

The Prevention of Domestic Violence Instigated by the Insane: An Analytical Study on the Sri Lankan Perspective

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Abstract— *Domestic violence is an enormous, hidden problem in Sri Lanka and in most cases, it happens within marriage or family life, as aggression aimed toward women and children and, on some occasions, men also be the victims of this violence. Domestic violence may lead to create physical and psychological issues which are followed by short-term and long-term issues. The domestic violence issues in Sri Lanka mainly governs by the Prevention of Domestic Violence Act No.34 of 2005; however, the act does not specifically express how this applies in an event that occurs through an insane person. Moreover, in the Sri Lankan context, it appeared that in sometimes this violence happened because of mental disorders and mental unsoundness. This study focuses on accessing the accuracy and effectiveness of the domestic legal mechanism which acts in protecting the rights of the people and it focuses on insane people in society who are subjected to domestic violence as victims or the aggressor. In the investigation process, the qualitative method of research was used simultaneously with the black letter method in collecting information and studying this lacuna. The present study will be guided to concentrate on insane people in the legal framework of domestic violence in Sri Lanka.*

Keywords—*Insanity, Domestic Violence, Sri Lanka*

I. INTRODUCTION

Domestic violence is a prevalent matter and thus domestic violence can simply be defined as the physical and psychological impact of people living in an intimate relationship or family unit. These effects go beyond geographically and socio-economically; they break those boundaries, and it is potential to find the causes of domestic violence. As far as domestic violence is concerned, it can be described as a process that can harm the lives of women and children. In some cases, the end result of these acts of violence would harm the lives of men as well. Domestic violence basically defines a series of cruel, inhuman, and tortuous behaviours. These processes can be causal factors that have adverse effects on the well-being of humans. It has been possible to indicate many factors that affect the occurrence of domestic violence. It has become possible to define mental disorders or insanity as a primary causal factor in domestic violence, which primarily affects women

and children and sometimes also affects men. (Pace, 1991) Since domestic violence has been defined as a statutory offense in Sri Lanka, it has been possible to deal with all cases of domestic violence through a legal framework. Actions to address under domestic violence in Sri Lanka have accelerated in recent years, with the Sri Lankan government promulgating an Act to protect and support victims of violence in 2005. Basically, the legal framework for domestic violence in Sri Lanka is provided by the Prevention of Domestic Violence Act No. 34 of 2005 (henceforth PVDA). The purpose of this study can be stated as a starting point on the journey from darkness to light which is domestic violence and to address these uncertainties in the association between insanity and domestic violence and the investigation of the existing legal mechanism established to matter of insanity persons in domestic violence situations is accurate and enough to solve the matters which came out due to the fact of domestic violence. (Munasinghe, 2015)

II. RESEARCH PROBLEM

Domestic violence is an enormous, hidden problem in Sri Lanka, with a considerable number of spouses and children experiencing some form of abuse such as physical or mental abuse in their lifetime. When considering about insanity, it is a mental disorder that can impair a person's judgment and behaviour and there is a growing body of evidence that suggests that insanity may be a contributing factor to domestic violence both affecting the judgment of the person who commits the act or omission as well as on the part of the victim.

III. METHODOLOGY

The study is completely based on a qualitative method of research methodology and this research is further supplemented through the black letter method of research which largely focused on critically analyzing the statutory provisions, mainly the Prevention of Domestic Violence Act No.34 of 2005 as well as case laws pertaining to this topic. This also critically analyzes the provisions, sections, and explanations in the other legal instruments related to domestic violence in the Sri Lankan context and in the

international context. Moreover, as secondary sources books, websites, newspaper articles, and online-based articles are used for analyzing the matter at hand.

IV. RESEARCH QUESTIONS

- What is the prevalence of domestic violence in Sri Lanka?
- What is the relationship between insanity and domestic violence?
- How does insanity impact the victims of domestic violence?
- How does insanity impact the perpetrators of domestic violence?
- Does the existing legal mechanism established to matter of insane persons in domestic violence is accurate and enough?

V. RESEARCH OBJECTIVES

- To analyze the prevalence of domestic violence in Sri Lanka
- To find the relationship between insanity and domestic violence.
- To understand the impact of insanity on the victims of domestic violence.
- To understand the impact of insanity on the perpetrators of domestic violence.
- To access the existing legal mechanism established to matter of insanity persons in domestic violence is accurate and enough.

