
DOMESTIC VIOLENCE A CRIME VS PRIVATE FAMILY MATTER AND EFFICIACY OF LAW AGAINST IT

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Abstract

Domestic violence remains one of the most pervasive forms of human rights violations worldwide, often occurring within the private sphere of the family yet having severe social and legal implications. Historically, domestic violence was frequently perceived as a private family matter, leading to minimal state intervention and limited legal accountability for perpetrators. However, with the growing recognition of individual rights and gender equality, domestic violence is increasingly acknowledged as a serious crime that demands legal scrutiny and state action. This paper examines the ongoing debate between viewing domestic violence as a private familial issue versus recognizing it as a criminal offense that requires legal intervention. It explores the social, cultural, and legal factors that have traditionally contributed to the normalization and underreporting of domestic violence. The study further analyzes the role and effectiveness of laws designed to prevent and address domestic violence, particularly focusing on legal frameworks that aim to protect victims and hold offenders accountable. Special attention is given to the implementation challenges, such as lack of awareness, social stigma, inadequate enforcement mechanisms, and institutional barriers that often weaken the impact of these laws. By evaluating existing legal provisions and their practical application, the paper highlights both the progress made and the gaps that still exist in ensuring justice and protection for victims. Ultimately, the study argues that domestic violence must be unequivocally treated as a criminal offense rather than a private matter, emphasizing the importance of strong legal mechanisms, effective enforcement, and societal awareness in combating this issue.

Keywords: Domestic Violence, Criminal Justice, Family Law, Legal Protection, Victim Rights

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Introduction

Domestic violence is a pervasive and deeply rooted social problem that transcends cultural, economic, and geographical boundaries. It refers to any form of physical, emotional, psychological, sexual, or economic abuse occurring within the domestic sphere, typically involving family members, intimate partners, or spouses. For centuries, violence within the home was largely considered a private matter beyond the scope of legal intervention. The concept of family privacy and patriarchal social structures often allowed abusive behavior to remain hidden and unaddressed by formal legal systems. As a result, victims—primarily women and children—were frequently denied protection, justice, and recognition of their suffering. In recent decades, however, the perception of domestic violence has gradually shifted from being a private family issue to a serious criminal offense that violates fundamental human rights and demands state intervention.¹

Historically, legal systems in many societies were reluctant to intervene in domestic disputes due to the long-standing belief that the family was a private institution governed by personal relationships rather than public law. Cultural norms reinforced male dominance within the household, often legitimizing certain forms of violence as disciplinary or corrective behavior. Consequently, victims were discouraged from reporting abuse, fearing social stigma, family breakdown, and economic insecurity. This societal silence contributed to the normalization of domestic violence and created significant barriers to justice. Over time, increased advocacy by women's rights movements, international organizations, and human rights activists played a crucial role in challenging these norms and pushing governments to recognize domestic violence as a public concern requiring legal regulation and protection.¹

The recognition of domestic violence as a violation of human rights marked a significant turning point in global legal discourse. International conventions and declarations emphasized the obligation of states to protect individuals from violence within the family. Instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

¹ World Health Organization, *Violence Against Women Prevalence Estimates*, <https://www.who.int/publications/i/item/9789240022256> (last visited Mar. 14, 2026).

highlighted the responsibility of governments to address gender-based violence and eliminate discriminatory practices that perpetuate abuse. These international frameworks encouraged countries to develop legislative measures aimed at preventing domestic violence, providing support to victims, and ensuring accountability for perpetrators.²

In India, the issue of domestic violence has gained considerable attention due to its widespread prevalence and the urgent need for effective legal protection. Despite constitutional guarantees of equality and dignity, many individuals—particularly women—continue to experience violence within their homes. Studies and reports indicate that domestic violence remains underreported because victims often face social pressure, economic dependence, and fear of retaliation. The stigma associated with speaking out against family members frequently discourages victims from seeking legal remedies. Furthermore, traditional attitudes that prioritize family unity over individual safety often lead communities and authorities to treat domestic abuse as a personal matter rather than a criminal act.¹

Recognizing the seriousness of the issue, the Indian government enacted several laws to address domestic violence and protect victims. One of the most significant legislative developments was the enactment of the Protection of Women from Domestic Violence Act, 2005 (PWDVA). This landmark legislation expanded the legal understanding of domestic violence beyond physical abuse to include emotional, verbal, sexual, and economic forms of violence. The Act provides civil remedies such as protection orders, residence orders, monetary relief, and custody orders, thereby offering victims immediate protection and support. Importantly, the law also recognizes relationships beyond marriage, including live-in relationships, thereby broadening the scope of protection for women facing domestic abuse.³

In addition to the PWDVA, other legal provisions under the Indian Penal Code and related statutes address certain aspects of domestic violence. For instance, Section 498A of the Indian Penal Code criminalizes cruelty by a husband or his relatives toward a married woman. This provision was

² Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, <https://www.un.org/womenwatch/daw/cedaw/> (last visited Mar. 14, 2026).

