

Domestic Violence and the Natal Family: Rethinking Support, Protection and Justice

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In: *Women, words and world : Gender Studies in English Literary discourse.* edited by Dr. C. Chamundeshwari , Associate Professor , Department of Languages / English School of Arts, Humanities and Social Sciences REVA University, Bengaluru, India. ISBN 978-81-992603-3-7.

Abstract

In India domestic violence is widely attributed to the problems of poverty, illiteracy, or lack of awareness, a perspective reinforced by the intervention of NGO and government specifically amongst the economically weaker sections. However, this lens eclipses a hurdle that cuts across social and economic lines, that is, the survivor's access to support which depends not only on material resources but on the social stigma of reputation, family alliance, informal community engagement and the stigma of a 'failed marriage' override the natal family's expected duty of protection. Amidst the core of this dynamics is an under documented but widely observed pattern about the natal families refusing to take back daughters who are seeking to return after abusive marriage, in spite of capacity of supporting her, which can aggravate a survivor's distress to the point of self-harm. Women more often direct income towards the household rather than accumulating personal assets, leaving many unable to sustain an independent life even when earning handsomely. This study examines the practice that treats a married daughter as paraya dhan, situating this within the broad legal framework of the Protection of Women from Domestic Violence Act, 2005, Sections 85 and 86 of the Bharatiya Nyaya Sanhita, and provisions of maintenance of a daughter under the Indian personal laws, arguing that there lies no statutory provision that obliges a natal family towards a married daughter. The methodology adopted for this study is drawn on qualitative case studies, the National Crime Records Bureau data, examining how the economic dependence overlooks the barriers to a survivor's safe return home. The study concludes with recommendations, sensitising and creating awareness about the importance of natal families at the time of distress, also urging government to make it an legal obligation to provide basic shelter at those times rather than forcing for readjustment.

Keywords: Domestic Violence, Natal Family, Social Stigma, Financial Independence, Women.

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1.

Introduction

Domestic violence has its roots in patriarchal family structures that historically vested authority, property, and decision-making power in men, positioning women as dependents whose conduct within the household was subject to control rather than negotiation. For much of history, the home was treated as a private sphere beyond the reach of law, and violence within it was rationalised as a matter of discipline, honour, or 'family affairs' rather than harm warranting intervention. This normalisation was reinforced by religious and customary codes, inheritance systems that excluded women from independent ownership, and marriage practices such as dowry that recast women as transferable assets between households rather than autonomous parties to the marital contract.

This account draws on two complementary theoretical frameworks. The first is the feminist patriarchy theory advanced by Dobash and Dobash (1979), which locates the origin of domestic violence not in individual deviance but in a marital hierarchy that has historically granted husbands socially sanctioned power and authority over wives, tracing this logic through Roman, Anglo-Saxon, and common-law traditions that recognised a husband's right to 'chastise' his wife. The second is Goode's (1971) resource theory, which holds that the family functions as a power system in which force is used in inverse proportion to the legitimate resources -economic, social, and educational, a person can command.

The recognition of domestic violence as a public issue rather than a private one is comparatively recent, emerging through the women's rights movements of the twentieth century, which reframed such violence as a violation of bodily autonomy and equality rather than a private matter of household governance, a shift formalised internationally only in 1992, when CEDAW recognised gender-based violence as a human rights concern (Feminist Action Lab, n.d.; Origins, Ohio State University, n.d.). In India, this shift is visible in the legislative trajectory from Section 498A

of the Indian Penal Code, inserted in 1983 in response to a documented rise in dowry deaths and inadequate enforcement under the Dowry Prohibition Act, 1961 (iPleaders, 2023), to the Protection of Women from Domestic Violence Act, 2005, which for the first time provided civil remedies such as residence and protection orders, and now to Sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023, which carry the cruelty provision forward (Devgan.in, 2023).

Yet the underlying social architecture that produced domestic violence, patriarchal control, economic dependence, and family reputation, has proven far more persistent than the statutes designed to address it. This study begins from that gap: it treats domestic violence not as an aberration confined to particular income groups but as a structural outcome of family systems, and examines why the natal family, positioned as a survivor's first line of recourse, so often fails to fulfil that role in practice. Despite this legal evolution, the underlying social architecture that produced domestic violence, patriarchal control, economic dependence, and family reputation, has proven far more persistent than the statutes designed to address it.

