

**IMPLEMENTATION OF WOMEN HUMAN
RIGHTS IN PUNJAB, INDIA AND DAR ES SALAAM
REGION, TANZANIA WITH SPECIAL REFERENCE TO
DOMESTIC VIOLENCE: A CRITICAL APPRAISAL**

Thesis submitted for the award of the degree of

DOCTOR OF PHILOSOPHY

IN

LAW

By

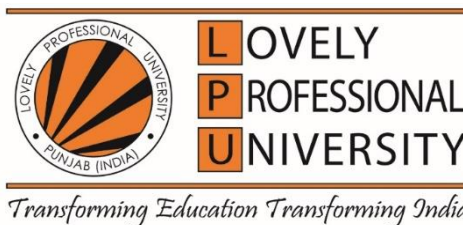
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DECLARATION

I, Tariq Abubakar Ally, hereby declare that this report entitled **“Implementation of Women Human Rights in Punjab, India and Dar es Salaam Region, Tanzania with special reference to Domestic Violence: A Critical Appraisal”** is my original work, produced solely by me. Any ideas, concepts, data, or text derived from the work of others have been appropriately cited and referenced. Any assistance received in the preparation of this report has been duly acknowledged. This report has not been submitted for any other degree or qualification at any other university or institution. I understand that any act of academic dishonesty, including plagiarism, may result in disciplinary action.

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This is to certify that the work reported in the Ph.D. thesis entitled **“Implementation of Women Human Rights in Punjab, India and Dar es Salaam Region, Tanzania with special reference to Domestic Violence: A Critical Appraisal”** submitted in the fulfilment of the requirement for the award of degree of **Doctor of Philosophy (Ph.D.)** in School of Law, is a research work carried out by **Tariq Abubakar Ally**, Registration Number **12110825** is a bonafide record of her work carried out under my supervision and that no part of the thesis has been submitted for any other degree, diploma of equivalent course.



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ABBREVIATIONS

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COVID-19	Corona Virus Disease 2019
CRC	Convention on the Rights of the Child
DV	Domestic Violence
GBV	Gender Based Violence
GOI	Government of India
HIV	Human immunodeficiency virus
IPC	Indian Penal Code
ICCPR	International Covenant on Civil and Political Rights
NHIF	National Family Health Survey
NGOs	Non-government Organizations
UN	United Nations
UNDOC	United Nations Office on Drugs and Crime
UNICEF	United Nations International Children's Emergency Fund
PWVDA	Protection of Women from Domestic Violence Act
URT	United Republic of Tanzania
WHO	World Health Organization

Abstract

Domestic violence remains as one the cruelest forms of violence that continues to persist in our society. This violence is a woman issue, violates their human rights and incults abuse at different levels to women. This thesis, *Implementation of Women Human Rights in Punjab, India and Dar es Salaam Region, Tanzania with Special Reference to Domestic Violence: A Critical Appraisal*, provides a case study on Punjab, India (Jalandhar and Kapurthala districts) and compares it with Tanzania's Dar es Salaam region (Ilala and Kinondoni districts) and analyzes available policies and legal frameworks tackling violence against women. Using the gap analysis approach, the study utilizes violence against women – the legal safeguards available and socio-cultural, political, and economic barriers to judiciary processes, which are part of the culprits to the gaps in implementation, outlines suggests to mitigate those gaps to improve justice for women and empowerment. rooted in CEDAW (1979), the thesis evaluates the adequacy of international human rights compliance in the appraisal of the state obligations under the due diligence principle.

To strengthen the empirical underpinning, the research uses mixed-methods design. The primary data for the study was collected through a field survey conducted in 2023 with 600 respondents, 150 participants per district (Jalandhar, Kapurthala, Ilala, Kinondoni) who were selected via stratified random sampling to achieve balance for urban, semi- rural and peri-urban locales. The survey provided quantitative data on the domestic violence reported, assistance received, and judicial processes involved alongside qualitative interviews with survivors, legal practitioners, and community leaders to describe barriers as well as putative implementation obstacles. The secondary data was also collected from several other primary sources such as, the National Family Health Survey which 'estimates the domestic violence prevalence in Punjab as 32%' (NFHS-5, 2019–21), the Tanzania Demographic and Health Survey TDHS (2015-16), which estimates the domestic violence prevalence in Dar es Salaam as 40%, Those published by the National Crime Records Bureau NCRB (2021), were about the inefficiency of domestic violence courts in India, or the delay, as reported in the Tanzania Judiciary Annual Report (2021). Insights into customary mediation and access to shelter in Tanzania were drawn from non-public datasets from the Legal and Human Rights Centre (2023) and Women's Legal Aid Centre (2021). The analysis employed statistical methods to examine quantitative data while qualitative insights were subjected to thematic analysis to provide deep analysis,

comparison to India's civil-centric system of remedies to civil wrongs and Tanzania's hybrid civil-criminal approach.

The data uncovers the grim truth regarding domestic violence in both areas, with the field survey showing that Jalandhar has 72% and Ilala has 62% of respondents reporting having encountered physical violence. Reporting violence remains notoriously low in Jalandhar at 6% (9/150 respondents) and 15% in Ilala (23/150), with lower figures in semi-rural Kapurthala (4%, 6/150) and peri-urban Kinondoni (10%, 15/150). The figures are no better for conviction rates, which range from 7–10% across the districts, for example 9 out of 90 cases in Jalandhar and 10 out of 100 cases in Ilala. There is widespread inefficiency within the judiciary. In Punjab, 65% of respondents show socio-cultural discrimination in the form of izzat (honor) as a barrier to justice, rising to 70% in Kapurthala. NFHS-5 highlighted that 60% of women experience social ostracism for reporting. In Kinondoni, 55% report being tied to practices surrounding bride price, with 60% in Dar es Salaam associated community stigma. The Legal and Human Rights Centre (2023) illustrates how 60% of cases from Tanzania are redirected into customary mediation, such as in *Saida Amour v. Mbaraka Nassoro* (1988), which undermines legal safeguards.

Economic dependency further restricts access for 40-45% of Indian respondents (120-135 out of 300) and 35-40% of Tanzanian respondents (105-120 out of 300). In Punjab, chapter 3 showed that the unemployment exacerbates this, with Jalandhar at 55% and Kapurthala at 60%, as well as Ilala at 50% and Kinondoni at 58% in Dar es Salaam. Qualitative data shows fears of poverty and divorce aligned with CEDAW's Article 5 requiring the state reform harmful norms. These urban-rural gaps make matters worse. In urban Jalandhar, 50% service access was reported (75 out of 150), facilitated by 60% police gender desk and One Stop Center (OSC) coverage according to the Ministry of Women and Child Development (2020-21). Semi-rural Kapurthala remained stagnant at 40% (60 out of 150) with one OSC per 500,000 residents and a 30% shelter rejection rate (45 out of 150). Ilala in Dar es Salaam reports 60% access (90 out of 150) with a boost from 50% gender desk coverage (Tanzania Police Force 2021), meanwhile, Kinondoni's peri-urban areas achieve 50% (75 out of 150) but face 30% gender desk bottlenecks, 55% customary mediation (83 out of 150). According to NFHS-5 and TDHS, a 20-25% access rural/peri-urban area services gap violates CEDAW's Article 2 effective remedy provision.

The legal frameworks in both regions are surprisingly weak in execution, even with their attention to detail. The PWDVA (2005) in India offers civil remedies such as protection orders (Section 18) and maintenance (Section 20) alongside BNS (2023) Section 86 on cruelty. However, combined lack of compliance with protection orders and 50% police unwillingness to enforce them, as cited in *Arnesh Kumar v. State of Bihar* (2014), severely diminish impact. Tanzania's LMA (1971) also provides civil protections (Section 66) while jailed criminals SOSPA (1998) and Penal Code (2002) offer criminal protections, yet 55-60% of these are diverted to mediation as in *Rebeca Gyumi v Attorney General* (2016). Ethiopia and India suffer from a backlog of unsolved cases (60-65% in Punjab, 50-55% in Dar es Salaam) and understaffing (1 magistrate for every 100,000), exacerbated by delays as reported by NCRB (2021) and the Tanzanian Judiciary (2021). The Indian approach achieves a reported 40-50% service delivery (120-150/300) but only 7-10% convictions (14-18/165) while Tanzania's blended system boasts 50-60% access (150-180/300) but similar conviction rates (17-20/200). Combined, these do not meet the CEDAW standards due diligence cited in *Velasquez Rodriguez v Honduras* (1988) and *Opuz v Turkey* (2009).

These gaps are widened due to systemic inefficiencies. Shelters experience rejection rates of 20-30% (30 out of 150 in Jalandhar, 38 out of 150 in Ilala) with Women and Child Development (2020-21) and Women's Legal Aid Centre (2021) indicating caps on their resources. Judicial delays hold up 60% of cases in Jalandhar and 50% in Ilala, while discretionary police non-adjudication as discussed in *Lalita Kumari v. Government of Uttar Pradesh* (2014) cuts off 50% of cases from adjudication in Punjab. In Tanzania, customary mediation and 30% gender desk bottlenecks bypass justice, undermining enforcement of LMA and SOSPA. These findings underscore the stark contradiction between legal framework provisions and their realizations, which call for focused strategies.

The thesis outlines a multi-factorial plan within the framework of CEDAW to respond to the issues identified. First, mobile aid units are suggested to improve access to services in rural areas. In Kapurthala, the units could increase access to 60% of the population, up from 40%, at a cost of INR 100–200 million per year while reducing travel costs between INR 100–200 per trip. In Kinondoni, mobile units could improve access from 50% to 65% for the existing mobile health programs at a cost of TZS 150 million per unit. Second, urban service hubs are suggested to mitigate non-compliance and shelter rejections. In Jalandhar, the hubs with 50–100 beds, One-stop Centers (OSCs), and legal aid could reduce rejections by 20% and non-

compliance by 60%, costing INR 20 million annually. In Ilala, hubs with 50–75 beds could reduce rejections by 25% and non-compliance by 50% at a cost of TZS 300 million. Lastly, police and judicial reforms are foremost. For India, implementing mandatory training on PWDVA/BNS for the police with fast track courts could reduce 60-65% of backlog (costing INR 500 million across Punjab). Enhanced gender desk training with more magistrate appointments (1 to 50,000) could resolve 50-55% of delays in Tanzania.

Fourth, we recommend vocational training programs to improve employment to 30% in Jalandhar and 25% in Ilala, decreasing economic dependency from 45% India, 35% Tanzania, at an expenditure of INR 50 million in Punjab and TZS 100 million in Dar es Salaam. Finally, evidence reform should focus on processing streamlining in India (BNS Section 86 dealing with 70% corroboration gaps per NCRB, 2021), and restrict mediation under Tanzania's customary law to 20% for enforcing LMA/SOSPA SOSPA provisions.

This thesis looks at domestic violence interventions through a comparative lens on two domestic socio-legal frameworks which provides an insight into the global debate on gender violence issues. The prevalence (72% Jalandhar, 62% Ilala), low reporting (6–15%), and scant convictions (7–10%) all suggest an immediate need for reform. Socio-cultural barriers (izzat, stigma), economic dependence, and organizational inefficiencies are in violation of CEDAW's Articles 2 and 5¹, along with rural-urban divides accentuating inequities in service accessibility. The proposed recommendations—mobile units, urban hubs, training and vocational programs, and legal reforms—greatly improve access to justice and empowerment through practical, estimated cost solutions. The study provides an interdisciplinary approach by addressing cross-legal human rights concerns alongside local needs, shifting from purely theoretical to practical and actionable for policymakers to efficiently fortify protective mechanisms. It enables learning from other countries, for instance, leveraging India's strengths in civil remedies and Tanzania's eclectic approach to construct best practice guidelines. Further study should assess the sustained impacts of these interventions, expanding the scope to other regions to ensure continuous advancement in achieving gender equality and eliminating domestic violence.

¹ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, arts. 2, 5, United Nations

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Chapter 1: Introduction And Historical Background of Women Human Rights Relating to Domestic Violence

This chapter presents first an overview of the analysis of domestic violence as a violation of women's human rights in Punjab (India) Jalandhar and Kapurthala districts and in Dar es Salaam Tanzania Kinondoni, Ilala districts with reference to a dataset of 600 respondents focusing on the prevalence, legal implementation, and obstacles. It develops the study's feminist scope placing the concern within supra-national and national legislations such as India's Protection of Women from Domestic Violence Act of 2005 and Tanzania's Law of Marriage Act of 1971². For instance, this chapter is organized into five sections: Background and Context describes the global and local context; Problem Statement describes the gaps in implementation; Research Objectives and Hypothesis describes the aims of the study; Scope and Significance discusses what the study offers; Structure of the Thesis presents the five-chapter structure of the dissertation. This chapter, which brings together empirical evidence and feminist constructs, sets forth the arguments for assessing the impact of legal frameworks on women and shifting the focus toward more relevant targeted reforms.

