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24.1 Introduction

Although women constitute about half of the total population (48%) in India and are the principal providers of care and support to families, their status is not equal to men. This has not always been the case. For example, women in ancient India enjoyed equal status with men in all fields of life, including education, whereas during the medieval period, the women held a subordinate status. In modern India, women have slowly gained status but not in all spheres. Various social indicators show that women's status is lower than their male counterparts. Although the censuses recorded between the 2001 and 2011 show improved literacy rate for women, females still represent only 43% of all literates ($n = 778,454,120$) (Government of India 2011). Further, in rural India, women are reported to be 55–65% of the total labor force (National Commission for Women n.d.). One report indicated that in some rural areas women put in more hours than a pair of bullocks in the field.

For example, a man works an average of 1,212 h in a year, compared to a pair of bullocks who work 1,064 h, whereas a woman works 3,485 h (Shiva 1991). In addition, women receive lower returns for their labor due to gender discrimination. Such discrimination, according to the National Commission on Women, contributes to displacement, devaluation, and disempowerment of women, which increases the incidence of rape, female feticide, trafficking of women, and other forms of violence.

Due to their secondary status in the Indian society, women are subjected to various forms of violence. Of all the forms of violence, domestic violence has emerged as one of the most serious problems faced by women. Across the globe, criminal justice agencies recognize the problem of domestic violence as a serious crime against women. In India, however, it is largely viewed as a family matter—neighbors, friends, and even relatives of victims rarely interfere in situations of domestic violence.

24.2 Status of Women in India: An Overview

During the Vedic period (1500–500 B.C.E.), women had considerable freedom in the family and society. The *Rig Veda*, one of the four *Vedas*, indicated that women were equal to men in terms of access to and capacity for the highest knowledge of Brahma (the Hindu God of creation). The *Veda* contains hymns, which were revealed even

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by the women seers (known as *Rishikas* and *Brahmavadinis*) (Tripathy 1998, cited in Vijaya 2004). It is stated that women had a voice in choosing their partners, were educated, and held prominent positions in social and religious gatherings. In Vedic society, women distinguished themselves in science and learning and were considered intellectual companions, friends, and living helpers in the life journey of their partners. In addition, monogamy was the rule at that time. Remarriage of widows was permitted. Overall, in the Vedic age, Hindu women were honored and respected (Kumari 1994). With the passage of time, however, the status of women gradually deteriorated. For instance, in the Smriti period, the most significant lawmaker was Manu. According to Manu, a woman in her childhood must be protected by her father; in her youth, she must be protected by her husband; when she is older, she must be protected by her son. Manu's social codes and sanctions are reflected in these dictums. Although the laws of Manu were compiled between 200 B.C.E. and 200 C.E., the day-to-day life of Hindu women is still influenced by the laws of Manu. The period that followed Manu's reign put further restrictions on women. For example, the practice of child marriages, *Sati* (self-immolation of a woman following her husband's death), and a ban on widows remarrying were practiced in some parts of India. With the Muslim conquest of India, the practice of wearing veils became common among Muslim women. During the colonial era, notable Indian social reformers stood firm against social bigotry, orthodoxy, idol worship, and even encouraged women and men to seek Western/English educations. Raja Ram Mohan Roy (1772–1833 C.E.), one of the Indian social reformers, fought for the abolition of *Sati*. The efforts of other reformers resulted in the remarriage of widows and the prohibition of child marriages and bigamy. In 1929, the minimum age of marriage for girls was set at 14. Under the British rule, some significant advances were made in women's rights, including proprietary and inheritance rights. Indeed, similar reform movements emerged all over the world during the mid-nineteenth century. Some notable reformers who raised people's awareness

of women's political, social, and economic rights included Susan B. Anthony, a prominent US civil rights leader and an activist of women's rights movement, and Clara Jetkin, an influential German socialist politician and a crusader for women's rights. The women of New York City marched on March 8, 1908, demanding shorter working hours, better pay, voting rights, and an end to child labor.