VI. FACTS AND FINDINGS

A. Global Statistical Data

Women experience violence either by their intimate partner or non-partner in way of sexual violence that severely affect the other person's life and according to the Gender Data Portal of the world bank 2022, which shows that it is looked at it represents a percentage of 30% on average and could be estimated as 736 million women around the world. These confirmed estimations may be largely due to the difficulties expressing their feelings in an open spectrum. In most instances, violence by the intimate partner may be unrecorded due to social stigma and the fear of things adverse after-effects through complaining. The highest known prevalence of violence against intimate partners occurred in the Sub-Saharan Africa region and South Asia region including Sri Lanka as well under a part of South Asia. In Sub-Saharan Africa 33% of women aged 15-49 experienced violence by their intimate partner while 35% of women of the former mentioned age category also experience violence in the domestic context. When moving forward with age categories, adolescent females are at risk more than adult women, and further, violence by intimate

partners among teenagers in Sub-Saharan Africa and South Asia can be identified in every 1 in 5 who has experienced it adversely in the period of 2021. In East Asia and the Pacific, teenagers (aged 15 to 19) experienced these conditions three times more than women over 45 who faced violence from intimate partners. (World Bank, 2022) According to the details of the National Library of Medicine in the United States depressive disorders, dysthymia, anxiety, post-traumatic stress disorders, obsessive-compulsive disorders, and personality disorders act as the main reasons for the causes of domestic violence. There is a higher risk of becoming a victim of domestic violence among people who suffer from mental disorders. (Trevillion , et al., 2012) As it is stated 30-60% of women with a chronic mental illness have suffered from domestic violence. (High Country Behavioral Health, n.d.)

B. Sri Lankan Statistical Data

When considering domestic violence from an intimate partner in the Sri Lankan domestic context, according to the Sri Lankan government statistical data in 2016, shows that 17% of ever-married women have experienced domestic violence under the age group of 15-49 and when looking at this in view of daily experiences regard to any type of domestic violence, it has the effect of 2% on the ever-married women. (Government Statistics, 2016) Furthermore, it is evident through the surveys done on urban residents, that violence from intimate partners is overall at 20%, and Kilinochchi, Batticaloa districts have the highest level of domestic violence from intimate partners at a percentage of 50%. Moreover, violence from intimate partners to ever-married women connected with the lowest wealth quintile at 28% and the low level of education at 30%. Studies of domestic violence prove that the prevalence of domestic violence by intimate partner increase according to the age of women. (Panadare, et al., 2021) In recent times, during the COVID-19 pandemic period, due to the restrictions on movement and lockdown many women, girls, and children became victims of domestic violence severely. (Gamage & Tummodara, 2021) Mental unsoundness, stress, and depression act drastically increased in this period which led to domestic violence. (Wickramasinghe, 2022)

C. Sri Lankan Context

The PDVA applies mainly to issues and ill-treatment under the acts of domestic violence. There are matters that the writers found as means of reported cases and unreported cases. The cultural background of Sri Lanka shows that women are fearful to reveal these incidents, shame to complain about their faced adversities, and think it is harmful to the family corporation; and they are concerned as revealing the truth will badly affect their children. Under these circumstances, the writers would be looking into two

main case laws that are decided in Sri Lanka where the courts stand against domestic violence to preserve justice.

In the case of *Anarkali Akarsha vs Duminda Silva*, the popular actress of Sri Lanka Anarkali Akarsha was in a relationship with the defendant, a former member of parliament and they both have been staying at the defendant's place. After having disputes for months, the actress took a court order not to be disturbed or reached by the defendant by any means. However, one day, Anarkali was informed to be present at a particular place to sign and enter into an agreement for a new movie. At that time when she arrived there with her mother, she was threatened and assaulted by a group of people who had been instructed by the defendant. thereafter, she was threatened by the defendant to marry him and if not, to consume a cyanide capsule which he had around his neck. A complaint was made by the victim to the police station of Kollupitiya and these acquisitions were refused by the defendant who further stated that these acquisitions are made to defame his political character. Moreover, the plaintiff had stated that the defendant had become insanely jealous, and at some time he did not allow her to talk with her mother and friends and did not allow permission to go anywhere without his bodyguards. According to her, this mental behavior also affected this matter at a greater level. (The Sunday Times Sri Lanka, 2016)

The case of *Upeksha Swarnamali* 2011 is a domestic violence case filed against her husband. The popular actress and former parliamentarian Upeksha Swarnamali was hospitalized after being assaulted by her husband. After recovery, she spoke about her experience before the whole parliament. The defendant is the father of three children and he ill-treated and did not provide basic needs to their children as well as the family. The victim stated that the defendant purposefully brings food home and consumes it intentionally neglecting other family members; the leftovers were fed to dogs. In 2013 the Colombo District Court allowed the victim to be divorced from him. (C.K. & Kodikara, 2012) (Widanapathirana, n.d.)