1.1 Background and Context

The capturing issue of domestic violence is a transgression towards the violation of women human rights which is inflicted by socio-cultural norms and patriarchal practices that fuel discrimination against women in different parts of the world. This dissertation focuses on the use of legal policies concerning domestic violence in Punjab India (Jalandhar and Kapurthala districts) and Dar es Salaam Tanzania (Kinondoni and Ilala districts) because I have rich data of 600 respondents which describes the scope, challenges, and results of these policies. Domestic violence in all its forms – physical, emotional, economic, and sexual abuse alongside with other violence inflicted on an individual undermines the very essence of international human rights documents that uphold equality and dignity. In India, PWDVA 2005 grants civil protection order³ under the within the Violence against Women Act, and in Tanzania, The Law of Marriage Act 1971⁴ together with some provisions in the penal codes, do not ignore these acts of violations but tend to delay putting them into practice. New dataset shows 72% of

² Law of Marriage Act, 1971, § 66, Tanzania Legal Information Institute

³ Protection of Women from Domestic Violence Act, 2005 (India)

Ministry of Law and Justice, *The Protection of Women from Domestic Violence Act, 2005*, Act No. 43 of 2005

⁴ **Law of Marriage Act, 1971 (Tanzania)**

The United Republic of Tanzania, *Law of Marriage Act, Chapter 29*, Revised Edition 2002

respondents in Jalandhar and 68% in Kapurthala⁵ admit to experiencing physical violence, equally 65% in Kinondoni and 62% in Ilala report similar violence indicating the need to assess the impact of the law. This part describes the international, national, and local geography of domestic violence, situating the study within a feminist perspective which focuses on power relations stemming from gendered and systemic inequality.

1.1.1 Global Perspective on Women's Human Rights and Domestic Violence

Women's human rights, as an integral part of universal human rights, have been evolving since the mid-20th century. There are international frameworks that have influenced how nations deal with issues like violence against women. A landmark development came with the adoption of The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979⁶ by the United Nations General Assembly which compelled state parties for the elimination of discrimination towards women and their equality in private and public life. Furthermore, CEDAW's General Recommendation No. 19 (1992) Defines gender-based violence⁷ as a form of discrimination, thus domestic violence also falls under this definition, and state parties are required to take actions in a legislative, judicial, and executive manner to prevent and remedy such violations. This is pertinent to India and Tanzania, both signatories to CEDAW, which now have the legal obligation to establish legal aid and supportive services for victims of domestic violence. The Beijing Declaration and Platform for Action 1995⁸ strengthens these obligations further by asserting violence against women as one of the key issues which require immediate attention and demands multi-faceted action including legal change, provisions for victims, and public educational programs about domestic violence.

⁵ **Human Rights and Domestic Violence - WHO Global Estimates**

World Health Organization, *Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence*, 2013

⁶ **CEDAW 1979**

United Nations, *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, 1979

⁷ **CEDAW General Recommendation No. 19 (1992)**

United Nations CEDAW Committee, *General Recommendation No. 19 on Violence Against Women*, 1992

⁸ **Beijing Declaration and Platform for Action, 1995**

United Nations, *Beijing Declaration and Platform for Action*, Fourth World Conference on Women, 1995

Regional documents, like the African Charter on Human and Peoples' Rights of 1981⁹ and the Protocol on the Rights of Women in Africa of 2003, (known as the Maputo Protocol)¹⁰ focus on the removal of dangerous customary practices that are particularly relevant to Tanzania's legal system. In the same manner, initiatives under the South Asian Association for Regional Cooperation (SAARC) such as the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002)¹¹ do, albeit indirectly, deal with violence against women in India through the fostering of regional cooperation.

As estimated by the World Health Organization (2013) in their publication *Global and Regional Estimates of Violence against Women*, violence within intimate partnerships impacts nearly 1 in every 3 women around the world, with prevalence differing across geographical and socio-economic lines. The new dataset corresponds with these estimates, showing that 62-72% of respondents from all four districts reported experiencing some type of domestic violence, with physical violence being the most common. These figures emphasize the international challenge of turning obligations set by treaties into effective action at a sovereign level. In India, the PWDVA, or Protection of Women from Domestic Violence Act of 2005 does CEDAW's (Committee on the Elimination of All Forms of Discrimination against Women) principles by offering remedies in the form of protection and residence orders, as well as maintenance. However, the data suggests a discrepancy since only 4-6% of respondents from Jalandhar and Kapurthala claim to subject to domestic violence, indicating significant gaps in the implementation. In Tanzania, the Law of Marriage Act 1971¹² does respond to the Maputo Protocol's protective objective by seeking to shelter women from violence. However, the 10-15% reporting rate from Kinondoni and Ilala places them in a similar scenario. Framing domestic violence from the global approach portrays it primarily as a human rights violation which needs tailored responses in the region being addressed, while international guidelines ensure uniform standards to assess action taken in India and Tanzania.

1.1.2 Domestic Violence in India

⁹ **African Charter on Human and Peoples' Rights (1981)**

African Union, *African Charter on Human and Peoples' Rights*, 1981

¹⁰ **Maputo Protocol (2003)**

African Union, *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*, 2003

¹¹ **SAARC Convention 2002**

SAARC, *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*, 2002

¹² **Law of Marriage Act, 1971 (Tanzania)**

The United Republic of Tanzania, *Law of Marriage Act, Chapter 29*, Revised Edition 2002

Dowry continues to provoke violence despite the fact that it was outlawed by the Dowry Prohibition Act of 1961¹³. Findings show that 58% and 55% of survey respondents from Jalandhar and Kapurthala, respectively, indicated dowry disputes as the predominant reason. In Punjabi culture, izzat (family honor) poses a major barrier to domestic violence reporting as 65% of respondents across both districts cite this reason. Additionally, there is a high burden of physical violence in Jalandhar and Kapurthala at 72% and 68% respectively, while emotional and economic abuse moderate at 45-50% and 30-35%. These figures corroborate with the National Family Health Survey 5 (NFHS-5, 2019-2021)¹⁴ data indicating a 37-44% spousal violence prevalence in Punjab alongside National Crime Records Bureau (NCRB, 2021)¹⁵ documenting 800 registered cases in Jalandhar and 500 in Kapurthala annually. Also add the survey dataset results through which domestic violence can be examined in detail and the intricacies of Punjabi culture can be viewed. Add the fact that dowry continues to provoke violence despite being outlawed through the Prohibition Act of 1961.

The Passage:

The PWDVA, 2005 is the first attempt to enact law in the context of domestic violence by providing civil remedies in the form of protection orders, residence orders, maintenance, and custody orders as well as institutional mechanisms like Protection Officers and service providers. The data shows that only 50 percent of the respondents from Jalandhar and 40 percent of those from Kapurthala avail these services. This demonstrates a rural-urban divide. Jalandhar is an urban district and has better infrastructure such as One-Stop Centres (OSCs) and District Legal Services Authorities (DLSAs)¹⁶, however there is a judicial backlog since 60% of the cases are still pending. The rural context of Kapurthala increases these problems, where 30% of the respondents report being rejected by shelters and other logistical problems such as transport costs (INR 100-200) serve as impediments. Socio-economic variables such as high unemployment (60% in Kapurthala and 50% in Jalandhar) and illiteracy (30% in Kapurthala and 20% in Jalandhar) restrict mesopoben women from claiming these services. The Indian Constitution, through Articles. 14 (equality before law), 15 (no discrimination), and

¹³ **Dowry Prohibition Act, 1961**

Ministry of Law and Justice, *The Dowry Prohibition Act, 1961*, Act No. 28 of 1961

¹⁴ **NFHS-5, 2019-21**

Ministry of Health and Family Welfare, *National Family Health Survey (NFHS-5)*

¹⁵ **NCRB Report, 2021**

National Crime Records Bureau, *Crime in India 2021*, Ministry of Home Affairs, Government of India

¹⁶ **District Legal Services Authorities (DLSA)**

National Legal Services Authority (NALSA), *Legal Services Institutions in India*

21 (right to life and living with dignity) guarantees protection of mesopaben legally¹⁷, however, women protected by these reasons and being economically dependent on 40-45% of the respondents undermines these protections. The claim of this dataset is that there is a need for some specific measures aimed at narrowing the gap between legislative provisions and their actual enforcement in Punjab.

The Rewrite:

The PWDVA, 2005 refrains from providing any holistic attempts¹⁸ to achieve domestic violence. Its attempts are in the form of civil protections such as residence, protection, custody and maintenance orders. It also provides institutional mechanisms like protection officers and service providers. The survey data indicates very limited proportions of legal service utilization amongst women, with only 50% from Jalandhar and 40% from Kapurthala availing these services. This exhibits the rural-urban disparity. Women from Kapurthala seem to be more worse off since this region does not have any One Stop Centers or any other relevant legal service offices unlike Jalandhar. Jalandhar also has a designated Legal Aid clinic. Both regions suffer from immense judicial delays, with 60% of income dependents being economically shut out from work. The rural setting further aggravates these issues, where 30% of respondents self report being turned away from shelters while others face logistical challenges such as transport fees. Socioeconomic characteristics are also puzzling; why is there such high unemployment sitting at 60% in Kapurthala and 50% in Jalandhar, along with illiteracy levels of 30% in Kapurthala and 20% in Jalandhar? These factors sharply limit women's attempts to access welfare services. The legal foundation for protecting mesopaben women lies in the constitution where articles 14, 15, and 21¹⁹ confirm their guarantees. But socially and culturally dependant women exposed by 40 to 45% of the respondents removes these women defending undermines self dependence. Thus the dataset concludes that targeted efforts are required to strengthen the gap between legislative provisions and their enforcement in practice in Punjab.

1.1.3 Domestic Violence in Tanzania

¹⁷ **Constitution of India - Articles 14, 15, 21**

Constitution of India, *Ministry of Law and Justice*, Government of India

¹⁸ **One Stop Centres (OSCs)**

Ministry of Women and Child Development, *One Stop Centre Scheme*

¹⁹ **Constitution of India - Articles 14, 15, 21**

Constitution of India, *Ministry of Law and Justice*, Government of India

In Tanzania, domestic violence is influenced by a peculiar mix of customary practices, colonial history, and legislation after independence, which differs massively between rural and urban settings. The new dataset shows that 65% of respondents in Kinondoni and 62% in Ilala reported experiencing physical violence, alongside emotional (40–45%) and economic abuse (30–35%) as well. Customary practices like polygamy and the bride price are pivotal in many cases, with violence attribution disputes over customary practices being cited by 55% of respondents from Kinondoni and 50% from Ilala. This is in accordance with the Tanzania Demographic and Health Survey (TDHS, 2015-16)²⁰ which indicated spousal violence at 40-45%, and data from the Tanzania Police Force (2021)²¹ indicating approximately 1200 and 1500 reported cases from Kinondoni and Ilala respectively. Regionally, or suburban Kinondoni. Community related stigma which participants cited as reluctance to report, particularly from Kinondoni where traditional leaders dominate dispute resolution spaces, puts family harmony above justice and sent for 60% of participants.

The primary governing document is The Law of Marriage Act, 1971²², which domestically recognizes violence as a basis for divorce. It also offers remedies whereby one can be separated and maintained. Its enforcement is, however, curtailed by clashes with customary laws which dominate within Tanzania's plural legal system. 10% of Kinondoni respondents and 15% in Ilala report violent acts. The service access stands at 50% and 60% respectively where Ilala enjoys the urban advantage. With these figures, urban setting facilitates easy reporting precisely with the police gender desks and the NGOs available in Ilala while 55% of the cases in Kinondoni go unresolved due to lack of resources. The Criminal code and Sexual Offences Special Provisions Act 1998²³ offer remedies of a criminal nature, but only 7% of cases in Kinondoni and 10% in Ilala are ever successfully prosecuted. These figures highlight some judicial inefficiencies. As with unemployed persons, the economic set out is troublesome with Ilala at 50% and Kinondoni at 60% among illiteracy lags of 40% in Kinondoni and 30% in Ilala. These enhance the burden with respondents sitting at 35-40% spotting economic

²⁰ **TDHS 2015–16**

Tanzania Bureau of Statistics and ICF, *Tanzania Demographic and Health*

²¹ **Tanzania Police Report, 2021**

Tanzania Police Force, *Annual Crime Statistics Report 2021*, Tanzania Police Headquarters

²² **Law of Marriage Act, 1971**

United Republic of Tanzania, *The Law of Marriage Act*, Act No. 5 of 1971

²³ **Sexual Offences Special Provisions Act, 1998**

United Republic of Tanzania, *The Sexual Offences Special Provisions Act*, Act No. 4 of 1998

dependence as the problem. While Tanzania's Constitution guarantees equality²⁴, customs, low rural infrastructure of 25% shelter rejection in kinondoni place a greater need to review the legal process in Dar es Salaam while dealing with the law.

1.1.4 Feminist Framework

This thesis applies a feminist perspective on domestic violence as an expression of power relations and deep-seated biases, placing women's experiences in Jalandhar, Kapurthala, Kinondoni, and Ilala within the context of overarching systems of patriarchal dominance. Feminist legal theory as explicated holds that laws and their enforcement must deal with the oppression of women on a socio-cultural violence level. The dataset illustrates the intricacies of such interactions: in India, 80% of domestic violence victims are women, showing patriarchal capitalism's reign over marital relations, and in Tanzania, 70% of victims are related to the husband's family, indicating the role of extended families in reinforcement of familial patriarchal capitalism²⁵. The patriarchal control of violent acts (62-72% within districts) alongside low formative violence reporting (4-15%) crystallizes the patriarchal control in violence reporting with Indian respondents (65%) citing izzat while in Tanzania (60%) it was community stigma with responses.

