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Effectiveness of Domestic Violence Laws: A Comparative Doctrinal Analysis

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Abstract

Domestic violence remains a pervasive global problem despite extensive legal reforms. This doctrinal research examines the effectiveness of domestic violence laws in a comparative context, focusing on the United States, United Kingdom, and India. Through analysis of statutes, landmark cases, and judicial interpretations, the paper evaluates how each jurisdiction defines domestic abuse, the remedies and enforcement mechanisms provided, and the real-world impact on protection of victims. The legal and social context of domestic violence is outlined to underscore the gravity of the issue and the evolution of legal responses. The need for the study is established by highlighting gaps between law on the books and law in action, as well as the value of cross-jurisdictional insights. Using a doctrinal methodology, the research analyses primary legal materials alongside pertinent case law including *Town of Castle Rock v. Gonzales*, *R v. R*, and *Hiral Harsora*. The comparative analysis reveals divergent approaches: for example, the US emphasizes criminal justice and protective orders, the UK has recently expanded statutory definitions and protections, and India employs both civil protection orders and criminal provisions. Findings indicate that while all three jurisdictions have strengthened their legal frameworks and seen improvements in awareness and reporting, challenges persist in enforcement, cultural attitudes, and ensuring victim safety. The conclusion offers reflections on judicial trends and considers best practices for enhancing the effectiveness of domestic violence legislation across different legal systems.

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Introduction

Domestic violence is a global issue that transcends borders, affecting individuals regardless of their socioeconomic status, culture, or geography. It encompasses a range of abusive behaviours, physical, emotional, sexual, psychological, and economic, perpetrated within intimate or family relationships. The pervasiveness of domestic violence has prompted significant legal responses across the globe. Yet, despite legislative advancements, its persistence suggests limitations in law enforcement, judicial interpretation, and social acceptance.

This paper investigates the effectiveness of domestic violence laws using a doctrinal approach, emphasizing statutory interpretation, judicial reasoning, and enforcement structures. By conducting a comparative analysis of three distinct legal systems, the United States, the United Kingdom, and India, this study explores how each jurisdiction addresses domestic violence through legal frameworks and jurisprudence. These

countries provide varied yet complementary perspectives: the U.S. with its federal-state divide and robust funding under the Violence Against Women Act (VAWA ^[1]); the U.K., noted for its evolving statutory definitions and coercive control legislation; and India, which integrates civil and criminal mechanisms through the Protection of Women from Domestic Violence Act, 2005 ^[2].

The objective of this introduction is twofold.

- First, it contextualizes the issue of domestic violence within the scope of international human rights and social justice.
- Second, it sets the stage for a detailed legal analysis that seeks to understand whether the existing laws do more than merely symbolize state condemnation of domestic abuse, do they, in practice, provide protection, deterrence, and justice for victims?

By grounding this study in doctrinal research and drawing on landmark cases and statutory texts, the paper offers a critical,

comparative evaluation of how domestic violence laws function not only in theory but in application.