D. UK Context

According to the Sentencing and Punishments of Offenders Act 2012, domestic violence is expressed as, any incident, or pattern of incidents, of controlling, coercive, or threatening behaviour, violence, or abuse (whether psychological, physical, sexual, financial, or emotional) between individuals who are associated with each other. Furthermore, the Family Law Act 1996, Human Right Act 1998, Crime and Security Act 2010, Protection of Harassment Act 1997, Protecting under mental capacity Act 2005, Children Act 1989 and Serious Crime Act 2015 are available for protection against domestic violence. (Herring, 2017) In the case of *Yemshaw vs Hounslow*

London BC (2011) UKSC 3, the Supreme Court considers the definition of domestic violence which relates to the matter of the Housing Act 1996. In this case, Ms. Yemshaw was married and had two children; however, she was fearful for her husband, although he had never physically assaulted her. She stated that she had been inflicted with emotional, psychological, and financial abuse by her husband. She requested the Hounslow Housing Authority for accommodation, however, according to the Housing Act this request is not justifiable because she has a matrimonial house, and it would not be reasonable if the owner is a victim of domestic violence. Here Ms. Yemshaw was not experiencing any violent touching, on that basis they determined that there was no domestic violence, and she was not satisfied with this judgment. Therefore, she sought a judicial review. The key question was whether the domestic violence was limited to physical harm and the Court of Appeal supported the approach that was taken by the housing authority. However, Supreme Court did not, and it gave the landmark judgment and stated that physical harm is not the only form of violence, and it includes threatening or intimidating behaviour as well as any form of abuse which directly or indirectly, may give rise to the risk of domestic violence. (Herring, 2017)

Furthermore, the case of *Local Authority vs DL (2012) EWCA Civ 235* relates to domestic violence and Protection under the Mental Capacity Act 2005 and provides background for domestic violence by insane persons. In this case, DL was a middle-aged man who stayed with his parents named Mr. and Mrs. L. Mrs. L was a woman who is seriously disabled. DL was violent to their parents and controlled their lives, and further, Mrs. L feared to take any legal action against her son because she feared that she would lose contact with her son, and he might commit suicide. According to the Protection under the Mental Capacity Act, Mr. and Mrs. L lacked mental capacity. However, they had the capacity to decide whether to live with their son or not. The local authority sought to use the inherent jurisdiction to protect vulnerable adults. The Court of Appeal also accepted the usage of inherent jurisdiction and even though the couple had the capacity, they were vulnerable due to the influence of DL over them. The court made an order which promoted their welfare. (Herring, 2017)

VII. DISCUSSION

Domestic violence is an enormous, hidden problem in the world, especially in the context of Sri Lanka and it is one of the most prevalent violence that is faced by women by their intimate partners. Mostly, one-third of women all over the world suffer from domestic violence by their intimate partner at once in their lifetime, however, this violence is considered a veiled problem because most women do not

reveal their suffering because of their culture, fear of reprisal, concern about children's future, shame and internalizing the violence. This badly affects the cost of health services, society, and the economy of the country. (World Health Organization, 2023) The PDVA is the main legal instrument that has the power to provide protection and relief for matters relating to domestic violence, moreover, there are other domestic legal instruments such as the Penal Code of Sri Lanka No. 2 of 1883, Code of Criminal Procedure Act, No.15 of 1979, Muslim Marriage and Divorce Act 1951 (henceforth MMDA), National Plan of Action for Prevention of Violence Against Woman and Children and the Constitution of Sri Lanka 1978. (Ariyaratna, n.d.) Furthermore, under international legal instruments, the actions against domestic violence are governed through the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Beijing Declaration and Platform for Action, etc. Here the writers wish to discuss, the PDVA broadly and how it applies to matters concerning domestic violence.