In India, the issue of women's rights was voiced by Mahatma Gandhi and gained the support of many women activists (Tharakan and Tharakan 1975). Such a voice was reflected in a resolution adopted by the Indian National Congress in 1931, when it made commitments to defend civil rights and economic freedom. In 1940, the Indian National Planning Committee established a subcommittee to review the social, economic, and legal status of women and to find measures to create equality of status and opportunity (Forbes and Forbes 1996). In 1927, Maharani Chimanabhai Gaickward of Baroda organized the first All India Women's Educational Conference. The All India Women's Conference held in 1945 discussed various types of discrimination faced by Hindu women and the Conference prepared a Charter of Indian Women's Rights. After India achieved independence from the British in 1947, the country adopted a socialist philosophy and passed several laws intended to protect the rights of women.

On January 26, 1950, the Constitution of India was ratified. It not only granted equality to women but also encouraged states to adopt measures of positive discrimination, that is, to obliterate social and other disabilities and deprivations. Preferential treatment for women is expressed in Article 15(3). This was "a warrant for affirmative state action" going beyond formal equal protection of the laws provided under Article 14 (Roy and Tilak 1996). Although Article 15(1) prohibits discrimination against any citizen in India on the basis of religion, race, caste, sex, or place of birth, Article 15(3) states that nothing in this article shall prevent the state from making any special provisions for women and children. In other words, in a welfare state, the welfare of children and women is of prime importance. Hence, any

Table 24.1 Crimes against women, 2005–2009

S. no.	Year	Incidence of crimes against women (IPC)	Growth rate of IPC crimes against women (%)	Incidence of crimes against women (SLL)	Growth rate of SLL crimes against women (%)	Total	Growth rate of IPC and SLL crimes against women (%)
1	2005	143,523	–	12,030	–	155,553	–
2	2006	154,158	7.4	10,607	–11.8	164,765	5.9
3	2007	174,921	13.5	10,391	–2.0	185,312	12.5
4	2008	186,616	6.7	9,240	–11.1	195,856	5.7
5	2009	194,835	4.4	8,969	–3.0	203,804	4.1

(Source: National Crime Records Bureau 2011)

special provision for their protection or empowerment would not offend against the guarantee of nondiscrimination in Article 15(1) (Basu 2003). Despite these constitutional guarantees, however, women are still subjected to various forms of abuse and exploitation.

With the economic development and progress of the last three decades, large number of Indian women in urban areas have entered the workforce. And, with economic independence, one would expect equality of women in all spheres of life; however, progress has been slow. Studies have reported that abuse against working women and violence against young widows have been on the rise (Kumar 2010). In addition, women in India face unique forms of violence such as “dowry deaths.”¹

24.3 Trends in Crimes Against Women in India

In India, crimes against women are broadly categorized into two types: (1) crimes under the Indian Penal Code (IPC) and (2) crimes under

special and local laws (SLL). There are provisions in the IPC to deal with offenses such as rape (Section 376); kidnapping and abduction for specified purposes (Section 363–373); homicide for dowry, dowry deaths, or attempted dowry death (Section 302/304B); torture (both mental and physical) (Section 498a); molestation (Section 354); sexual harassment (Section 509); and importation of girls (up to 21 years of age) (Section 366b). Molestation includes assaulting a woman or using criminal force on her with the intention of outraging her modesty (Ranchhoddas and Thakore 1987).

The IPC, a major criminal code covering all substantive laws, was enacted in the year 1860 and, as a result, lacks provisions to deal with certain newer types of crimes against women. Therefore, new laws (i.e., SLL) were enacted by the government. A special law is a law that covers a particular subject matter such as dowry, whereas a local law applies to a particular state of India (i.e., the Tamil Nadu Police Act). The major SLL that deal with specific crimes against women are Immoral Traffic (Prevention) Act (1956), the Dowry Prohibition Act (1961), the Indecent Representation of Women (Prohibition) Act (1986), and the Commission of *Sati* (Prevention) Act (1987).

