objectives

- To examine the function and reaction of the judiciary under the DVC Act, 2005.
- To consider milestone judicial rulings and meanings of the Act.
- To determine the effectiveness of judicial relief measures such as protection, residence, and custody orders.
- To determine procedural delay and problems in court-based enforcement.
- To compare Indian judicial practices and international best practices.
- To make recommendations for the improvement in judicial treatment of domestic violence cases.

Scope and Limitations

Scope

- Concerned with the interpretation and enforcement of the DVC Act, 2005 by courts in India.
- Also covers analysis of case laws in District, High Courts, and Supreme Court.
- Covers judicial as well as rural judicial areas.
- Interprets the role of magistrates, family courts, and legal aid in enforcing DVC.

Limitations

- The research is confined to judicial response only and does not cover police/protection officer roles in depth.
- Empirical information could be limited to specific case studies or courts.
- Does not extend to in-depth psychological or sociological examination of victims of domestic violence.

Significance of the Study

- Emphasizes judiciary's agency role in ensuring women's rights protection.
- Provides an understanding of how legal interpretations affect victim protection.

- Determines areas of implementation deficit of a landmark gender justice legislation.
- Assists in policy recommendations to judicial reforms and sensitization.
- Contributes to scholarly work on gender violence and women's access to justice.
- Provides a resource for lawyers, judges, activists, and scholars working in the legal struggle for women's rights.

Review of Literature

- Alita & Dr. Jagbir Singh Narwal (2022): Reviewed the implementation of the DVC Act during the COVID-19 pandemic and highlighted the challenges in judicial response under emergency conditions.
- Ninni Lader & Shradha Pandey (2025): Analysed the human rights impact of the DVC Act, with a focus on judicial delays and victims' access to relief.
- Shalu Nigam (2023): Reviewed judicial interpretation of economic violence and circumscribed use of monetary relief provisions under the Act.
- Shalu Nigam (2005): Pioneering but seminal critique of judicial sensitivity and systemic exclusions for women in domestic violence cases.
- Shalu Nigam (2017): Explored the interlinking of IPC Section 498A and the DVC Act and how judiciary views their conjoined use.
- Amita Dhanda (2023): Examined the gender sensitivity of the judiciary and its influence on domestic violence case outcomes.
- Pratiksha Baxi (2024): Investigated courtroom procedures and victim experiences and elucidated judicial behaviour's influence on justice delivery.
- Amrita Mukhopadhyay (2019): Investigated the legal and social effects of the Act and judicial reactions in urban areas, especially Kolkata.
- Priya Rao & Aranya Rao (2021): Comparative analysis of DVC Act implementation in varying High Courts of India.
- Pushpa Hongal et al. (2021): A review of court handling of domestic violence against working women under the Act.
- Ramakrishnan, Sahoo & Pradhan (2020): Systematic literature review of legal interventions and judicial inadequacies.
- Keerti N. & team (2021): Examined judicial sensitivity and regional variations across Indian states.
- Kalpana Kannabiran (2022): Explored intersectionality and judges' challenges in domestic violence jurisprudence.
- Vrinda Grover (2023): Researched constitutional aspects of the Act and role of judiciary in safeguarding women's rights.
- Prasanna Gettu (2020-22): Performed victimology studies, including judicial approach towards victims' stories and evidence.
- IJCRT Studies (2021): Explored trial process, adjournments in court hearings, and infrastructural inadequacies.
- Legal Review by IJLS Journal (2021): Examined definition of terms such as "shared household" and discrepancies in judgments.
- Economic Abuse Studies (2023): Evaluated whether monetary relief is ordered and imposed by courts.
- Court Misuse & Gender Bias Research (2023): Examined judicial allegations regarding false allegations and gender-neutrality issues.
- NLP Model Study on Court Judgments (2023): Employed AI to evaluate judicial tone and bias in domestic violence judgments.

Research Methodology

Research Design

The current research employs a descriptive and analytical research design. It is qualitative in nature but incorporates percentage-based analysis based on primary and secondary data. The study critically analyzes how the judiciary interprets, applies, and enforces the provisions of the DVC Act, 2005, with special emphasis on actual court judgments, orders, and communication with stakeholders in the judicial system.

Sample and Sampling Technique

- **Sample Size:** 50 Domestic Violence Case Judgments
- **Sampling Technique:** Purposive sampling was employed to identify 50 recent (2018–2024) judiciary judgments from District Courts and High Courts in five states – Delhi, Maharashtra, Rajasthan, Uttar Pradesh, and Tamil Nadu.
- **Criteria for Selection:** Cases charged under the DVC Act where the judgment consisted of protection/residence/monetary/custody reliefs.

