
AN ANALYTICAL STUDY OF DOMESTIC VIOLENCE AS A HUMAN RIGHTS VIOLATION UNDER INDIAN LEGAL FRAMEWORKS

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ABSTRACT

India as a developing nation is climbing on the ladder of progress rapidly. Despite this there are still pressing issues that remains unresolved and must be approached with empathy and sensitivity. Domestic violence stands out as a deeply rooted problem that constitutes a severe violation of human rights. This issue isn't always loud. In fact, it often unfolds quietly, inside homes, hidden from public eyes. It's like a silent emergency. Legal reforms such as the Protection of Women from Domestic Violence Act (PWDVA), 2005 and Section 498A of the Indian Penal Code were major milestones in the effort to protect women. However, the lived realities of survivors often narrate a different tale. Laws can proclaim safety and rights but do they consistently ensure them in practice. That question continues to trouble both scholars and citizens. This paper investigates the magnitude of human rights violations in the context of domestic violence as addressed by Indian law. It gives attention to how well the constitutional and legal structures function in practice.

While working on this research there were women in courtrooms in Nagpur with arising doubt about there pending cases and the justice if they are going to receive. Legal provisions read well on paper. But if you've ever stepped into a family court on an ordinary Thursday, you might understand how different the reality feels. This research delves into how courts have interpreted domestic violence cases and how human rights are viewed within that framework. This paper studies the gap between the law stated and its execution. The study also sheds light on enforcement barriers and suggests actionable steps to make legal protections more effective. Also it emphasizes the urgent need to strengthen support systems for victims.

Keywords: Domestic violence, Indian law, PWDVA, IPC, judicial interpretations, legal framework, gender-based violence, human rights

Introduction

As seen most of the times the voices that are raised against violence lose their strength due to either lack of proper support or the normalization of such behaviours. This pattern is frequently observed in cases related to domestic violence. The present study is not only born from academic interest, but also from a rising unease regarding how violence within domestic spaces is too easily overlooked or rationalised. India has, no doubt, made significant strides on the global front — socially, culturally, and economically. Yet, beneath this progress lies deep-rooted social concerns that continues to hinder the nation's true development. These challenges exist across various religious, cultural, and socio-economic dimensions. Domestic violence, often occurring within intimate or close-knit relationships, is one such pressing issue. Acts of abuse be it physical, emotional, sexual, mental or financial are classified under domestic violence. According to the National Family Health Survey (NFHS) a significant number of women in India have undergone such forms of violence. However, due to fear, lack of awareness, and societal shame, a large chunk of these incidents remain unreported. This widespread prevalence indicates the urgent necessity of strong legal structures to protect victims and uphold justice.

Quoting figures is simple. But behind every statistic there exists a real person, a painful story, and a muted cry for help that often gets ignored by the system. Domestic violence is a serious breach of basic human rights, and it shouldn't be considered as just a private or internal affair of the family. It violates the person's basic rights to dignity, equality and personal safety. As outlined in global human rights documents like the Universal Declaration of Human Rights (UDHR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), such violence has deep impacts on one's sense of dignity and security in society.

Sadly, the way domestic violence cases are handled is sometimes unfair and prolongs gender discrimination. The right to justice for victims is thereby weakened. Legal mechanisms, therefore, plays a crucial role in ensuring that the protection of human rights is not just promised but practiced. Legal frameworks play a crucial role in identifying, taking preventive measures and in penalizing domestic violence. India has established laws such as the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and Section 498A of the Indian Penal Code (IPC) to provide legal recourse for victims. There are constitutional provisions like

Article 14 which is Right to Equality and Article 21 which is Right to Life and Personal Liberty. These laws strengthen the need for state intervention in protection of individuals from domestic violence. However implementation of these is a challenge as there are enforcement issues, huge social stigma and judicial delays. These often hinder in effectively protecting victims. This research critically analyzes these legal mechanisms to assess their effectiveness in upholding human rights and providing justice for survivors of domestic violence.

