



ECONOMIC
VIOLENCE

**DOMESTIC
VIOLENCE**
YOU CAN END IT!

PWDVA FAQs

SEXUAL/PHYSICAL
MENTAL
VERBAL

breakthrough
building human rights culture

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About Breakthrough

Breakthrough is an international human rights organization that uses education, media and popular culture to transform public attitudes and promote values of equality, justice and dignity. Breakthrough's human rights programs generate public dialogue, and create positive change about challenging social issues like women's rights, domestic violence, HIV/AIDS, religious tolerance, racial justice and immigrant rights.

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Domestic Violence is Unacceptable

Domestic violence fundamentally violates human rights. This booklet is to ensure that people know and understand that domestic violence is not a private matter, and that abusive behaviour is unacceptable. It is a critical problem that affects us all -- in every community, work place and in every section of the society across class, education and economic backgrounds. It is Breakthrough's belief that we can all work together as individuals, institutions, workplaces, neighbourhoods and communities, to make our environment a safer space for women.

Content

**Basics on Domestic Violence
Resources**

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005 (PWDVA)

The PWDVA exists to protect you and the women in your life! Recognizing and admitting the violence is the first step; Breakthrough recognizes how difficult this can be. The PWDVA is the second step. Protect your rights by using the Act. If you know someone who is a victim of violence, tell her about the benefits of the PWDVA. Read below for more information.

- 1. What is the PWDV Act of 2005?**
- 2. What are the legal rights of a domestic violence victim?**
- 3. Where can I file a case on domestic violence?**
- 4. What if the abuser continues to commit violence or violates the orders passed by the court?**
- 5. Has the PWDVA been effective in India?**
- 6. How can I get more information about the PWDVA?**

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1. What is the PWDV Act of 2005?

The Protection of Women from Domestic Violence Act 2005 includes actual or threatened abuse against women in their homes, including those of a physical, sexual, verbal, emotional or economic nature. This legislation is critical considering that more than two-thirds of married women between the ages of 15 and 49 have experienced some form of sexual or domestic violence, including being beaten, raped, or forced to provide sex.* Punishment for such acts includes a jail sentence of up to one year and a 20,000 rupee fine (approximately USD410). The new law also provides a share of the husband's earnings and property to the victim, including medical costs.

** Source: The Independent, "India brings in first law to protect women from abuse." Justin Huggler, October 27, 2006, (http://www.nzherald.co.nz/domestic-violence/news/article.cfm?c_id=178&objectid=10407864)*

2. What are the legal rights of a domestic violence victim?

In 2005, the government of India passed new legislation on domestic violence call the Protection of Women from Domestic Violence Act 2005 (PWDVA). It is a civil law aimed at providing relief to millions of women including wives, mothers, daughters and sisters affected by violence in their homes.

Through the PWDVA, affected women are entitled to

- **Protection:** The magistrate can pass orders to stop the offender from
 - Aiding or committing violence within and outside the home
 - Communicating with the woman
 - Taking away her assets
 - Intimidating her family and those assisting her against the violence
- **Residence:** The woman cannot be evicted form the shared household.

- **Monetary relief and maintenance:** She is entitled to maintenance, including loss of earnings, medical expenses, and damage to property.
- **Compensation:** She can claim damages for mental and physical injuries.
- **Custody:** The court can grant her temporary custody of children.
- **Interim order/ ex parte order:** The court can pass an interim order to prevent violence before the final order. In the absence of the other party to the dispute, an Ex Parte order can be passed.
- **Legal service:** Women have the right to free legal services under the Legal Services Authorities Act, 1987 (provide link to the act).

3. Where can I file a case on domestic violence?

The woman or somebody on her behalf can file a **Direct Information Report (DIR)** with

- The **Protection Officer (PO)**, who is appointed by the government. The PO registers the DIR, presents it before the Magistrate and ensures that the orders passed by the court are enforced.
- The **Service Provider** is a voluntary organization registered with the state government. They assist in filing the DIR with the PO, provide her with legal aid, medical care, counseling or any other support.
- **Police:** The police file a criminal complaint under Section 498A of the IPC. On request the police will record a DIR under the PWDVA at the same time and forward the same to the magistrate.
- **Magistrate:** The woman can directly approach the Magistrate's court to file a DIR under the PWDVA. If the woman already has a pending case, then she can fill in an application under the PWDVA and file it as an "Interim Application" in the pending proceedings.

4. What if the abuser continues to commit violence or violates the orders passed by the court?

Violation or not complying with the order of the court is a criminal offence under the PWDVA 2005. In such cases, the woman can complain to the magistrate or the police or the appointed Protection Officer. The abuser can be arrested following such a complaint, and necessary action would be taken against him.

5. Has the PWDVA been effective in India?

Since the PWDVA has been enacted, many women have come forward to report incidents of violence. See below for more information on the PWDVA:

Results from the Evaluation Report (2007) by the Lawyers Collective Women's Rights Initiative (<http://www.lawyerscollective.org/>):

- 10,000 cases have been filed under the Act since its inception
- Maximum number of cases were filed in:
 - Rajasthan – 3,440
 - Kerala – 1,028
 - Andhra Pradesh – 73
 - Delhi – 607

- Least amount of cases that were filed:
 - Bihar – 64
 - West Bengal – 54
 - Jharkand – 13
 - Orissa – 12

6. How can I get more information about the PWDVA?

We suggest that you visit the following sites with more information about the PWDVA.

- Visit www.helpline.law.com (<http://www.helpline.law.com/docs/violence.php>) which gives further details about the Act and presents each stage of the process and the authorities' responsibilities to victims of domestic violence.
- Click here (<http://ncw.nic.in/DomesticViolenceBill2005.pdf>) to read the rules of the PWDVA.
- Read this informative article (<http://www.rediff.com/news/2006/nov/01spec.htm>) on what women need to know about the Act.

7. I am ready to get help. What do I do now?

- The first thing you should do is to file a complaint. To file a complaint you have to fill in a DIR form, available with NGO service providers, protection officers and select women's police stations. That shall help you in case any legal action has to be taken.
- Try and speak to the protection officer of your area to get more information.
- There are also certain things you could ensure like, your bank account details are in your possession, your passport, photo I card are with you.
- You have sufficient money in your hand to get out of the home and get a conveyance.

8. I have already tried to get out of the situation. My family and my husband's family refuse to help me. What do I do?

- The first thing you should do is to file a complaint. To file a complaint you have to fill in a DIR form, available with NGO service providers, protection officers and select women's police stations. That shall help you in case of legal action has to be taken.
- Please remember, this is a civil law and not a criminal law. No one can be put behind bars after a complaint. Only when any order has been violated, can they be put behind bars. So you may try to also speak to your family and tell them that it's only a law that shall provide the women facing violence a safe space.
- Speak to your friends, tell them about the situation. Always remember, if you have realised that this is wrong and your rights are being violated, most of the battle is won.

9. I feel uncomfortable talking to a stranger about my problems. Who can help me?

Hi! You have already helped yourself by expressing a desire to try to do something. I believe it is extremely frightening to just open up about one's personal worries and speak to anyone. That is why there are phone help lines. These help lines are run by professional counselors and trainers who are adept in handling these issues and believe me there are a lot of women out there who are facing these issues. Through these you do not have to come face to face with anyone. You do not have to say your real name. To the counselor on the other side, you are just a voice. You can speak to them. Your identity does not have to be revealed. So please call up a help line number. They are there to guide and assist you.