Table 24.1 shows the total incidence of IPC and SLL crimes against women for the years 2005–2009. It includes the growth rate of IPC and SLL crimes for the same period. It should be noted that there was a steady increase in the

¹“Dowry” is an ancient cultural practice in many Indian communities. It involves the bride’s family giving property or valuables to the bridegroom or his family in consideration of marriage. A dowry death, also known as bride burning, is a unique form of violence experienced by Indian women where young brides are either murdered or driven to suicide by torture or harassment by husbands and/or in-laws.

Table 24.2 Crimes under the IPC: Headwise incidence of crimes against women, 2005–2009, and the growth rate (by percent)

S. no.	Crime head	Year				
		2005	2006	2007	2008	2009
1	Rape	18,359	19,348 (5.4%)	20,737 (7.2%)	21,467 (3.5%)	21,397 (–0.3%)
2	Kidnapping and abduction	15,750	17,414 (10.6%)	20,416 (17.2%)	22,939 (12.4%)	25,741 (12.2%)
3	Dowry death	6,787	7,618 (12.2%)	8,093 (6.2%)	8,172 (1%)	8,383 (2.6%)
4	Torture	58,319	63,128 (8.2%)	75,930 (20.3%)	81,344 (7.1%)	89,546 (10.1%)
5	Molestation	34,175	36,617 (7.1%)	38,734 (5.7%)	40,413 (4.3%)	38,711 (–4.2%)
6	Sexual harassment	9,984	9,966 (–0.2%)	10,950 (9.9%)	12,214 (11.5%)	11,009 (–9.9%)
7	Importation of girls	149	67 (–55.0%)	61 (–9.0%)	67 (9.8%)	48 (–28.4%)

(Source: National Crime Records Bureau 2011)

Table 24.3 Crimes under the SLL: Headwise incidence of crimes against women, 2005–2009, and the growth rate (by percent)

S. no.	Crime head	Year				
		2005	2006	2007	2008	2009
1	Rape	1	0 (–100%)	0 (0%)	1 (0%)	0 (–100%)
2	Kidnapping and abduction	5,908	4,541 (–23.1%)	3,568 (–21.4)	2,659 (–25.5%)	2,474 (–7.0%)
3	Indecent representation of women (Prohibition Act 1986)	2,917	1,562 (–46.5%)	1,200 (–23.2)	1,025 (–14.6%)	845 (–17.6%)
4	Dowry Prohibition Act (1961)	3,204	4,504 (40.6%)	5,623 (24.8)	5,555 (–1.2%)	5,650 (1.7%)

(Source: National Crime Records Bureau 2011)

number of IPC crimes against women during this period. Of the 5-year crime data, 2007 showed the highest increase in IPC offenses (16.5%) compared to 2009 (4.4%). In contrast, SLL crimes against women have been decreasing.

The incidence of various types of IPC crimes against women, including their growth rates, is given in Table 24.2. The offense of rape increased between 2005 and 2008, but there was a marginal decrease in the number of rape cases in 2009. The number of dowry deaths steadily increased between 2005 and 2009.

As stated previously, there are four special laws that are gender specific. The incidence of crimes under such laws and their growth rate are given in Table 24.3. In 2005, 3,204 cases were registered

under the Dowry Prohibition Act (1961). In 2006, a significant increase (40.6%) was reported over the previous year; in 2007, there was an increase of 24.8% over that in 2006. From 2008, the increases are less noticeable (see Table 24.3).

In 2009, a total of 203,804 crimes against women were registered in all 28 states and 7 Union territories. Table 24.4 provides details relating to the states and Union territories (i.e., areas that are under direct federal/central government rule) and their contribution to the total incidence of crimes against women. Some of the states where the incidences of crime against women are significantly higher include Andhra Pradesh (12.5%), Uttar Pradesh (11.4%), and West Bengal (11.4%).

