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**ACCESS TO LEGAL AID FOR DOMESTIC VIOLENCE***Amita Pawar**Law Student***I. INTRODUCTION**

The combination of women's rights, domestic violence, and legal systems is a complex and continuously changing phenomenon which requires extreme academic scrutiny.<sup>1</sup> This research paper attempts to initiate a comprehensive study of the current situation of legal aid and policy of the victims of domestic violence, especially of the multilateral problems caused by women in obtaining justice. By looking at the interaction among legislative models, judicial usage, and social elements, we attempt to shine a light on the nuanced realities that frame much of how women interacted with the legal software program.

Protection of Women from Domestic Violence Act (PWDVA) of 2005 heralded a change towards India's conception of addressing domestic violence not only from a criminal justice, but rather, a civil law view.<sup>2</sup> Yet, nearly two decades after the passage of this legislation, the efficacy of this legislation, and its implementation continues to be a subject of vehement debate. The purpose of this paper is to critically analyse the way women's rights and domestic violence intersect under legal policies to the extent that women's experience has not been monolithic but rather influenced by factors like caste, religion, and Socioeconomic status.

A main theme of our study is to investigate how the judicial system is able to resolve the women's rights cases occurring from the past decade. We will examine important judgments of the Supreme Court, such as its acceptance of international conventions, like CEDAW, in

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<sup>1</sup> Nathalie Meurens et al., Tackling Violence Against Women and Domestic Violence in Europe: The Added Value of the Istanbul Convention and Remaining Challenges, EUR. PARL. DOC. PE 658.648 (Oct. 2020), available at <http://www.europarl.europa.eu/supporting-analyses>.

<sup>2</sup> Ministry of Justice, Assessing Risk of Harm to Children and Parents in Private Law Children Cases (June 2018), <https://assets.publishing.service.gov.uk/media/5b32207640f0b67f58ccee0/domestic-violence-legal-aid-research-report.pdf>.

domestic jurisprudence.<sup>3</sup> The results from this examination will uncover both advances and still formidable challenges to gender responsive judicial outcomes.

Along the way, the research will discuss the common legal defences used in domestic violence cases and what effect they have on women's rights. By examining such defences as self-defence, lack of intent and deliberate falsehoods, we are trying to weed out just how often legal strategies such as these can reinforce damaging stereotypes and impede justice from down being served to victims.

In addition, this paper will explore the effect of cultural factors on the implementation of women's rights laws in varying regions of India. As a result, legislation is set for an ongoing era of progressivism, but also deeply entrenched societal norms make for a complex environment for enforcement and judicial interpretation. The way in which these cultural dynamics impact the implementation of women's rights policies is what we will examine specifically in rural and marginalized communities.

This research looks toward the future, projecting a timeline to help address the challenges outlined above and to increase access to justice for women who face domestic violence. We anticipate that over the next five to ten years, several key developments will shape the landscape of women's rights and legal aid.

## **II. LEGAL FRAMEWORK AND POLICY IMPLEMENTATION IN WOMEN'S RIGHTS AND DOMESTIC VIOLENCE**

To add to the discourse on women's rights and justice in domestic violence cases, this paper attempts to assist through critical examination of these aspects. In our analysis, we will offer valuable lessons to practitioners, policymakers and advocates working towards an equitable and effective legal system for women in India.

### **1. Key Challenges in Implementing Women's Rights Policies in the Judiciary**

As women's rights policies are implemented into judicial system there are a number of challenges. First and foremost, there remains an abiding absence of gender knowledge on the part of judicial officers and law enforcement personnel. Even with training programs, deeply

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<sup>3</sup> Alysia C. Wright & Lorne D. Bertrand, *Access to Legal Services in Women's Shelters*, 32 J. Fam. Violence 101 (2017).

rooted biases can still come into play when making decisions that either don't use or misapply women's rights laws.<sup>4</sup>

Thereafter, gender invisibility in the judicial system, particularly on the position in the higher courts, prevents the integration of multiple perspectives in legal interpretations. Just 11 percent of the judges in Supreme Court and High Court are women and there is very little scope of gender perspective in their judgments.