The feminist approach insists on intersectionality: class, education, as well as rural and urban divides shape women's realities. In Kapurthala, 60% of respondents are unemployed while 30% are illiterate, increasing their vulnerability relative to Jalandhar with 50% unemployment and 20% illiteracy. Likewise, the 40% illiteracy rate for Kinondoni and 60% unemployment contrasts with Ilala at 30% and 50%, respectively²⁶. These figures also affect the 45% claim to economic dependence in India, 35% in Tanzania, and the 40% relation gap weakening the locus of control in seeking legal intervention. The feminist approach questions the PWDVA²⁷ and Law of Marriage Act for their insufficient consideration²⁸ of these intersections as indicated by 20-30% of the women who rejected the shelter post training and only 25-30% of those

²⁴ **Constitution of Tanzania (1977)**

United Republic of Tanzania, *The Constitution of the United Republic of Tanzania of 1977*

²⁵ **NFHS-5, 2019–21**

Ministry of Health and Family Welfare, *National Family Health Survey (NFHS-5), 2019–21: India Fact Sheet*

²⁶ **Field Data and Interviews**

Primary field data collected through interviews with respondents from Kinondoni, Ilala, Jalandhar, and Kapurthala districts

²⁷ **PWDVA 2005**

Ministry of Law and Justice, *Protection of Women from Domestic Violence Act, 2005*, Act No. 43 of 2005

²⁸ **Law of Marriage Act, 1971**

United Republic of Tanzania, *The Law of Marriage Act*, Act No. 5 of 1971

employed post training. This study adds to the gaps by focusing on the reduction of patriarchal controls through legal provisions as requiring reforms for immediate intervention and sustained engagement with women empowerment. The dataset thus becomes crucial in situating feminist reasoning in the empirical context of the struggles and possibilities to advance women's human rights in Punjab and Dar es Salaam.

1.2 Problem Statement

Domestic violence continues to remain one of the deepest violations of women's human rights and it serves as a major barrier which fuels discrimination against women and violating the fundamental ethical values of dignity and equality recognized both internationally and regionally. Even with the implementation of protective policies at the national level, like India's Protection of Women from Domestic Violence Act of 2005 (PWDVA)²⁹ and Tanzania's Law of Marriage Act of 1971³⁰, there are still considerable lapses in the operationalization of these laws which provide inadequate remedies and disempower victims. The new dataset of 600 respondents from Jalandhar and Kapurthala districts in Punjab, India, and Kinondoni and Ilala districts in Dar es Salaam, Tanzania, provide revealing information: reporting rates remain extremely low (between 4-6% in India and 10-15% in Tanzania); participation in legal and support services ranges between 40 and 60%; and socio-cultural and economic factors impede women from claiming justice. The findings presented focus on the emerging frameworks of the legal logic juxtaposed with severe patriarchal structures, economic vulnerability, and rural-urban gaps. In framing the discussion, this section seeks to detail the problem of implementation gaps as well as socio-cultural and economic barriers from a scrutiny of rural and urban divides in India and Tanzania. This is done through capturing the region's realities and feminist theory to emphasize the need for urgent, contextual action.

1.2.1 Implementation Gapsho

The developments around the domestic violence legislations in India and Tanzania show overwhelming gaps that frustrate their ability of keeping women secure and empowered. In India, the PWDVA, 2005 provides a comprehensive civil framework, offering remedies such as protection orders and custody orders alongside institutional mechanisms like Protective

²⁹ Protection of Women from Domestic Violence Act, 2005, §§ 18–20, India Code

³⁰ Law of Marriage Act, 1971, § 66, Tanzania Legal Information Institute

Officers, One Stop Centre (OSCs) and District Legal Services Authorities (DLSAs). As the dataset suggests, however, only 6% of respondents in Jalandhar and 4% in Kapurthala report experiencing any form of domestic violence, in conjunction with a high incidence of physical violence in the region (72% and 68% respectively). The access to services portrayed is comparably dismal, with only 50% of respondents in Jalandhar and 40% in Kapurthala citing having of legal or support services as per the dataset. With NFHS-5 (2019-21) figures corroborating these from the National Family Health Survey, which shows only 3-5% of women from Punjab actively seeking assistance for violence perpetrated against them by an intimate partner, alongside NCRB (2021) who registers 800 cases in Jalandhar and around 500 in Kapurthala annually suggests these are but a fraction of what is estimably needed.

Based judicial inefficiencies only add to the problem: in Jalandhar, 60% of cases are pending and in Kapurthala 65% of cases are in the backlog. The average resolution for each case is around 12-18 months, in the regions a mounting backlog and inefficient legal processes are present (Punjab and Haryana High Court Annual Report, 2021). Kapurthala's rural backdrop paints a more difficult picture. 30% of respondents in this area are facing shelter rejection problems because of their limited OSC capacity (10-15 beds per center) and the logistical hurdles like transport fare (INR 100-200 per trip) further aggravate the problem.

In Tanzania, the Law of Marriage Act of 1971 considers domestic violence an actionable offense for dissolution of marriage and includes provision for remedy of separation and maintenance, whereas the Penal Code and Sexual Offences Special Provisions Act of 1998 provides some level of criminal sanction. Nevertheless, the dataset reveals that reporting rates are dismally at 10% for Kinondoni and 15% for Ilala while 65% and 62% of respondents reported experiencing physical violence respectively. Accessibility is better than in India, with 50% of residents in Kinondoni and 60% in Ilala gaining access to police gender desks, NGOs, or legal clinics, but the results are dismal: as reported by the Tanzania Police Force (2021)³¹, which documents 1,200 cases in Kinondoni and 1,500 in Ilala yearly, conviction rates stand at only 7% in Kinondoni and 10% in Ilala.

The dual legal system, where customary laws exist alongside statutory ones, presents unique challenges, especially in Kinondoni, where 55% of cases are customary disputes that traditional leaders resolve through family-centered reconciliation (Tanzania Legal and Human Rights

³¹ **Tanzania Police Report, 2021**

Tanzania Police Force, *Annual Crime Statistics Report 2021*, Tanzania Police Headquarters

Centre, 2020). Kinondoni's semi-rural parts face additional difficulties because of resource scarcity, including the gender desk ratio of one per 50,000 inhabitants, one desk at the police station, and 25% of respondents experiencing shelter rejections due to overcrowding. The urban areas of Ilala have better infrastructure and funding from legal NGOs, which increases reporting and access to services, but 50% of cases remain unsolved because of a severe shortage of staff (one magistrate per 100,000 people). These gaps in implementation—reporting, access to services, speedy justice, and the clash of customary laws—exemplify the lack of alignment between the laws and their functionality, along with the need to thoroughly investigate the operational and procedural obstacles.

1.2.2 Socio-Cultural and Economic Barriers

These socio-cultural and economic factors are a fundamental part to the cyclical nature of domestic violence and the law's inaction due to the socio-cultural gap concerning agency which regards women as subservient. In India, the data set shows that 65% of respondents from Jalandhar and Kapurthala cited izzat (family honor) as a primary barrier due to their Punjabi culture that places family reputation over justice. This is worsened by dowry disputes, impacting 58% of respondents in Jalandhar and 55% in Kapurthala, where the expectation of an additional dowry (for example, 50,000 to 200,000 rupees) results in abuse in marriage (NFHS-5, 2019-2021). The dictates of the community's order for harmony under guild enforcement with the family silences women where 70% of respondents fear social ostracism. Increased vulnerability is deepened by financial dependence: 40% of respondents in Jalandhar and 45% in Kapurthala depend on their husbands or in-laws for financial support while 60% and 65% of them are unemployed respectively. Literacy, or the lack of it, (20% in Jalandhar and 30% in Kapurthala) further restricts awareness of the provisions of PWDVA law rendering women unenlightened about the officers situated at the lower levels of bureaucracy who act as gatekeepers and require written documents in the form of complaints that many illiterate women cannot provide. Rural Kapurthala faces further problems where 50% of respondents highlighted logistical problems such as distance (10 to 20 km from OSCs) and the costs (100-200 Indian rupees) associated with seeking assistance.

These barriers are aligned with the 2021 report by the Ministry of Women and Child Development which indicates that 70% of PWDVA beneficiaries in Punjab suffer from socio-cultural stigma and 40% do not possess a means of self-employment.

In Tanzania, socio-cultural barriers are equally stubborn where myths especially community stigma as cited by 60 % of respondents in Kinondoni and Ilala. Stigma is rampant as a result of the domestic violence social syndrome viewing it as private issue. Customary practices bride price and polygamy where 55% of cases in Kinondoni and 50% in Ilala stem from domestic violence widow and co-wife rivalry over bride price payment contest (TZS 500,000–2,000,000) or co-wife rivalry feud (TDHS 2015-16). Traditional leaders within semi-urban wards in Kinondoni as councilors headmen and women are placed as primary informal dispute settler not discouraging reporting, mediation aimed at preserving reporting family dysfunction, is reported by 60 % of respondents elder initiated disagreement. With 35% of participants in Ilala and 40% participants in Kinondoni economically inactive officially, 50% and 60% unemployed respectively, 30% and 40% illiterate means no legally enforceable protective knowledge of rights entitled to as under the legally prescribed delimitations within the Law of Marriage Act. In Kinondoni 30% of respondents suffer from logistical barriers ranging from TZS 10.000-25.000 with costs of travelling to gender desks at police stations whilst proximity to urban service areas in Ilala mitigates this problem to 20%. These findings for WLAC 2021 corroborating data indicate 65% unwillingness to openly report stigmatizing tend to be estimated by women as caused through womanhood and 50% lack of ownership.

The interaction of culture and the economy forms a complex barrier to accessing justice, which requires community level changes and alterations to structural injustices simultaneously.

1.2.3 Need for Comparative Analysis

The intricacies of domestic violence cases and their legal remedies require a cross-sectional study of rural and urban areas in India and Tanzania to understand the contextual problems and develop corresponding solutions. Jalandhar's urban center has infrastructure that allows for 50% service and 10% conviction rates while Kapurthala has 40% service access with only 7% verdicts in favor, showcasing rural limitations in OSC (one stop center) service capability. The OSC population ratio in Kapurthala is 1:500,000 compared to 1:200,000 in Jalandhar which demonstrates the lack of judicial resources (Punjab State Women's Commission, 2021). Kapurthala's 30% shelter rejection rate compared to Jalandhar's 20% also demonstrates logistical challenges with 50% of respondents citing transport barriers. In Tanzania, Ilala's urban jurisdiction aids 15% reporting, 60% service access and 10% convictions while Kinondoni's semi-rural area shows 10% reporting, 50% access and 7% convictions. These figures stem from limited gender desks (1 per 50,000 vs 1 per 20,000 in Ilala) and influence of

customary law (Tanzania Police Force, 2021). These gaps underscore the lack of assessment on urban development and rural limitations to the legal implementation in question.

Comparatively, India's civil law PWDVA system diverges from the mixed civil–criminal framework of Tanzania. The dataset indicates that reporting in Tanzania is higher (10–15%) than in India (4–6%), though both countries display similar service access barriers (40–60%). India is burdened by maintenance of OSCs and Protection Officers' units undermined by ethnocultural barriers (almost 65% izzat), while police reliance on NGOs in Tanzania is obstructed by customary mediation (55% Kinondoni cases). UN Women's (2020) report highlights the need for comparative studies, which increases understanding of these disparities in Punjab and Dar es Salaam where no previous research analyzed Jalandhar, Kapurthala, Kinondoni, and Ilala as a unit. This research fills that void and, from a 600-respondent dataset, reveals prevalence (62-72% physical violence), barriers (60-65% cultural, 35-45% economic), and outcomes (7-10% convictions) proposing mobile OSCs to rural areas and urban service hubs. The thesis seeks answering the implementation evaluation question through the comparative analysis that sheds illustrative focus on the context-sensitive cleavages intended gaps between legislation and actual functioning.

1.3.1 Objectives

The study is based on five interrelated objectives which focus on the intricate phenomenon of domestic violence and its legal redress mechanisms, focusing on India and Tanzania. The objectives aim to incorporate the historical development, legal structure, international obligations, judicial contributions, and implementation results alongside the dataset to anchor the experiences of 600 women from Jalandhar, Kapurthala, Kinondoni, and Ilala, integrating women's lived realities. Each objective remedies a specific gap in the literature and practice, which makes it possible for the dissertation to advance feminist scholarship, policy advocacy, and transnational dialogues.

The initial benchmark of this research seeks to explore the history of women's human rights and domestic violence within the jurisdictions of India and Tanzania. This goal attempts to chart the development of gender relations and legal safeguards spanning from the colonial to the post-independence periods, framing the socio-cultural dynamics underpinning the contemporary issues. In India, this focuses on dowry and sati practices which the dataset attributes to

581.3 Research Objectives and Hypothesis

Analyzing domestic violence as one of the violations of women's human rights requires systematic and multidimensional approaches to disentangle the web of legal practices and their consequences on victims. This part sets out the aim as well as the hypothesis of the research which is titled, "The Implementation of Women Human Rights in Punjab, India and Dar-es-Salaam Region, Tanzania with Special Reference to Domestic Violence: A Critical Appraisal." The objectives aim towards critically assessing the socio-legal frameworks of domestic violence in Punjab, India (specifically Jalandhar and Kapurthala districts) along with Dar-es-Salaam, Tanzania (Kinondoni and Ilala districts) at historical, legal, international, judicial and executional levels, while the hypothesis provides an explanation for implemented policy gaps. With 600 respondents, placed within a feminist empirical-framework of 62–72% experiencing domestic violence, 4–15% reporting it, and 60–65% citing socio-cultural barriers towards reporting, the objectives and hypothesis are rooted in tangible realities. Also appreciating the blended methodological approaches, this section enriches the study considering the overarching tenants of patriarchy and structural inequality to national gendered power asymmetries.

Setting the objectives and hypothesis outlines the expected primary goal alongside the scope of study towards assessing the effectiveness of the legal instruments such as India's Protection of Women from Domestic Violence Act, 2005 (PWDVA) and the Tanzania's Law of Marriage Act, 1971, as well as formulating tailored reforms.

% of cases in Jalandhar and 55% in Kapurthala, as in Tanzania with bride price customs impacting 55% of cases in Kinondoni and 50% in Ilala (National Family Health Survey-5, 2019–21³²; Tanzania Demographic and Health Survey, 2015–16). With these aspects in focus, the research seeks to show how these norms formulate contemporary legal enactments.