Table 24.4 Incidence crimes committed against women in states/union territories (UT), 2009, and the percentage of total crimes against women (by percent)

S. no.	States/union territories	Incidence ($n=203,804$)	Contribution (%)
1	Andhra Pradesh	25,569	12.5
2	Assam	9,721	4.8
3	Bihar	8,803	4.3
4	Delhi (UT)	4,251	2.1
5	Gujarat	8,009	3.9
6	Karnataka	7,852	3.9
7	Kerala	8,049	3.9
8	Madhya Pradesh	15,827	7.8
9	Maharashtra	15,048	7.4
10	Orissa	8,120	4.0
11	Rajasthan	17,316	8.5
12	Tamil Nadu	6,051	3.0
13	Uttar Pradesh	23,254	11.4
14	West Bengal	23,307	11.4

(Source: National Crime Records Bureau 2011); n total number of incidents

24.4 Domestic Violence: Its Nature and Scope

Women and girls are subjected to physical, sexual, and psychological abuse, irrespective of income, class, and cultural background. Such violence is one of the crucial social mechanisms by which women are forced into a subordinate position to men (United Nations [UN] 1995a). The UN General Assembly adopted the Declaration on the Elimination of Violence Against Women (DEVAW) in 1993. The DEVAW defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life (UN 1993). In light of this broad definition, violence against women in the family and in the general community, and violence perpetrated by the State, can also be included.

Violence against women in a family setting may include battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation (and other traditional practices harmful to

women), nonspousal violence, and violence related to exploitation (UN 1995a). Though there are various definitions for domestic violence, there is a need for a broad yet focused definition, because the definition shapes the response. For instance, the type of response from the community (e.g., providing support services or need for the legal reform) is shaped by the community's understanding of what constitutes domestic violence and whether it is to be conceptualized as an intrafamily conflict or a criminal violation of rights. The definition of domestic violence by law is critical because it defines standards and thus influences the broader social perception of the problem. Thus, the elements that need to be considered include the boundaries of the relationship between the perpetrator and the victim, the norms of acceptable behavior, and the specific acts that constitute violence (International Center for Research on Women 1999).

According to a report by the National Family Health Survey ([NFHS-2] 2000, cited in Sunny 2003), inequality and violence occur throughout India. The report further states that 68% of the women in the survey reported that they needed permission from their husbands or in-laws to go to the market, and 76% had to seek the consent of their husbands before they could visit friends or

relatives. It is also revealed that only 60% of the women could use money as they wished and one out of every five women had experienced domestic violence from the age of 15 onward. The perpetrators of domestic violence, by and large, are men, particularly marital partners. One of the root causes for the aggressive behavior of marital partners against women was the influence of drugs or alcohol.

As far as the reporting behavior of the victims of domestic violence is concerned, at one time many victims would not file complaints because they feared that such complaints might create a hostile environment at their homes. As a result, they often suffered violence in silence (Sunny 2003). Public awareness of domestic violence and women's fight for equality and social justice prompted the international community to recognize violence against women as an important social issue. India recognized the problem and took measures to address them through the revision of old laws and the drafting of new ones to criminalize offenders and provide protection to women. For example, the IPC, which was originally passed in 1860, was amended in 1983 and again in 1986; the Dowry Prohibition Act was amended in 1984 and 1986. The amendments to the IPC included definitions of specific offenses such as marital violence and abuse. Under Section 498a of the IPC, domestic violence is a cognizable (i.e., felony) offense and police officers may arrest the perpetrator without a warrant. For example, if the victim complains to the police that she was treated cruelly by her husband or relatives, the police must take action. The term "cruelty" not only covers serious injury, bodily harm, or danger to life, limb, or physical health but also danger to mental health, harassment, and emotional torture through verbal abuse. The term "harassment" covers acts such as coercing the wife or her relatives, or demanding a dowry in the form of property or valuables by the husband or his family (Ranchhoddas and Thakore 1987).