Research Problem & Objectives

Following are the objectives on which the research is carried out:

- To analyze the scope and nature of human rights violations arising from domestic violence within the framework of Indian legal systems.
- To examine the adequacy and implementation of existing legal safeguards available for the protection of victims.
- To study judicial perspectives and examine real-world case outcomes to understand how courts respond to domestic violence cases.

Research Questions

- In what ways does domestic violence amount to a breach of fundamental human rights?
- Do the current legal provisions in India effectively address the challenges posed by domestic violence?
- What has been the judicial approach in interpreting and responding to human rights concerns in domestic violence cases?

Research Scope and Limitations

The present research looks into domestic violence cases within India, with the fieldwork being conducted in Nagpur. It mainly focuses on real-life legal cases and their link to human rights. It explores major legal provisions like Section 498A of the Indian Penal Code (IPC) which seeks to offer justice in cases where cruelty is inflicted by a husband or his family. Another law examined is the Protection of Women from Domestic Violence Act, 2005 (PWDVA). It gives

civil help to the victims of DV like protection orders, residence rights, and financial support for the victim.

Some other constitutional rights are also studied like Article 14 which is right to equality and Article 21 which is Right to Life and Personal Liberty. These laws together form a strong base for protecting women from domestic violence. In this research it is considered how the courts have read and applied these laws through different case rulings. It becomes important to see whether these laws are really working to help victims and to uphold their basic rights.

While doing this research it came to notice that not many cases come to light. Sometimes it was observed that the victims would sit outside courtrooms in Nagpur and wait for their turn. They looked tired, some hopeful, and many just quiet. However, this research has its limitations. The study is restricted only to Indian law and does not compare with international legal systems. It mainly focuses on violence against women as defined by PWDVA and IPC, and unfortunately doesn't cover male victims or others outside this legal definition. Another limitation is that the study depends on legal texts, court judgments, and secondary sources. Because of this, it may not completely reflect the lived experiences of all survivors some of whom may stay silent due to fear, shame, or weak law enforcement. Still, the aim is to offer a meaningful legal understanding and to support ongoing conversations around improving domestic violence laws in India. This work hopes to add something to future policy thinking and reforms that can make justice more reachable for those who need it most.

Literature Review

Feminist legal theory and the human rights-based approach help create the core frameworks through which domestic violence can be better understood. Feminist legal thinking questions the patriarchal mindset that is still very much part of the legal system. It shows how such deep-rooted gender biases often support discrimination and violence against women. The human rights approach, on the other hand, reminds the State of its duty to stop violence, to protect the victim, and to punish those who are responsible. Many past studies on domestic violence in India have already shown how social and legal systems together allow abuse to continue. One major concern is the way domestic violence gets normalized in everyday life. Most of the times spousal abuse is treated not as a serious crime but as a "personal family matter." I have seen people, even educated ones, shrug off a woman's pain as a "ghar ki baat." This kind of attitude creates fear and silence. Women don't speak out easily some are scared of what society will

say, some depend on their husbands financially, and others don't want to break the family. Legal experts like Flavia Agnes and Indira Jaising have spoken a lot about these issues. Agnes (1992), in her work, explained how laws are often influenced by patriarchal thinking. So even if a law exists, it might not help women fully. She said the Protection of Women from Domestic Violence Act (PWDVA), 2005 is a good law, no doubt, but it isn't working so well. There are not enough trained people to support victims, people don't even know their rights sometimes, and courts take too long.

In the Jaising (2009) case it was pointed out that courts can actually help women more if judges use gender-sensitive thinking. Her case highlighted how activism from within the legal system itself can bring stronger rights for women. Change can come from the courts too. Kishwar (2005) also shared important points in her research. She looked into how women often stay silent because they are financially dependent on male relatives. The study said education matters a lot. When a woman is educated, she can better understand what her rights are, and maybe, speak up for herself.