Firstly, it is important to consider mental disorders that are suffered by people in the situations of domestic violence, in addition, PDVA is the main statute on domestic violence in Sri Lanka. Nevertheless, it has not specifically expressed how it applies to people who suffer from insanity. Moreover, the United Nations describes violence against women as "any act of gender-based violence that result in or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (World Health Organization, 2023) and the Black's Law Dictionary defines legal insanity as "mental illness and incapacity to a person to a degree that the law will recognize the person to be insane" (Black's Law Dictionary, 2013). Any person may suffer from insanity before or after their marriage, and in their marriage life, the question of how insanity will affect them is doubtful and sometimes it will cause inconsistency in their future endeavours. Furthermore, these inconsistencies may lead to domestic violence. According to the situation, the defendant, victims, or both will suffer from this conduct, and it is not fair to apply the law in the view of an ordinary person. The harm to victims who suffered from insanity will adversely affect their mental condition as a long-term issue and in the defendant's viewpoint, the causes for the domestic violence differ from the ordinary person. These will depend on their mental strength and how they adapt to peculiar situations. People are different from each other; therefore, their mental capacities also vary from each other. Under domestic violence, insanity is also an important matter to be considered and it is important to give necessary

medical treatment to relevant parties for the wellbeing of the society.

Moreover, psychopathological explanations describe that the causes of domestic violence depend on the psychological make-up of the abuser, an underdeveloped personality and sometimes a strong link between alcohol also affect this. The women's traditional position in society and family relationships also acts as causes for violence, furthermore, the domination of women by men is also the nearest reason which makes the background for domestic violence and the fear of culture also creates the background for domestic violence. (Hay, 2019) The failure of family relationships leads to domestic violence and poor communication skills can identify as causes for domestic violence, however, in the Sri Lanka context, many women do not complain about the violence against their partner or family due to the concept of not exposing matters within one's house to the outside world. It is expressed through the Sinhala folk which is stated as "*Athule gini pitatata nodenna*" (අනුමල් ගිනි පිටට නොදැක්ව) that is famous among the indigenous. Economic, legal, cultural, and political factors may have created reasons for domestic violence. (Widanapathirana, n.d.)

When considering the statutory standpoint of domestic violence through insanity, the PDVA has expressed in section 23 as follows. Domestic violence includes both the physical and emotional harm done by the spouse, ex-spouse, or cohabiting partner within the residence or external environment. As per section 2 of PDVA, the procedure related to the victim or aggrieved person to prepare an application for their protection from domestic violence and it implies when a person who is doing an act of domestic violence has been, is, or is likely to be, committed, the victim is able to make an application to the Magistrate Court for a protection order which helps for the prevention of such acts. According to the act, an application can be made by an aggrieved person, and if it is a child, the parents, guardian, a person with whom a child resides, or National Child Protection Authority can make an application. Moreover, the law enforcement authority has the power to make an application on behalf of an aggrieved person. This section states that the application shall be made to the Magistrate Court, and it relates to the jurisdiction of the aggrieved person, his residence, or the act of domestic violence that has been or is likely to be committed. (McKenzie, n.d.) Section 4 of the act provides the procedure for the issuance or refusal of an interim protection order. The court has the discretion to issue an interim protection order against the suspect without waiting for the conclusion of the trial upon section 4(1)(a), after deciding to issue an interim protection order, the primary consideration should be to ensure the safety of the

aggrieved parties and to stop any sudden domestic violence. Once the interim protection order is decided by the court, the court has the power to issue a notice to the respondent, for the presentation of facts on a specified date. The defendant can show reasons why an interim protection order should not issue.

Section 5 of PVDA has laid down the interim order against domestic violence. According to this section, the court has the power to issue an interim order to protect the victim from domestic violence, pending the issuance of an interim protection order. The court has the power to refer the concerned parties to a social or a family counsellor for advice if the court deems it necessary; and upon the evidence given by the aggrieved person, or any material witnesses, that such prohibition or condition is necessary to prevent any act of the domestic violence. (Munasinghe, 2015) Interim order shall remain in force until an issue of the protection order by the court or such interim order is vacated. Intimate partner violence refers to behaviour by an intimate partner or ex-partner that causes physical, sexual, or psychological harm, including physical aggression, sexual coercion, psychological abuse and controlling behaviours. An interim order will be issued after the court considers all the facts and findings that are in need to issue an interim order. The PDVA further elucidate the issues of protection order where the respondent appears in the court under section 6. When the hearing of the application continued, and the relevant evidence and affidavits will also be considered. Moreover, it provides for a procedure where the defendant appears in the court without a legal representative, and the court decides on its own accord or at the request of the aggrieved party. Under that procedure, when the respondent is not presented by a legal representative, the court may order the respondent to state his question before the court whereby the court can repeat its question correctly to the aggrieved party and the witnesses. (Munasinghe, 2015) Accordingly, after considering all the facts, the court would determine whether it is necessary to issue an interim order, and if an interim order will be issued as per Section 8. If the respondent does not admit to domestic violence in court but does not object to the issuance of a protection order, the court orders the issuance of a protection order. Section 7 of the PVDA states that in the issue of a protection order when the respondent does not appear in court. In this instance, the court has to give notice to the respondent party to appear in court on the specified date and if the respondent party does not appear in court, the court will consider the relevant facts and evidence and examine the case. Whereafter, if the court was satisfied with the consideration of the evidence before it, then it issues a protection order.

