



# Socio-Legal Perspective of Women's Housing Rights: Ensuring Healthy Living Environments under the Domestic Violence Act, 2005

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## ABSTRACT

Women's housing rights and access to a healthy living environment are central to the realization of dignity, equality, and personal security, particularly in the context of domestic violence. From a socio-legal perspective, housing is not merely a physical shelter but a space of safety, stability, and well-being. **The Protection of Women from Domestic Violence Act, 2005 (PWDVA)** in India adopts a rights-based approach by recognizing a woman's right to reside in the shared household, irrespective of her ownership or title, thereby addressing the immediate risk of homelessness often faced by women escaping domestic abuse. This legal protection reflects a broader social concern that displacement and insecure housing exacerbate women's vulnerability to violence, poverty, and health hazards. The Act also implicitly links housing rights with the right to a healthy living environment by empowering courts to pass residence orders, restraining dispossession, and ensuring alternative accommodation where necessary. From a socio-legal standpoint, these provisions aim to transform private spaces of violence into legally regulated environments of safety and dignity. However, social realities such as patriarchal norms, economic dependence, and lack of awareness, overcrowded housing, and inadequate state-supported shelters often limit the effective realization of these rights. The absence of explicit environmental health standards within housing remedies further raises concerns about sanitation, ventilation, and overall well-being. This study examines women's housing rights under the Domestic Violence Act through the lens of social justice, gender equality, and the right to a healthy living environment. It highlights the gap between legal entitlements and lived experiences, emphasizing

the need for integrated policies that combine legal protection, social support systems, and environmental safeguards. Strengthening implementation mechanisms, enhancing access to safe and healthy housing, and promoting gender-sensitive urban and housing policies are essential for ensuring substantive justice for women affected by domestic violence.

**Key Words:** Healthy living environment, Domestic Violence Act, 2005 (PWDVA), health hazards, women's Housing Rights

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## 1. Introduction-

Housing is a fundamental human right, essential for a dignified life and social security for any individual. However, due to traditional and cultural structures, ensuring safe and secure housing for women has often been challenging. In developing countries like India, several social, economic, and legal factors influence women's right to housing. From a **social perspective**, women's housing rights are often affected by gender discrimination, cultural restrictions, and family structures. In many rural and urban areas, women do not have equal opportunities to own property or be tenants. Furthermore, situations such as domestic violence, economic dependence, and social stigma also deprive women of their housing rights<sup>1</sup>. Therefore, ensuring safe and secure housing is not merely a physical necessity, but a crucial step towards women's empowerment and equality in society<sup>2</sup>. From a **legal perspective**, the Indian Constitution and various laws protect women's housing and property rights. **Articles 14, 15, and 21** of the Indian Constitution guarantee every woman the right to equality, non-discrimination, and the right to life. Additionally, legal provisions such as the **Hindu Succession Act**<sup>1</sup>, the Women's Property Rights Act, and the **Protection of Women from Domestic Violence Act**<sup>2</sup>, provide women with protection regarding their home and property rights. These laws not only grant women ownership rights but also provide them with legal protection in cases of domestic violence and economic exploitation. This combination of social and legal perspectives demonstrates that women's right to housing is not merely limited to a legal document, but also symbolizes their status, security, and economic independence in society. Ensuring safe and legally protected housing for women plays a vital role in the overall development of society and the achievement of gender equality goals.

Women's housing rights and access to a healthy living environment are central to the realization of dignity, equality, and personal security, particularly in the context of domestic violence. From a socio-legal perspective, housing is not merely a physical shelter but a space of safety, stability, and well-being. **The Protection of Women from Domestic Violence Act, 2005 (PWDVA)** in India adopts a rights-based approach by recognizing a woman's right to reside in the shared household, irrespective of her ownership or title, thereby addressing the immediate risk of homelessness often faced by women escaping domestic abuse. This legal protection reflects a broader social concern that displacement and insecure housing exacerbate women's vulnerability to violence, poverty, and health hazards. The Act also implicitly links housing rights with the right to a healthy living environment by empowering courts to pass residence orders, restraining dispossession, and ensuring alternative accommodation where necessary<sup>3</sup>.

