



Constitutional Remedies for Domestic Violence: Evaluating Article 21's Role in Women's Safety

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1. Introduction

Domestic violence is an omnipresent sociological and legal issue in India, which happens to millions of women independently of their age, religion, education level, or socio-economic status. It involves physical abuse, emotional and psychological harassment, sexual violence, economic deprivation, and controlling behaviour in relationships of a domestic nature. According to relevant recent reports, intrusion of women-related crimes in the domestic quarters is still a major percentage of gender-related violence in the nation (WHO, 2023).

The Indian Constitution ensures the rights that, in some way, protect the dignity of individuals and their freedom. Article 21 of the Indian Constitution has become one of the most potent constitutional mechanisms of human rights protection. As per Article 21, no one must be deprived of his life or of his personal liberty unless through a procedure laid down by law (India Code, 2023). The Supreme Court of India, over the decades, has attempted to portray this provision as a broad interpretation of the fact that the right to life entails the right to live with dignity, safety and free of violence.

Domestic violence is a direct breach of the fundamental right to dignity and individual freedom. The courts have also more than once highlighted that domestic violence does not pertain to any private issue but constitutes a breach of basic rights (Kalokhe et al., 2015). Courts have further extended the scope of Article 21 and offered protection against domestic abuse provisions to ensure increasingly effective legal protection to victims, though in progressively broadened senses of this concept.

Besides constitutional & fundamental rights, there are statutory provisions like the Protection of Women from Domestic Violence Act, 2005 (PWDVA), which offer civil rights in the form of protection orders, spousal residence, monetary rewards, and custody of a child (Mukhopadhyay, 2019). However, the constitutional remedies play an essential role, in particular, where constitutional crime-fighting methods do not work or are disregarded by the state power to treat the victims. The recent court rulings have verified that the state must positively defend people against violence, even violence in the domestic context. The courts have also cited that domestic violence has weakened the equality and freedom of women, associating it with the breach of Articles 14, 15, and 21 of the Constitution.

Taking this into consideration, it would be vital to consider the role of constitutional redresses, especially Article 21, in guaranteeing the safety of women against the effects of domestic violence. This review article tries to explore the legal changes, judicial understanding and the issues that surround constitutional protection against domestic violence in India.

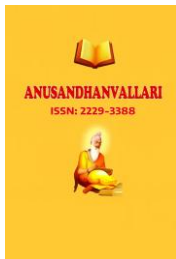
2. Method

Databases

Three major academic databases were used to collect relevant literature for this review. These include:

- Google Scholar
- ScienceDirect
- ProQuest

In addition to that, Google has been used to search for the relevant case laws and analyze judicial decisions related to domestic violence and constitutional law. Government reports, policy documents, and credible news sources were also reviewed to provide contemporary insights into the issue.



Search Sentences

Several keywords and search combinations were used to identify relevant literature. These search phrases helped narrow the research focus:

- “Domestic violence” AND “Article 21” AND “constitutional protection”
- “Domestic violence India” AND “constitutional remedies”
- “Article 21” AND “women’s safety” AND “case law”
- “Protection of Women from Domestic Violence Act” AND “judicial interpretation”

Data Analysis

A qualitative review method was adopted to analyse relevant literature, judicial decisions, legal commentaries, and policy documents related to domestic violence and constitutional protections. The analysis primarily focused on constitutional jurisprudence concerning women’s safety, judicial interpretations of Article 21 between 2000 and 2024, and the interaction between constitutional rights and statutory frameworks such as the Protection of Women from Domestic Violence Act, 2005. Comparative evaluation of these sources helped identify key legal developments, emerging patterns, and existing gaps in implementation.

3. Results

3.1 Constitutional Protection for Women under Article 21

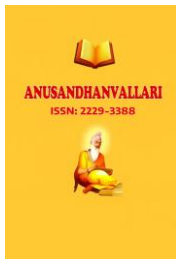
Article 21 of the Constitution of India is clear that no individual is to be deprived of his or her life or personal liberty except through the prescribed procedure laid down by law (Sharma & Ranjan, 2021). With time, the Supreme Court of India has interpreted this provision broadly as the right to life does not only imply the ability to survive physically, but also to live dignified, safe, and violence-free lives. Courts have always stated that the safeguarding of women against domestic violence is part and parcel of the constitutional guarantee of dignity and personal freedom of fundamental rights. The judiciary has managed to guarantee that domestic abuse acts are not just considered family issues but rather a denial of basic rights by increasing the scope of Article 21.