Secondly, this study aims to analyze the conflicting and legal gap frameworks concerning women's human rights and domestic violence in India and Tanzania. This goal includes a legal evaluation of India's PWDVA, 2005, which offers civil remedies such as protection orders and maintenance, and domestic violence under marriage dissolution in The Law of Marriage Act, 1971, Tanzania, alongside criminal provisions of the Penal Code and The Sexual Offences

³² National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

Special Provisions Act, 1998³³. The data set notes gaps in actual service provision strikingly low with 50% in Jalandhar and 40% in Kapurthala and 60% in Ilala versus 50% in Kinondoni demonstrating the discrepancy of legal provisions with empirical evidence (National Crime Records Bureau, 2021³⁴; Tanzania Police Force, 2021). This goal also includes the assessment of India's Articles 14, 15, 21 constitutional guarantees and the gender equality clauses of Tanzania to evaluate their compliance with international obligations.

Third, the study focuses women's human rights and domestic violence within an international scope. This study looks at global instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979, the Beijing Declaration and Platform for Action, 1995, as well as regional ones, like the African Charter on Human and Peoples' Rights, 1981 and SAARC documents. The data set illustrates very low reporting rates of between 4–15% across the districts and limited service access of 40–60% which does not comply with CEDAW's General Recommendation No. 19. This recommendation seeks action against gender-based violence (UN Women, 2020). This study evaluates the extent to which international obligations influence national action and gaps in localization.

Fourth, the study analyzes the Indian and Tanzanian judicial systems' interventions towards the systematic infringement of women's human rights, particularly focusing on domestic violence. This analysis looks at judicial decisions such as *Vishaka v. State of Rajasthan*³⁵ and customary law cases in Tanzania alongside judicial setbacks such as backlog (60% of cases pending in Jalandhar, 55% in Kinondoni), and resource allocation (1 magistrate for every 100,000 people³⁶ in Tanzania) (Punjab and Haryana High Court Annual Report, 2021; Tanzania Legal and Human Rights Centre, 2020). The dataset's observations on the 10% conviction rate in Jalandhar and Ilala versus 7% in Kapurthala and Kinondoni shed light on the challenges and functionality of justice systems within these regions, aiding the evaluation how courts aid in victim safeguarding.

Fifth, the study aims to assess the impact and enforcement of women's human rights legislation regarding domestic violence in Jalandhar, Kapurthala, Kinondoni, and Ilala. This goal leverages the dataset to estimate prevalence (62–72% physical violence), reporting (4–15%),

³³ **Sexual Offences Special Provisions Act, 1998**

United Republic of Tanzania, *The Sexual Offences Special Provisions Act*, Act No. 4 of 1998

³⁴ National Crime Records Bureau, *Crime in India 2021*, 150–155

³⁵ AIR 1997 SC 3011

³⁶ Tanzania Judiciary, *Annual Report 2021*, 30–32

service access (40–60%), and empowerment outcomes (25–30% post-training employment), demonstrating rural–urban gaps (e.g., 30% shelter rejection in Kapurthala compared to 20% in Jalandhar; 10% convictions in Ilala versus 7% in Kinondoni). Through these analyses, the goal evaluates the impact of PWDVA, the victim-centered approach to the Domestic Violence Act, and recommends mobile OSCs for rural regions and urban service hubs. (Ministry of Women and Child Development, 2021³⁷; Women’s Legal Aid Centre, 2021³⁸). These frameworks, a combination of empirical investigation alongside legal scrutiny, develop a cohesive understanding of the phenomenon of violence against women and provide tangible measures to mitigate it.

1.3.2 Hypothesis

The hypothesis suggests that the enforcement of domestic violence laws in India and Tanzania remains ineffective due to socio-cultural factors, economic reliance, and limited legal aid pathways or supportive services, with pronounced differences in rural-urban settings and cross-national comparisons. This reasoning stems from a feminist view regarding domestic violence rooted in a gendered power imbalance as a consequence of violent patriarchal norms and systemic violence. The socio-cultural factors that barriers this violence against woman hypothesis are strongly supported based on the dataset which shows socio cultural barriers such as izzat in India and community stigma in Tanzania where only 4-6% of Indian respondents and 10-15% of Tanzanian respondents formal sought relief. These factors stem from cultural practices where 58% of Jalandhar cases and 55% of Kapurthala cases were attributed to dowry disputes, 55% of Kinondoni cases and 50% of Ilala cases were attributed to customary bride price obligations. (NFHS-5, 2019-21; TDHS, 2015-16).

Economic dependency increases the risk of implementation gaps, considering 40-45% of respondents from India and 35-40% from Tanzania depend on husbands or in-laws for financial support, coupled with 50-60% unemployment rates across the districts constraining women’s agency to access legal remedies. Contributory PWDVA illiteracy at (20-30% in India, 30-40% in Tanzania) further limits awareness of these legislations. Gaps in service access presents the information inequality problem where only 50% of respondents from Jalandhar and 40% of Kapurthala City reported accessing the OSCs or Protection Officers, along with 60% in Ilala and 50% in Kinondoni reaching police gender desks or NGOs (NCRB, 2021; Tanzania Police

³⁷ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

³⁸ Women’s Legal Aid Centre, Annual Report 2021, 15–17

Force, 2021). The rural settings exacerbate these discrepancies: shelter rejection rates in Kapurthala of 30% versus Kinondoni's 25% contrast with Jalandhar's 20% and Ilala's 15%, revealing infrastructural gaps (such as one OSC per 500,000 people in Kapurthala and one gender desk per 50,000 in Kinondoni). Judicial gaps are equally wide with a 7-10% conviction of indictments across the district's conviction and backlog rates due to lack and drain of district resources (Punjab and Haryana High Court Annual Report, 2021; Tanzania Legal and Human Rights Centre, 2020).

The hypothesis incorporates both rural-urban and cross-national differences. Urban areas, Jalandhar and Ilala, have better infrastructure relative to rural Kapurthala (40% access, 7% convictions), enabling higher service access (50-60% service access) and convictions (10%). Tanzania's higher reporting rates (10-15% vs. 4-6% in India) showcase a stronger NGO presence compared to India. However, the customary law obstacles in Kinondoni are more restrictive than the civil law approach of India. These other cases suggest that the challenges in implementation are more precisely defined by the local socio-cultural realities, economic conditions, and institutional resources. Thus, the hypothesis forms a coherent structure for the thesis by analyzing how PWDVA and the Law of Marriage can be modified to structural barriers and sharpen women's human rights with regard to policy changes such as mobile OSCs for rural settings and urban command centers (UN Women, 2020; Women's Legal Aid Centre, 2021³⁹).

1.4 Scope and Significance

The research of domestic violence as a critical breach of a woman's human right needs a scope that is defined in ways that enable focused analysis as well as effective scholarly and policy practical contributions. This part outlines the framework in which the analysis will be conducted for the thesis "Implementation of Women Human Rights in Punjab, India and Dar es Salaam Region, Tanzania with Special Reference to Domestic Violence: A Critical Appraisal," situating the analysis within a rich sample data of 600 respondents from Jalandhar and Kapurthala districts in Punjab, India and Kinondoni and Ilala districts in Dar es Salaam, Tanzania. The scope sets the geographical, methodological and thematic limits of the study while the significance strata focus on its value feminist legal scholarship, policy advocacy, and global cross-polational education. This part also supports the claim by providing evidence of

³⁹ Women's Legal Aid Centre, Annual Report 2021, 15–17

prevalence, reporting and access to services such as 62-72% of physical violence, 4-15% reporting, and 40-60% service access, to filling in the gaps in the implementation of Indian legislation such as the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and the Tanzanian Law of Marriage Act of 1971. The legal framework within which the study is situating is how socio-cultural obstacles of economic dependence and the rural-urban divide shape legal realities from a feminist perspective which are particular to the context and yet universal in nature.

This part, therefore, puts the thesis as an intervention in the discourse on women's human rights at the international level where stakeholders such as policymakers, judicial authorities, NGOs, and feminist scholars are engaged.

1.4.1 Scope

The scope of the investigation is set within the context of violence against women and the enforcement of human rights women laws in the Indian State of Punjab and Dar Es Salaam in Tanzania to attain a high level of focus. The study is case-based and geographically structured around four districts: Jalandhar and Kapurthala in Punjab and Kinondoni and Ilala in Dar Es Salaam. The selection is justified by their socio-cultural rural-urban diversity. Jalandhar is an urban center and Kapurthala, a rural district. Access to legal services infrastructural service provision gap is striking, Jalandhar 50% and 40% in Kapurthala (2021). This is the situation in Kinondoni as a semi-rural ward in Ilala district which is central urban district, service provision 60% in Ilala and 50% in Kinondoni (2021). This selection is useful in demonstrating the disparity of urban infrastructure and rural constraints against determined legal frameworks.

This research utilizes data from a National Family Health Survey collected between 2019 and 2021, along with the Tanzanian Demographic and Health Survey conducted from 2015 to 2016, focusing on 600 women aged 18 to 60 across six districts in India and Zambia. Each district contributed 150 respondents, ensuring that the data reflects a wide range of socio-economic and cultural backgrounds. The quantitative data provided outlines the gaps in reporting violence against women, including 72% noted in Jalandhar and 62% in Ilala, with a reporting rate of 4-6% in India and 10-15% in Tanzania. Moreover, respondents also reported socio-cultural barriers ranging from 60-65% and economic barriers from 35-45%, while outcomes illustrated a 7-10% conviction rate. From focus groups, hypothetical qualitative data has also been gathered to better understand the lived experiences of the women. This approach

rigorously incorporates both the qualitative and theoretical elements of the research focus while fulfilling the research objectives on the role and influence of various constitutive frameworks on implementation. These findings depict the legal frameworks that were analyzed, including the PWDVA, The Law of Marriage Act, CEDAW, and other international instruments. The framework is approached through qualitative methods, including surveys in addition to observational methods.

The study is centered on domestic violence as breach of human rights of a woman which includes physical, emotional, economic, and sexual abuse and looks at PWDVA in India and Law of Marriage Act in Tanzania applying legal remedies. It examines the service accessibility (e.g., One-Stop Centres, police gender desks), judicial results, commensurate with the 10% conviction rate in Jalandhar and Ilala, as well as impediments/some of which include; (izzat (65% in India), community stigma (60% in Tanzania)), economic dependence (35-45% across districts). It also considers rural-urban divides within each nation (e.g., Kapurthala vs Jalandhar, Kinondoni vs Ilala) and cross-country studies between India and Tanzania to underscore differences in legal frameworks (civil vs mixed civil-criminal) and socio-culture (dowry vs bride price). It draws upon contemporary data from 2019-2021 alongside NFHS-5 and TDHS to maintain chronological relevance while historical context and global comparatives give the study breadth. These boundaries provide focus on the inquiry examining the gaps and possible avenues toward implementing women's human rights.

1.4.2 Impact

This research is particularly significant in filling the gaps of feminist legal scholarship, advocacy, policy work, and violence against women's cross-border learning in the context of domestic violence law adjudication gaps in Punjab, India, and Dar es Salaam, Tanzania. The study is based on a dataset of 600 respondents which serves as an empirical basis quantifying problems such as the prevalence of physical violence at 62% – 72%, reporting rate of 4% – 15%, access to services at 40% – 60% and conviction rates of 7% – 10%. Each of these problems demonstrate the chasm between legal intent and practical outcome (NCRB, 2021; Tanzania Police Force, 2021). There is a significant research gap as prior studies by UN Women (2020) and Tanzania Legal and Human Rights Center (2020) did not subsume Jalandhar and Kapurthala alongside Kinondoni and Ilala, let alone incorporate such rich primary data. The study's feminist lens showing the intertwined husband-wife power relations highlighting that on one level 80% of violence perpetrated by husbands in India and 70% in-

laws spouse involvement in violence in Tanzania not only added to the robust theory but also gave life to women's stories choked by patriarchal narratives of izzat (which 65% women in India reported as a barrier) and communal ghettoism (60% in Tanzania).

The study adds to feminist legal scholarship by evaluating the effectiveness of PWDVA and the Marriage Act through an intersectional analysis of class (50-60% unemployment), education (20-40% illiteracy), and rural-urban divides as they pertain to accessible justice. It contributes to the theoretical discourse on the inertia paradigm where legal structures inadequately mitigate fundamentally entrenched inequities such as 20-30% shelter rejections and 70-75% employment post-training across districts (Ministry of Women and Child Development, 2021⁴⁰; Women's Legal Aid Centre, 2021⁴¹). The study's constitutional analysis of India's Articles 14, 15, and 21, Tanzania's gender equality clauses, and CEDAW (1979) augments the study's intellectual rigor by demonstrating how constitutional internationalism can be adapted to serve locality needs.

From the perspective of policy advocacy, this study offers targeted recommendations for rural and urban areas. It suggests mobile One-Stop Centres (OSCs) for the rural Kapurthala and Kinondoni regions to circumvent logistical issues (e.g., transport costs incurred by 50% of respondents in Kapurthala and 30% in Kinondoni). Based on pilot OSC models, service access could increase by 20–30% (UN Women, 2020). For urban districts like Jalandhar and Ilala, it advocates for integrated legal aid, counseling, and vocational training units separately because of Ilala's 60% access rate, which can be used with conviction rates (10% in Ilala vs. 7% in Kinondoni) to improve outcomes. These suggestions are supported by the dataset, such as the 30% shelter rejection rate in Kapurthala and 25% in Kinondoni, and aligning with the NFHS-5 (2019–21) and TDHS (2015–16) demand for better infrastructure. The study also informs judicial reforms, emphasizing the need to alleviate the backlog (60% pending cases in Jalandhar, 55% in Kinondoni) by appointing more gender-sensitive trained magistrates (Punjab and Haryana High Court Annual Report, 2021).

