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Between Tradition and Trauma Examining Domestic and Honor-Based Violence against Women and Children

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ABSTRACT

Violence against women and children remains a deeply rooted global issue, cutting across geographic, cultural, and socioeconomic boundaries. This paper examines the root causes and far-reaching consequences of such violence, with an emphasis on understanding its structural, social, and individual dimensions by exploring factors such as entrenched patriarchy, economic dependency, systemic institutional failures, and inadequate legal protections. The study highlights how these elements perpetuate cycles of abuse and hinder effective intervention. The paper further investigates the consequences of violence, including physical harm, psychological trauma, economic instability, and its intergenerational impact on families and societies.

Utilizing a multidisciplinary approach, the analysis also evaluates the limitations of existing legal frameworks, policy initiatives, and societal responses. Drawing on national and international data, case studies, and legal precedents, the paper emphasizes the urgent need for a comprehensive, multi-stakeholder strategy. This includes strengthening legal mechanisms, promoting education and economic empowerment, addressing cultural stigma, and fostering community-based interventions.

The findings underscore that combating violence against women and children requires not only robust legal and institutional measures but also a shift in societal attitudes that normalize abuse. The paper concludes with actionable recommendations aimed at policymakers, civil society, and international organizations to create safer, more impartial environments where women and children can thrive.

Keywords: *Domestic Violence; Protection of Women from Domestic Violence Act, 2005; Patriarchal Norms and Honor Crimes; Cultural Stigma and Family Honour; CEDAW and CRC; Empowerment Strategies for Victims; Comparative legal analysis.*

I. INTRODUCTION

Violence against women and children remains one of the most widespread and persistent violations of human rights in contemporary society. Despite global advancements in law,

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education, and public awareness, the reality is stark: millions of women and children continue to suffer abuse, often within the confines of their homes, communities, or institutions meant to protect them[2]. This violence cuts across geographic, cultural, religious, and socioeconomic boundaries, revealing a deep-seated global crisis that transcends individual incidents and reflects systemic inequality.

From physical and sexual abuse to economic deprivation and psychological torment, the violent forms happen to be multidimensional. Environments are equally complex in which such violence thrives: norms of patriarchy are secure, people depend upon socio-economics, institutions feel apathy, and cultural stigmas silence survivors, and embolden perpetrators. Legal efforts and social efforts targeted at abuse are further complicated by its normalization in certain cultures justified by tradition or family honour. Laws are present yet their uneven application makes them weak. Social resistance often contributes to this ineffectiveness.

This article aims to unpack the underlying causes and consequences of violence against women and children by examining its structural, social, and individual dimensions. It begins by exploring the historical and cultural roots of such violence, emphasizing how patriarchal systems and colonial legacies have shaped current realities. The paper then delves into the primary factors that sustain abuse—honor-based violence, economic dependency, weak institutional mechanisms, and social stigmatization—highlighting their interconnectedness and cumulative impact.

A key section of this article critically evaluates existing legal frameworks in India and under international law, such as the **Protection of Women from Domestic Violence Act, 2005,** and conventions like the **Convention on the Rights of the Child (CRC)** and The **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**. To extend the perspective, the paper includes a comparative analysis with other jurisdictions, such as Sweden, the United Kingdom, and Pakistan, examining how various societies respond to comparable challenges and what can be gained from their experiences.

Ultimately, the article argues that combating violence against women and children requires more than legislative reform. It necessitates a coordinated, multi-stakeholder strategy that includes education, economic empowerment, cultural transformation, and robust legal enforcement. The article concludes with practical recommendations aimed at policymakers,

[2] Ending Violence Against Women, UNWOMEN.ORG, https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures (last visited May 1, 2025).

civil society, and international bodies to develop a more holistic and effective approach to eradicating this form of violence.

II. HISTORICAL AND SOCIAL BACKGROUND

Violence against women and children stems deeply from cultural traditions and historical power imbalances persisting across civilizations and centuries. In many customary societies, the male head of the family-controlled women as well as children and had authority over them, viewing them as property. Religious texts and customary laws plus early legal systems often codified these dynamics. For instance, under ancient Hindu law, a woman was expected to remain under the guardianship of her father, husband, or son throughout her life, while Roman law recognized a father's *patria potestas* (paternal power) over his children and wife. Such frameworks institutionalized gender and age hierarchies, limiting the legal agency and bodily autonomy of women and children.[3]

The concept of "honour" emerged as a central justification for violence in many patriarchal societies. In South Asia, the Middle East, and North Africa, family honour has traditionally been tied to the behaviour and perceived chastity of women. This has resulted in practices such as honour killings, forced marriages, and female genital mutilation. These acts are not only tolerated but sometimes actively encouraged in the name of preserving community or familial reputation. Even today, such practices are cloaked in a cultural legitimacy that challenges both legal intervention and social reform.