A more recent report of NFHS-5 (2019–2021) gave some shocking numbers. Around 30% of married women in the age group of 18 to 49 have gone through domestic violence. But still, many never report it. The reasons were same most of the times of fear, shame and the feeling or experience of “no one will help.” All these studies are pointing towards the same thing that ultimately we need better law enforcement, more awareness programs as well as rigid social reforms. Only then will survivors feel strong enough to report abuse and demand justice. Also, it's not enough to just punish abusers. The laws should protect the dignity and rights of victims too. That's where the human rights angle becomes very important. It's not just about jail or fine it's about safety, healing, and about being treated with respect.

Case Laws and Their Implications

The Vishaka judgment was one of the first big steps in showing that violence based on gender is a violation of basic rights. Even though the case was about sexual harassment at the workplace, the Supreme Court made a bigger point. It referred to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and said that domestic violence and other gender-based harm should be tackled through laws that match global human rights ideas. This was important because it connected India's law to international standards.

In another well-known case, *Joseph Shine v. Union of India*, the Supreme Court removed adultery (Section 497 IPC) as a criminal offence. The judges said that laws which treat women like property or make men the boss in marriage go against the Constitution. I personally found this case very meaningful. It not only talked about marriage but also about gender equality in general. It pushed back against old ways of thinking that treated women unfairly, and supported the idea that both partners have equal rights. This judgment made feminist legal theory more strong in India. Again there was the case of *Indra Sarma v. V.K.V. Sarma*. In this case the Supreme Court said that women in live-in relationships also deserve protection under the Protection of Women from Domestic Violence Act, 2005 (PWDVA). This was a new and important view. The Court showed that protection should not only be for married women but it is for any woman who faces any form of abuse in a domestic setting. When studied the above case it was seen how the court was trying to be more inclusive and understand how society is changing. Also, we can't forget the international conventions like CEDAW and the Universal Declaration of Human Rights (UDHR). These have had a big influence on how India makes laws about domestic violence. CEDAW tells countries to stop all forms of discrimination against women and protect them from violence. The Indian courts now often look at these documents when making judgments. It's like the law is slowly trying to speak the language of human rights. I believe this shift is very important if we really want our legal system to support victims in the right way.

Comparative View with Other Countries' Laws

In many countries there are strong and clear laws made to fight domestic violence. For example, the United Kingdom brought the Domestic Abuse Act, 2021, which is quite detailed. It even talks about coercive control as a form of abuse where one partner slowly controls the other without physical violence. In the United States, there is the Violence Against Women Act (VAWA). It not only gives legal rights but also provides shelters, counselling, and many other support systems to help women in need. These efforts really show how seriously domestic violence is taken in some countries. Now, if we look at India, we do have the Protection of Women from Domestic Violence Act (PWDVA), 2005. It is a good step, yes. But the real issue is how it is implemented. There is lack of awareness, social pressure and sometimes the law is not properly enforced. From what the study analysed during this research many women don't even know that such a law exists or what rights they have under it.

It feels like we have the law but not the system to support it fully. Maybe we can learn from what other countries are doing. By seeing their best practices, we could make our own laws stronger and more practical especially when it comes to helping survivors feel safe and actually get justice. India has come a long way in responding to domestic violence. Court rulings and public debates have shaped how the law works today. But still, some problems remain—like weak law enforcement, deep-rooted social beliefs, and limited support for victims.

There is a pressing need of a mix of feminist legal ideas and human rights thinking in our legal process. That would make the system more fair and sensitive. It is important to learn from international legal frameworks can help us build better support for survivors. These comparisons are not just helpful but maybe necessary now, to make sure victims of domestic violence in India feel truly protected not just on paper but in real life.

