

# **Protection of Women from Domestic Violence Act, 2005**

**And**

# **Dowry Prohibition act, 1961**

Ms. Mona Pattanaik,

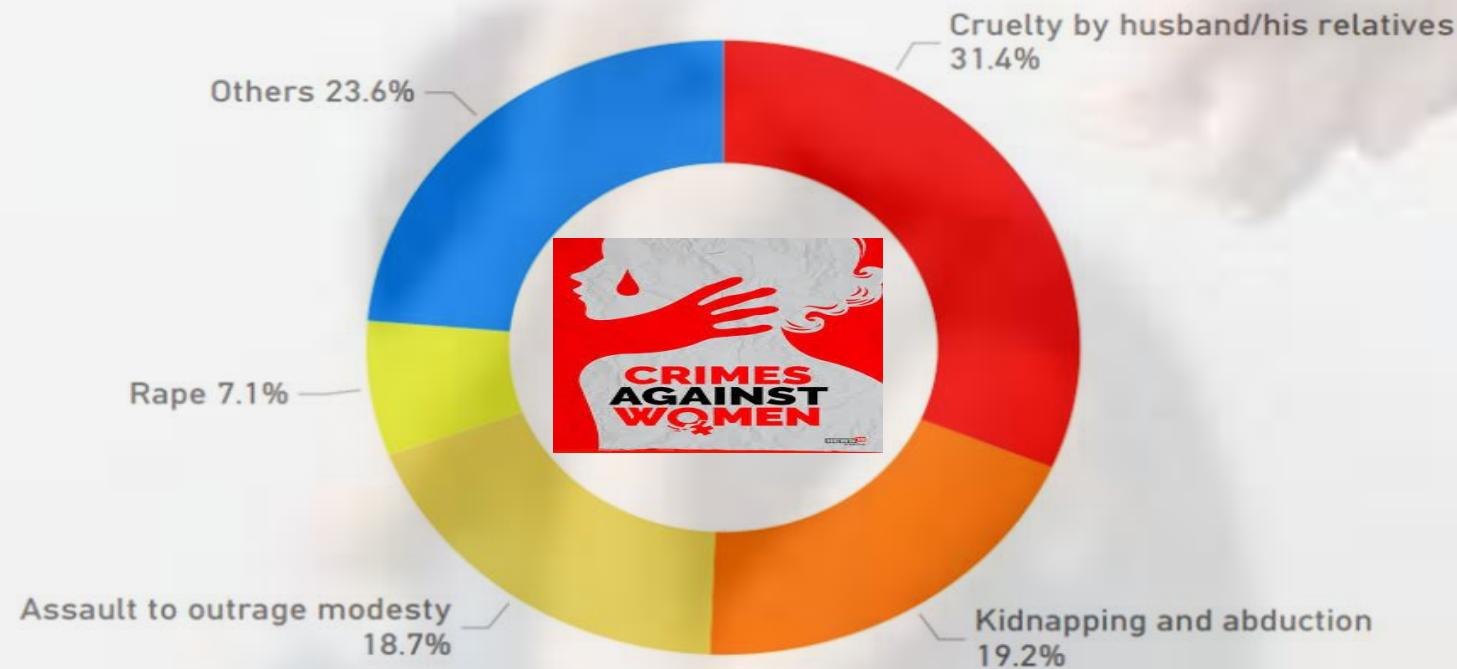
Assistant Professor,

School of Law,

Mahindra University, Hyderabad.

## Introduction

According to the National Crime Records Bureau's (NCRB) 2022 report, a total of 4,45,256 cases of crimes against women were registered across India in 2022, marking a 4% increase from the previous year, which translates to nearly 51 FIRs every hour. The rate of crimes against women per lakh population stood at 66.4%. The majority of crimes against women were categorized as cruelty by husband or relatives, making up 31.4% of cases.



## Need for the Act

In the year 1983, section 498A was added to the Indian Penal Code by a much-needed amendment. The section was inserted with the objective of penalising matrimonial cruelty, a common phenomenon in every Indian matrimonial home.

Section 498A was drafted with the intention of safeguarding the interests of women, it had a very limited scope.:

1. it did not address all forms of domestic violence and was confined to physical or mental cruelty only.
2. it provided for penal remedies only whenever a woman faced matrimonial cruelty/violence.
3. this narrowed down the scope of reliefs that could be extended to a woman, whose needs were greater than merely punishing her husband.
4. the section was applicable to married women only and therefore, complicated relationships in the nature of marriage were beyond its reach.