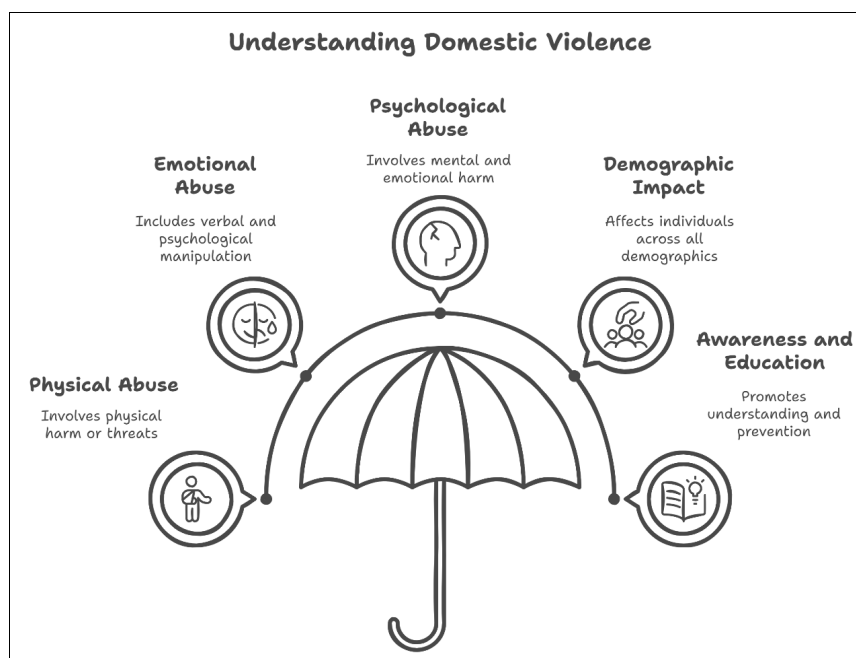


Fig 1: Key aspects of domestic violence

Legal and Social Context

Domestic violence, once relegated to the private sphere, is now widely recognized as a critical legal and human rights issue. The shift from private concern to public responsibility has been driven by decades of feminist advocacy, international legal instruments, and mounting evidence of its pervasive harm. The United Nations Declaration on the Elimination of Violence Against Women (1993) [3] formally recognized domestic violence as a violation of fundamental rights, calling upon states to implement legislative, educational, and administrative measures to combat it.

Globally, the World Health Organization [4] estimates that one in three women has experienced physical or sexual violence in her lifetime, most often at the hands of an intimate partner. This staggering statistic underscores both the prevalence of domestic violence and the necessity for effective legal mechanisms to prevent and redress such abuse. Despite legislative frameworks, many victims still face structural and cultural barriers to justice, including fear of retaliation, economic dependence, social stigma, and institutional apathy.

In the United States, the development of domestic violence law has followed a trajectory from minimal intervention to comprehensive policy-making. The 1994 enactment of the Violence Against Women Act (VAWA) marked a pivotal moment, integrating victim services, law enforcement training, and federal funding. However, the U.S. Supreme Court's decision in *Town of Castle Rock v. Gonzales* limited enforceability by holding that restraining orders do not create a constitutional entitlement to police enforcement.

The United Kingdom has also witnessed a legal evolution, culminating in the Domestic Abuse Act 2021, which provides a statutory definition of domestic abuse that includes not just physical violence, but coercive, economic, and emotional abuse. The landmark case of *R v. R* (1991), which abolished the marital rape exemption, exemplifies the judiciary's role in updating outdated legal norms.

India's response has been shaped by both colonial legal legacies and indigenous social reform. Section 85 and 86 of *Bhartiya Nyaya Sanhita*, criminalizing cruelty by a husband

or his relatives, was enacted to combat dowry-related violence. The Protection of Women from Domestic Violence Act, 2005 introduced civil protections for victims, including residence rights, protection orders, and monetary relief. The Supreme Court in *Hiral P. Harsora v. Kusum Narottamdas Harsora* struck down gender-based restrictions on who could be respondents under the Act, thus broadening its scope.

Despite these legislative strides, the social context in all three countries reveals persistent gaps. In India, the National Family Health Survey (NFHS-5) [5] indicates that 30% of women have experienced spousal violence (30% Women in India Subjected to Physical, Sexual Violence: NFHS", *Indian Express* (May 8, 2022), yet a large majority never report it. In the UK, government data suggests that a woman is killed by a partner or ex-partner every three days, a grim testament to the enduring lethality of domestic abuse. In the U.S., while intimate partner violence rates have declined, the problem remains widespread and unevenly addressed across jurisdictions.

This section highlights the inextricable link between the legal framework and the social realities it seeks to govern. It also sets the stage for a deeper exploration of whether doctrinal clarity and statutory sophistication have translated into meaningful protections for victims across these three jurisdictions.