The Supreme Court has repeatedly reinforced this principle through various judgments. For example, in *Lata Singh v. State of Uttar Pradesh (2006)*, the Court held that adult women possess the fundamental right to choose their life partners and live according to their personal choices without interference from family members (Centre for Law & Policy Research, 2022). The Court noted that any threats, harassment or violence against the woman in exercising this right is a violation of Article 21. Similarly, in *Shakti Vahini v. Union of India (2018)*, the Court recognised honour-based violence as a serious infringement of fundamental rights under Articles 14, 19, and 21 (Ministry of Home Affairs, 2023). It instructed state governments to initiate preventive and protective systems in order to protect women at risk from the hands of persons in their family or society. These judicial interpretations show that Article 21 is quite relevant in terms of protecting the safety and dignity of women in their family and domestic relations.

3.2 Domestic Violence as a Violation of Fundamental Rights

The Indian judiciary has come to appreciate domestic violence as a breach of fundamental rights that are ensured by the Constitution (Saini, 2024). Family violence is conventionally regarded as an issue that is a domestic affair and does not concern the judiciary. However, the situation has changed as the court has moved to dispel this trend by underlining that mistreatment in marital relations demeans women, their freedom and equal standing. The courts have realised that domestic violence directly influences constitutional rights of women under Articles 14, 15, and 21, and as such, make it a social issue and not a personal conflict (Dandona et al. 2022).

One of the major advances in this regard may be regarded in *Independent thought v. In Union of India (2017)*, the Supreme Court did find that such a marriage results in rape and violates Article 21 (Supreme Court Observer, 2021). The ruling pointed to the importance of bodily integrity and autonomy as the key elements of the right to life and personal liberty. Besides, in the case of *Joseph Shine v. Union of India (2018)*, the Supreme Court struck



down Section 497 of the Indian Penal Code, which criminalised adultery (Srivastava, 2023). In doing so, the Court emphasised that the law considered women as property of their husbands and contravened the constitutional ideal of dignity, equality and autonomy. According to the Court, Marriage did not weaken the constitutional rights of women, and any acts of violence and pressure in marital relationships did not follow the principles of fundamental rights (Basu, 2015). The combination of these judgments supports the idea that domestic violence cannot be underestimated, as it represents a serious violation of the Constitution to be addressed with the help of strong legal protection.

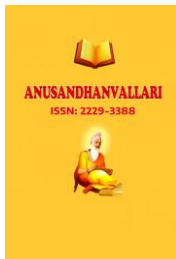
3.3 Statutory Framework: Protection of Women from Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) is one of the high-profile legislative efforts to meet the needs of domestic abuse in India (Mukhopadhyay, 2019). The PWDVA is also different in that it is a victim-centred approach in the enforcement of a criminal law where women are offered immediate civil remedies and protective acts in addressing violence, even though in a domestic context. The Act is familiar with numerous types of abuse, such as physical, emotional, sexual, verbal, and economic violence (Kalokhe et al. 2015). It also broadens the definition of domestic relationships to include women in live-in relationships and other family situations in addition to legally married couples. With this elaborate framework, the Act aims at guaranteeing that victims have timely protection, shelter, and finances and get their legal services.

Several key provisions of the Act are designed to safeguard women's rights and security. The courts can also grant protection orders that can bar an abuser from committing violence or contacting the victim. Residence orders guarantee women that they can reside in the joint house irrespective of property claims or ownership. Money relief may be awarded in respect of medical bills, upkeep, and other monetary requirements, and custody orders also may offer interim custody of children to the aggrieved woman. The courts have also reinforced the Act by adorning it with liberal interpretations. In *Hiral P. Harsora v. Kusum Narottamdas Harsora (2016)*, the Supreme Court removed the limitation that restricted respondents to adult male persons (INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS, 2023). It has further allowed complaints against female relatives as well. In addition to that, in *Satish Chander Ahuja v. Sneha Ahuja (2020)*, the Court clarified that a woman's right to residence in a shared household exists even without ownership rights (Majumder, 2024). In this way, it has reinforced the protective objectives of the legislation.