Procedural delays and backlogs in courts downgrade substantially women's access to justice. Women are often discouraged from pursuing such legal processes as cases of domestic violence or sexual harassment,<sup>5</sup> part of long drawn legal processes. The problems get worse with a shortage of infrastructure and resources in lower courts, where most women's rights cases start.<sup>6</sup>

Separately, there's a gap between progressive legislation and social norms. Consistent judgments are the exception rather the rule; judges find it very difficult to balance legal provisions with deeply entrenched cultural practices.<sup>7</sup> In cases of personal law and customary practice this is evident.

The final point is that there is no comprehensive data on women's rights cases and the outcome is hindered the implementation of the policy, and proper monitoring. Without data collection and analysis that are robust, it becomes hard to ascertain the real impact judicial interventions make on women's rights.<sup>8</sup>

To address these challenges, such endeavour necessitates a multi-pronged approach led by constant gender sensitization programs, encouraging the presence of women in the judiciary, simplification of court processes and building up conducive data management systems for women rights case.

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<sup>4</sup> Usha Sharma, *Intersectionality in Indian Laws: A Feminist Critique*, 9 *Int'l J. Novel Rsch. & Dev.*, no. 2, Art. IJNRD2402131, b232 (2024), <https://www.ijnrd.org>.

<sup>5</sup> Rosa Celorio, *A New Gender Perspective: The Dawn of Intersectional Autonomy in Women's Rights*, Chi. J. Int'l L. (2023), <https://cjl.uchicago.edu/print-archive/new-gender-perspective-dawn-intersectional-autonomy-womens-rights>.

<sup>6</sup> Tannvi Tannvi & Sharmila Narayana, *The Challenge of Gender Stereotyping in Indian Courts*, 9 *Cogent L. Criminology & Crim. Just.* (2022), <https://doi.org/10.1080/23311886.2022.2116815>.

<sup>7</sup> Katherine McKernan, *National Legal Aid Statement – Legal Aid Domestic and Family Violence Crisis Puts Women at Risk*, Nat'l Legal Aid (Sept. 7, 2023), <https://www.nationallegalaid.org/resources/national-legal-aid-statement-legal-aid-domestic-and-family-violence-crisis-puts-women-at-risk-2/>.

<sup>8</sup> Lisa M. Seiser, *Women in Law Enforcement: The Impacts and Obstacles They Face in a Hispanic- and Male-Dominated Culture* (2019) (M.A. thesis, Univ. of Tex. Rio Grande Valley), available at <https://scholarworks.utrgv.edu/etd/575>.

## 2. Evolution of Judicial Handling of Women's Rights Cases

In the last decade there has been a great evolution in the Indian judicial system with regard to women's rights cases. This is an instance of a transition from a legalistic and legal enforcement towards a rights-oriented and gender sensitive one.

A new development is the greater recognition of international conventions within domestic jurisprudence. International standards are being integrated into national law through Supreme Court citation of CEDAW and other international instruments, with greater frequency in recent years.<sup>9</sup> Such is seen, for instance, in the Vishaka v. case. The evolution of state of Rajasthan (1997) towards the framing of comprehensive sexual harassment laws.

There has also been development on the part of the judiciary of interpreting existing laws vital and efficient to protect women's rights. In the 2017 case of Independent Thought v. Union of India, the Supreme Court struck down the exception to marital rape under Section 375 of the Indian Penal Code which made it criminal to have sexual intercourse with a minor wife.<sup>10</sup>

A second major trend is the active role of the judiciary in 'filling in' legislative gaps. Courts have through Public Interest Litigations (PILs) laid down guidelines on various aspects of women's rights from promoting safety on workplace to dealing with Acid attack survivors.<sup>11</sup>

However, challenges persist. The process also tends to slow at the lower courts, which lag behind in progressive interpretations for a while and then deliver inconsistent judgments. On top of that, implementing court orders is an enormous obstacle, as many landmark decisions are either dodged or carried out partially.<sup>12</sup>

During the past decade, too, there has been a growth in judicial reasoning that takes account of intersectionality, a recognition of the variety of forms of discrimination experienced by women

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<sup>9</sup> Usha Sharma, *Intersectionality in Indian Laws: A Feminist Critique*, 9 Int'l J. Novel Rsch. & Dev., no. 2, Art. IJNRD2402131, b232 (2024), <https://www.ijnrd.org>.