Need for the Study

Despite substantial legal developments addressing domestic violence in jurisdictions such as the United States, the United Kingdom, and India, persistent challenges in enforcement, under-reporting, and societal stigma reveal a significant gap between statutory intent and practical outcomes. While laws may articulate robust protections and expansive definitions of abuse, their effectiveness depends on implementation, judicial interpretation, and institutional support. The divergence between law on the books and law in action necessitates a closer analysis of the doctrinal frameworks that underlie domestic violence legislation.

A doctrinal study is essential for evaluating the structural integrity and functional adequacy of these laws. Most available research on domestic violence tends to focus on empirical data, prevalence rates, conviction statistics, and survivor narratives. Although valuable, such studies often overlook the legal architecture that determines what behaviours are criminalized, what remedies are available, and how institutions are mandated to respond. By focusing on statutes and case law, this research fills a critical gap in understanding how domestic violence laws are constructed and construed in practice.

Comparing the legal regimes of the US, UK, and India allows for the identification of best practices and common pitfalls. Each jurisdiction presents a distinct model of governance: the U.S. federal system offers a complex interplay of state and federal laws; the UK's unitary but devolved legal system has recently codified domestic abuse comprehensively; and India's mixed civil-criminal approach reflects socio-cultural specificities alongside constitutional protections. Understanding how each system addresses similar legal and social challenges enhances our capacity to advocate for more effective legal reforms globally.

Furthermore, courts in all three jurisdictions have played pivotal roles in shaping the meaning and reach of domestic violence statutes. The impact of decisions such as *Town of Castle Rock v. Gonzales*, *R v. R*, and *Hiral Harsora* extends beyond the individual litigants, influencing how domestic abuse is perceived and prosecuted. This doctrinal study aims to critically assess such landmark rulings to evaluate whether judicial reasoning aligns with the protective aims of the respective legislations.

Ultimately, this research is driven by a normative commitment to the rule of law and the protection of vulnerable individuals. It seeks not only to critique existing legal frameworks but also to offer grounded recommendations for improving the doctrinal coherence and practical impact of domestic violence laws across jurisdictions.

Methodology

This study adopts a doctrinal legal research methodology, which involves a detailed examination and analysis of legal texts including statutes, case law, and authoritative commentaries. Unlike empirical research, doctrinal methodology does not rely on interviews, surveys, or statistical data. Instead, it is concerned with understanding the law as it is written and interpreted, providing a systematic evaluation of legal principles, frameworks, and judicial decisions.

The choice of doctrinal methodology is particularly apt for this research given its focus on statutory structures, judicial interpretation, and the internal coherence of domestic violence laws. By concentrating on primary sources, such as the Violence against Women Act (1994), the Domestic Abuse Act 2021, and the Protection of Women from Domestic Violence Act, 2005, this study aims to reveal how the law defines, categorizes, and seeks to remedy domestic abuse across the United States, the United Kingdom, and India.

Case law analysis is another critical component. Landmark decisions such as *Town of Castle Rock v. Gonzales*, *R v. R*, and *Hiral P. Harsora v. Kusum Narottamdas Harsora* are studied to understand judicial attitudes and interpretations that either reinforce or undermine legislative intent. These cases are selected based on their doctrinal significance and their impact on the operationalization of domestic violence laws within their respective jurisdictions.

Secondary sources, including legal commentaries, journal articles, and law commission reports, are used to supplement the primary materials. These texts offer critical perspectives on legislative effectiveness, judicial trends, and doctrinal developments. However, they are utilized solely to support and contextualize the core doctrinal analysis.

A comparative approach underpins the research structure, enabling the juxtaposition of legal strategies and jurisprudential philosophies across jurisdictions. This comparison not only highlights best practices but also draws attention to legal blind spots and inconsistencies. By doing so, the study provides a more holistic understanding of how domestic violence laws function doctrinally, thereby offering insights that are both theoretically grounded and practically relevant.