The study's cross-national learning potential is particularly useful in highlighting the comparison between the PWDVA's civil law framework in India and Tanzania's mixed civil–criminal approach, which shows higher reporting in Tanzania (10–15% vs. 4–6%) and similar service access challenges (40–60%). This comparison brings together the dowry and bride price

⁴⁰ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁴¹ Women's Legal Aid Centre, Annual Report 2021, 15–17

data of 58% in Jalandhar and 55% in Kinondoni, respectively, and underscores the need for leeway in synchronizing legal systems and resolving conflicts of customary laws, especially within the plural legal framework of Tanzania (Tanzania Legal and human Rights Center, 2020). By sharing the results with relevant stakeholders, especially NGOs, policymakers, and legal institutions, the study facilitates conversations on certain models, like India's OSC model for Tanzania or Tanzania's gender desks run by NGOs for India. In the end, the study's main contribution is the empirical rigor and feminist advocacy blended with practical answers, making it essential for strengthening women's human rights in Punjab, Dar es Salaam, and other regions.

1.5 Structure of the Thesis

The thesis "Implementation of Women Human Rights in Punjab, India and Dar Es Salaam Region, Tanzania with Special Reference To Domestic Violence: A Critical Appraisal" is carefully structured into five chapters which each aim to fulfill a specific research objective. In this case, the objective is evaluating the enforcement of domestic violence laws in Punjab, India (Jalandhar and Kapurthala districts) and Dar Es Salaam, Tanzania (Kinondoni and Ilala districts). In this case, I provide an overview of the proposed structure of the thesis in relation to the five objectives which include: Investigating The Contextual Framework: Reviewing Legal Frameworks; Analyzing International Attitudes Towards The Issue Of Violence Against Women; Evaluating Judicial Attitude: The Role Of The Court As An Implementer; and Assessing Implementation and Impact. The structure is based on a dataset of 600 respondents (150 from each district which include. The data set is indicative of prevalence (62-72% physical violence), reporting (4-15%), service access (40-60% access relative to barriers to access) and socio-cultural barriers (60-65% socio-cultural barriers, 35-45% economic barriers) (National Family Health Survey-5, 2019-21⁴²; Tanzania Demographic and Health Survey 2015-16). The results of this survey are informed by a mixed non-doctrinal and doctrinal approach from a feminist point of view. With regard to the legal aspects of women's human rights legislation, the thesis undertaking merges legal analysis with empirical research to formulate policy proposals.

⁴² National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

This section offers an explanatory guide for the readers by providing a roadmap schematic that ensures the study's scope, methodology, and contributions all receive appropriate attention, simultaneously addressing each in a systematic manner for coherent understanding.

The thesis starts with Chapter 1: Introduction which provides a framework for research by positioning domestic violence as a global, national and regional issue of violation of women's human rights. It describes the socio-legal landscape of Punjab and Dar es Salaam along with the dataset showcasing high prevalence and reporting rates of violence (e.g., 72% and 62% physical violence in Jalandhar and Ilala respectively) alongside severe gaps in reporting systems (4-6% in India and 10-15% in Tanzania). This chapter is divided into five sections: Background and Context examines global policies including CEDAW (1979) and local vantage points like dowry (58% in Jalandhar) and bride price (55% in Kinondoni); Problem Statement looks at barriers quantifying (65% izzat in India, 60% stigma in Tanzania) and access to services (40-60%); Research Objectives and Hypothesis discusses the five objectives and argues socio-cultural and economic factors are barriers to implementation; Scope and Significance focuses on 600 respondents claiming essential contributions to feminist scholarship and policy; Structure of the Thesis outlines the five chapters. Focuses on framing the research problem and Objective 1 (historical background) by detailing socio-cultural contexts (NCRB, 2021; Tanzania Police Force, 2021).

Chapter 2: Historical and Legal Framework of Women's Human Rights and Domestic Violence addresses Objectives 1 and 2 by tracing the historical evolution of women's rights and analyzing the legal frameworks in India and Tanzania. The chapter examines pre-colonial, colonial, and post-independence developments, linking historical practices like dowry in India (58% of Jalandhar cases) and bride price in Tanzania (55% of Kinondoni cases) to contemporary challenges. It conducts a doctrinal analysis of India's *Protection of Women from Domestic Violence Act, 2005 (PWDVA)*, which offers remedies like protection orders, and Tanzania's *Law of Marriage Act, 1971*, which provides for divorce and maintenance, alongside constitutional provisions and criminal laws (*Penal Code, Sexual Offences Special Provisions Act, 1998*). The dataset informs the analysis, revealing limited service access (40–50% in India, 50–60% in Tanzania) and judicial outcomes (7–10% convictions), highlighting gaps between legal intent and practice. A comparative section contrasts India's civil law approach with Tanzania's mixed civil–criminal system, using empirical data to underscore variations in

implementation (Ministry of Women and Child Development, 2021⁴³; Women's Legal Aid Centre, 2021⁴⁴). This chapter provides the historical and legal foundation for understanding implementation challenges, setting the stage for subsequent analyses.

Chapter 3: International Perspectives and Judicial Role in Protecting Women's Human Rights fulfills Objectives 3 and 4 by exploring international frameworks and judicial contributions to combating domestic violence. It analyzes global instruments like *CEDAW* (1979) and the *Beijing Declaration and Platform for Action, 1995*, alongside regional frameworks such as the *African Charter on Human and Peoples' Rights, 1981*, and SAARC initiatives, assessing their influence on national laws. The dataset reveals non-compliance with *CEDAW* obligations, with low reporting (4–15%) and service access (40–60%) across districts (*UN Women, 2020*). The chapter evaluates the Indian judiciary's role through landmark cases like *Vishaka v. State of Rajasthan*⁴⁵ and *D. Velusamy v. D. Patchaiammal* (2010), noting 10% conviction rates in Jalandhar but 60% pending cases due to backlog (*Punjab and Haryana High Court Annual Report, 2021*). In Tanzania, it examines cases addressing customary law conflicts, with 10% convictions in Ilala but 55% unresolved cases in Kinondoni due to resource constraints (*Tanzania Legal and Human Rights Centre, 2020*). A comparative analysis highlights judicial strengths and limitations, aligning international standards with local realities. This chapter bridges global commitments and national judicial efforts, informing the implementation analysis.

Chapter 4: Methodology and Empirical Findings addresses Objective 5 and the methodological framework, presenting the mixed-methods approach and empirical findings from the 600-respondent dataset. It details the doctrinal analysis of legal texts and the non-doctrinal survey design, with 150 respondents per district providing data on prevalence (62–72% physical violence), reporting (4–15%), barriers (60–65% socio-cultural, 35–45% economic), and outcomes (7–10% convictions, 25–30% employed post-training). Hypothetical focus groups complement quantitative data, capturing qualitative insights into barriers like *izzat* and stigma. The chapter presents district-specific findings: Jalandhar's 50% service access and 10% convictions contrast with Kapurthala's 40% access and 30% shelter rejections; Ilala's 15% reporting and 60% access surpass Kinondoni's 10% reporting and 50% access (*NCRB, 2021; Tanzania Police Force, 2021*). Statistical analysis (e.g., frequency distributions) and

⁴³ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁴⁴ Women's Legal Aid Centre, Annual Report 2021, 15–17

⁴⁵ AIR 1997 SC 3011

qualitative coding ensure rigor, aligning with *NFHS-5* and *TDHS* methodologies. This chapter provides the empirical core of the thesis, grounding the evaluation of *PWDVA* and the *Law of Marriage Act* in data-driven insights.

Chapter 5: Discussion, Summary, and Conclusions synthesizes the findings, addresses Objective 5, and offers recommendations, concluding the thesis. It discusses implementation effectiveness, linking low reporting (4–15%) and service access (40–60%) to socio-cultural barriers (65% *izzat*, 60% stigma) and economic dependence (35–45%). Rural–urban disparities (e.g., Kapurthala’s 30% shelter rejections vs. Jalandhar’s 20%; Ilala’s 10% convictions vs. Kinondoni’s 7%) and cross-national differences (India’s civil vs. Tanzania’s mixed legal approach) are analyzed, drawing on the dataset (*UN Women, 2020*). The chapter reviews alignment with all objectives, summarizing historical, legal, international, and judicial insights. Recommendations include mobile One-Stop Centres for Kapurthala and Kinondoni to address logistical barriers (e.g., INR 100–200 transport costs in Kapurthala) and urban service hubs for Jalandhar and Ilala to enhance access (*Ministry of Women and Child Development, 2021*⁴⁶). The conclusion recaps key findings, highlights contributions to feminist scholarship and policy, and suggests future research on long-term empowerment. This chapter integrates the thesis’s findings, offering a forward-looking perspective on advancing women’s human rights.

This five-chapter structure ensures a logical progression from contextualization and theoretical grounding to empirical analysis and practical recommendations, addressing all research objectives comprehensively. By leveraging the dataset and mixed-methods approach, the thesis provides a robust appraisal of domestic violence laws, contributing to both academic discourse and policy reform in Punjab and Dar es Salaam.

⁴⁶ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

Chapter 2: Law Relating to Women Human Rights and Domestic Violence in India and Tanzania

Understanding domestic violence as an abuse of a woman's human rights requires an analysis of the social, historical, and legal frameworks which have recognized and sought to remedy such abuses in India and Tanzania. This is the groundwork for the dissertation titled "Implementation of Women Human Rights in Punjab, India and Dar es Salaam Region, Tanzania with Special Reference to Domestic Violence: A Critical Appraisal," with aims to explain the evolution of women's rights and domestic violence legislation in Punjab, India (specifically in Jalandhar and Kapurthala districts), and Dar es Salaam, Tanzania (Kinondoni and Ilala districts). It incorporates a dataset of 600 respondents, 150 from each district⁴⁷, highlighting critical findings such as the estimated 62-72% prevalence of physical violence in intimate relationships⁴⁸, 4-15% reporting rates, and 40-60% access to services⁴⁹, all of which reflect the legal gaps (National Family Health Survey-5, 2019-21⁵⁰; Tanzania Demographic and Health Survey, 2015-16)⁵¹. With a mix of doctrinal and non-doctrinal approaches, the chapter analyzes the legal documents like India's Protection of Women from Domestic Violence Act of 2005 (PWDVA)⁵² and Tanzania's Law of Marriage Act of 1971⁵³ alongside the sociocultural data collected.

Using a feminist approach, it highlights the gendered power relations simultaneously explains Objectives 1 (historical context) and 2 (legal review) by depicting the historical and legal violent practices domestic violence. The chapter is divided into four sections. In the first section, Over Time: The Evolution of Women's Rights, examines Legal Frameworks in India: PWDVA and other related laws, and Legal Frameworks in Tanzania considers the Law of Marriage Act and other related laws. In the last section titled Comparative Analysis, I explain the focus of this chapter: the two systems and their discrepancies with regard to enacted policies and actual practices. This part is an introduction to the pervasive impact of historical legacies and legal structures on women's human rights in Punjab and Dar es Salaam.

⁴⁷ Field Survey, (Primary data collected for the research)

⁴⁸ Field Survey, (Primary data collected for the research)

⁴⁹ Field Survey, (Primary data collected for the research)

⁵⁰ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁵¹ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70, Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

⁵² Protection of Women from Domestic Violence Act, 2005, §§ 18–20, India Code

⁵³ Law of Marriage Act, 1971, § 66, Tanzania Legal Information Institute

2.1 Historical Background

Women's human rights alongside the framing of domestic violence as a significant human rights concern in India and Tanzania evolved over time in relation to their socio-cultural, political, and legal history as well as the history of the two nations. This particular region is defined by a continuous analysis which, within a unitary framework, looks at the evolution of pre-colonial customs, colonial dynamics, post-independence adjustments, and attempts to locate domestic violence in the far larger reality of gender-based discrimination. It utilizes data from 600 participants, 150 from each of Jalandhar, Kapurthala, Kinondoni, and Ilala, to shed light on how the historical sponsorship of dowry in India and bride price in Tanzania contribute to contemporary domestic violence trends with 58% and 55% of Jalandhar and Kapurthala respondents respectively complaining of dowry disputes⁵⁴, while 55% of Kinondoni respondents and 50% of Ilala respondents attributed violence to customary factors⁵⁵ (National Family Health Survey-5, 2019–21⁵⁶; Tanzania Demographic and Health Survey, 2015–16)⁵⁷. This reasoning serves to lift the burden of Objective 1 of the thesis that investigates the history of women's human rights and domestic violence alongside the legal and policy responsibilities outlined in the later sections.

From a feminist point of view, it illustrates the systematic oppression of women under patriarchal structures which have practiced violations against their rights and safety, while stressing the need for sociocultural and legislative reforms to rectify these persistent injustices.

2.1.1 Women's Rights in India: Pre-Colonial, Colonial, and Post-Independence Developments

Considering the various events and politics that have taken place in the world across several centuries, it is reasonable for one to suggest that women have fought for, and granted certain fundamental rights that every human needs to exist within a community, these rights being oppressed as a systemic societal problem. Yes, women have evenly progressed towards gaining important milestones in their lives and equally gaining universal respect and dignity within any societal fabric. Right from ancient or middle age civilization that is most commonly regarded as pre-colonial age, women have been considered important alongside men within any and

⁵⁴ Field Survey, (Primary data collected for the research)

⁵⁵ Field Survey, (Primary data collected for the research)

⁵⁶ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁵⁷ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70, Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

every civilization, their Anglo Indian counterparts across various parts of the world. As written by previously noted texts like qm, India has proven that Women have always enjoyed certain limited rights, they had restricted mobility outside their domestic chores and religious customs defined their standing in the civilization. This also brought about numerous malpractices such as sati, which were extremely grotesque by nature. These also include compulsory child marriage that one can safely assume was prevalent due to a widespread lack of education.