1. Hypothesis

The failure to provide effective source of recourse for the survivors of domestic violence by the natal family coupled with the social stigma, reputation, compels the victim to prioritise reconciliation over the survivor's safety and autonomy.

1.

Methodology

The methodology adopted for this study is drawn on qualitative case studies, the National Crime Records Bureau data, examining how the economic dependence overlooks the barriers to a survivor's safe return home. The study concludes with recommendations, sensitising and creating awareness about the importance of natal families at the time of distress, also urging government to make it an legal obligation to provide basic shelter at those times rather than forcing for readjustment.

4. Domestic Violence During the COVID-19 Pandemic (2020–2022)

With the unforeseen intervention of the Covid 19 pandemic and the imposition of nationwide lockdown in India from 23 March 2020, the spike of domestic violence in India and a subsequently validated by a substantial body of research it led the UN agencies to term it as the "shadow pandemic" of domestic violence. The cases handled by the Kolkata based organisation Swayam during the first half of 2020 and the initial qualitative work by civil society organisations reported a rise in the intensity and the forms of abuse and the shift in the patterns and the unpreparedness of state agencies to facilitate to the protection of the survivors under lockdown conditions (Ghosh, 2021). However, the quantitative work produced a mixed picture. The online surveys across several cross-sectional studies too reported an increase in prevalence, to be specific the Indian married women found spousal violence prevalence rose from roughly 13 percent before the lockdown to about 18 percent afterward (cited in Basu et al., 2024), in addition to the cross-sectional study of married adults in Delhi conducted in April 2020 there has been an increase in its frequency of domestic frequency as reported by the respondents during the lockdown. (Sharma & Khokhar, 2021). Even the helpline data of the Police told a similarly troubling story in some cities, with reported spikes in daily complaint calls (Kannan, 2020; Peter, 2020, cited in Kundu et al., 2021).

Nevertheless, a opposite trend has also been reported. Several leading women's organisations including, Jagori, Shakti Shalini, and AKS Foundation recorded a steep decline in complaint calls during the same period (Ghoshal, 2020, cited in Kundu et al., 2021). Also, an analysis of a Family Counselling Centre in Alwar, Rajasthan, too reported a decline in the cases of domestic violence

roughly 23 percent during the lockdown compared to the pre-lockdown period, assigning majorly to reduced physical access to the authorities rather than to any genuine decline in abuse (Yadav & Priyadarshi, 2022). Kundu et al. (2021) applied a framework of routine activity to argue that the confinement of victims with abusers, combined with the isolation of victims from external networks of support, simultaneously increased the risk of victimisation and suppressed the opportunity to report it. With the compounding drivers of economic stress and unemployment, the documented domestic violence complaints rose as reported by the newspapers (Maji et al., 2022). Collectively, the literature around the pandemic-era significantly establishes the risk and severity of domestic violence in Indian households during 2020-2021, even where official or service-based reporting figures moved in the opposite direction a methodological caution that remains relevant to how later administrative data from this period should be interpreted.

5. The Period Between 2019–21 and After: The National Prevalence Data

The fifth round of the National Family Health Survey (NFHS), conducted by the International Institute for Population Sciences (IIPS) makes the most authoritative source of prevalence in two phases spanning June 2019 to April 2021, and covering over 724,000 women across 707 districts (IIPS, 2021). Several secondary evidences has also emerged using the survey's domestic violence module, Krishnamoorthy, Ganesh, and Vijayakumar (2024) that estimated 31.9 percent of married women aged between 18 and 49 who had experienced domestic violence in the twelve months preceding the survey, while another set of complex sample analysis reported a closely comparable weighted prevalence of 31.2 percent (Chattopadhyay et al., 2024). Emotional violence alone was estimated at 14 percent nationally, with pronounced variation across states of Karnataka, Telangana, Bihar, and West Bengal with the recorded highest rates, with a thin rate reported from several northeastern and union territory populations (GIPE, 2024). This literature perhaps identifies structural determinants of risk.