The PDVA section 8 states the matters to be taken into primary consideration in issuing a protection order and it

must be for the protection of the aggrieved party while preventing any other form of domestic violence. Under section 9 of the PDVA, the protection order is to be served on the respondent, so by issuing this protection order, such order is to be served on the respondent and the certified copies must forward to the aggrieved person. The applicant (instances in which the applicant is not the aggrieved person) and officer-in-charge of a police station where it has jurisdiction over the respondent and aggrieved parties reside. Section 10 of PDVA states about protection orders and it shall remain in force for a period not exceeding 12 months. Furthermore, it expresses that it prohibits the respondent from committing any act relating to domestic violence and if the court is satisfied with the reasons under the circumstances of the case and evidence, then the court will issue this protection order to ensure the safety and well-being of the aggrieved party. (Widanapathirana, n.d.) The PDVA section 11 describes the prohibitions that an interim order or protection order contains. Furthermore, an interim order or a protection order is basically to protect the aggrieved party from any violent act by the defendant party where the given orders would act as restraining orders and prohibit the defendant party from entering the aggrieved party's residence workplace, school, or any part thereof. Also, preventing the aggrieved party from entering temporary living quarters, if there is a residence shared by the aggrieved party and the respondent party, prohibiting entry into a part of the residence or the residence or banning shared residences, as well as prohibiting contact with the aggrieved party's children and the defendant could have contact with the children if the court permits. Attempting to contact the aggrieved person in any way, doing any act that causes mental pressure on the aggrieved party or another person who may require protection from the defendant as the court may specify.

Section 12 of the PDVA provides for several cases in which supplementary orders may be granted and they are applied by the courts under the power to protect the aggrieved party. If protection orders are imposed, these orders are applied when the court is satisfied and to secure the safety, health, and welfare of the aggrieved party. In terms of the said section, this is applicable in taking sharp weapons capable of causing harm to the aggrieved party into police custody. If the aggrieved person resides in temporary accommodation, he or she has the right to be kept confidential in that place according to his or her wishes. Such cases are often used by supplementary orders to protect the aggrieved party from public action by the defendant and thus it is clear that the supplementary orders in the PDVA make many provisions to protect the aggrieved party from acts of violence. Moreover, section 13 of PDVA states that the orders were made with the consent of parties and section 14 expresses about the variation or revocation of the protection order. Furthermore,

it states that the protection order may be varied or revoked under the change of circumstances and these changes are made after the hearing of both parties.

In section 17 of PDVA states the right of appeal, so any person who is dissatisfied with the order made by Magistrate's Court may make an appeal to the High Court. Section 18 of PDVA provides for the enforcement of orders, so if the defendant acts against interim order or protection order he will be guilty of an offence and be liable for conviction after the summary trial and if convicted he will be liable for a fine not exceeding 10000 rupees or imprisonment or to both. In the case of domestic violence, there is a possibility of getting relief through the Magistrate's Court, thus the defendant or the aggrieved person suffering from insanity or mental disorder, the act does not provide any special relief to them by using this act. This may provide for the aggrieved party with a standing similar to physical violence done against the same. It must be noted that even though physical violence is often attached to mental abuse, the causation is not correctly recognized if the abuser is mentally unsound in the provided law. Therefore, from the angle of an ordinarily prudent person, it will always appear as unjust.