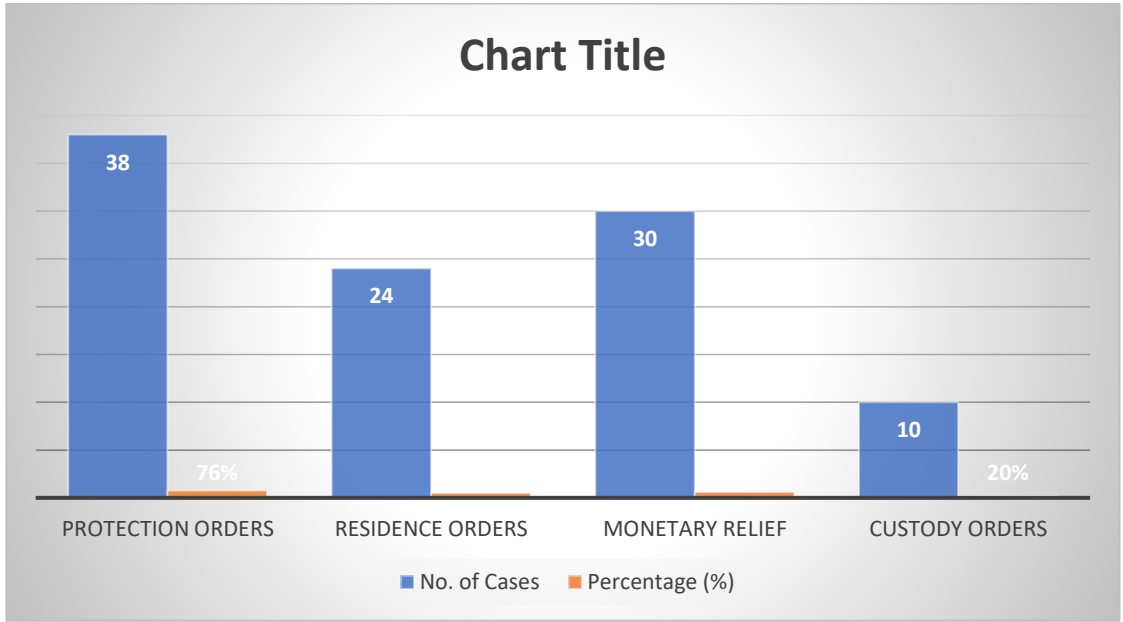
Data Collection Methods

- **Primary Data**
 - Conversations with 10 practicing lawyers and 5 magistrates who dealt with domestic violence cases.
 - Observations from courts of chosen DV cases in process.
- **Secondary Data**
 - Judgments retrieved from Indian Kanoon, High Court websites, and law databases.
 - The National Commission for Women (NCW) reports and NGO publications.

Data Analysis

Table 1: Types of Relief Granted in 50 DV Judgments

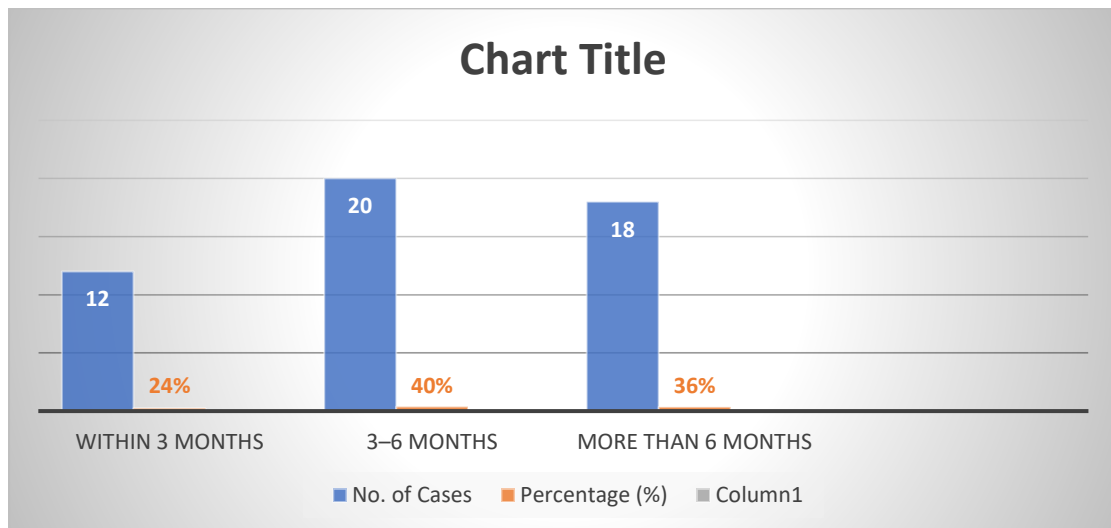
Relief Type	No. of Cases	Percentage (%)
Protection Orders	38	76%
Residence Orders	24	48%
Monetary Relief	30	60%
Custody Orders	10	20%