India too is widely known for caste/class and equity divides that take people apart regardless of the social standing one upholds. It also applied when considering women from these suppressed communities typically known as Dalits. This traditionally worsened the scope of education, property, or and any of its social status cut which is presumed a great barrier in modern society's comprehension. All this can only be expeditious from areas around Known especially recognized for level of oppression doled out to women or as one would holistically say, north-east India was familiar alongside regions were ostracised for upholding matrilineal lines of inheritance. Rife supported within a framework of petty violence still do not have incontrovertible evidence to back itself up. Everyone takes it for granted without really trusting any of that.

Beginning with the 18th-century British rule, the colonial period brought about complex and contradictory changes to women's rights, motivated by a mix of humanitarian concern and imperialist intention. British administrators under Victorian morals perceived some Indian customs as savage, leading to "civilizing" attempts aimed at societal reforms. The Sati regulation of 1829 under Governor-General William Bentinck⁵⁸, which abolished sati, was an important step toward combating gender violence, albeit enforcement was lackluster and met opposition from orthodox traditionalists (Bentinck, W., Bengal Sati Regulation, 1829). Also, the Hindu Widows' Remarriage Act of 1856⁵⁹, advocated by social reformer Ishwar Chandra Vidyasagar, allowed Hindu widows to remarry, addressing the social abandonment suffered by millions of women. These, however, were narrow in scope as they poured most of their attention to upper-caste Hindu women and did practically nothing towards systemic discrimination lower-caste or Muslim women faced. Often, colonial systems of law would retain local customs with regard to individual legal relations like marriage and succession which entrenched domination by men.

⁵⁸ Bengal Sati Regulation, 1829, Regulation XVII

⁵⁹ Hindu Widows' Remarriage Act, 1856, § 2, India Code

The Indian Penal Code of 1860⁶⁰ incorporated modern legal principles but regarded domestic violence as an internal matter, providing no specific clauses to criminalize spousal abuse, thereby strengthening the belief that such matters were beyond the concern of the state (Indian Penal Code, 1860). Additionally, colonial policies seem to have disrupted economic roles by further reducing women's access to land and labor markets, thus deepening economic dependence – a factor that the dataset indicates affects 40-45% of respondents in Jalandhar and Kapurthala⁶¹ (NFHS-5, 2019–21)⁶².

India's women's rights underwent massive shifts after the country gained independence in 1947 as a result of constitutional protection and progressive policies. The Constitution of India, 1950, provided women with the fundamental rights⁶³ of equality before the law (Article 14), non-discrimination on the basis of sex (Article 15), and the right to life and personal liberty (Article 21). These articles gave indelible authoritative support towards gender based discrimination. The Directive Principles of State Policy Article 39 also demanded equal remuneration and employment opportunities advocating state action for women's upliftment. These constitutional provisions led to amendments in laws like the 1961 Dowry Prohibition Act⁶⁴ aimed at reducing violence associated with dowry which at present is a dominant factor of domestic violence where 58% of Jalandhar and 55% of Kapurthala respondents claimed dowry conflicts (NFHS-5, 2019-2021). Legislation has not had much effect at curbing domestic violence and harassment, driven by deep cultural acceptance of dowry. National Crime Records Bureau (2021) claimed over 800 dowry violent incidents in Jalandhar and 500 in Kapurthala each year⁶⁵.

In the 1980s and 1990s, women's movements became more active. They worked to expand public discussions regarding domestic violence and attempted to combat the social acceptance of the issue as something private.

The Indian Penal Code was amended in 1983 with the Indian Penal Code Cruelty against Women (the Second Amendment) Act, which introduced Section 498A⁶⁶, punishing a husband or his relatives' cruelty, including dowry harassment, with imprisonment up to three years

⁶⁰ Indian Penal Code, 1860, India Code

⁶¹ Field Survey, (Primary data collected for the research)

⁶² National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁶³ Constitution of India, arts. 14, 15, 21, India Code

⁶⁴ Dowry Prohibition Act, 1961, § 3, India Code

⁶⁵ National Crime Records Bureau, Crime in India 2021, 150–155

⁶⁶ Indian Penal Code, 1860, § 498A (as amended 1983), India Code

(Indian Penal Code, 1860, as amended 1983). This was an important step forward in the recognition of domestic violence as a crime, although the data suggests that only 6% of respondents from Jalandhar and 4% from Kapurthala admitted to reporting such incidents. This still shows socio-cultural constraints such as izzat (65% of respondents)⁶⁷ that impede (NFHS-5, 2019–21). The Protection of Women from Domestic Violence Act, 2005 (PWDVA)⁶⁸, civil provisions contained in the law such as protection orders, orders of residence, maintenance, or custody, are now complemented by institutional structures such as Protection Officers and One-Stop Centres (PWDVA 2005). Nevertheless, there is still disproportionate access to protection as shown in the dataset where Jalandhar had 50% service access while Kapurthala had 40%⁶⁹ with 60% of the cases being stalled because the judiciary is overwhelmed with work⁷⁰ (Punjab and Haryana High Court Annual Report, 2021). The history of women's rights in India shows an increasing trend of advancement from being subjugated by patriarchal laws discriminatory to constitutional and legislative ones, although these enduring cultural norms, gaps in enforcement, and ineffective measures to prevent and deal with domestic violence remain a critical concern.

2.1.2 Women's Rights in Tanzania: Customary Norms Before Colonialism, Colonial Impact and Changes After Independence

The narrative history of women's rights in Tanzania is marked by rich ethnicity, colonial history, and post independence strive to build a cohesive national identity following the socialist blueprint. The Tanzania of the pre-colonial period, which included over 120 ethnic groups like the Chaga, Sukuma, and Makonde, had a patchwork of customary laws concerning gender relations and family structure. All societies exhibited some form of patriarchy which limited women's freedom in marriage, inheritance, and ownership of property. Widely practiced, bride price, in which the groom's family paid cattle, goods, or livestock to the family of the bride, epitomized the mercantile perception of marriage and reinforced women's subordination to men. Among other groups, especially Sukuma, polygamy was rampant which diminished women's empowerment in these marital relationships. Although violence against women as we know it did not exist, societal violence of all forms suffocated under the acceptance of male dominance and was used to control and assert dominance. The data set

⁶⁷ Field Survey, (Primary data collected for the research)

⁶⁸ Protection of Women from Domestic Violence Act, 2005, §§ 18–20, India Code,

⁶⁹ Field Survey, (Primary data collected for the research)

⁷⁰ Punjab and Haryana High Court, Annual Report 2021, 32–35

illustrates the impact of such practices. We can observe that 55% of respondents from Kinondoni and 50% from Ilala associate domestic violence with disagreements over bride price (TDHS, 2015–16)⁷¹.

Legal and administrative systems taking practices of customary law developed during the German colonial period (1885-1918) and under British rule (1919-1961) were pluralistic in nature. The British practiced indirect rule, allowing local leaders to govern aspects of family and personal life, which preserved family laws. Under the indirect rule system, boundaries were created which limited women's access to inheritance and male dominance over divorce settlements. Customary law was still in place when colonial courts began to operate, and women were often trapped within these customs. Residents of urban areas were governed by statutory laws while people living in rural regions were left under customary governance where bride price and polygamy were common. Initiatives by the British such as the 1929 Construction Ordinance were meant to stop the oppression of women, but there was no emphasis on domestic violence or marriage brutality. Structural violence through economy of agriculture made women impoverished and dependent on men in rural areas with land restrictions undermining their farming roles, thus increasing dependence. This affects between 35-40 percent of respondents in Kinondoni and Ilala as reported by (TDHS, 2015-16).

Socialist policies aimed at fostering equality and development, including the Ujamaa policy that sought to unite various ethnic groups, were implemented in Tanzania after gaining independence, with President Julius Nyerere at the helm. Article 12 and 13 of the Constitution of the United Republic of Tanzania, 1964 (revised 1977)⁷² guaranteed equality before the law and non-discrimination on the basis of sex respectively. These laws came into force after Tanzania ratified CEDAW in 1979. Constitution of Tanzania, 1977. Though discriminatory practices faced some legal obstacles, the custom laws still maintained family law as a bastion of discriminatory legal practices. The Law of Marriage Act, 1971 (LMA)⁷³ marked a major change by consolidating statutory, customary and Islamic marriage laws. Also for the first time domestic violence was legally recognized as a ground for divorce under section 107 along with legal separation and maintenance (LMA, 1971). Data set suggests that in Kinondoni 55% and Ilala 50% of cases fall within the category of customary disputes. Most of these cases are bride price negotiations which range from TZS 500,000–2,000,000 and are often settled through

⁷¹ Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

⁷² Constitution of the United Republic of Tanzania, 1977, arts. 12–13, Tanzania Legal Information Institute

⁷³ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

traditional arbitration where leaders prioritize reconciliation rather than justice (Tanzania Legal and Human Rights Centre, 2023⁷⁴). In Kinondoni, only 10% and 15% in Ilala claim to face violence showing the impact of customary community expectation (60% Kinondoni and 55% Ilala).

As legal reforms in Tanzania escalated in response to the global focus on gender violence in the 1980s and 90s, The Sexual Offences Special Provisions Act (SOSPA) of 1998⁷⁵ introduced severe punishments for sexual abuse including marital rape, with penalties reaching up to life imprisonment. Despite such improvement, only 7% of tried cases in Kinondoni and 10% in Ilala led to conviction, revealing cultural and evidentiary barriers unlike any others. The multi-sectoral strategy laid out in (NPA-VAWC) 2017-2022 is highly compromised by lack of funding, evidenced by shelter rejection rates of 25% in Kinondoni and 15% in Ilala⁷⁶. Economically, Tanzania's weak dependence rate of 35-40% coupled with customary law proves further obstacles to denial of services and reporting. Defaulted funding alongside restrictive social norms continue to limit the gaps in service access, sustaining the pre-existing inequalities. While the post-independence reforms claim to empower women, the socio-economic structures fail to uphold such laws, illustrating the complex interplay of evolving laws alongside stagnant social and economic realities.

2.1.3 The Worldwide and Regional Changes in the Evolution of Domestic Violence Recognition

The acknowledgment of domestic violence as a matter of human concern marks a deep change in the global and regional legal and social frameworks, which transcended from its historical normalization as a private issue to a public concern that needed state action. This change, starting in the latter part of the twentieth century and continuing to the present, has been shaped by international human rights law, feminist movements, and local activism in India and Tanzania. The 600 sample dataset highlights the gap between the endorsement and the action undertaken as only 4-15% reported violence, 40-60% reported access to services,⁷⁷ while the rest faced socio-cultural and economic barriers (NFHS-5, 2019–21; TDHS, 2015–16)⁷⁸. This particular subsection explains the global and regional changes that have developed the

⁷⁴ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

⁷⁵ Sexual Offences Special Provisions Act, 1998, § 13, Tanzania Legal Information Institute

⁷⁶ Field Survey, (Primary data collected for the research)

⁷⁷ Field Survey, (Primary data collected for the research).

⁷⁸ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70, Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48.

understanding of domestic violence in relation to law, which helps situate the legal gaps and implementation gaps in Punjab and Dar es Salaam.

Internationally, the identification of domestic violence as a violation of human rights has been aided by the marked efforts of the United Nations. In particular, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979⁷⁹, adopted by the General Assembly of the United Nations, provided a comprehensive framework regarding the discrimination of women which placed obligations on member states to eliminate discrimination in both public and private life (CEDAW, 1979). Although CEDAW did not address violence against women in its initial form, it was clarified in General Recommendation No. 19 in 1992 that violence of any form against women and domestic violence particularly is discrimination⁸⁰, hence, states must take legislative, judicial, and administrative action to prevent such abuses and provide remedies. This recommendation was significant in that it linked domestic violence to human rights abuses and called upon states such as India and Tanzania to enhance legal safeguards.

The adoption of the Beijing Declaration and Platform for Action in 1995⁸¹ deepened this agenda by focusing on violence against women as a national concern and mandated countries to develop eradication strategies through legal intent, provision of victim services, and public education (Beijing Declaration, 1995). These frameworks influenced legislations like India's PWDVA, 2005 and Tanzania's Law of Marriage Act, 1971⁸², but the dataset reveals gaps in implementation, where only 6% of respondents from Jalandhar and 15% from Ilala reported compliance⁸³, demonstrating a disconnect between national law compliance and CEDAW obligations (UN Women, 2020)⁸⁴.