3.4 Judicial Interpretation of Article 21

The progress in judicial interpretation of Article 21 by the Supreme Court and different High Courts in India has hugely broadened the boundaries of such a provision. The courts have recognised the right to life to be a right that is linked to a number of other rights (Billah, 2022). These mainly include the right to privacy, the right to dignity, the right to bodily autonomy, as well as, right to the absence of violence. Such interpretations have been crucial towards enhancing the rights of women both at the domestic and social levels (Mubarak, 2024). By suggesting that the abuses of fundamental rights, through domestic violence and gender discrimination, can be enforced by the judiciary, the judiciary has empowered the constitutional obligation to gender equity and individual freedom. In a case of *Navtej Singh Johar v. Union of India (2018)*, the Supreme Court decriminalised consensual same-sex relationships and emphasised that dignity, privacy, and autonomy are essential aspects of Article 21 (Dixit, 2020). Though the case was rather about LGBTQ+ rights, in its general constitutional implications, personal freedom and independence can be applied to the rights of women in intimate relationships (Jati, 2023). Similarly, in a case of *X v. State of Maharashtra (2022)*, the Supreme Court acknowledged that reproductive autonomy was one of the constituent elements of personal liberty in Article 21 (Bombay High Court, 2022). The court has also stated that unmarried women too were entitled to receive safe abortion under the Medical Termination of Pregnancy Act. More recently, judicial observations in cases such as *XYZ v. State of Gujarat (2023)* have reiterated that violence within marriage undermines the fundamental right to dignity and personal liberty (Supreme Court of India, 2024). These court shifts in interpretations demonstrate how Article 21 is dynamic and has increased relevance as requirements in fighting domestic violence against women.



3.5 Challenges in Implementation

Despite the existence of constitutional safeguards and statutory mechanisms, the effective implementation of laws protecting women from domestic violence remains a significant challenge in India. The ignorance of victims about their access to remedies and their legal rights is one of the significant obstacles. Most of the women, especially in rural or marginalised societies, are ignorant about constitutional rights like Article 21 of constitution or the rights provided by law against domestic violence under the Protection of Women Act 2005 (Singh, 2011). Further discouragement of the victims to seek legal service is due to social stigmas, fear of retaliation and cultural norms that extend not to allow the women to speak against the family members.

The next significant obstacle can be seen in the poor enforcement systems and bureaucratic regulations. The law has assumed provision of protection officers, shelter facilities, legal aid facilities, as well as counselling facilities. On the contrary, in many cases, they either lack enough or are not well developed (Bhatia, 2012). The courts are also causing a blockage to the relief that would be provided to the victim, since the long-term process of litigation may deter women from pursuing any further action. Furthermore, socio-economic dependency is also one of the significant aspects because it makes many women stay in their abusive relationships. Victims are often financially reliant on their spouses or family members (Begum, 2014). Thus, they are unable to seek justice. To deal with these challenges, it is necessary to employ a multifaceted strategy that includes greater institutional support, greater awareness campaigns, improved training of the law enforcement authorities, and access to legal assistance. These mechanisms should be reinforced so that the constitutional precautions may actually work to provide women with real safety and dignity.

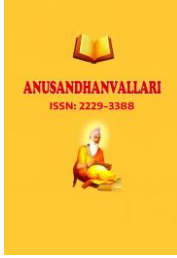
4. Conclusion

The role of constitutional remedies, especially Article 21 of the Constitution of India, in the protection of women against domestic violence was studied in this review. Over the past three decades, judicial masteries indicate that Article 21 has developed into a potent tool of protecting dignity, autonomy, and the integrity of the human body. The judicial system has been instrumental in the inclusion of the umbrella benefits of the fundamental rights, and the way in which domestic violence is considered a constitutional breach and not just a domestic issue. Previous relevant cases in India indicate that the work of the judiciary is to defend the rights of women. Nonetheless, even with these achievements in the legal field, there have been major setbacks in the enforcement of constitutional rights. The barriers to the excellence of legal remedies remain due to social stigma, ignorance and institutional weaknesses.

Hence, the tightening of enforcement, the increased awareness of the law, and the development of policies sensitive to gender are among the means of guaranteeing the safety of women. The judicial system, legislators, civil sector, and law enforcement agencies ought to work more closely to establish an improved structure that would help fight domestic violence. Moreover, a constitutional vision of dignity, equality, and freedom can only be achieved when women can live without violence in the comfort of their households.

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