The higher odds of intimate partner violence (IPV) are independently associated with rural residence, lack of formal education, lower household wealth, and lower levels of women's empowerment. This has been extended to regional study of 2026 by NFHS-5 data from the eastern states which found a disproportionately high burden of domestic violence in this region compared to the national average, linking this to regional patterns of economic dependency and marital age at first cohabitation (Hemram et al., 2026). Complementing these prevalence studies the recent studies who work using the same dataset has turned to help-seeking behaviour, finding that only a minority of women who experience IPV in India seek any form of formal or informal help, with caste, education, and exposure to media identified as significant predictors of whether a woman discloses her experience (BMC Global and Public Health, 2024).

6. Official Crime Records and the Reporting Gap

With the analysis of the data of the National Crime Records Bureau (NCRB) of the number of registered crimes against women it shows a steady leap from 371,503 cases in 2020 to 428,278 in 2021, 445,256 in 2022, and close to 450,000 in 2023 (NCRB, cited in SPRF, 2025; NewsClick, 2023). The largest single category has consistently been 'cruelty by husband or his relatives' under Section 498A across each of these years and thereafter under Sections 85 and 86 of the Bharatiya Nyaya Sanhita (BNS) for roughly 31 percent of all such cases nationally, with West Bengal, Uttar Pradesh, and Rajasthan among the states recording the highest absolute numbers (Deccan Herald, 2022; SPRF, 2025). Even the metropolitan level data for 2023 shows Delhi recording the highest number of 'cruelty by husband' cases among India's major cities (Deccan Herald, 2025).

A recurring pattern in this literature is the gap between the recorded cases of NCRB and the survey based prevalence estimates. As discussed above the NFHS 5 places twelve-month spousal violence prevalence at around 30 percent of married women while the corresponding NCRB fig-

ures represent only a small fraction of this burden, a departure driven by underreporting of social stigma, fear of familial and economic retaliation, and limited accessibility of formal legal and police infrastructure, particularly in rural areas (SPRF, 2025). Complaints data from the National Commission for Women (NCW) reiterate a picture of a system that captures only a partial account of the underlying problem, while state level judicial data point towards lack of access to justice concern in Karnataka, for example, nearly 92 percent of domestic violence related cases disposed of in 2023 ended in acquittal, which advocacy groups have attributed to weak investigation and prosecutorial follow through rather than to the absence of genuine victimisation (Deccan Herald, 2025).

7. Legal and Judicial Developments: The Transition from Section 498A IPC to Sections 85 and 86 of BNS

In India the prevention and protection from domestic violence revolves around two major legislations, that is the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and Section 498A of the Indian Penal Code, 1860. The former legislation provides remedies which are civil in nature, like protection, residence, and monetary orders, while the other is framed on the principle of penal justice. Section 498A was later placed under Sections 85 and 86 of the newly enacted Bharatiya Nyaya Sanhita, 2023 on 1 July 2024, in a substantially unchanged form defining 'cruelty' under Section 85 and while retaining the same punishment of up to three years' imprisonment under Section 86 (Vakilsearch, 2026; iPleaders, 2026). This legislative continuity is further cautioned by the legal experts and the Supreme Court of India about its reported misuse and reiterated the safeguards against automatic arrest first laid down in *Arnesh Kumar v. State of Bihar* (2014), and asserting the importance of balancing protection for genuine victims against safeguards for those facing false implication (CJP, 2025; Legal Service India, 2026). The scope of Section 85 of BNS has been extended by purposive interpretation to cover relationships not only marriages but also 'in the nature of marriage' including the live-in relationships displaying cohabitation, financial interdependence, and social recognition, thereby closing a technical gap that had previously allowed some abusers to escape liability (Laex, 2026).

8. The Natal Family: Site of Recourse and Site of Refusal

One of the ambiguous structural position within India's domestic violence framework is the positioning of the natal family. Typically the survivors' first line of recourse as presumed, by both social expectation and legal practice, the shelter from which distress is voiced and support is drawn. Nonetheless, the record complicates this presumption. Studies describes that a natal family that is neither uniformly protective nor uniformly indifferent, but instrumental in a manner that often mirrors, rather than counteracts, the very logics that sustain the violence itself.