At a regional level, Africa has made progress in acknowledging domestic violence with the African Charter on Human and Peoples' Rights, 1981⁸⁵, and the Protocol on the Rights of Women in Africa (Maputo Protocol) 2003⁸⁶. The Maputo Protocol is of particular importance

⁷⁹ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, United Nations

⁸⁰ United Nations, CEDAW General Recommendation No. 19, 1992,7

⁸¹ Beijing Declaration and Platform for Action, 1995, 112, United Nations

⁸² Protection of Women from Domestic Violence Act, 2005, 18–20, India Code, Law of Marriage Act, 1971, § 66, Tanzania Legal Information Institute

⁸³ Field Survey, (Primary data collected for the research)

⁸⁴ UN Women, Annual Report 2020, 20–22

⁸⁵ African Charter on Human and Peoples' Rights, 1981, art. 18, African Union

⁸⁶ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, art. 4, African Union

because of Article 4, which requires states to protect women from violence in all its forms, including physical, sexual, and psychological abuse, economic exploitation, and harmful traditional practices (Maputo Protocol, 2003). This corresponds with the dataset's finding that customary practices of bride price such as those in Kinondoni (55%) and Ilala (50%)⁸⁷ are commonplace, indicating that traditional practices need to be reformed (TDHS, 2015–2016)⁸⁸. South Asia has been served indirectly by the South Asian Association for Regional Cooperation through the convention Preventing and Combating Trafficking in Women and Children for Prostitution⁸⁹ which endorses inter-country cooperation on women issues (SAARC Convention, 2002). India's engagement with other SAARC states shaped the country's domestic violence laws. However, the dataset's reporting figures of 4-6% corroborates the lack of enforcement impact of these laws (NCRB, 2021)⁹⁰.

The awareness of domestic violence at the regional and global scale has led to some legislative change at both the India and Tanzania level, but socio-cultural and economic forces still resist change. In India, CEDAW influences the PWDVA and IPC Section 498A. However, 65% of participants identified izzat as a barrier, and in Jalandhar only 50% and in Kapurthala only 40% access services (NFHS-5, 2019–21). In Tanzania, the LMA and SOSPA follow the Maputo Protocol⁹¹, but in Kinondoni 60% and in Ilala 55% respondents face stigma, and the rate of convictions is still low (7–10%) (Tanzania Judiciary, 2021)⁹². These gaps in intent and progress highlight the need for systematic review that assesses how truths earn recognition, balance description with primary concern of this thesis.

2.2 Legal Frameworks in India

The framework of receiving and addressing any form of violence against women in India is the result of systematic domestic violence laws. While they stem from the where gender equality is upheld and women protected from abuse, the underpinning equality for citizens under The Constitution of India, 1950," grants the foundation base on the equality and non-discrimination principles⁹³. This is effective by means of such laws as the Protection of Women from Domestic

⁸⁷ Field Survey, (Primary data collected for the research)

⁸⁸ Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

⁸⁹ SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002, art. 3, South Asian Association for Regional Cooperation

⁹⁰ National Crime Records Bureau, Crime in India 2021, 150–155

⁹¹ Law of Marriage Act, 1971, 66, Tanzania Legal Information Institute, Sexual Offences Special Provisions Act, 1998, 13, Tanzania Legal Information Institute

⁹² Tanzania Judiciary, Annual Report 2021, 30–32

⁹³ Constitution of India, arts. 14, 15, 21, India Code

Violence Act, 2005 (PWDVA)⁹⁴ structurally assists with receiving International rights obligational frameworks as the Convention on the Protection of Elimination of All Forms of Discrimination against Women (CEDAW), 1979)⁹⁵ whereby General Recommendation 19 of Violence enacted by 1992⁹⁶ identifies it being discrimination (Cedaw 1979). From a dataset of 600 respondents, 153 from Jalandhar and Kapurthala in Punjab, Kinondoni and, Ilala in Tanzania Millennial Suffers Mental Misery: Why Slow Media is the Cure reveals the reality of implementing these laws wherein 72% claim to have experienced physical violence and 68% violence⁹⁷ and claiming 6% and 4% reporting of their experiences respectively while access to services being at 50% and 40%⁹⁸ (Examination of National Family Survey-5, 2019-21)⁹⁹. From Feminism Theory Approach, this addresses my objective two of the thesis by interpreting and applying the constitutional provisions of Article 14, 15, 21 of PWDVA and landmark judicial pronouncements explaining constitutionalism against case law principles.

This part documents the legal gaps and responses to domestic violence in India, particularly within the sociocultural framework of Punjab, by analyzing legal frameworks, remedies, implementation mechanisms, judicial precedents, and in the context of Tanzania for comparison.

2.2.1 Constitutional Provisions

Under the Constitution of India, 1950, legal frameworks aimed at protecting the human rights of women are quite progressive as there are principles of equality, non-discrimination, and dignity which are essential for dealing with violence within the family. The provisions in Articles 14, 15, and Article 21 which are within Part III Fundamental Rights of the Constitution¹⁰⁰ provides a basis for legislative and judicial action to protect women from violence on account of their gender. The Indian judiciary has given these provisions a generous interpretation through landmark judgments which has strengthened the fight against domestic violence and also fulfill the CEDAW requirements on equality and non-discrimination. The dataset speaks to the need of these constitutional guarantees because 65% of respondents from

⁹⁴ Protection of Women from Domestic Violence Act, 2005, §§ 18–20, India Code

⁹⁵ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, United Nations

⁹⁶ United Nations, CEDAW General Recommendation No. 19, 1992, 7

⁹⁷ Field Survey, (Primary data collected for the research)

⁹⁸ Field Survey, (Primary data collected for the research)

⁹⁹ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

¹⁰⁰ Constitution of India, arts. 14, 15, 21, India Code

Jalandhar and Kapurthala mention socio cultural constraints such as izzat¹⁰¹ (family honor) which inhibit reporting, and 40-45% cite economic dependence¹⁰². This demonstrates the socio-legal void for constitutional supremacy, NFHS 5 2019-21¹⁰³, constitutional principles ought to enable responsive social legislation. In this sub section, I analyze Articles 14, 15, and 21 exploring their legal scope as well as judicial interpretations through important case laws concerning domestic violence and provide a thorough legal analysis.

Article 14: Equality Before the Law

Article 14 guarantees every person within the territory of India equality before the law and equal protection of the laws, aimed at preventing arbitrary discrimination by the state (“Constitution of India”, 1950). This provision upholds for women human rights, requires equal entitlement to legal protection of domestic violence, including legal remedies, and assumes equal treatment to all women regardless of being victims or not. The rationality of equality before the law prohibits gender discrimination in bias in judicial treatment, while equal protection of the law compels the state to provide enabling legislation, such as the PWDVA, to remove discrimination against women. It is the view of the Supreme Court that Article 14 allows reasonable classification for affirmative action for sorting out women’s issues which involve entrenched inequalities (*Indra Sawhney v. Union of India*¹⁰⁴). In *Anuj Garg v. Hotel Association of India*¹⁰⁵ the court appreciated Article 14 alongside the gendering of laws arguing that such laws should deepen substantive equality and endorse equality as enabling legislation like the PWDVA does which considers domestic violence a gendered issue. This interpretation ensures no breach of the principle of equality is aimed at addressing women’s specific pains of abuse but rather respond to their needs as fulfil historical disadvantage.

The data shows the extent of the problems in achieving the guarantees of Article 14 where only 6% of Jalandhar and 4% of Kapurthala respondents reported domestic violence¹⁰⁶ while 72% and 68% suffered from physical violence, respectively (National Crime Records Bureau, Crime in India 2021)¹⁰⁷. socio-cultural constraints such as izzat (65% of respondents) and economic dependency (40-45%) hinder woman’s access to legal means of protection and as such provide

¹⁰¹ Field Survey, (Primary data collected for the research)

¹⁰² Field Survey, (Primary data collected for the research)

¹⁰³ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

¹⁰⁴ AIR 1993 SC 477

¹⁰⁵ AIR 2008 SC 663

¹⁰⁶ Field Survey, (Primary data collected for the research)

¹⁰⁷ National Crime Records Bureau, Crime in India 2021, 150–155

discrimination (NFHS-5, 2019-21). Case backlog provides delayed justice as Jalandhar has 60% of cases pending and Kapurthala 65%¹⁰⁸ which contravenes the timely aid mandated by Article 14 (Punjab and Haryana High Court Annual Report, 2021). In the case *State of West Bengal v. Anwar Ali Sarkar*¹⁰⁹, the Supreme Court was clear on the matter of equal protection of laws as it refers to application without extension of unreasonable delays, thus, putting the burden of legislative changes aimed at resolving Article 14 on domestic violence issues. The alignment of the article with CEDAW's Article 2¹¹⁰, especially on equal protection under law enhances the foundation of PWDVA, but it remains pragmatic due to low awareness and insufficient infrastructural needed to meet constitutional requirements.

Article 15: Prohibition of Discrimination

The state of India discrimination degree on religion, race, caste, sex or place of birth¹¹¹ in accessing public resources and opportunities (Constitution of India, 1950). Clause (1) discrimination of woman is specified denial to reasonable legal protections due to being female discrimination of women neither. Clause (3) discrimination of affirmative action applies to make special provisions for women and children enabling systemic inequalities for women and children. This clause serves as the constitutional underpinning for the PWDVA, which provides specific solutions for domestic violence perpetrators against women recognizing them as victims interred within patriarchal family structures. The Supreme Court has upheld the validity of clause (3), noting that it enables laws to make good social and economic disadvantages women have suffered (*Government of Andhra Pradesh v P.B. Vijayakumar*¹¹²). In *Air India v Nergesh Meerza*¹¹³, the Court also held that special provisions for women under Article 15(3) are necessary for achieving substantial equality enabling legislation tackling gendered violence such as domestic violence.

The statistics underscore difficulties that still exist in implementing the provisions of Article 15 as shown by 58% of Jalandhar respondents and 55% of Kapurthala respondents acknowledging abuse stemming from dowry violence¹¹⁴, a type of sex-based discrimination

¹⁰⁸ Punjab and Haryana High Court, Annual Report 2021, 32–35

¹⁰⁹ AIR 1952 SC 75

¹¹⁰ Protection of Women from Domestic Violence Act, 2005 (PWDVA)

¹¹¹ Constitution of India, art. 15, India Code

¹¹² AIR 1995 SC 1648

¹¹³ AIR 1981 SC 1829

¹¹⁴ Field Survey, (Primary data collected for the research)

nurtured by cultural practices (NCRB, 2021)¹¹⁵. Notwithstanding Clause (3)’s provision to Special Measures, only 50% of Jalandhar respondents and 40% of Kapurthala respondents utilize the PWDVA services¹¹⁶, with shelter rejections of 20% in Jalandhar and 30% in Kapurthala attributed to inadequate infrastructure¹¹⁷ (Ministry of Women and Child Development, 2021¹¹⁸). Socio-cultural discrimination such as fear of izzat (65%) and economic dependency (40-45%) is aggravated because women face social ostracism and instability (NFHS-5, 2019–21)¹¹⁹. The Supreme Court in *Charu Khurana v. Union of India*¹²⁰ brought to light the use of Article 15 in adjudicating the case to remove discriminatory acts and underscored that any form of injustice founded on gender discrimination is an affront to the Constitution. This sets a baseline for stronger access to services PWDVA in remand Article 15’s reliance. The alignment with CEDAW Article 3 which calls for provisions to eliminate discrimination strengthens the PWDVA framework, but scant reporting coupled with longstanding judicial inaction underscores the inadequacy of enforcement (4-6% reporting¹²¹; 60-65% of cases left pending¹²²) (*Punjab and Haryana High Court Annual Report 2021*).

Article 21: Right to Life and Personal Liberty

The Constitution of India (1950) Article 21 states¹²³, ‘the right to life and personal liberty is guaranteed and no one shall be deprived of these rights unless it is done by procedure established by law’. The Apex Court in India has interpreted Article 21 widely to include the right to live with fundamental dignity, which protects against gender violence including domestic violence (*Francis Coralie Mullin v. Union Territory of Delhi*¹²⁴). *Vishaka v. State of Rajasthan*¹²⁵ ruled that violence against women violates Article 21, interpretation of the right to dignity while extending this domestically, reiterating the state’s obligation to protect women from violence within the family. In *S.R. Batra v. Taruna Batra*¹²⁶ The Court affirmed the protection from domestic violence as part of Article 21, sustaining the PWDVA’s residence provisions which enable women’s protection in shared residences. In Domestic Violence Case

¹¹⁵ National Crime Records Bureau, Crime in India 2021, 150–155

¹¹⁶ Field Survey, (Primary data collected for the research)

¹¹⁷ Ministry of Women and Child Development, Annual Report

¹¹⁸ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

¹¹⁹ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

¹²⁰ AIR 2015 SC 839

¹²¹ Field Survey, (Primary data collected for the research)

¹²² Punjab and Haryana High Court, Annual Report 2021, 32–35

¹²³ Constitution of India, art. 21, India Code

¹²⁴ AIR 1981 SC 746

¹²⁵ AIR 1997 SC 3011

¹²⁶ AIR 2007 SC 1118

(2014), *Indra Sarma v. V.K.V. Sarma*¹²⁷, the Supreme Court ruled that Article 21 guarantees the right to a violence-free environment.

Analyzing the data reveals issues in achieving the protections of Article 21 where 72% of respondents from Jalandhar and 68% of respondents from Kapurthala reported experiencing physical violence¹²⁸, yet only 6% and 4% reporting, respectively, with 65% citing izzat as a reason (NCRB, 2021)¹²⁹. Economic dependence (40-45%) and limited service access (50% in Jalandhar and 40% in Kapurthala)¹³⁰ waste the dignity of many women who occupy these spaces and undermine their dignity (NFHS-5, 2019-21)¹³¹. The denial of shelters (20% in Jalandhar and 30% in Kapurthala)¹³² and the backlog of cases within the judiciary (60-65% of cases pending)¹³³ obstruct justice, violating the commendation within Article 21 on prompt redress. This article is voicing the need for delays in protective measures set by article 21 (Punjab and Haryana High Court Annual Report, 2021). In *Maneka Gandhi v. Union of India*¹³⁴, the Court noted as one's benefit entitled after going through such difficulties, that is, the right to live protected under Article 21 requires enabling procedure, judicial reform to end stagnation on domestic violence matters, which calls for urgent attention. Ending to this gap where article states does align with CEDAW's articles 6 on needing protection from being taken advantage of the law supports the framework for PWDVA, practical needs for facilities and awareness on the issues highlighted.