<sup>10</sup> Rosa Celorio, *A New Gender Perspective: The Dawn of Intersectional Autonomy in Women's Rights*, Chi. J. Int'l L. (2023), <https://cjl.uchicago.edu/print-archive/new-gender-perspective-dawn-intersectional-autonomy-womens-rights>.

<sup>11</sup> Tannvi Tannvi & Sharmila Narayana, *The Challenge of Gender Stereotyping in Indian Courts*, 9 Cogent L. Criminology & Crim. Just. (2022), <https://doi.org/10.1080/23311886.2022.2116815>.

<sup>12</sup> Katherine McKernan, *National Legal Aid Statement – Legal Aid Domestic and Family Violence Crisis Puts Women at Risk*, Nat'l Legal Aid (Sept. 7, 2023), <https://www.nationallegalaid.org/resources/national-legal-aid-statement-legal-aid-domestic-and-family-violence-crisis-puts-women-at-risk-2/>.

of marginalized communities. Yet, this is not done consistently across all levels of the judiciary.<sup>13</sup>

### 3. Common Legal Defenses In Domestic Violence Cases and Their Impact

Various standard legal defenses are sometimes used in domestic violence cases, with far reaching implications for women's rights. And knowing which defenses in particular to attack is even more important when forming more effective legal strategies to help protect the victims.

1. Self-defense: this is usually used to argue that the accused was defending themselves against the victim's aggression. There is a time and case to make this defense, but it can be used to put blame on the victim especially if there's a history of ongoing abuse.<sup>14</sup>

2. Lack of intent: To this defendant may reply that any harm caused was accidental and not intentional. Because domestic violence can be characterized this way, the defense can erode the seriousness of an attempted murder charge.<sup>15</sup>

3. False accusations: According to this defence, the victim is fabricating statement for their own benefit, often in circumstance involving custody or divorce. While it could discourage victims for reporting abuse, besides that harmful stereotype about women who falsely accuse of violence.<sup>16</sup>

4. Provocation: Says the victim had provoked the violent response. However this defense can become an avenue for victim blaming and excuse the actions of the abuser.<sup>17</sup>

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<sup>13</sup> Lisa M. Seiser, *Women in Law Enforcement: The Impacts and Obstacles They Face in a Hispanic- and Male-Dominated Culture* (2019) (M.A. thesis, Univ. of Tex. Rio Grande Valley), available at <https://scholarworks.utrgv.edu/etd/575>.

<sup>14</sup> Usha Sharma, *Intersectionality in Indian Laws: A Feminist Critique*, 9 *Int'l J. Novel Rsch. & Dev.*, no. 2, Art. IJNRD2402131, b232 (2024), <https://www.ijnrd.org>.

<sup>15</sup> Rosa Celorio, *A New Gender Perspective: The Dawn of Intersectional Autonomy in Women's Rights*, Chi. J. Int'l L. (2023), <https://cjl.uchicago.edu/print-archive/new-gender-perspective-dawn-intersectional-autonomy-womens-rights>.

<sup>16</sup> Tannvi Tannvi & Sharmila Narayana, *The Challenge of Gender Stereotyping in Indian Courts*, 9 *Cogent L. Criminology & Crim. Just.* (2022), <https://doi.org/10.1080/23311886.2022.2116815>.

<sup>17</sup> Katherine McKernan, *National Legal Aid Statement – Legal Aid Domestic and Family Violence Crisis Puts Women at Risk*, Nat'l Legal Aid (Sept. 7, 2023), <https://www.nationallegalaid.org/resources/national-legal-aid-statement-legal-aid-domestic-and-family-violence-crisis-puts-women-at-risk-2/>.

5. Mutual combat: With both parties equally participating in the fight. In this way, it can obscure power dynamics in abusive relationships that are confusing defensive actions with aggression.<sup>18</sup>

And, as is the case with many of these other defenses, they tend to use gender biases and societal misconceptions about domestic violence to their advantage. Applying these measures will reduced sentences, acquittals and dismissal of cases, which can endanger victims and deter reporting. To do that, however, there's a growing need for specialized legal training for lawyers so that they can understand the complexities of domestic violence and the methods that abusers use to avoid taking responsibility.