The core theme of this ambivalence is the cultural identification of a married daughter as *paraya dhan*, presumed to lose her position with the family by birth. Marriage is never looked as a daughter's personal transition than as the family's discharge of an obligation, after which her primary claims of belonging, support, and inheritance are understood to have passed to the marital household. Drawing on interviews with Indian women, the study documented cases in which a daughter is often pressurised to return to an abusive husband and, in some instances, was itself a source of pre-marital coercion, treating the daughter's compliance with an arranged marriage as non-negotiable (Kalokhe et al., 2015). Similar dynamics recur in studies where economic and social dependence on her husband's household reinforces her to compromise and negotiate with the husband and is described as a structural feature of the marriage arrangement itself. (Chaudhry, 2019).

The same studies also assert that with the support of the natal family usually the survivors enforces the machinery of the India's criminal justice system which initiated police complaints and pursued cases under Section 498A, with a majority of complainants reporting that their families

had helped them file (Dave, 2017). It also documents that natal families were equally instrumental in pressuring survivors toward reconciliation or withdrawal, and that a substantial share of reconciliations arranged with natal family involvement subsequently broke down, with violence recurring in over half of these cases (Dave, 2017). Thus, the natal family's influence cannot be concluded in one way, in other words, it becomes the strongest supporter of the victim in enforcing the machinery, also concerning about the social stigma, it often undermines the trivial indications which later on leads to graver offence.

The cause can be compounded by the financial architecture of the marital economy. Women's bargaining power, both within her marital household and, by extension, in negotiating support from her natal family, focuses on the assets she independently owns and have control over, such as land, housing, etc rather than the income which she earns. (Doss et al., 2020). More often a wife's earnings are absorbed into running the marital household rather than investing into independently held assets, hence, many women who even work and earn handsomely face a crisis without the financial independence, and this situation would refrain them to return to the natal home as a further claim on the family's limited resources where the marginal cost of readmitting a daughter can weigh more heavily on the decision to refuse her than income figures alone would suggest. This is illustrated by the ongoing investigation into the death of Twisha Sharma, a former Miss Pune, who was found dead at her matrimonial home in Bhopal, Madhya Pradesh, in May 2026. Sharma's natal family refused to cremate her body for twelve days, and demanded a second post-mortem, and pursued the family's allegations of dowry related harassment against her husband and mother-in-law through media appearances and litigation, prompting the Supreme Court of India to take *suo motu* cognizance of the case and transfer the investigation to the Central Bureau of Investigation (BBC News, 2026; The Hindu, 2026). The case is instructive less for its eventual outcome as the matter is pending before the Court, than for what it reveals about the conditions of natal family assertiveness that is, visibility, institutional access, and status resources, a survivor's family able to command national media attention and judicial intervention, that are unevenly distributed across the survivor population this study examines, and that here mobilised only after the survivor's death rather than as a pre-emptive option available to her while she was alive. This raises a serious question of safety and protection of the victims *per se*.

Further, in rural north India, the dynamics of natal family is also restrained by informal caste councils, or khap panchayats, which still holds a considerable extra judicial authority over marital and family discord, despite having no constitutional standing. An analysis of the councils documents the challenges a natal family has to undergo for undermining an arranged marriage or going beyond community boundaries, considering a daughter's return, irrespective of the cause, as a matter within community sanction rather than private family discretion. (Bhattacharya, 2024). Within this formal legal system, a parallel informal authority also operates which compels a natal family to weigh whether to rehabilitate and take back a daughter, not only from the economic perspective and social stigma but the fear of consequences of reaching out to the formal remedies under the PWDVA.

This economic dependence further shapes the enforcement of legal remedies. A large-scale survey of women who accessed the Protection of Women from Domestic Violence Act, 2005 across thirteen districts of West Bengal found that the Act functions primarily as a means of enabling survivors to manage and endure ongoing violence rather than as an instrument that ends it, in part because its remedies operate within family structures that remain largely unchanged by the litigation (Dhawan & Bhasin, 2024). This finding is consistent with the residence order under Section 17 of the PWDVA, 2005 that secures a survivor's right to remain in the shared household with her husband or his relatives, but creates no corresponding obligation on the natal family to readmit her, leaving the question of return to the parental home outside the law's reach and dependent entirely on family discretion (Mathur, n.d.).