Legal Framework to Tackle Domestic Violence in India

Domestic violence is not just a personal matter. It is a serious violation of human rights and goes against the idea of gender equality. In India, several laws have been made to protect victims and give them justice. These laws come from the Constitution, from Acts passed by Parliament, and from how courts have explained these laws over the years. The aim of all this is to make sure women feel safe in their homes and have a way to fight back legally when they face abuse.

Constitutional Protections

The Indian Constitution gives some basic rights to every person, and these rights help in fighting domestic violence. Article 14, which talks about equality, says that no one should be treated unfairly or be denied protection by the law. This is important because many times, women are not given the same chance as men to get justice. There is also Article 21 which says everyone has the right to life and personal liberty. Courts have explained this article in many cases and said that it also includes the right to live with dignity. So if a woman is being beaten, mentally tortured or even is controlled inside her home, that goes against her right to live with dignity. Another important one is Article 39A. It asks the government to give free legal help to people who can't afford a lawyer. This matters a lot in domestic violence cases, where many women don't have money or family support to fight legal battles.

Laws Made by Parliament (Statutory Provisions)

To tackle domestic violence, India has made several specific laws. The Protection of Women from Domestic Violence Act, 2005 (PWDVA) is one of the main laws for this. It gives civil reliefs like protection orders, the right to stay in her home, and even financial support for women. What I found different about this law is that it's not just about punishing the abuser it's also about helping the victim immediately.

There is also Section 498A of the Indian Penal Code (IPC). This law makes it a crime for a husband or his family to torture or harm a woman physically or mentally. If the abuse leads to something very serious like injury or suicide, the punishment becomes more strict. But sometimes, people say this section is misused, so the courts have made some guidelines to stop false cases too. The Dowry Prohibition Act, 1961 is another law that connects with domestic violence, since many cases start with dowry demands. This Act says giving or taking dowry is a crime, and it tries to stop the financial pressures that often lead to abuse. We also have National and State Commissions for Women. They play a helpful role in dealing with complaints, suggesting legal changes, and giving support to survivors. I read a few reports and interviews where these commissions actually helped women get police protection and counselling.

What the Courts Have Said (Judicial Interpretations)

Sometimes, just reading a law is not enough. Courts have to explain what the law means in real life. In *Indira Sarma v. V.K.V. Sarma* (2013), the Supreme Court said that even women in live-in relationships should be protected under the PWDVA. This was a big move because earlier, only married women were getting that protection. The Court showed that law needs to match changing social realities. In the famous *Maneka Gandhi v. Union of India* (1978) case the Supreme Court said that the right to life also means the right to live with dignity and not just stay alive. This helped later courts in saying that domestic violence is not just about hitting someone it is also about controlling, scaring, and breaking someone emotionally. The *Joseph Shine v. Union of India* (2018) case was also a turning point. The Court removed the old law that punished only men for adultery and treated women like property. It said that all genders should be equal in the eyes of law. That judgment was about gender justice in general, and it also supported the larger fight against patriarchal thinking in our laws. India's legal system on domestic violence looks strong when seen on paper. It mixes constitutional rights, laws made

by Parliament, and court judgments. But even today, there are problems like people not knowing their rights, police not acting properly, or courts taking too long. So, more efforts are needed to make sure that the laws work better in real life.

Domestic Violence as a Human Rights Violation

Domestic violence doesn't just hurt the body it breaks a person's spirit, freedom, and life of dignity. It goes against Article 21 of the Indian Constitution and Article 3 of the Universal Declaration of Human Rights (UDHR), which talks about the right to life and security. CEDAW, an international treaty, also says clearly that countries must stop violence against women. Still, many victims in India face problems like shame, blame, ignorance of rights and delays in court. There are real cases that make us see the human side of law. In *Laxmi v. Union of India* (2014) a young woman who survived an acid attack went to court to ask for stricter laws about acid sales. Her courage showed how domestic and intimate partner violence can lead to horrifying crimes. The *Shah Bano* case (1985) gave hope to Muslim women by saying they had the right to get maintenance from their husbands. This was important for economic justice, especially when many women are left with no money or support. The *Nirbhaya* case (2012) was about a brutal rape but it also made people across the country talk about women's safety. It led to changes in law and made everyone judges, lawmakers, citizens think seriously about violence against women. From all this, it becomes clear that just making laws is not enough. What we also need is change in mindset. Society must stand with survivors and stop blaming them. Only then will justice and dignity be possible for every woman who goes through abuse.