Comparative Analysis

A comparative analysis of domestic violence laws in the United States, the United Kingdom, and India reveals significant differences in statutory approaches, judicial attitudes, and enforcement frameworks. While each country has made legislative progress in recognizing and addressing domestic violence, the effectiveness of these measures varies according to institutional capacity, legal tradition, and socio-political context.

In the United States, the Violence against Women Act (1994) represents a landmark federal statute providing funding and support for domestic violence prevention, victim services, and law enforcement training. However, most domestic violence cases are prosecuted under state laws, resulting in inconsistencies across jurisdictions. The federalism structure creates both opportunities and barriers: while some states have robust legal mechanisms, others lag in enforcement or lack comprehensive definitions of abuse. The Supreme Court's decision in *Town of Castle Rock v. Gonzales* weakened victims' ability to compel police enforcement of restraining orders, illustrating a doctrinal limit to victim protection under constitutional law.

In contrast, the United Kingdom has recently centralized and expanded its domestic violence legal framework through the Domestic Abuse Act 2021. This legislation provides a unified definition of domestic abuse, incorporating not only physical violence but also emotional, coercive, and economic abuse. One of the UK's notable innovations is the criminalization of controlling and coercive behaviour, introduced under the Serious Crime Act 2015. Judicial decisions like *R v. R*, which eliminated the marital rape exemption, demonstrate a judiciary willing to evolve alongside societal values. The UK's coordinated approach, including specialized domestic violence courts and the Domestic Violence Disclosure Scheme ("Clare's Law"), reflects a comprehensive public policy model.

India's approach is distinct for its dual legal pathway: criminal prosecution under Section 85 and 86 of the *Bhartiya Nyaya Sanhita* [6] and civil remedies under the Protection of Women from Domestic Violence Act, 2005. While Section 85 and 86 of the *Bhartiya Nyaya Sanhita* was introduced to deter cruelty by husbands and in-laws, concerns over misuse led to judicial guidelines tempering its application. The Supreme Court in *Arnesh Kumar v. State of Bihar* emphasized safeguards against arbitrary arrests. The PWDVA, meanwhile, offers civil relief such as protection orders, residence rights, and maintenance. The case of *Hiral P. Harsora v. Kusum Narottamdas Harsora* was pivotal in broadening the scope of respondents under the Act, striking

down the limitation to “adult male” abusers as unconstitutional. Despite these advancements, India faces significant enforcement challenges due to limited infrastructure, societal stigma, and variability in judicial sensitivity.

Each jurisdiction offers unique strengths: the U.S. leads in federal funding and integrated services; the U.K. in legal clarity and holistic enforcement strategies; and India in providing an accessible civil route for protection alongside criminal penalties. However, all face common limitations, including under-reporting, institutional inertia, and the gap between legal rights and lived realities. By juxtaposing these systems, this analysis underscores the importance of not only enacting progressive laws but also ensuring their meaningful implementation through judicial diligence and administrative support.

Key Case Law Analysis

A doctrinal understanding of domestic violence laws necessitates close engagement with landmark judicial decisions. The following case analyses illustrate how courts across jurisdictions have shaped the interpretation, enforcement, and scope of domestic violence protections through legal reasoning and constitutional balance.

1. **Town of Castle Rock v. Gonzales, 545 U.S. 748 (2005)-United States** ^[7]

This U.S. Supreme Court decision represents a significant moment in the debate over enforcement obligations in domestic violence cases. Jessica Gonzales sued the Castle Rock Police Department for failing to enforce a restraining order against her estranged husband, who subsequently murdered their three children. The Court held, in a 7–2 decision, that Ms. Gonzales did not have a constitutionally protected property interest in the enforcement of the restraining order. The Due Process Clause of the Fourteenth Amendment, it ruled, did not guarantee affirmative protection by state actors.