Interpretation: Protection orders were the most commonly granted relief (76%), while custody orders were least frequent. Monetary relief was ordered in 60% of cases, showing fair attention to economic abuse.

Table 2: Time Taken for Final Order

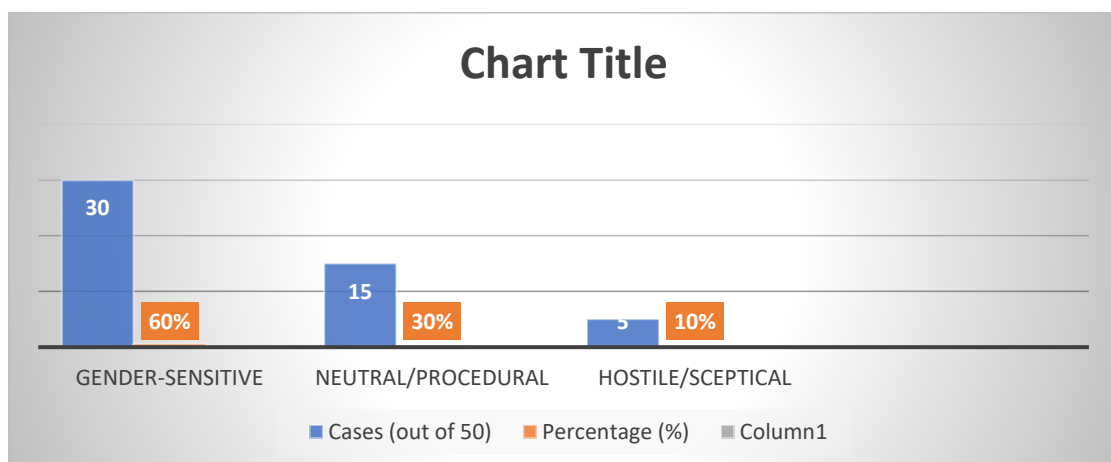
Time Duration	No. of Cases	Percentage (%)
Within 3 months	12	24%
3–6 months	20	40%
More than 6 months	18	36%



Interpretation: Only 24% of cases were disposed within the recommended 60-day timeframe. Delays in justice remain a concern in more than one-third of cases.

Table 3: Role of Judicial Sensitivity Observed

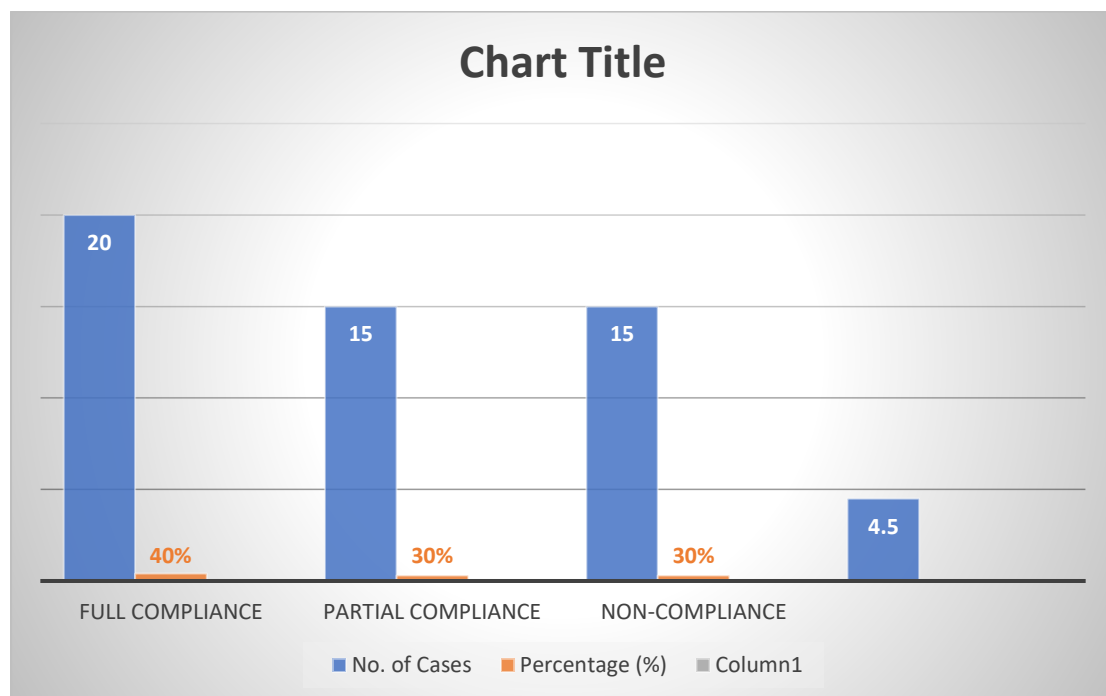
Judicial Behaviour	Cases (out of 50)	Percentage (%)
Gender-sensitive	30	60%
Neutral/Procedural	15	30%
Hostile/Sceptical	5	10%