Research Methodology

This study mostly uses a qualitative and doctrinal approach. Doctrinal research was helpful because it let explore legal texts, court judgments and Acts related to domestic violence. The qualitative part gave more understanding of how these laws work in real life. It also helped to see the human rights side of the issue, not just the legal part. This way the study shows the gaps in law and problems faced by victims in getting justice.

Data Sources

The research is both primary and secondary data based. Primary data included laws like

PWDVA, IPC Section 498A, and court cases such as Indira Sarma and Joseph Shine. Secondary data came from books, journal articles, reports by NGOs and some news pieces which were found useful. These helped understand how different people lawyers, scholars and the victims view the law.

Methods of Data Collection

Main methods were:

Content analysis of legal documents : The study was carried out by reading through Acts and case judgments to understand how courts deal with domestic violence.

Case study approach: The study was carried out by analysing a selected few major cases like Vishaka v. State of Rajasthan (1997) and studied what the courts said and how it affected future laws.

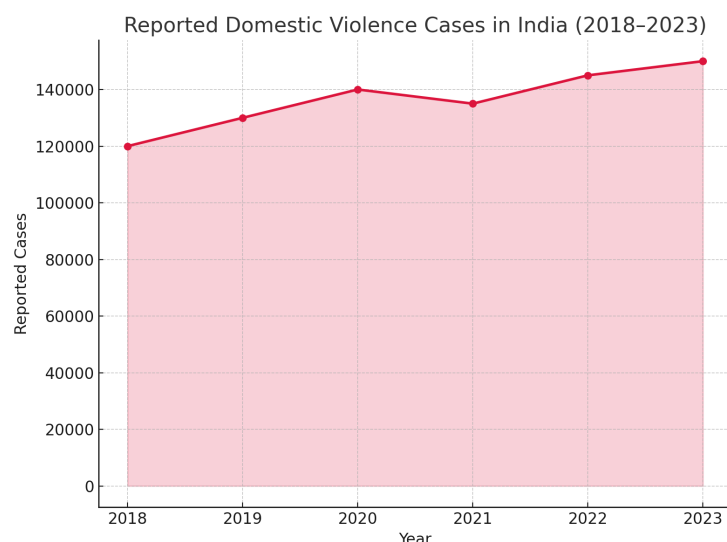
Also the international documents like CEDAW and UDHR were considered to see how they shaped India's domestic violence laws.

Data Analysis and Findings

The data was studied to understand legal trends, how courts interpret laws, and how useful these laws are for real victims.

Some Stats on Domestic Violence

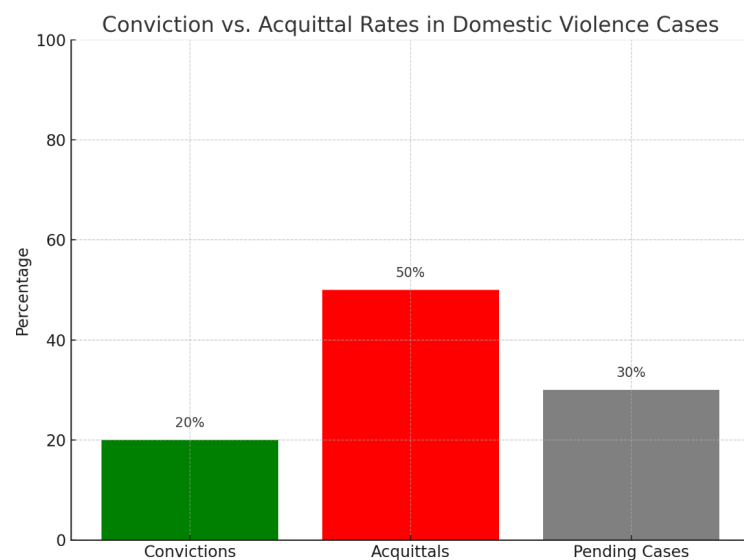
Reports from NFHS and NCRB show that many women still face domestic violence—physical, emotional, or financial. But sadly, many don't report it. Some fear society, others fear their families or don't trust the system. I feel this silence tells us more than the numbers.