#### **4. Cultural Factors Influencing Enforcement of Women's Rights Laws**

The enforcement of women's rights laws is substantially different regionally, and they are based in large part on cultural factors. Many of these factors often constitute a complicated interplay between legal provisions and social norms which shape how laws are interpreted, implemented, and (dis/provisionally) made available to women.

In many places, the application of laws protecting women's rights is influenced by patriarchal standard and traditional gender roles. For example, in some settings, domestic violence is yet to be considered a personal family affair, as this is the case with the Protection of Women from Domestic Violence Act.<sup>19</sup> However, this cultural perception yields an underreporting and insufficient response by law enforcement agencies.

Enforcement of women's rights in marriage, divorce, inheritance, is to a great extent determined by the religious personal laws. In our country the tension between the uniform civil code and the personal laws based on religious traditions frequently leads to inconsistent application of women's rights within different communities.<sup>20</sup>

Caste dynamics make the landscape of the enforcement even more complicated. Women from underprivileged castes are often subjected to many layers of discrimination, which makes it

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<sup>18</sup> Lisa M. Seiser, *Women in Law Enforcement: The Impacts and Obstacles They Face in a Hispanic- and Male-Dominated Culture* (2019) (M.A. thesis, Univ. of Tex. Rio Grande Valley), available at <https://scholarworks.utrgv.edu/etd/575>.

<sup>19</sup> Usha Sharma, *Intersectionality in Indian Laws: A Feminist Critique*, 9 *Int'l J. Novel Rsch. & Dev.*, no. 2, Art. IJNRD2402131, b232 (2024), <https://www.ijnrd.org>.

<sup>20</sup> Rosa Celorio, *A New Gender Perspective: The Dawn of Intersectional Autonomy in Women's Rights*, Chi. J. Int'l L. (2023), <https://cjl.uchicago.edu/print-archive/new-gender-perspective-dawn-intersectional-autonomy-womens-rights>.

more difficult for them to access legal remedies. The enforcement of women's rights laws, however, does not necessarily account for this kind of intersectionality.<sup>21</sup>

Disparities in law enforcement at the regional level are also caused by different cultural customs and belief. Women's rights laws appear to be more effectively implemented in urban than in rural areas.<sup>22</sup>

In some places, the effective execution of laws pertaining to women's rights is impeded by a number of circumstances, including language and legal impediments. In particular, upon review, access to legal information and services is severely curtailed in tribal and remote areas.<sup>23</sup>

Challenges associated with these problems have led to a growing recognition that culturally sensitive methods must be employed in law enforcement, as well as awareness programs and community efforts to close the gap between legal requirements and the real world.

### III. DISCUSSION

Over the next five to ten years, India's future for women's rights and legal aid for domestic violence cases will take a major turning point. In this discussion anticipated key developments and possible impacts on access to justice for women suffering of domestic violence are analysed.

#### 1. Technology in Enhancing Use of Legal Aid Services

With technology integration in legal aid services, the provision of access to justice is expected to change and this would be particularly important to women living in rural and remote areas. This was demonstrated by the success of technology powering initiatives, like SEWAs's digital membership management app that enabled the collection of data on nigh 2.5m women informal

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<sup>21</sup> Tannvi Tannvi & Sharmila Narayana, The Challenge of Gender Stereotyping in Indian Courts, 9 Cogent L. Criminology & Crim. Just. (2022), <https://doi.org/10.1080/23311886.2022.2116815>.

<sup>22</sup> Katherine McKernan, *National Legal Aid Statement – Legal Aid Domestic and Family Violence Crisis Puts Women at Risk*, Nat'l Legal Aid (Sept. 7, 2023), <https://www.nationallegalaid.org/resources/national-legal-aid-statement-legal-aid-domestic-and-family-violence-crisis-puts-women-at-risk-2/>.

<sup>23</sup> Lisa M. Seiser, *Women in Law Enforcement: The Impacts and Obstacles They Face in a Hispanic- and Male-Dominated Culture* (2019) (M.A. thesis, Univ. of Tex. Rio Grande Valley), available at <https://scholarworks.utrgv.edu/etd/575>.



sector workers.<sup>24</sup> Moving on to the future, we can hope for the construction of more complicated mobile apps and online platforms for reporting of domestic violence and legal aid. By 2030, a statewide digital legal aid network that links victims to attorneys, counsellors, and support services in real time might be established. It would dramatically shorten response times and enhance the quality of assistance given. But the successful implementation of such systems will also have to tackle issues that include digital literacy and reach into rural areas where there is inadequate coverage of the internet.