Doctrinally, the decision marked a restrictive interpretation of victim rights under the Constitution, underscoring the tension between public enforcement discretion and individual safety entitlements. It also triggered significant scholarly and policy debate about the limitations of legal remedies when enforcement is discretionary.

2. **R. v. R, [1992] 1 A.C. 599 (H.L.)-United Kingdom** ^[8]

In this seminal judgment, the House of Lords abolished the marital rape exemption under common law. Prior to the case, English law operated on the presumption that a wife gave irrevocable consent to intercourse upon marriage. The Court held that this principle was outdated and inconsistent with modern understandings of consent and personal autonomy.

This ruling is doctrinally significant for affirming that marriage does not negate an individual's right to bodily integrity. It demonstrated the judiciary's active role in reconciling outdated legal doctrines with contemporary human rights standards and marked a turning point in the legal treatment of intimate partner violence.

3. **Hiral P. Harsora v. Kusum Narottamdas Harsora, (2016) 10 S.C.C. 165-India** ^[9]

The Supreme Court of India examined the constitutional validity of Section 2(q) of the Protection of Women from Domestic Violence Act, 2005, which allowed complaints only against adult male members. The Court struck down this

gender-specific limitation, holding it discriminatory and contrary to the right to equality under Article 14 of the Constitution.

This decision broadened the scope of the Act to allow victims to bring cases against female relatives and minors, aligning the statute with constitutional guarantees of equality and non-discrimination. The judgment illustrates the use of judicial review to refine legislative frameworks and ensure their consistency with fundamental rights.

4. **Arnesh Kumar v. State of Bihar, (2014) 8 S.C.C. 273 – India** ^[10]

This case addressed concerns over the alleged misuse of Section 498A of the Indian Penal Code, which criminalizes cruelty by a husband or his relatives. The Supreme Court issued guidelines to prevent arbitrary arrests, mandating that police officers must assess necessity before making an arrest and seek prior approval from a magistrate for detention.

While aimed at protecting due process rights, the ruling also sparked debate about whether it compromised the protective intent of Section 498A. It underscores the judiciary's role in balancing procedural fairness with victim protection, a central challenge in the administration of domestic violence law.

Each of these cases serves as a critical lens through which to assess the doctrinal development and implementation challenges of domestic violence law. They highlight the interplay between statutory text, judicial interpretation, and constitutional principles, emphasizing that legal effectiveness is shaped not only by legislative intent but also by judicial willingness to adapt and enforce protections meaningfully.

Findings

The comparative doctrinal analysis of domestic violence laws in the United States, the United Kingdom, and India yields several key findings. These findings illustrate both the progress made and the limitations that continue to hinder the full realization of protection and justice for victims of domestic violence.

First, the expansion of statutory definitions to include non-physical forms of abuse, such as psychological, economic, and coercive control, has marked a significant shift in all three jurisdictions. The United Kingdom's Domestic Abuse Act 2021 exemplifies this shift, offering a comprehensive legal definition that reflects the complex reality of abusive relationships. Similarly, India's Protection of Women from Domestic Violence Act, 2005 includes various forms of abuse beyond physical violence. In the United States, while state-level definitions vary, there is growing recognition of emotional and psychological harm through civil protection orders and specialized statutes.

Second, the presence of protection mechanisms, particularly restraining or protection orders, plays a critical role in safeguarding victims. However, their effectiveness is contingent on enforceability. In the U.S., the decision in *Town of Castle Rock v. Gonzales* revealed constitutional limitations on mandatory enforcement, which can undermine victims' confidence in legal remedies. The UK has taken proactive steps by criminalizing breaches of non-molestation orders, while India criminalizes the violation of protection orders under its civil law.