³ *Protection of Women from Domestic Violence Act*, No. 43 of 2005, India Code, <https://www.indiacode.nic.in/handle/123456789/15436> (last visited Mar. 14, 2026).

introduced to combat dowry-related harassment and violence within marriages. While such laws have played an important role in raising awareness and providing legal recourse to victims, debates continue regarding their effectiveness, implementation, and potential misuse. Critics argue that enforcement challenges, procedural delays, and lack of institutional support often prevent victims from receiving timely justice. At the same time, concerns about false accusations have led to discussions about balancing victim protection with safeguards against misuse of the law.¹

Despite the existence of legal frameworks, the practical implementation of domestic violence laws remains a significant challenge. Many victims are unaware of their legal rights or lack access to legal assistance and support services. Law enforcement officials may not always be adequately trained to handle domestic violence cases sensitively, resulting in victim-blaming attitudes or reluctance to register complaints. Additionally, the judicial process can be lengthy and intimidating, discouraging victims from pursuing legal action. These systemic barriers highlight the gap between the formal recognition of domestic violence as a crime and the actual delivery of justice and protection to those affected.⁴

Another important dimension of domestic violence is its broader social and psychological impact. Violence within the home not only harms the immediate victims but also affects children, families, and communities. Children who witness domestic violence may experience emotional trauma and are more likely to perpetuate or experience violence in their own relationships later in life. Moreover, domestic violence can lead to long-term physical and mental health consequences, including depression, anxiety, and post-traumatic stress disorder. Therefore, addressing domestic violence is not merely a matter of individual justice but also a crucial step toward promoting public health, social stability, and gender equality.¹

In recent years, increased public awareness campaigns, support services, and community initiatives have sought to address the problem of domestic violence more effectively. Government agencies, non-governmental organizations, and international institutions have collaborated to provide shelters, counseling services, legal aid, and helplines for victims. Technological

⁴ National Commission for Women, *Domestic Violence and Legal Remedies*, <https://ncw.nic.in> (last visited Mar. 14, 2026).

advancements have also enabled new methods of reporting abuse and accessing assistance. However, sustainable progress requires continuous efforts to challenge harmful cultural norms, strengthen legal enforcement, and ensure that victims receive comprehensive support throughout the legal process.⁵

The debate surrounding domestic violence as a crime versus a private family matter remains relevant in many societies. While legal reforms have clearly established domestic violence as a punishable offense, social attitudes and institutional practices sometimes continue to treat it as an internal family dispute. This contradiction undermines the effectiveness of legal protections and perpetuates cycles of abuse. Recognizing domestic violence as a serious crime is therefore essential not only for ensuring justice for victims but also for promoting a broader cultural shift toward respect, equality, and human dignity within the family.¹

This study seeks to examine the evolving legal and social understanding of domestic violence, particularly focusing on the tension between its characterization as a private family matter and its recognition as a criminal offense. It further analyzes the efficacy of existing legal mechanisms designed to combat domestic violence, highlighting both their strengths and limitations. By exploring legislative frameworks, enforcement challenges, and societal attitudes, the study aims to contribute to a deeper understanding of how law can effectively address domestic violence and protect vulnerable individuals within the domestic sphere.

Objectives of the study

1. To examine whether domestic violence should be treated as a criminal offence rather than a private family matter in modern legal systems.
2. To analyze the effectiveness of existing legal frameworks, particularly in India, in preventing domestic violence and protecting victims.

⁵ Ministry of Women and Child Development, Government of India, <https://wcd.nic.in> (last visited Mar. 14, 2026).

Research methodology

The present study adopts a doctrinal and analytical research methodology to examine domestic violence as a crime versus a private family matter and to evaluate the efficacy of laws addressing it. The research primarily relies on secondary sources, including statutes, judicial decisions, government reports, academic journals, books, and online legal databases. Key legislations such as the Protection of Women from Domestic Violence Act, 2005 and relevant provisions of the Indian Penal Code have been critically analyzed. Additionally, reports from international organizations and government agencies have been reviewed to understand the prevalence and impact of domestic violence. The study also uses a comparative and descriptive approach to assess the effectiveness of existing legal mechanisms and identify challenges in their implementation.