More important, Section 304b, which was added to the IPC, defines the circumstances under which a death is considered "dowry death." It states that if the death of a woman is caused by burns, bodily injury, or other unusual circum-

stances within 7 years of the marriage, and it is shown that the victim was subjected to cruelty or harassment by her husband or his family, it is considered a dowry death. In such cases, the husband and/or his family would be deemed responsible for her death. The punishment for such a crime is imprisonment for 7 years or "life" (generally 20 years). The inclusion of dowry death in the IPC necessitated changes in the evidentiary standards for dowry death cases. Thus, a section (113b) was added to the Indian Evidence Act (1872), which shifted the burden of proof from the prosecution to the accused in dowry death cases.

Under the Dowry Prohibition Act, there are three main forms of offenses: giving or taking a dowry (Section 3[1], demanding a dowry [Section 4]), and receiving dowry for the benefit of the wife or her heirs (Section 6[1]). Section 3(1) states that anyone who takes or aids in the giving or taking of dowry shall be punished with imprisonment for a term of not less than 5 years and fine of not less than 15,000 rupees or the value of the dowry, whichever is greater. Section 4 stipulates a punishment for anyone demanding a dowry from the parents or relatives of the bride or bridegroom of at least 6 months of imprisonment, which may be extended to 2 years with a fine of 10,000 rupees. Finally, Section 6 states that if a dowry is received by anyone other than the bride, it should be transferred to the bride within a specified period of time. Despite these legislative changes, however, women in India were not accorded the protections enumerated in various international accords such as the DEVAW, the Vienna Accord of 1994 (Office of the United Nations High Commissioner of Human Rights 1996), or the Beijing Declaration (1995) (UN 1995a).

The DEVAW defines the concept of violence against women comprehensively. According to the Declaration, violence against women is "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (UN 1993, Article 1). Article 3 of the

Declaration specifies that women are entitled to the following rights:

1. The right to life
2. The right to equality
3. The right to liberty and security of person
4. The right to equal protection under the law
5. The right to be free from all forms of discrimination
6. The right to the highest standard attainable of physical and mental health
7. The right to just and favorable conditions of work
8. The right not to be subjected to torture, or other cruel, inhuman, or degrading treatment or punishment (UN 1993)

Moreover, the Declaration encouraged states to condemn and abolish all forms of violence against women.

The Vienna Accord also recognized the human rights of women and female children as inalienable, integral, and indivisible parts of human rights. It insisted on full and equal participation of women in political, civil, economic, social, and cultural spheres at regional, national, and international levels. It reiterated that any gender-based discrimination due to cultural prejudice or otherwise must be eliminated (Office of the UN High Commissioner on Human Rights 1996).

The Beijing Declaration was intended to advance women's equality and development. Specifically, it was intended to accomplish the goals enumerated in the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, DEVAW, and the Declaration on the Right to Development (UN 1995b). It recognizes the human rights of women and of female children as inalienable rights. Moreover, it states that the empowerment of women can be achieved only if women are given full participation in all spheres of society, including access to power, involvement in decision-making process, and live their lives in accordance with their own aspirations (UN 1995b).

As a result of the recognition of violence against women in the private domain and that domestic violence is an unacceptable violation

of human rights, ensuring that women are treated equally in all spheres of life has taken on international importance. But in the Indian context, even after the adoption of the aforementioned UN Declaration, the issue has not received the attention it deserved. This was perhaps due to deep-rooted cultural norms and patriarchal values that view domestic violence as private family matter that should be settled within the home, without any need for "unnecessary" external intervention (Lawyers Collective Women's Rights Initiative 2009). Even in India, however, domestic violence has gradually been recognized as a serious human rights issue. But there was neither a comprehensive law nor a clear legal definition of domestic violence until 2005. Of course, violence against women in the family setting/within marriages is acknowledged and remedies are available in the form of civil laws (e.g., those dealing with divorce). In addition, Section 498a of the IPC deals with cruelty by husbands and relatives. Even so, these limited legal remedies are available only to married women. For victims of violence in other domestic relationship, such as mothers, daughters, and women in live-in relationships, Section 498a of the IPC does not provide any remedy. It should also be noted that marriages in India are solemnized under personal/customary laws. And not all marriages are registered because registering marriage is not compulsory. It was against this background that the Protection of Women from Domestic Violence Act (PWDVA) came into force on October 26, 2006.