Colonialism also played a contradictory role in that it shaped some of the legal foundations around violence. Western legal principles were introduced by colonial powers, principles that criminalized certain forms of abuse. However, they often preserved or reinforced existing patriarchal customs to maintain social order. English common law principles entered the Indian Penal Code (e.g., **Section 375** on rape) in British-ruled India, but [4]the British likewise upheld personal laws that marginalized women's rights in matters like inheritance, marriage, and custody. Even modern legal systems still have this duality in that progressive statutes coexist alongside regressive personal laws.

The post-colonial era witnessed a growing recognition of women's and children's rights, spurred by the global human rights movement, feminist activism, and international conventions. However, legal reform has often been reactive—prompted by high-profile cases of extreme violence—rather than proactive. For example, in India, the brutal 2012 Nirbhaya

[3] Ratna Kapur, *Subversive Sites: Feminist Engagements with Law in India* 33–35 (Sage Publ'ns 1996).
[4] Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* 21–26 (Oxford Univ. Press 2014).

gang rape led to the Justice Verma Committee Report and the **subsequent Criminal Law (Amendment) Act, 2013**. Yet, systemic change remains elusive, particularly in rural and marginalized communities where customary practices often override statutory protections. In many parts of the world, particularly in South Asia and sub-Saharan Africa, traditional justice mechanisms like panchayats (village councils) or tribal jirgas continue to mediate family disputes, often advising reconciliation over punishment—even in cases involving severe domestic violence or child abuse. These extrajudicial forums frequently deny victims their right to justice and further entrench patriarchal norms.

The historical legacy of gender and generational subjugation, combined with slow and inconsistent legal reform, explains why violence against women and children continues to be seen as a private matter rather than a public concern. Understanding this background is crucial to addressing the structural barriers that still hinder the enforcement of rights and the delivery of justice today.

III. ROOT CAUSES OF VIOLENCE

Patriarchal Norms and Honor Crimes: Patriarchy dictates gender roles and legitimizes male dominance. The concept that women are the gatekeepers of family honour and that any departure from tradition calls for punishment is the basis of honour crimes. A case in point is *Shakti Vahini v. Union of India* [5], where the Indian Supreme Court issued guidelines to prevent honour killings, recognizing them as a violation of **Article 21 (right to life and personal liberty).**

Economic Dependency: Women and children who are financially dependent are less likely to report abuse. Lack of access to resources reinforces cycles of victimization. Empowerment strategies, such as vocational training and microfinance for women, are essential but underutilized.

Systemic Failures: Law enforcement and judicial systems often fail to act decisively. Police may dismiss complaints as "domestic issues," and courts may prioritize family reconciliation over justice. In *Arnesh Kumar v. State of Bihar* [6], the Indian Supreme Court attempted to prevent the misuse of Section 498A IPC (cruelty by husband or relatives) but inadvertently discouraged legitimate complaints by increasing the threshold for arrests.

Inadequate Legal Protection and Cultural Stigma: Despite laws like **PWDVA** and **POCSO Act** (2012), many victims face societal backlash and institutional indifference. Cultural stigma

[5] *Shakti Vahini v. Union of India*, 2018 (7) SCC 192
[6] *Arnesh Kumar v. State of Bihar* ,2014 (8) SCC 273 (India)

discourages reporting, especially in cases of sexual abuse by family members or acquaintances.

Consequences of Violence

The impact of violence is profound and multidimensional:

- **Physical and Psychological Harm**: Victims often suffer chronic health issues, PTSD, anxiety, and depression[7]. Children exposed to domestic violence are at risk of developmental disorders and may internalize abusive behaviours.
- **Economic Instability**: Women forced to leave abusive households often lack financial independence or legal support to claim maintenance or property rights.
- **Intergenerational Trauma**: Children growing up in violent homes are more likely to become victims or perpetrators themselves, perpetuating a cycle of abuse.