Analysis

1. Conceptual Understanding: Domestic Violence as Crime vs Private Family Matter

Historically, domestic violence was considered a private matter confined within the boundaries of the household. Traditional societies often viewed family disputes as issues that should be resolved internally without state intervention. This perception was rooted in patriarchal social structures that prioritized family unity and male authority over individual rights. As a result, victims—predominantly women—were often discouraged from reporting abuse due to fear of stigma, economic dependence, and societal pressure.⁶

However, modern legal and human rights frameworks increasingly recognize domestic violence as a serious crime rather than a private dispute. Violence within the home violates fundamental rights such as the right to life, dignity, equality, and freedom from cruel or degrading treatment.

⁶ World Health Organization, *Violence Against Women*, <https://www.who.int/news-room/fact-sheets/detail/violence-against-women> (last visited Mar. 14, 2026).

Courts have repeatedly emphasized that the privacy of the family cannot be used as a shield to justify abuse.¹

The transformation of domestic violence from a private matter to a public legal issue reflects a broader shift toward recognizing gender equality and human rights. International conventions such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) have played a crucial role in encouraging states to criminalize domestic violence and provide legal protection to victims.⁷

2. Legal Framework Addressing Domestic Violence in India

India has enacted several legislative provisions to address domestic violence and protect victims. The most significant statute is the *Protection of Women from Domestic Violence Act, 2005* (PWDVA), which provides civil remedies such as protection orders, residence rights, and monetary relief.¹ Unlike earlier legal provisions, the Act recognizes multiple forms of abuse including emotional, verbal, sexual, and economic violence.

Additionally, criminal provisions under the *Indian Penal Code* address related offences such as cruelty by husband or relatives, dowry harassment, and assault. Section 498A of the IPC specifically criminalizes cruelty toward married women.⁸ These legal frameworks demonstrate the state's commitment to addressing domestic violence as a public issue requiring legal intervention.

3. Judicial Recognition of Domestic Violence as a Crime

Indian courts have played a significant role in interpreting and strengthening laws related to domestic violence. Several landmark judgments have clarified the scope of protection available to victims.

⁷ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, <https://www.un.org/womenwatch/daw/cedaw/> (last visited Mar. 14, 2026).

⁸ *Indian Penal Code* § 498A, India Code, <https://www.indiacode.nic.in> (last visited Mar. 14, 2026).

In *V.D. Bhanot v. Savita Bhanot*, the Supreme Court held that the Protection of Women from Domestic Violence Act applies even to acts of violence that occurred prior to the enactment of the statute, thereby ensuring broader protection for victims.¹

Similarly, in *S.R. Batra v. Taruna Batra*, the Court discussed the concept of the “shared household” under the Act and examined the rights of women to reside in matrimonial homes.⁹

The Supreme Court in *Indra Sarma v. V.K.V. Sarma* expanded the understanding of domestic relationships by recognizing certain live-in relationships as falling within the scope of the Domestic Violence Act.¹

Another significant case, *Hiral P. Harsora v. Kusum Narottamdas Harsora*, struck down the limitation that only adult male persons could be respondents under the Act, thereby expanding its applicability.¹⁰

4. Important Judicial Decisions on Domestic Violence

The following table summarizes important Indian judicial decisions relevant to domestic violence law.

No.	Case Name	Court	Key Principle / Landmark Ruling
1	<i>V.D. Bhanot v. Savita Bhanot</i>	Supreme Court	The PWDVA applies retrospectively ; past acts of violence are actionable even if they occurred before the Act.

⁹ *S.R. Batra v. Taruna Batra*, (2007) 3 S.C.C. 169 (India).

¹⁰ *Hiral P. Harsora v. Kusum Narottamdas Harsora*, (2016) 10 S.C.C. 165 (India).

No.	Case Name	Court	Key Principle / Landmark Ruling
2	<i>S.R. Batra v. Taruna Batra</i>	Supreme Court	Defined " shared household "; clarification that it doesn't necessarily include property belonging exclusively to parents-in-law.
3	<i>Indra Sarma v. V.K.V. Sarma</i>	Supreme Court	Established criteria for recognizing live-in relationships as "relationships in the nature of marriage."
4	<i>Hiral P. Harsora v. Kusum Harsora</i>	Supreme Court	Expanded "respondent" definition: Struck down "adult male," allowing complaints against women and minors.
5	<i>Arnesh Kumar v. State of Bihar</i>	Supreme Court	Laid down strict guidelines against arbitrary arrests to prevent the misuse of IPC Section 498A.
6	<i>Rajesh Sharma v. State of U.P.</i>	Supreme Court	Introduced procedural safeguards to check the veracity of allegations in dowry-related cases.
7	<i>Kunapareddy v. Kunapareddy Swarna Kumari</i>	Supreme Court	Confirmed that amendments to complaints under the DV Act are permissible to ensure justice.