## 2. Problem of the statement-

The legal research problem in the context of "Social-Legal Perspective of Women's Housing Rights: Ensuring Healthy Living Environments under Domestic Violence" lies in the persistent

gap between statutory recognition of women's right to residence and its effective enforcement in practice. Although domestic violence laws—such as the Protection of Women from Domestic Violence Act, 2005—recognize a woman's right to reside in a shared household and to live in a safe, dignified, and violence-free environment, women facing domestic abuse continue to experience eviction, homelessness, unsafe living conditions and denial of basic housing facilities. The problem is further aggravated by conflicting property laws, patriarchal social norms, and lack of awareness, inadequate institutional support, and inconsistent judicial interpretation regarding residence orders and shared household rights. Consequently, the legal framework often fails to ensure a healthy living environment, encompassing physical safety, mental well-being, sanitation, and dignity, for women subjected to domestic violence. This research problem therefore examines how existing laws inadequately address the intersection of housing rights, domestic violence, and environmental health, and seeks to identify legal and social reforms necessary to translate women's housing rights from mere legal provisions into lived realities.

### **3. Objects of Research Paper-**

- To understand women's housing rights in the context of constitutional rights (Articles 14, 15, and 21) and to examine the interpretations provided by the courts.
- To assess the importance of a healthy living environment—including mental peace, physical safety, and a life of dignity—in cases of domestic violence.
- To study the impact of social structures, patriarchal attitudes, and economic dependence on women's housing rights.
- To analyze, through judicial decisions and case law, how courts are protecting women's housing rights.
- To identify the practical challenges and shortcomings in the current legal system that prevents women from receiving effective protection.
- To propose legal reforms and social awareness initiatives to make women's housing rights more effective.

### **4. Social Perspective of Women's Housing Rights-**

#### **4.1. Foundation of Security and Freedom-**

- Housing not only provides women with physical security, but also provides psychological and social security.
- In a safe home, women feel free to pursue education, employment, and social participation<sup>4</sup>.

#### **4.2. Part of Equality and Rights-**

- Women's position in society is strengthened only when they have control over their living space and the security of their home.
- Despite family and social pressure, women should have the right to decide on their housing.

#### **4.3. Social Aspect of Domestic Violence-**

- Women are often forced to leave or abandon their homes due to domestic violence.
- From a social perspective, ensuring women's right to live in a safe place free from violence is a step towards gender equality in society.

### **5. Legal Perspective: The Protection of Women from Domestic Violence Act, 2005-**

The primary objective of the Domestic Violence Act, 2005 is to protect women from all forms of domestic violence. It specifically ensures the right to housing and a safe environment.

### 5.1. Provision for Safe Housing-

- Section 17 (Residence Orders) of the Act gives women the right to secure their and their children's right to live in their current home<sup>5</sup>.
- In cases of harassment or violence, the court can expel the accused from the home so that the victim can remain safe.

### 5.2. Shelter and Shelter Facilities-

- Section 19 mandates the provision of temporary shelters (shelter homes) to women<sup>6</sup>.
- These shelters must be safe, healthy, and conducive to the rehabilitation of women.

### 5.3. Healthy Living Environment-

- The Act ensures that women not only receive protection but also that their living environment is conducive to mental and physical health.
- This includes cleanliness, adequate space, child protection, and psychological support.

## 6. Powers of the Court-

6.1. The court can, as needed, order the accused to vacate the house, provide permanent or temporary housing for the woman, and issue rehabilitation instructions.

6.2. This ensures rehabilitation and employment options for the woman with the assistance of the Social Welfare Department.

## 7. Balance between the Act and Society-

7.1. Social Awareness: Merely having a law is not enough; society must also be aware of women's housing rights.

7.2. Gender-Sensitive Policies: Safe and healthy housing should be prioritized in housing schemes, urban development, and rural planning.

7.3. **Linkage to Fundamental Rights:** Safe and healthy housing is recognized as a fundamental right of women under Article 21 (Right to Life) and Article 14 (Right to Equality)<sup>7</sup>.