24.5 Salient Features of the Protection of Women from Domestic Violence Act

The PWDVA (2005) intended to protect the rights of women as guaranteed in the Constitution of India. Hence, the PWDVA recognizes domestic violence as a human rights issue. The PWDVA is primarily a civil law but some elements of criminal law were incorporated into it. In other words, the appropriate remedy under the PWDVA is often civil in nature but when there is a violation

of civil order by the perpetrator, the appropriate remedy could be punishment.

Concerning the definition of domestic violence in the PWDVA, it should be noted that it is the most comprehensive definition of domestic violence under Indian law, and it includes all forms of abuse and violence committed against women in a family setting. To facilitate access to justice, the PWDVA has provisions for new authorities, including a protection officer (PO) as the key implementing officer. In each district, the respective state government may appoint POs as it may consider necessary. The state government shall also notify the area(s) within which a PO shall exercise the powers and perform the duties conferred on him or her by or under this Act (Section 8[1]). The Act also provides that, to the extent possible, POs shall be women. Some of the duties and functions of the POs include the following:

- (a) Assisting the magistrate in the discharge of his or her functions
- (b) Reporting to the magistrate about a domestic violence incident upon receipt of a complaint from the victim
- (c) Forwarding a copy of the complaint to the police officer in charge of the police station in the jurisdiction within which the incident is alleged to have been committed
- (d) Applying to the magistrate for the issuance of an order of protection, if the aggrieved person so desires
- (e) Ensuring that the aggrieved person is provided legal aid under the Legal Services Authorities Act (1987)
- (f) Maintaining a list of all service providers
- (g) Inform service providers that their services may be required in the proceedings
- (h) Making a safe shelter home available to the aggrieved person
- (i) Making sure that the aggrieved person is examined by medical personnel if she has sustained bodily injuries
- (j) Submitting a copy of the medical report to the respective police station and the magistrate
- (k) Ensuring that an order for monetary relief is complied with and executed in accordance with procedures prescribed under the Code of Criminal Procedure (1973)

The PWDVA grants the victim of domestic violence a number of reliefs: an order of protection (Section 18); a residence order (Section 19); a custody order (Section 21); a compensation order (Section 22); and interim and ex parte orders (Section 23).

Under the PWDVA, the victim/aggrieved person has the right to reside in a shared household but this right does not confer a right of ownership over the property. The right to reside is considered a procedural safeguard against dispossession of the aggrieved person. In India, the male member of a marriage is traditionally given possession of the premises. Thus, it is relatively easy for a man to dispossess a dependent wife, daughter, mother, or other female members of the household (Lawyers Collective Women's Rights Initiative 2009). In order to avoid being homeless, many women stay in a hostile home.

Although legal provisions for providing compensation to victims are available under the Code of Criminal Procedure and the Probation of Offenders Act (1958), they are limited. For example, the Code of Criminal Procedure recognizes the principle of victim compensation, and Section 250 authorizes magistrates to direct complainants or informants to pay compensation to people accused by them without a reasonable cause. Section 358 empowers the court to order a person to pay compensation to another for causing a police officer to arrest such other person wrongfully. Also, in a criminal proceeding, Section 357 allows the court to impose a sentence to grant compensation to the victim as well as order the defendant to pay the costs of the prosecution. However, this is at the discretion of the sentencing court and is to be paid out of a fine recovered from the perpetrator (Srinivasan and Mathew 2007).