## Background

The Act was passed by the Parliament with recourse to Article 253 of the Constitution. This provision confers on the Parliament the power to make laws in pursuance of international treaties, conventions, etc. The Domestic Violence Act was passed in furtherance of the recommendations of the United Nations Committee on the CEDAW.

CEDAW has 3 basic principles:

1. Substantive Equality
2. Non-discrimination
3. State Obligation



## VIDEO

1. Substantive Equality

<https://www.youtube.com/watch?v=rI8lNB-XMlk>

2. Non-discrimination

<https://www.youtube.com/watch?v=OBdDB5PKrmk&t=4s>

3. State Obligation

<https://www.youtube.com/watch?v=umETapJ4b8o>



## Domestic Violence Act, 2005

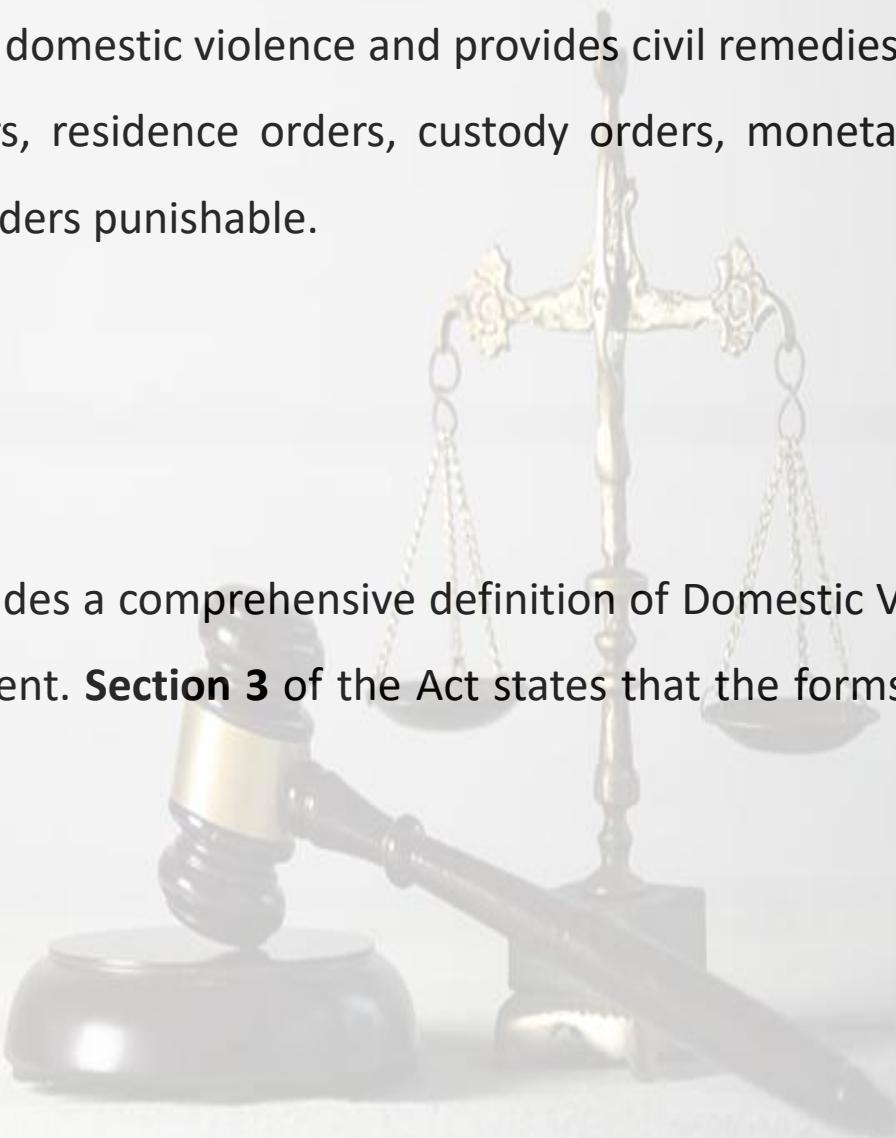
Enactment contains five chapters and 37 sections. It defines domestic violence and provides civil remedies for women, facing domestic violence, in the form of protection orders, residence orders, custody orders, monetary reliefs or compensation orders and makes the breach of protection orders punishable.

### Definitions

#### **1. Domestic violence**

The first and foremost contribution of the Act is that it provides a comprehensive definition of Domestic Violence that overcomes the shortcomings of section 498A to a great extent. **Section 3** of the Act states that the forms of violence covered under the terminology may be :

- physical,
- sexual,
- verbal or emotional and
- economic in nature



## **2. Aggrieved Person**

Under section 2(a) the definition of an 'aggrieved' person is equally wide and covers not just the wife but any women who is or has been in a domestic relationship and who alleges to have suffered from domestic violence.