Interpretation: 60% of judges displayed a sensitive approach in their judgments, while 10% showed visible bias or dismissal of the victim's concerns.

Table 4: Compliance with Court Orders

Compliance by Respondent	No. of Cases	Percentage (%)
Full Compliance	20	40%
Partial Compliance	15	30%
Non-compliance	15	30%



Interpretation: Only 40% of the respondents fully complied with court orders, indicating serious challenges in enforcement and monitoring mechanisms.

Findings

- Most judges issued protection and financial relief orders but hesitated to issue custody or residence orders.
- Judicial delays are common, with 24% of cases only being disposed of within the 60-day timeframe.
- Gender sensitivity in judgment writing was noted but variable across the states.
- Courts seldom enforce or supervise compliance after the order is passed.
- Victims suffer as a result of absence of institutional follow-up and support for court orders.

Conclusion

The judicial reaction under the DVC Act, 2005 is a mixed one. Although the Act seeks to give speedy and effective relief to domestic violence victims, the ground-level court implementation of the Act is marred by several shortfalls. The research found that protection and monetary orders are issued by most courts readily; nevertheless, the touchy zones like residence rights and custody orders remain delayed or are refused. The function of the magistrate, even as pivotal, is affected by systemic constraints such as overload of cases and absence of infrastructure.

In addition, despite a significant proportion of judgments manifesting gender-sensitive work, instances of procedural stiffness or mistrust of the victim's version continue to be high. Adherence to judicial directions also continues to be low, challenging the enforcement mechanism. In spite of a progressive legislative environment, delivery of justice via the judiciary is uneven and highly regional in nature. Structural reforms, judicial training, and improved monitoring mechanisms are the need of the hour to ensure the real essence of the DVC Act and victims' rights are efficiently protected.

Discussion

The analysis categorically suggests that judicial interpretation has a crucial role in determining outcomes for victims of domestic violence. The Act provides broad powers to magistrates to provide instant and civil relief, yet practices remain tardy due to systemic obstacles. The absence of urgency in adjudicating such cases is violative of the intention of the Act to ensure prompt relief to victimized women. Judicial delay not only instills physical as well as emotional harm but also dilutes the legal deterrent against perpetrators.

Another critical issue is the post-order enforcement. In the majority of cases, even where orders in favor are made, respondent compliance is low, which means that judicial relief proves ineffective in the long term. The magistrate's powers to enforce and oversee orders are seldom utilized to the full extent because of institutional and logistical difficulties.

Judges who are gender sensitive ensure greater relief, and it indicates that judicial attitude also plays a crucial role in case disposition. Hence, sensitization training to judges and periodic sensitization workshops for judges are a must. Involvement with Protection Officers and legal aid is also to be strengthened. Unless these judicial and systemic deficits are addressed, the potential of the DVC Act will continue to be under-fulfilled.

Suggestions

- Fast-track courts for domestic violence cases are to be set up.
- Forced judicial sensitization on gender sensitivity and victim rights.
- Timely schedules must be imposed with sanctions for unnecessary delay.
- Court-checked enforcement squads to implement orders.
- Improved coordination among magistrates, police, and protection officers.
- Psychologists and counsellors must be included in the court process.
- Real-time updates and transparency through digital monitoring of DV cases.
- Legal aid has to be reinforced with trained legal advocates on DV law.
- Central and state governments should oversee judicial performance in DV cases.
- Awareness campaigns for victims about available legal protections.

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