This is in fact a structural feature of the legal framework in India and not an incidental gap

which does not impose any legal obligation on a natal family to readmit, shelter, or maintain a married daughter fleeing domestic violence.

The interpretation of the Supreme Court of the term 'shared household' under Section 17 of the PWDVA's residence order which secures a survivor's right to remain in the shared household has been construed as running against the household of the husband and, where he shares it, his relatives, not against the natal family. (S.R. Batra v. Taruna Batra, 2007; Satish Chander Ahuja v. Sneha Ahuja, 2020). It protects a survivor's claim on her marital home, however, says nothing about any claim she might assert on her parental one. Similarly, the maintenance law as contained under Section 125 of the Code of Criminal Procedure, 1973 (now Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023) obliges a father to maintain an unmarried daughter, or a married minor daughter whose husband lacks the means to support her, but excludes an adult married daughter from any statutory claim on her father for maintenance, on the reasoning that this obligation has passed to her husband (Legal Service India, n.d.). Even, the Hindu Adoption and Maintenance Act, 1956 mirrors this allocation. If anything, the direction of statutory obligation runs the other way: courts have held that an adult daughter, married or unmarried, may herself be required to maintain a parent who cannot support themselves, provided she has independent means (Vijaya Manohar Arbat v. Kashirao Rajaram Sawai, 1987, cited in Legal Service India, n.d.). A survivor's return to her natal home is thus, as a matter of law, the question that PWDVA leaves untouched, resolved entirely by family discretion rather than by any enforceable duty.

Thus, if we read the evidence as discussed above it affirms the hypothesis as advanced in Section 2 of the Chapter. It can be observed that natal family perhaps do not stand outside the patriarchal and economic logics that are factors of domestic violence; it basically reproduces them within the family, prioritising reconciliation, reputation and the financial dependence on the husband and the refusal to take additional financial responsibility over the survivor's immediate safety, even where the family sufficiently have the resources to provide them with the basic necessities.

9. Conclusion

The failure of the natal family to perform its role, being the survivor's first line of recourse as presumed by both social convention and the legal framework and the evidence discussed in this chapter affirms the hypothesis advanced at the outset. The interpretation of the cases across pandemic era, the survey statistics, the national crime bureau statistics makes us rethink that domestic violence in India as phenomenon do not emerge from the confined factors of poverty or illiteracy, yet another contributing factor is the structural feature of family systems that cuts across economic lines. Amongst that structure, a significantly unresolved position is occupied by the natal family who in fact under certain circumstances is capable of mobilising the machinery of criminal justice on a survivor's behalf, yet also capable of pressuring her toward reconciliation, and of not welcoming her altogether as the cultural practice of *paraya dhan* recasts a married daughter as belonging, by right and by resource, to her husband's household rather than her own natal home. There is also no intervention of the law to disturb this equation. The Protection of Women from Domestic Violence Act, 2005 secures a survivor's claim to remain in the shared household with her husband, and Sections 85 and 86 of the Bharatiya Nyaya Sanhita carry forward the penal architecture of the former Section 498A, but neither creates any binding obligation on a natal family to shelter, readmit, or maintain a daughter fleeing abuse. Maintenance law under the Bharatiya Nagarik Suraksha Sanhita and the Hindu Adoption and Maintenance Act, 1956 reinforces the same asymmetry, treating an adult married daughter's claim on her father as extinguished rather than merely dormant. Layered onto this legal vacuum is an economic architecture in which a woman's earnings are typically absorbed into her marital household rather than converted into independently held assets, so that even a working, earning woman may have no material claim to press when seeking to return. Cases such as that of Twisha Sharma illustrate that visible, resourced assertiveness by a natal family remains the exception rather than the rule, and often arrives only after a survivor's death rather than as a protective option available to her while she was alive. This gap needs to be

addressed beyond the criminal justice framework through sustained sensitisation of natal families about their moral, if not legal, role at moments of distress, and how a little support from them can save the life of their loved daughters and also a statutory obligation on the state to provide basic emergency shelter to survivors independent of family willingness to readmit them. Until such measures exist, as discussed in this study, the survivor's right to return home will remain a matter of discretion rather than of law.

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