## **3. Respondent**

The respondent under the definition given in the Domestic Violence Act, 2005 is 'any male, adult person who is, or has been, in a domestic relationship with the aggrieved person'. But it has been interpreted to include females also.

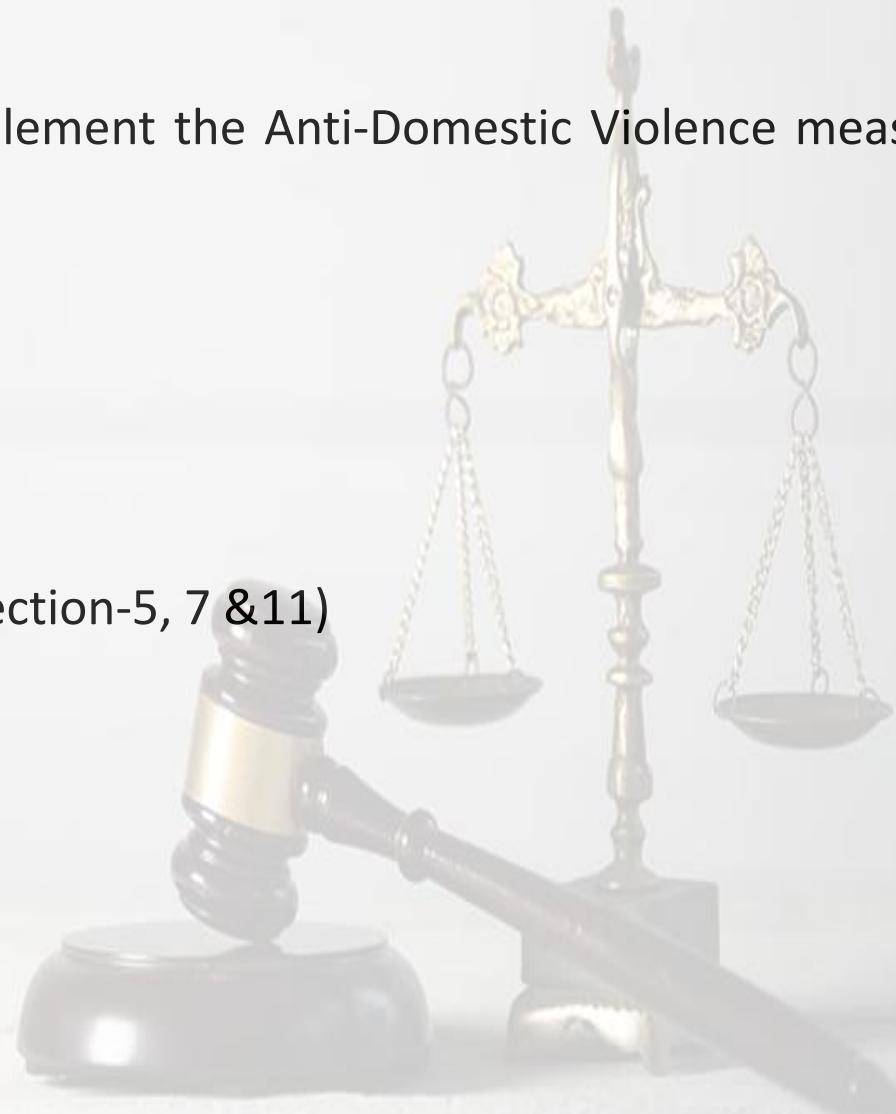
(Sandhya Wankhade v. Manoj Bheemrao Wankhade & Ors-(2011)3SCC 650)

## **4. Domestic Relationship and shared Household**

## **Scheme of Implementation of Anti-Domestic Violence measures under the Act**

The Act includes various functionaries who will implement the Anti-Domestic Violence measures along with their rights and duties:

1. Protection Officers (Section- 5, 6, 8 &9)
2. Service Providers (Section-10)
3. Other State and Central Government Officers (Section-5, 7 &11)



## **Reliefs under the Act**

1. Protection Orders (Section-18)
2. Residence Orders (Section-19)
3. Monetary Reliefs (Section-20)
4. Custody Orders (Section-21)
5. Compensation Orders

- Protection of Women from Domestic Violence Rules, 2006.