No.	Case Name	Court	Key Principle / Landmark Ruling
8	<i>Lalita Kumari v. Govt. of U.P.</i>	Supreme Court	Ruled that the registration of an FIR is mandatory if the information discloses a cognizable offense.
9	<i>Savitaben Somabhai Bhatiya v. State of Gujarat</i>	Supreme Court	Strict interpretation of maintenance rights for legally wedded wives versus second "wives."
10	<i>S. Khushboo v. Kanniammal</i>	Supreme Court	Legitimized live-in relationships ; stated that consensual cohabitation is not an offense.
11	<i>Shalu Ojha v. Prashant Ojha</i>	Delhi High Court	Addressed the execution and procedural nuances of protection orders under the DV Act.
12	<i>Ajay Kumar v. Lata</i>	Delhi High Court	Clarified the scope of "domestic relationship" to include extended family members in specific contexts.
13	<i>Sandhya Manoj Wankhade v. Manoj Wankhade</i>	Supreme Court	Affirmed that a complaint can be filed against female relatives of the husband under the DV Act.

No.	Case Name	Court	Key Principle / Landmark Ruling
14	<i>Krishna Bhattacharjee v. Sarathi Choudhury</i>	Supreme Court	Clarified that a separated woman can still seek recovery of Stridhan under the DV Act.
15	<i>Shome Nikhil Danani v. Tanya Banon</i>	Delhi High Court	Provided further clarification on residence rights and the definition of a shared household.

The cases collectively demonstrate the judiciary's role in strengthening domestic violence protections. Courts have expanded definitions of domestic relationships, clarified the scope of residence rights, and ensured that victims can access legal remedies effectively. At the same time, decisions such as *Arnesh Kumar v. State of Bihar* highlight concerns about misuse of certain criminal provisions, leading courts to introduce procedural safeguards.¹

5. Effectiveness of Legal Mechanisms Against Domestic Violence

The legal framework in India provides several remedies for victims of domestic violence. These remedies include protection orders, residence rights, monetary compensation, and criminal prosecution of offenders. However, the effectiveness of these laws depends largely on their implementation.

The following table illustrates key remedies available under the Protection of Women from Domestic Violence Act.

Remedy	Purpose	Legal Provision
Protection Orders	Prohibits the respondent from committing acts of violence, entering the workplace/residence of the victim, or communicating with them.	Section 18
Residence Orders	Restrains the respondent from dispossessing the victim or ensures the victim's right to stay in the shared household , regardless of legal title.	Section 19
Monetary Relief	Directs the respondent to pay for medical expenses, loss of earnings, property damage, and maintenance for the victim and her children.	Section 20
Custody Orders	Grants temporary custody of children to the aggrieved person to prevent them from being used as leverage by the respondent.	Section 21
Compensation Orders	Provides for the payment of damages for injuries, including mental torture and emotional distress caused by domestic violence.	Section 22

These remedies demonstrate that the Act adopts a comprehensive approach to addressing domestic violence. Unlike purely criminal statutes, the law focuses on providing immediate protection and financial assistance to victims. Nevertheless, enforcement challenges often limit the practical impact of these provisions.

6. Implementation Challenges

Despite the existence of progressive legal frameworks, domestic violence remains widespread. Several structural and institutional barriers hinder effective implementation.

First, social stigma discourages victims from reporting abuse. Many individuals fear social ostracism or retaliation from family members.¹¹

Second, lack of awareness about legal rights prevents victims from accessing available remedies. In many rural and marginalized communities, individuals are unaware of protection orders and other legal mechanisms provided by the Domestic Violence Act.

Third, institutional limitations such as inadequate training of police officers, delays in judicial proceedings, and insufficient support services also undermine the effectiveness of legal protections.

Fourth, economic dependence on abusive partners often forces victims to remain in violent relationships despite available legal remedies.

7. Statistical Overview of Domestic Violence

The prevalence of domestic violence highlights the importance of strong legal responses.