The primary objective of the PDVA is to protect the aggrieved party from acts of domestic violence and protect them from inhumane assault and torture. Apart from the PDVA, there are other legal instruments which can identify in domestic and international legal contexts. The Penal Code of Sri Lanka No.32 of 1991 states the defence of insanity in section 77 of the Penal Code, and it said that it is not an offence if a person commits an act due to unsoundness of mind and not capable of knowing the nature of the act, at the time of the doing it. Section 105 of the Evidence Ordinance expressed that, the weight of truth is relevant, and it is important in the defence of insanity. (Mendis, 1994) Moreover, in the case of *king vs. Chandrasekara*, the English court declared that the inevitable impulse does not include the defence of insanity. Similarly, in the case of *Sodeman vs Rex*, the same procedure was followed, and this decision is followed by Sri Lanka in court rulings as well. (Kirby AC CMG, n.d.) Although the American court accepted the inevitable impulse in the defence of insanity, in such a case, the accused is not released but sent to mental rehabilitation. In a rape, consent plays a vital role and section 363 (e) of the Penal Code read with section 83 expresses that consent is not recognized as consent if it was given by a person in an unsound state of mind or is unable to understand the nature and consequences of the act. This may also be exemplified as giving due consideration to matters relating to insanity and mental disorder. Moreover, in an instance of marital rape, a married man cannot be held guilty of rape unless the spouse was judicially separate. However, as a quicker

solution, the victim can have relief through PDVA through a protection order. Under section 294 of the Penal Code, on exceptions for murder, it is clearly stated that sudden provocation is to be taken as an exception due to the lack of rational thinking in that mental state. In this instance, the person is not aware of his action and the results of his action.

The legal framework of domestic violence expresses through the Code of Criminal Procedure Act, and it is on par with the sections of PDVA. Furthermore, MMDA relates to marriage life, and it is applicable to matters of domestic violence and divorce procedure. The Quazi plays an important role, and this act will govern the Muslim community and helps for the protection of women's rights. In 2016, Sri Lanka launched the National Action Plan, which aims to create violence-free life for women and children against sex-based and gender-based violence. As an international legal instrument, the UDHR takes a special place. It preliminarily mentions the basic rights of people such as the right to live free from cruel and inhuman attacks. Furthermore, it indicates that people have the right to live freely even from domestic violence. Sri Lanka signed the CEDAW in 1980 and ratified it in 1981. The CEDAW General Comment No.35 express the term "gender-based violence against women" and paragraph 26 requires the state parties to adopt legislative measures prohibiting all forms of gender-based violence against girls and women and it harmonizes national law with the CEDAW while repealing any law which relates with any discrimination against women. (Ponnambalam, 2003) Also, the Beijing Declaration and Platform for Action is important in providing an international legal framework for domestic violence. Therefore, it is important to add necessary provisions to the PDVA to suffice aggression caused by insane personnel to provide for true freedom and protection in the domestic context.

V. CONCLUSION

Domestic violence is a social phenomenon and an enormous, hidden problem that arose across national boundaries. Every person has the fundamental right to live free from cruel and inhuman torture; and Sri Lankan Constitution also mentioned that all citizens have freedom in their workplace, home, and permanent residence. The study has brought the idea of domestic violence, its prevalence law, and how this applies to the violence committed by insane Persons. Domestic violence can be simply defined as being subjected to brutal, torturous, inhuman assaults and psychological distress. Accordingly, the PDVA in Sri Lanka provides the basic legal framework for this. According to this Act, the aggrieved party can seek justice in the Magistrates Court in domestic violence proceedings. The provisions of this Act have been applied to the ability of women, men, and children who seek justice

in an act of violence. The Act does not provide for a procedure by which insane persons, whether it is the defendant or the aggrieved party. The PDVA has broadly defined domestic violence to include physical, sexual, emotional, and economic abuse in domestic relations. The Act provides imprisonment and fines as punishments for domestic violence. Further, it allows the aggrieved party to obtain protective orders from the court to prevent further acts of domestic violence. (Prevention of Domestic Violence Act, 2005)

However, according to this Act, no special provision has been made for domestic violence committed by insane persons and domestic violence against insane persons. It is not reasonable to look for solutions to these problems from the point of view of ordinary people because in this instance, the instance person lacks competence in prudent knowledge of their actions and surroundings. Further, the harm they cause will never be seen as justice in the eyes of the victim. It is further recommended by the writer for mitigating these instances by providing necessary medical and mental health support to the offender and monetary support to the victim. Special attention is needed to be given to acts of insane persons under PDVA like other existing laws in Sri Lanka and this may be achieved through making new provisions in this regard, finally with these changes, the possibility of obtaining a fair judgment for insane persons would become a success.

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ABBREVIATIONS

PDVA Prevention of Domestic Violence Act
MMDA Muslim Marriage and Divorce Act

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