## **Roadblocks**

1. Non-appointment of Protection Officers
2. Delay in Granting Relief
3. Lack of Awareness and Underreporting
4. Economic and Shelter Challenges
5. Marital Rape
6. Misuse of the Act



## The Dowry Prohibition Act, 1961

### Meaning

**Dowry** has been define under section 2 of the dowry prohibition Act, 1961,

“dowry” means any property or valuable security given or agreed to be given as consideration of marriage either directly or indirectly-

1. by one party to (a marriage to) the other party to the marriage, or
2. by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person.

### Aim of the Act

To prevent giving and taking of Dowry.

## Legal Framework under Dowry Prohibition Act, 1961

1. Section 3: Penalty for giving and taking dowry
2. Section 4: Penalty for demanding dowry
3. Section 5: Agreement for giving and taking dowry is void
4. Section 7 Cognizance of offence
5. Section 8 Offence shall be Cognizable for certain purpose (investigation) and non-bailable and non-compoundable.
6. Section 8B Dowry Prohibition Officer



## Other Legal Frameworks Relating to Dowry Prohibition

- Bharatiya Nyaya Sanhita, 2023

Section: 80 - Dowry Death

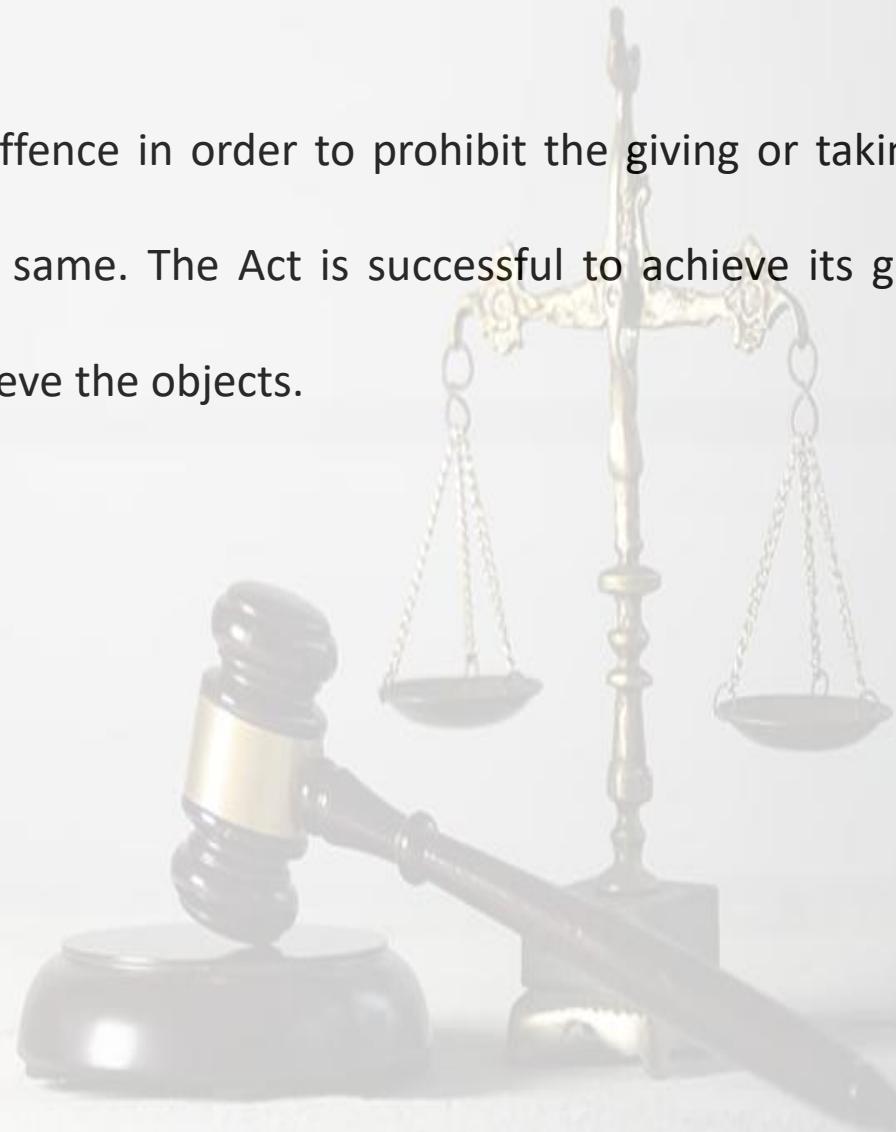
- Bharatiya Sakshya Adhiniyam, 2023

Section: 118 - Presumption as to dowry death



## Conclusion

The Dowry Prohibition Act intends to create a criminal offence in order to prohibit the giving or taking dowry as a consideration of marriage or demanding or abetting the same. The Act is successful to achieve its goal to a great extent but a social willingness and support is required achieve the objects.



# Thank You.