## 8. Judicial Decisions-

**8.1. Relevance of right to Residence-** In the case of Satish Chander Ahuja v. Sneha Ahuja & Anr<sup>8</sup>, the Supreme court of India has certified that a women's right to residence under the PWDV Act is "**Relevant**" and can be considered in both civil and criminal courts. The courts stated that when a woman is a victim of domestic violence, her eviction from the home affects her right to live a safe and dignified life- therefore, the court can adjudicate in such cases. Further the court explained that a woman's right to residence under the PWDV Act 2005 is not limited to criminal courts (magistrate court) but can be raised and enforced in any competent court, including civil courts and family courts. If a woman is evicted from her home due to domestic violence, it is a violation of her right live with dignity<sup>5</sup>. Therefore the court grants the right to residence, protection orders and injunctions against eviction in such cases.

**8.2. Delhi High Court- Balancing Family Peace and Right to Residence;** in a significant judgment the Delhi High Court stated that a women's right to residence under the domestic

violence Act cannot be considered inherently “Superior” to the right to other individuals (such as in-laws) to live peacefully. That is, while granting the right to residence, the court must also balance the right of other family members to a peaceful and dignified life. The Supreme Court also stated that a women’s right to reside in a “**Shared Household**” is not limited to her husband’s property but may also include the property of the in-laws of joint family, depending on the circumstances<sup>9</sup>.

## **9. Recommendation-**

### **9.1. Recognize Housing as a Human Right-**

- Internationally and constitutionally, adequate housing and a safe living environment are part of fundamental human rights, tied to dignity, life, security, and non-discrimination (e.g., UDHR, CEDAW). Women experiencing domestic violence must be ensured access to these rights without fear of eviction or homelessness.
- Legal Recommendation: Explicitly codify housing & shelter as a protected right under domestic violence legislation or housing law.
- Treat safe housing as a core part of relief orders in domestic violence cases, not a secondary or discretionary remedy.

### **9.2. Strengthen and Implement the Protection of Women from Domestic Violence Act, 2005-**

- In India, the PWDVA, 2005 is the key law addressing domestic violence. It provides civil protections in addition to criminal remedies. A central feature relevant to housing is the right to reside in a “shared household” regardless of ownership.
- Legal Recommendation:- Right to Residence (Section 17 PWDVA): Women in a domestic relationship can live in the shared household even if they have no title or ownership — and cannot be evicted by the abuser or their relatives without a court order.
- Scope of “**Shared Household**”: Courts have interpreted this to include rented, jointly owned, or ancestral homes where the woman once lived in a domestic relationship.

### **9.3. Integrate Housing with Domestic Violence Relief Orders-**

- Status should expressly require courts to consider housing needs when issuing protection or maintenance orders.

### **9.4. Intersection with Other Housing & Gender Laws-**

- Inheritance & Succession Law: Ensure women have secure inheritance rights to property to reduce dependence on abusive partners.
- Anti-Eviction & Public Housing Law: Safeguard survivors from arbitrary eviction from public housing schemes.
- Legal Recommendation: Align domestic violence protections with other housing and property rights frameworks.

## **10. Conclusion-**

Legal frameworks, particularly domestic violence laws, play a crucial role in recognizing housing as a fundamental component of women’s protection. Provisions that guarantee the right to reside in the shared household, protection orders, and residence orders reflect the State’s responsibility to ensure that women are not rendered vulnerable due to domestic abuse. However, the effectiveness

of these laws depends largely on their implementation, judicial sensitivity, and awareness among women about their rights.

Socially, entrenched patriarchal norms, economic dependence, and stigma continue to restrict women's access to safe and healthy housing. Therefore, legal protection alone is insufficient without supportive social mechanisms such as shelter homes, rehabilitation programs, legal aid, and community awareness. Ensuring a healthy living environment for women facing domestic violence requires a coordinated approach that integrates law, social welfare, public health, and gender justice.

In conclusion, safeguarding women's housing rights under domestic violence laws is not merely a legal obligation but a social imperative. A secure and healthy home environment empowers women to rebuild their lives, assert their autonomy, and participate fully in society. Strengthening legal enforcement, enhancing social support systems, and transforming societal attitudes are essential steps toward achieving substantive equality and justice for women.

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### Other Resources-

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