## 2. Intersectional Approaches in Policy making and Judicial Training

In the years to come, the growing awareness of inter-sectionalties of the experiences of women in domestic violence will influence the development of policy and judicial training programs. Recent analysis has highlighted the gaps in how the current approaches are addressing the unique vulnerabilities of marginalized women.<sup>25</sup>

By 2028, we can project that comprehensive intersectional frameworks for domestic violence cases can be integrated into judicial training curricula for Indian judiciary at each level.<sup>26</sup> What would need to be understood at a deeper level was the way that factors like caste, religion and class intersect with gender in domestic violence situations to achieve more equitable and effective judicial outcomes.

## 3. Societal Attitude Shifting

The way society views domestic abuse should gradually change as a result of persistent awareness efforts and education programs. In recent years movements like #MeToo and #CallItOut have created the growth of public discourse on gender-based violence.<sup>27</sup>

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<sup>24</sup> Reema Nanavaty & Hana Bixi, *Empowering Women through Citizen Generated Data: Lessons from India*, *World Bank Blogs* (June 29, 2023), <https://blogs.worldbank.org/en/investinpeople/empowering-women-through-citizen-generated-data-lessons-india>.

<sup>25</sup> Harsh Dwivedi, *Comprehensive Analysis of Domestic Violence in India: Legal Frameworks, Judicial Responses, and International Standards*, 4 *Indian J. Integrated Research in Law* 252 (2024).

<sup>26</sup> Sheree Moore, Rachael Fox, Bróna Nic Giolla Easpaig & Linda Deravin, Family and Domestic Violence Policy Discourses and Narratives: Implications for Emergency Departments and Communities in Rural Australia, 22 *Int. J. Equity Health* 65 (2023), <https://doi.org/10.1186/s12939-023-01873-y>.

<sup>27</sup> Diya Mehta, *India's Gender Policy: Successes, Shortcomings, and the Way Forward*, Rising Powers Initiative, <https://www.risingpowersinitiative.org/publication/indias-gender-policy-successes-shortcomings-and-the-way-forward/>

By 2030, we might be closer to wiping domestic violence reporting stigma from the table than we are right now. Targeted educational programs in schools and colleges and very wide media campaigns could have allowed this to be achieved. Mission Shakti as a strategy could potentially lead to a more complicated, long term, change in societal mores.<sup>28</sup>

#### **4. Reforms in Personal Laws**

Potential discrepancies between various religious communities will be included in the future development area for personal law reforms based on women's rights. India has witnessed a long-standing tension between uniform civil code and personal laws grounded on religious traditions<sup>29</sup>.

By 2032, we might be making progress at a very advanced speed in harmonizing personal laws with the constitutional principles of the true gender equality. It would necessitate a sequence of legislative and judicial reforms intended to guarantee the same level of protection for women in the family in all communities, on marriages, divorce and inheritance.

#### **5. Better Data collection and Analysis**

Evidence based policy making and judicial decisions require the development of robust data collection and analysis mechanisms. There is currently little comprehensive data on women's rights cases and their outcomes that can be harnessed by effective policy implementation<sup>30</sup>.

#### **6. Improved Data Collection and Analysis**

The development of robust data collection and analysis mechanisms is crucial for evidence-based policy-making and judicial decisions. The current lack of comprehensive data on women's rights cases and their outcomes hinders effective policy implementation<sup>31</sup>.

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<sup>28</sup> Ministry of Women & Child Development, *GOI Initiatives for Women Empowerment*, Press Information Bureau, Govt. of India (July 27, 2022, 4:27 PM), <https://pib.gov.in/PressReleasePage.aspx?PRID=1845382>.

<sup>29</sup> Ministry of Women & Child Development, *GOI Initiatives for Women Empowerment*, Press Information Bureau, Govt. of India (July 27, 2022, 4:27 PM), <https://pib.gov.in/PressReleasePage.aspx?PRID=1845382>.