In addition to the restitution provision in the Code of Criminal Procedure, Section 5 of the Probation of Offenders Act empowers courts to require released offenders to pay restitution. However, given the low rates of conviction in criminal cases (fewer than 25% of defendants in domestic violence cases are convicted), the inordinate delays in completing the proceedings, and the relatively low capacity of the average accused person to pay compensation, it is unrealistic to

say that there is a functioning victim compensation scheme (Menon 2004). Unlike prior laws, the provisions under the PWDVA for allowing monetary relief and compensation (Sections 20 and 22) are meant to provide specific financial remedies to the victims of domestic violence.

Although the PWDVA was hailed as the most important legislation yet passed for providing protection for women against physical, mental, and economic abuse/violence, the Act was criticized as being gender biased because it only protects women and some women could use this Act to teach their male relatives a lesson. Such trends were noticed in the case of anti-dowry law (Section 498a). In addition, the definition of domestic violence includes minor verbal insults and name-calling as abuse. Some critics of the Act felt that frivolous acts of “domestic violence” could increase litigation and hurt the foundation of marriages (“Amend dowry law ...,” 2010).

Others contend that the PWDVA has not gained the desired level of social acceptance and that one of the main barriers was delays in case processing. At the time of writing this article, the effectiveness of the Act is questionable because although India has always been exceptional in drafting legislation in accordance with international standards, it has failed in the past to enforce them effectively. In addition, the recent Supreme Court decision regarding the right of the women to a shared residence has, to some extent, limited that right. In *S. R. Batra v. Taruna Batra* (2007), the Court held that a “shared household” meant a house owned or rented by the husband, or a house that is part of a joint family dwelling in which the husband has a share. In other words, if the house where the victim is staying is the sole property of her in-laws, she has no right to the shared residence. This is a step backward in terms of protecting women from being thrown out of the joint family.

24.6 Conclusion

In spite of the glitches, the PWDVA is a significant legislation that offers various legal remedies including monetary relief and compensation,

temporary custody of children until a case is resolved in a civil court, counseling and medical assistance, and protection orders. In addition, the Act is intended to provide easy access to justice and speedy access to relief. According to Lawyers Collective Women’s Rights Initiative (2010), the Act offers a single window of access to judicial system and service providers for women facing domestic violence. Prior to the Act, women had to seek different types of relief from different courts, which was not only time consuming but also dangerous. The Act requires key criminal justice personnel (e.g., police, POs, and magistrates) to inform a woman of her rights at the time of the filing of the complaint. The periodic monitoring and evaluations, such as those conducted by the Lawyers Collective Women’s Rights Initiative, will identify loopholes in the law as well as problems with its enforcement. As of 2010, the organization has completed four monitoring and evaluation reports. The most recent evaluation (in 2010) found that married women, divorced women, women in live-in relationships, and mothers (in cases filed against their sons) are filing cases under the PWDVA. Some states have even established special cells within their police headquarters to exclusively handle the cases that fall under the Act.

Despite this progress, the formal justice system is burdened with a backlog of cases and domestic violence tends to take a backseat. As a result, a new form of informal courts, known as “Mahila Court” or *nari adalat* (women’s courts), have emerged in many parts of India, particularly in western and northern states. The *nari adalats* are the results of grassroots efforts by women’s groups (i.e., women’s collectives) to deal with violence against women and empower women (Sharma 2000). These courts operate at the block and village levels and the members are trained in legal issues, discrimination of women, and women’s rights. As of 2010, there were 184 *nari adalats* in 9 states, and they had presided over 6,000 cases (Purushothaman 2011). These courts have been especially useful for women from rural areas and those who come from marginalized communities. Typically, a group of five women sit in a circle in front of a local government office

to decide cases such as divorce, disputes between women and their in-laws, complaints about husbands' infidelity, domestic violence, rape, and dowry harassment. In addition to serving as a mediating body in which the parties must agree to abide by the *nari adalat*'s decision, the *nari adalat* also ensures that the decision is implemented (Purushothaman 2011). In the future, a combination of formal legal protection, enforcement agencies, and informal courts should serve to protect the rights of women in India. It remains to be seen if the combination of these systems will be able to assist victims of domestic violence and provide the necessary protection to victims of domestic violence.

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