Above line chart of the data depicts reported domestic violence cases in India from 2018 to 2023. This representation highlights the trend over time, making it easier to observe year-to-year changes. The trend indicates a general rise in cases, which may be due to increased reporting, legal awareness, or an actual increase in incidents.

Analysis of Conviction and Acquittal Rates Under Domestic Violence Laws

The effectiveness of laws such as Section 498A IPC and the Protection of Women from Domestic Violence Act, 2005 (PWDVA) can be assessed through conviction and acquittal rates. NCRB data shows low conviction rates in domestic violence cases, often attributed to lack of evidence, hostile witnesses, and out-of-court settlements. At the same time, courts have issued guidelines to prevent the misuse of legal provisions, ensuring a balanced approach to justice.



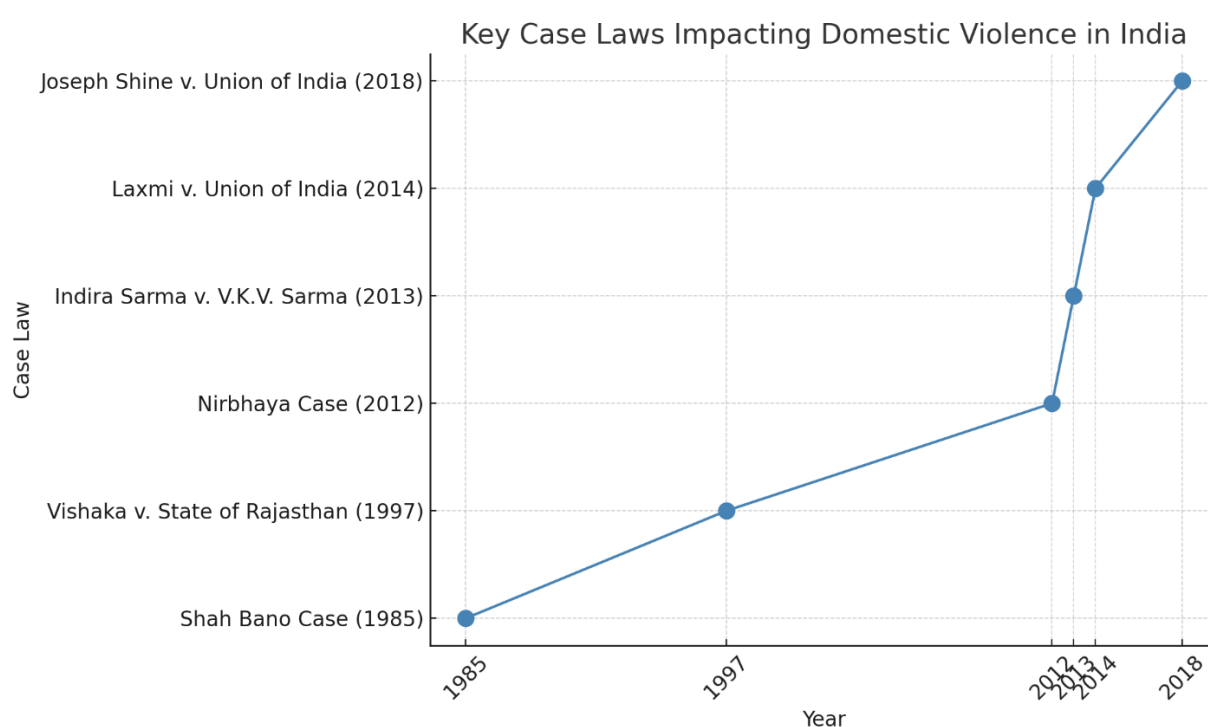
The above bar chart representation of the data clearly shows:

- **Convictions:** 20%
- **Acquittals:** 50%
- **Pending Cases:** 30%

It depicts the conviction, acquittal, and pending case rates in domestic violence cases. The low conviction rate (20%) suggests challenges such as lack of evidence, witness intimidation, and delayed legal proceedings. A significant portion of cases remains pending (30%), further highlighting judicial backlogs.

Impact Assessment of Legal Provisions Through Case Law Interpretations

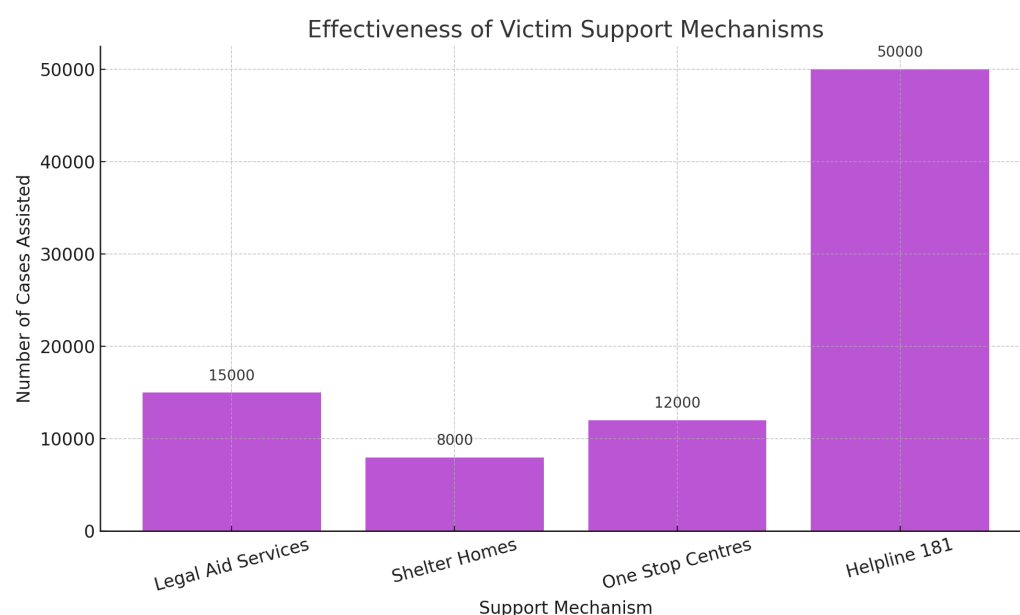
Judicial interpretations play a crucial role in shaping the effectiveness of domestic violence laws. Landmark cases such as *Indira Sarma v. V.K.V. Sarma* (2013) expanded protections under PWDVA, 2005, ensuring that women in live-in relationships also receive legal protection. Similarly, *Joseph Shine v. Union of India* (2018) decriminalized adultery, reinforcing gender equality and autonomy in personal relationships. These interpretations highlight the evolving nature of domestic violence laws in India.



Here is a representation of key case laws impacting domestic violence in India, using a vertical timeline line chart. It arranges the cases by year and highlights their sequential legal impact. Each case represents a milestone in expanding legal protections and addressing gender-based violence.

Victim Support Mechanisms and Their Effectiveness

Government run helplines and NGOs, shelter homes, and counselling centers provide essential support to domestic violence survivors. But the real problem lies with accessibility, and acceptance to seek help. Also lack of awareness and bureaucratic delays limits the effectiveness of victim support mechanisms. The One Stop Centre Scheme and Women Helpline 181 aim to provide immediate assistance, but their reach needs expansion, especially in rural areas. Strengthening these mechanisms through increased funding, legal aid, and awareness campaigns can enhance their impact.