Domestic Violence Landscape in India (2024–2026 Perspective)

¹¹ *National Family Health Survey (NFHS-5)*, Int'l Inst. for Population Scis., <https://rchiips.org/nfhs/> (last visited Mar. 14, 2026).

Indicator	Percentage / Data Point (India)	Key Observation
Women experiencing domestic violence	~29.3% to 32%	Nearly 1 in 3 women (aged 18–49) have experienced spousal violence in their lifetime.
Cases reported to the police	< 10%	NFHS-5 data shows that only about 14% of women who experienced violence sought help, and only 1% to 2% ever reported it to the police.
Cases resolved through courts	~12% to 20%	While "charge-sheeting" rates (police filing cases) are high (over 80%), the conviction rate remains significantly low due to delays and witnesses turning hostile.
Predominant Crime Category	31.8%	"Cruelty by Husband or his Relatives" (IPC 498A) remains the most reported crime against women in India.

The discrepancy between the ~30% prevalence and the low reporting rate is often referred to as the "Iceberg Effect."

- **Social Stigma:** Many women fear familial repercussions or social shaming.
- **Economic Dependency:** Lack of financial autonomy makes it difficult to leave or report an abusive household.
- **Judicial Bottlenecks:** As of early 2026, the backlog of cases in Fast Track Courts remains a significant hurdle, with many survivors waiting years for a final verdict.

Institutional Support

- If you or someone you know is looking for assistance, the following mechanisms are operational:
- **One Stop Centres (OSCs):** Provide integrated support (medical, legal, and psychological).
- **National Helpline:** 181 (Women Helpline) or 112 (Emergency Response).
- **NCW WhatsApp Line:** Dedicated number for reporting domestic violence: 72177-35372.

The data indicates a significant gap between the prevalence of domestic violence and the number of reported cases. This gap reflects barriers such as fear, stigma, and lack of awareness. Strengthening legal awareness and support systems is therefore essential for improving reporting rates and ensuring justice.

8. Comparative Perspective

Many countries have adopted specialized legislation addressing domestic violence. For example, the United States enacted the Violence Against Women Act (VAWA), which provides federal support for victims and establishes protective mechanisms. Similarly, the United Kingdom has implemented the Domestic Abuse Act to address coercive control and psychological abuse. These international developments demonstrate a global shift toward treating domestic violence as a public crime rather than a private matter.¹

India's Domestic Violence Act aligns with these international standards by recognizing multiple forms of abuse and providing comprehensive remedies. However, effective implementation remains a critical challenge.

9. Role of Judiciary in Strengthening Legal Protection

The judiciary has consistently emphasized that domestic violence cannot be treated merely as a family dispute. Courts have recognized that abuse within the home undermines constitutional guarantees of equality and dignity.

For instance, in *Krishna Bhattacharjee v. Sarathi Choudhury*, the Supreme Court held that the right of a woman to recover her stridhan continues even after judicial separation, reinforcing property rights of women within marital relationships.¹²

Similarly, in *Sandhya Manoj Wankhade v. Manoj Wankhade*, the Court clarified that complaints under the Domestic Violence Act can be filed against female relatives as well, expanding the scope of accountability.¹

These judicial interpretations illustrate the evolving understanding of domestic violence as a serious legal issue requiring active intervention by courts and law enforcement agencies.

10. Assessment Based on Research Objectives

The analysis of legal frameworks, judicial decisions, and statistical data supports the study's objectives.

First, domestic violence cannot be considered a purely private family matter. The severe physical, psychological, and social consequences of abuse necessitate legal intervention and state accountability.

¹² *Krishna Bhattacharjee v. Sarathi Choudhury*, (2016) 2 S.C.C. 705 (India).

Second, while India has enacted comprehensive legal frameworks such as the Protection of Women from Domestic Violence Act, the effectiveness of these laws depends largely on implementation. Strengthening institutional support, increasing public awareness, and improving access to justice are essential for ensuring that the law achieves its intended objectives.

Conclusion

The transformation of domestic violence from a private family matter to a recognized criminal offense represents a significant development in legal and human rights discourse. Legislative measures such as the Protection of Women from Domestic Violence Act, along with judicial interpretations, have played a crucial role in strengthening legal protections for victims. Nevertheless, persistent challenges such as underreporting, social stigma, and enforcement gaps continue to limit the effectiveness of these laws.

Addressing domestic violence requires a multidimensional approach involving legal reforms, institutional support, public awareness, and societal change. Only through coordinated efforts between the state, judiciary, civil society, and communities can domestic violence be effectively prevented and victims provided with meaningful protection and justice.