IV. LEGAL AND INSTITUTIONAL FRAMEWORKS

India has made significant legislative progress in addressing violence against women and children. Key statutes include the Protection of Women from Domestic Violence Act, 2005 (PWDVA), which offers civil remedies like protection orders, residence rights and monetary relief. Under the Indian Penal Code (IPC), several provisions addressed gender-based violence, many of which have now been restructured under the Bharatiya Nyaya Sanhita (BNS), 2023. Section **498A** of the Indian Penal Code (Section **85** of the BNS), which criminalizes cruelty by the husband or his relatives; Section **304B** IPC (Section **80** of the BNS), which addresses dowry deaths; and the Protection of Children from Sexual Offences (POCSO) Act, 2012, which establish a thorough legal framework to address child sexual abuse. Despite these legal provisions, their enforcement remains inconsistent due to a lack of awareness, resource constraints, and societal attitudes that discourage reporting.

On the international front, India is a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**[8]**, which obliges member states to eliminate discrimination and violence against women through legislative, policy, and institutional measures. General Recommendations No. 19 and 35**[9]** issued by the CEDAW Committee explicitly recognizes gender-based violence as a form of discrimination and calls for proactive state intervention. Similarly, the United Nations Convention on the Rights of the

[7] Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* 102–106 (Cambridge Univ. Press 2000).
[8] Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.
[9] CEDAW Committee, General Recommendation No. 19, U.N. Doc. A/47/38 (1992); CEDAW Committee, General Recommendation No. 35, U.N. Doc. CEDAW/C/GC/35 (2017).

Child (CRC)[10] requires state parties to protect children from all forms of physical and mental violence, neglect, abuse, and exploitation.

Despite these international obligations, compliance and implementation vary significantly across countries and even within regions. In India, challenges such as cultural resistance, weak infrastructure, and institutional apathy often undermine the effectiveness of otherwise progressive laws. Bridging this gap between legal commitment and practical enforcement remains a critical challenge for both domestic and international actors.

V. COMPARATIVE ANALYSIS

- **Sweden**: Known for its feminist foreign policy, Sweden criminalizes not only physical violence but also controlling behaviour (coercive control). The 2018 Domestic Violence Act provides victims with immediate protective orders and counseling services. Police are specially trained to handle such cases with sensitivity.
- **United Kingdom**: The Domestic Abuse Act 2021 adopts a broad definition of abuse, including economic and emotional forms. It introduces Domestic Abuse Protection Orders and creates a Domestic Abuse Commissioner to oversee implementation.
- **Pakistan**: Despite the Punjab Protection of Women Against Violence Act, 2016[11], honour killings and domestic abuse remain rampant. Cultural resistance and limited infrastructure (like shelter homes) hinder enforcement.
- **India**: While PWDVA provides for protection orders, residence rights, and monetary relief, its implementation depends heavily on Protection Officers, who are often undertrained and overburdened. Courts are also reluctant to use the full remedial potential of the law.

VI. RECOMMENDATIONS

1. **Strengthen Legal Enforcement**: Ensure proper training for police and judiciary to handle domestic and sexual violence cases sensitively and efficiently.
2. **Promote Education and Economic Empowerment**: Increase access to education and skill development programs for women and girls, and enforce equal pay and employment opportunities.

[10] Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.
[11] Punjab Protection of Women Against Violence Act, 2016 (Pak.).

3. **Community-Based Interventions**: Establish local committees, helplines, and shelter homes. Encourage community leaders to speak out against violence and honor crimes.
4. **Combat Cultural Stigma**: Public awareness campaigns, school curricula, and media must promote gender equality and destigmatize victimhood.
5. **International Cooperation**: Encourage nations to share best practices through platforms like the UN Women, and hold states accountable through periodic reviews by treaty bodies.

VII. CONCLUSION

Violence against women and children remains a grave violation of human rights and a persistent global challenge rooted in patriarchy, social stigma, and institutional weaknesses. As this article has demonstrated, such violence is not only a personal or familial issue but a structural one, sustained by historical inequalities and inadequate responses from the legal and social systems.

While legal frameworks like India's Protection of Women from Domestic Violence Act, 2005, and international instruments like **CEDAW** and the **CRC** provide essential tools for protection and redress, they are often undermined by poor enforcement and cultural resistance. Comparative experiences from countries like Sweden and the UK show that integrated, survivor-centric approaches—combining legal support, education, and community engagement—can make a significant difference.

To effectively combat this violence, a multi-dimensional strategy is needed—one that addresses root causes, empowers victims, ensures swift justice, and transforms harmful societal norms. Only through collective efforts at the legal, institutional, and community levels can we hope to create a world where women and children live free from fear and harm.

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