Here is a vertical bar chart showing the number of cases assisted by each victim support mechanism. It can be clearly seen that the helpline 181 has the highest reach, indicating its crucial role in providing immediate support, while shelter homes and legal aid services assist fewer cases, possibly due to limited accessibility and awareness. This structured analysis highlights the challenges and progress in addressing domestic violence through legal and institutional frameworks, emphasizing the need for stronger enforcement and victim-centered support.

Challenges in Enforcement

Even though India has laws like the Protection of Women from Domestic Violence Act (PWDVA), 2005, which look quite strong on paper, things are not always so smooth when it comes to actual implementation. I came across this myself while reading real-life cases laws exist but people either don't know about them or can't easily use them. PWDVA gives many protections but still many women don't know their rights under this law. Also, in many states, Protection Officers are not properly appointed or trained. Without them, the law doesn't work the way it should. Another big problem is the lack of support systems. Shelter homes, crisis centres, and rehab programs are either missing, poorly managed or located far from where help is needed. I remember reading about a woman who had to return to her abusive husband just because the nearest shelter was too far and she had no money.

Financial dependence is another major barrier. Many women can't report abuse because they have no job, no savings, and nowhere else to go. If they leave their homes, who will feed their kids? Lack of jobs and financial awareness makes them stay silent and suffer more.

What Can Be Done (Recommendations)

To fix these issues some strong steps need to be taken. First, the government must ensure strict implementation of PWDVA. Protection Officers should be well trained, monitored, and posted in all areas, even rural ones. There also has to be better coordination between the police, courts, and women's commissions. Many times, these groups don't talk to each other and the survivor ends up going in circles for help. We also need more shelters and crisis centres. These should be safe, easily reachable, and have proper facilities. Victims should also get emergency financial help, so they don't have to go back to unsafe homes. Helping women become financially independent is equally important. Things like skill training, small business loans, or even part-time work support can give women the confidence to leave abusive situations. Lastly, awareness campaigns must be run in local languages. Women should be taught about their rights and even normal people who are bystanders must be told it's okay to speak up when they see something wrong. Police officers and court officials also need to be trained to handle such cases with sensitivity and respect.

Conclusion

This study shows that while India has made legal efforts through laws like the Protection of

Women from Domestic Violence Act (PWDVA), 2005, Section 498A of IPC, and constitutional rights under Articles 14 and 21, domestic violence still continues to be a serious human rights problem. Even with important court judgments like *Indra Sarma v. V.K.V. Sarma (2013)* and *Joseph Shine v. Union of India (2018)* that extended legal protection, many gaps in how the laws are put into action still remain. From what I've seen during court visits and from small talks with a few women waiting for hearings, a common thing comes out the law is there, but real help is often missing. The delay in justice, poor victim support, and the financial dependency of women make it hard for them to fight back or walk away from abuse.

This report clearly tells that we need to make the law work better, not just exist. There must be stronger enforcement, better shelters, and more help for women to stand on their own feet financially. Also, learning from international frameworks like CEDAW and UDHR, and how countries like UK and US handle similar issues, can give us ideas for improving our system.

Future Scope

This research is only based in Nagpur, and I know that is just a small part of the bigger picture. It would be good if someone continues this study on a larger scale maybe across different cities or even states. The actual effectiveness of PWDVA how well it protects women and what impact it has needs to be studied in more depth. Also, I feel the role of technology, like online reporting, apps for help, or remote legal aid, can be explored too. A comparative study with countries that have stronger enforcement like their police response, shelter systems, and awareness programs might help us learn what India can do better. In the future if we really want to reduce domestic violence we should think in a more holistic way. Not just laws but also education, mental health support, and job training for women must be part of the plan. Only then, real change will happen.

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