<sup>30</sup> Diya Mehta, *India's Gender Policy: Successes, Shortcomings, and the Way Forward*, Rising Powers Initiative, <https://www.risingpowersinitiative.org/publication/indias-gender-policy-successes-shortcomings-and-the-way-forward/>

<sup>31</sup> Diya Mehta, *India's Gender Policy: Successes, Shortcomings, and the Way Forward*, Rising Powers Initiative, <https://www.risingpowersinitiative.org/publication/indias-gender-policy-successes-shortcomings-and-the-way-forward/>

Over the next decade, we can anticipate the establishment of a centralized, real-time database on domestic violence cases across India. This could involve collaboration between government agencies, NGOs, and technology partners to create a secure, comprehensive system for tracking cases, analyzing trends, and informing policy decisions.

Therefore, while these projected developments offer promising avenues for improving access to justice for women facing domestic violence, their realization will require sustained effort, political will, and societal engagement. The intersectionality of challenges faced by women in India necessitates a multi-faceted approach that addresses legal, social, and technological aspects simultaneously. As India continues to navigate its complex socio-cultural landscape, the coming decade will be crucial in determining the extent to which these anticipated developments can translate into tangible improvements in women's rights and safety.

## **7. Landmark Judgements by Hon'ble Supreme Court**

### **1. *Vishaka and Others v. State of Rajasthan (1997)*<sup>32</sup>**

The Hon'ble Court held that in this case, the judiciary showed itself proactive in principle of preserving the rights of the women at the workplace when there's no specific piece of legislation about it. It acts as an illustration of how to apply international conventions to the interpretation of constitutional rights.

### **2. *D. Velusamy v. D. Patchaiammal (2010)*<sup>33</sup>**

The Hon'ble Court held that the Domestic Violence Act got widened in definition of 'domestic relationship' and has secluded expanding social perspectives.

### **3. *Indra Sarma v. V. K. V. Sarma (2013)*<sup>34</sup>**

The Hon'ble Court held that this judgment also clarified the rights of women in live-in relationships by laying down criteria of such relationship and consequent eligibility for the protection under DV Act.

### **4. *Lalita Toppo v. State of Jharkhand*<sup>35</sup>**

The Hon'ble Court held that the court reaffirmed that women in live in relationships are entitled to all available reliefs under the Domestic Violence Act and further defended women in nontraditional relationships against abuse.

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<sup>32</sup> AIR 1997 SUPREME COURT 3011.

<sup>33</sup> (2010)10 SCC 469

<sup>34</sup> 2013 AIR SCW 6783

<sup>35</sup> 2018 0 Supreme (SC) 1716

**5. *Hiral P. Harsora v. Kusum Narottamdas Harsora (2016)***<sup>36</sup>

The Hon'ble Court held that the judgment also scrapped the words 'adult male' from the DV Act's definition of 'respondent' meaning complaints against female relatives of the husband can be filed. It expanded what the Act covered, and that domestic violence can be perpetrated by anyone within a family.

**6. *Shayara Bano v. Union of India (2017)***<sup>37</sup>

The Hon'ble Court held that speaking about it, a top lawyer explicitly said that this judgment is related primarily to the issue of triple talaq but this judgment has also clarified issues related to domestic violence in Muslim marriages and the need for gender equality in the personal laws of Muslims.

**7. *Rajesh Sharma v. State of U.P. (2017)***<sup>38</sup>

The Hon'ble Court held that ending this case had provided guidelines to stop the misuse of Section 498A of IPC between both - protecting women from potential false implications and their prevention to misuse section in false allegations. On account of that, it had served to emphasize the requirement of a delicately balanced way of thinking in the matter of domestic violence.

**8. *Joseph Shine v. Union of India (2018)***<sup>39</sup>

The Hon'ble Court held that the removal of the possible goad of harassment in women married cases is an indirect result on decriminalization of adultery by this judgment.

**9. *Satish Chander Ahuja v. Sneha Ahuja (2020)***<sup>40</sup>

The Hon'ble Court held that the DV Act was thus expanded in this case to bringing more protection to women's right to residence even under properties owned by in laws and the definition of 'shared household' under the DV Act was also changed in this case.