Third, judicial interpretation significantly influences the scope and impact of domestic violence laws. In the UK, progressive rulings such as *R v. R* have modernized legal understanding. In India, cases like *Hiral P. Harsora v. Kusum Narottamdas Harsora* and *Arnesh Kumar v. State of Bihar* demonstrate the

judiciary's dual role in both expanding protections and addressing procedural fairness.

Fourth, institutional capacity and cultural attitudes remain major barriers to enforcement. Across all jurisdictions, under-reporting persists due to societal stigma, fear of retaliation, and lack of trust in authorities. In India, despite progressive legislation, the effectiveness of laws is often undermined by limited access to legal aid, insufficient training for enforcement officers, and societal resistance. The U.S. and UK, while institutionally stronger, still face challenges in

rural or underserved communities where resources are scarce. Finally, an integrated, victim-cantered approach correlates with improved outcomes. The U.S. model of coordinated community responses, supported by federal VAWA funding, and the UK's multi-agency risk assessment systems illustrate how collaborative frameworks enhance legal effectiveness. India's potential in this area remains underdeveloped but promising, particularly where NGOs and civil society organizations are empowered to assist victims.

Comparison of Domestic Violence Laws			
Characteristic	United States	United Kingdom	India
Statutory Definitions	Growing recognition of non-physical abuse	Comprehensive definition including coercive control	Includes various forms of abuse
Protection Mechanisms	Effectiveness limited by enforceability	Criminalizes breaches of non-molestation orders	Criminalizes violation of protection orders
Judicial Interpretation	Varies by state, influences scope	Progressive rulings modernize legal understanding	Dual role in expanding protections
Institutional Capacity & Cultural Attitudes	Challenges in rural, underserved communities	Faces challenges in underserved communities	Under-reporting due to societal stigma
Victim-Centered Approach	Coordinated community responses enhance effectiveness	Multi-agency risk assessment systems	Potential underdeveloped but promising

Fig 2: Comparative chart of Domestic Violence Laws

Overall, the findings indicate that while doctrinal progress has been significant, practical enforcement and systemic support structures must evolve to fully realize the protective promise of domestic violence laws. Legal frameworks are only as effective as their implementation, interpretation, and the socio-cultural environments in which they operate.

Conclusion

Domestic violence laws in the United States, United Kingdom, and India have undergone significant doctrinal development, reflecting a growing recognition of domestic abuse as a profound violation of human rights and legal norms. Through legislative reforms and landmark judicial decisions, each jurisdiction has taken meaningful steps to address the multifaceted nature of abuse, physical, emotional, psychological, and economic.

This comparative doctrinal analysis reveals that while progress has been achieved in articulating comprehensive statutory definitions and legal remedies, persistent challenges remain in the realm of enforcement and social transformation. The United States exemplifies a decentralized yet resource-intensive model, bolstered by federal funding but hampered by constitutional limitations on enforcement, as highlighted in *Town of Castle Rock v. Gonzales*. The United Kingdom offers a holistic statutory model through the Domestic Abuse Act 2021, integrating coercive control and fostering multi-agency cooperation, while India employs a dual civil-criminal structure designed to adapt to its unique social fabric, as seen in the Protection of Women from Domestic Violence Act, 2005 and jurisprudence like *Hiral P. Harsora v. Kusum Narottamdas Harsora*.

Crucially, the effectiveness of domestic violence laws depends not only on the precision of legal texts but also on the responsiveness of institutions and the awareness of rights among those affected. A recurring theme across jurisdictions is the necessity for robust enforcement mechanisms, dedicated judicial training, and sustained public education to combat the deeply entrenched stigma surrounding domestic abuse.

As societies continue to confront the evolving dynamics of domestic violence, including digital abuse, coercive control, and intergenerational trauma, the law must remain adaptive and responsive. This study underscores the value of doctrinal clarity, judicial empathy, and comparative learning in strengthening legal responses to domestic violence. It calls for ongoing reform, not only in law but in the broader systems of justice and social support, to ensure that the promise of protection becomes a lived reality for all survivors.

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