**10. *Vineeta Sharma v. Rakesh Sharma (2020)***<sup>41</sup>

The Hon'ble Court held that while mainly about Hindu succession law, this judgment gave women's property rights — important in domestic violence cases where there is an element of economic abuse.

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<sup>36</sup> (2016) 10 SCC 165

<sup>37</sup> AIR 2017 SC 4609

<sup>38</sup> 2018 (10) SCC 472

<sup>39</sup> 2019 (3) SCC 39

<sup>40</sup> AIR ONLINE 2020 SC 784

<sup>41</sup> AIR 2020 SC 3717

Taken together, these judgments reveal the way in which the Indian judiciary has developed in dealing with women's rights and domestic violence. They reveal a tendency to broaden protective laws, to take cognizance of varied forms of families, and to seek harmony between protection and prevention of misuse. The courts have taken up to fill legislative gaps when necessary and to adopt the legal demand to the changing social reality, relying mainly upon the constitution principle and international conventions on women's rights.

## CONCLUSION

Through this analysis of the access to legal aid for domestic violence victims in India, a multi layered picture of progress and challenges emerges which is quite comprehensive. A number of multivariate dimensions of women's rights are reality and to the legal framework and have been explored in terms of interraciality to domestic violence, judicial trends and cultural factors relevant for law enforcement.

The 2005 Protection of Women from Domestic Violence Act (PWDVA) represented a noteworthy shift in India's way of interpreting domestic violence issues to a more certainly a civil law framework. Although we find that implementation does not always adhere to the complicated experiences of women along diverse lines of socioeconomic, caste, and religious background, the broad outlines of our analysis suggest that description is complicated too. Although the judiciary has made a progress in its adopting more gender sensitive and rights based approach, there are landmark judgments created which expanded the definition of the laws to protect women's rights. Cases such as Vishaka v. State of Rajasthan and Thought of Independent. Union of India show that courts will fill legislative gaps and seek to introduce international standards into domestic jurisprudence.

Yet, though, there are still great hurdles remaining. This amplifies the limited representation of women in the judiciary, and the continued under representation of women on higher courts, in legal interpretation. Procedural delay, backlogs in courts and the breach between advancing human rights norms and practice hinder the women's access to justice. Common legal defences used in domestic violence cases, including self-defence and false accusation, take advantage of gender and societal biases including a reluctance to report, and create a dangerously unsafe environment for victims, and deter reporting.

There is a role of cultural factors in enforcing women's rights laws in various parts of India. Multidimensional dimensions of Patriarchal norms, religious personal laws, and caste

dynamics work as a complex interplay between legal provisions and societal norms resulting in a differing application of women's rights among different communities.

For the future, several events expected to influence the situation of women's rights and legal aid over the next five to ten years are projected. These include:

- Technology used to enhance legal aid services, with the potential of improving access for rural and remote communities.
- Intersectional focus into policy-making as well as judicial training programs.
- Trends attributed to an increasing awareness of domestic violence as the result of sustained campaigns and digital awareness.
- Proposals to reform personal laws to rectify conspicuous unfairness to women within the same religious communities.
- Improved data collection and analysis mechanisms informing evidence-based policy making and judicial decision making.

To overcome the issues identified and harness these potential opportunities, a multi-pronged approach is required. This should include:

- Ongoing gender sensitization programmes for legal professionals as well as law enforcement personnel.
- Efforts to raise women's representation within the judiciary, at all levels.
- Minimizing queue time in court processes and improving them more efficiently.
- The development of culturally sensitive approaches to law enforcement, legal aid provision, and the supplementation of cultural experience into the legal curriculum in each country.
- Comprehensive collection and analysis for women's rights cases and protocols is currently implemented.
- Strengthening partnership between government agencies, NGOs and technological partners to develop novel legal aid access solutions.

Finally, India has done a lot to control domestic violence, protect women's rights through domestic legislation and court proceedings, but there is a lot to be achieved yet. But to bridge the gap between progressive laws in theory and in reality, it will take time, political will, societal involvement. While there remains much to be done to ensure women's safety, greater access to

justice and to translate socio-cultural changes into better rights for women, the next decade is a key period to gauge the progress the country is likely to make in these areas.