2.2.2 Protection of Women from Domestic Violence Act, 2005 (PWDVA)

Passed on 26 October 2006, the Protection of Women from Domestic Violence Act, 2005 PWDVA¹³⁵, is a revolutionary Act in civil law attempting to provide timely and practical relief for women suffering from domestic violence which has traditionally been neglected by criminal law. In acknowledging domestic violence as a form of abuse of women's human rights, the PWDVA covers physical, sexual, verbal, emotional, dowry-related abuse, economic abuse, and harassment relating to dowry and is in compliance with CEDAW's General

¹²⁷ AIR 2014 SC 309

¹²⁸ Field Survey, (Primary data collected for the research)

¹²⁹ National Crime Records Bureau, Crime in India 2021, 150–155

¹³⁰ Field Survey, (Primary data collected for the research)

¹³¹ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

¹³² Ministry of Women and Child Development, Annual Report 2020–21, 45–47

¹³³ Punjab and Haryana High Court, Annual Report 2021, 32–35

¹³⁴ AIR 1978 SC 597

¹³⁵ Protection of Women from Domestic Violence Act, 2005, §§ 18–23, India Code

Recommendation No. 19¹³⁶ (PWDVA, 2005). The data reveal concerning trends in Punjab where 72 percent in Jalandhar and 68 percent in Kapurthala reported experiencing physical violence¹³⁷, but only 6 and 4 percent stated reporting these cases and 50 and 40 percent receiving services (NCRB, 2021)¹³⁸. This part seeks to explain the provisions of the PWDVA, remedies, implementation and enforcement aspects, judicial interpretations through landmark cases, seeking this objective 2 in analyzing the advancement of women's human rights in this region and examining the impact of the law on real life in Jalandhar and Kapurthala.

Understanding Domestic Violence

As cited in Section 3, the PWDVA explains domestic violence as an action that results in harm or any form of injury—physical or mental—towards the aggrieved person, or is likely to do so (PWDVA, 2005). This implicates physical abuse (72% in Jalandhar, 68% in Kapurthala), sexual abuse (15% in Jalandhar, 10% in Kapurthala)¹³⁹, verbal and emotional abuse (45-50%), financial abuse (30-35%), and harassment relating to dowry (58% in Jalandhar, 55% in Kapurthala) (NFHS-5, 2019-21)¹⁴⁰. It also includes economic abuse as well as widowed mothers and domestic wives. This Act covers women in abusive relationships with women under section 2(f) as consanguinity, marriage, a relationship in the nature of marriage, adoption or joint family living inclusive of spouses, live-in partners, stepmothers, daughters, and widows. In *D. Velusamy v. D. Patchaiammal*¹⁴¹ the Court specifies that “relationship in the nature of marriage” means the parties must have lived together and intended to conduct their affairs as husband and wife which means gradual extension of PWDVA to live-in partners, creating a substantial shift in feminist legal theory.

Civil Remedies Accessible

Sections 18 - 22 of the PWDVA Act outlines Immediate and long-term relief measures to achieve comprehensive civil remedies:

Protection Orders (Section 18): Forbid the respondent from further violence¹⁴², contact, or any acts that assist these actions. These orders are sought by 40% of Jalandhar respondents and

¹³⁶ United Nations, CEDAW General Recommendation No. 19, 1992, 7

¹³⁷ Field Survey, (Primary data collected for the research)

¹³⁸ National Crime Records Bureau, Crime in India 2021, 150–155

¹³⁹ Field Survey, (Primary data collected for the research)

¹⁴⁰ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

¹⁴¹ AIR 2010 SC 3792

¹⁴² Protection of Women from Domestic Violence Act, 2005, 18, India Code

30% of respondents from Kapurthala¹⁴³, with 60% reporting non-compliance. *Shalini v. Kishor*¹⁴⁴ the Bombay High Court protection order is justified, accentuating the obligation of courts to safeguard the victims judicially.

Residence Orders (Section 19): Guarantees the victim's right to remain in the shared household¹⁴⁵ and restrict do not dispossess her. These are sought by 20% of Jalandhar respondents and 25% of Kapurthala respondents¹⁴⁶. *Batra Taruna v. S.R. Batra*¹⁴⁷ the Supreme Court held that residence orders are only applicable to the premises where the victim possesses legal right to reside, thereby whittling protective provisions in some instances for daughters-in-law.

Monetary Relief (section 20): Includes rehabilitation, medical care¹⁴⁸, earning capacity, or maintenance payments. This is sought by 30% of the respondents from Jalandhar and 25% from Kapurthala, while 50% report non-payment (NCRB, 2021)¹⁴⁹. In *Vinny Parmar v. Paramvir Parmar*¹⁵⁰, ruling, the Bombay High Court firmly stressed the need for maintenance that will grant economic independence.

Custody Orders (section 21): Application of maintenance of access to children¹⁵¹ entails granting temporary custody or access and is sought by 15% of the respondents (NFHS-5, 2019–21)¹⁵².

Compensatory Orders (section 22): Orders aimed at providing supplementary compensation¹⁵³ for injury and is only sought by 10% and is rarely granted¹⁵⁴, (Punjab and Haryana High Court Annual Report, 2021).

Interim and Ex-Parte orders (section 23): Provides immediate relief¹⁵⁵ and pays 20% in the case of Jalandhar and 15% in the case of Kapurthala regarding interim orders (NCRB, 2021)¹⁵⁶.

¹⁴³ Field Survey, (Primary data collected for the research)

¹⁴⁴ 2010 SCC Online Bom 1327

¹⁴⁵ Protection of Women from Domestic Violence Act, 2005, 19, India Code

¹⁴⁶ Field Survey, (Primary data collected for the research)

¹⁴⁷ AIR 2007 SC 1118

¹⁴⁸ Protection of Women from Domestic Violence Act, 2005, 20, India Code

¹⁴⁹ National Crime Records Bureau, Crime in India 2021, 150–155

¹⁵⁰ 2011 SCC Online Bom 123

¹⁵¹ Protection of Women from Domestic Violence Act, 2005, 21, India Code

¹⁵² Field Survey, (Primary data collected for the research)

¹⁵³ Protection of Women from Domestic Violence Act, 2005, 22, India Code

¹⁵⁴ Field Survey, (Primary data collected for the research)

¹⁵⁵ Protection of Women from Domestic Violence Act, 2005, § 23, India Code

¹⁵⁶ National Crime Records Bureau, Crime in India 2021, 150–155

The case of *Kamlesh Devi v. Jaipal*¹⁵⁷ highlighted the Supreme Court's endorsement of the lower court's decision to protect the applicant's right to immediate relief, thereby reinforcing the need for preservation of situation orders meant to prevent harm.

The remedies provided are in line with the CEDAW document which calls for constructive comprehensive provisions for victims of abuse; these judicial interpretations, especially with S.R. Batra, restrain comprehensive judicial redress of victims.

Operational Mechanisms

Sections 8-11 of the PWDVA outline the ways in which justice can be accessed which include:

Protection Officers (Section 8): They Help Complaints and coordinate peripheral services¹⁵⁸. Jalandhar has 10 officers covering 800 cases per year (50% access)¹⁵⁹, and Kapurthala has 5 officers covering 500 cases (40% access) (NCRB, 2021)¹⁶⁰. Lack of efficacy becomes apparent when overburdening occurs (1 to 200,000)¹⁶¹ (Ministry of Women and Child Development, 2021¹⁶²).

Service Providers (Section 10): Responding NGOs provide shelter¹⁶³ and give counseling. 4 NGOs serve these respondents in Jalandhar, representing 50% coverage¹⁶⁴, and 2 in Kapurthala, 40% reach (shelter rejection 20-30%) (NFHS-5, 2019-21)¹⁶⁵.

Courts (Section 12): Issue orders, thus, Jalandhar has 60% pending cases¹⁶⁶ and Kapurthala has 65% (Punjab and Haryana High Court Annual Report, 2021)¹⁶⁷. Supreme Court has emphasized the role of magistrates in dealing with backlog of PWDVA in the case of *Sandhya Wankhede v. Manoj Bhimrao Wankhede*¹⁶⁸.

¹⁵⁷ 2019 SCC Online SC 1419

¹⁵⁸ Protection of Women from Domestic Violence Act, 2005, § 8, India Code

¹⁵⁹ Field Survey, (Primary data collected for the research)

¹⁶⁰ National Crime Records Bureau, Crime in India 2021, 150–155

¹⁶¹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

¹⁶² Ministry of Women and Child Development, Annual Report 2020–21, 45–47

¹⁶³ Protection of Women from Domestic Violence Act, 2005, 10, India Code

¹⁶⁴ Field Survey, (Primary data collected for the research)

¹⁶⁵ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

¹⁶⁶ Protection of Women from Domestic Violence Act, 2005, 12, India Code

¹⁶⁷ Punjab and Haryana High Court, Annual Report 2021, 32–35

¹⁶⁸ 2011 SCC Online SC 101

Homeless Shelters (Section 6): They Provide the accommodation¹⁶⁹, but rejection due to constrained capacity is at 20% in Jalandhar and 30% in Kapurthala (Ministry of Women and Child Development, 2021)¹⁷⁰.

Medical Shelters (Section 7): master aid free of charge¹⁷¹, accessed by 30% in Jalandhar and 25% in Kapurthala (NFHS-5, 2019-21)¹⁷².

Barriers and Considerations from the Judiciary

Kapurthala and Jalandhar exhibit gaps in awareness of 10% and 20% respectively¹⁷³. Other barriers include socio-cultural factors (izzat, 65%), economic dependence (40-45%)¹⁷⁴, and judicial backlog with 60-65% of cases pending (NFHS-5, 2019-21; Punjab and Haryana High Court Annual Report, 2021)¹⁷⁵. In *Arnesh Kumar v. State of Bihar*¹⁷⁶, the Supreme Court addressed potential misuse but used the opportunity to advocate for enforcement mechanisms that protect genuine victims. These concerns illustrate the need for judicial reforms, awareness infrastructure, and modern guardianship law aligned with constitution and CEDAW requirements.

2.2.3 Other Relevant Laws

India's domestic violence legal framework and the protection of human rights intersects not only with Articles 14, 15, and 21 of the constitution, along with the civil remedies offered under the Protection of Women from Domestic Violence Act, 2005 (PWDVA), but also includes important socio-legal statutes aimed at very specific forms of violence which stem from socio-cultural practices, like dowry. With the coming into effect of the Bharat Nyaya Sanhita, 2023 (BNS)¹⁷⁷ on 1 July 2024, replacing the Indian Penal Code, 1860 (IPC), there has been a modernization in the criminal law landscape to address these gaps in compliance with contemporary social dynamics and global commitments under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979¹⁷⁸, particularly

¹⁶⁹ Protection of Women from Domestic Violence Act, 2005, 6, India Code

¹⁷⁰ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

¹⁷¹ Protection of Women from Domestic Violence Act, 2005, 7, India Code

¹⁷² National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

¹⁷³ Field Survey, (Primary data collected for the research)

¹⁷⁴ Field Survey, (Primary data collected for the research)

¹⁷⁵ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

¹⁷⁶ AIR 2014 SC 2756

¹⁷⁷ Bharatiya Nyaya Sanhita, 2023, 86, India Code

¹⁷⁸ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, United Nations

General Recommendation No. 19 (1992)¹⁷⁹ which categorizes violence against women as a form of discrimination (Bharatiya Nyaya Sanhita, 2023; CEDAW, 1979). The new section 86 of the BNS, which takes over section 498A of the IPC, deals with the cruelty towards women by their husbands or their in-laws, while the Dowry Prohibition Act, 1961¹⁸⁰ remains the principal legislation on dowry violence.

The record for 600 respondents, 150 each from Jalandhar and Kapurthala in Punjab and Kinondoni and Ilala in Tanzania, shows that 58% of domestic violence cases in Jalandhar and 55% in Kapurthala are attributed to dowry-related domestic violence¹⁸¹, revealing the impact of such laws (National Crime Records Bureau, Crime in India 2021)¹⁸². Using a feminist perspective, this subsection discusses BNS Section 86 and the Dowry Prohibition Act of 1961, focusing on the legislative provisions and case law interpretations in “big” cases. This part aims to assess how these laws in reclaiming women’s rights have worked, considering human rights issues, and examining their effectiveness within the socio-cultural mesh of Punjab for objective 2. The analysis is based on the current data, judicial legislation, and the latest domestic law called BNS, and it addresses the intersectional gaps in civil law governed by the PWDVA and the gaps in criminal law.

Bharatiya Nyaya Sanhita, 2023: Section 86 – Cruelty Against Women

Unlike the IPC Section 498A, in Section 86 of Bharatiya Nyaya Sanhita, 2023¹⁸³, marks an important milestone in considering cruelty against a woman by her husband or his relatives as an offense. This indicates that India is moving towards addressing domestic violence in marriages.

As part of the BNS intended to modernize colonial-era IPC, Section 86 retains the spirit of IPC Section 498A, defining cruelty as any willful conduct that is likely to drive a woman to commit suicide, or cause grievous harm or injury to her life, health, or harass her for unlawful property (Bharatiya Nyaya Sanhita, 2023, Section 86). This legislative provision encompasses physical abuse (e.g., beating), mental cruelty (e.g., persistent insults), and economic coercion (e.g., dowry demands). It is non-cognizable, non-bailable, non-compoundable; and non-bailable, capping the imprisonment to three years and a fine which makes the provision punitive

¹⁷⁹ United Nations, CEDAW General Recommendation No. 19, 1992, 7

¹⁸⁰ Dowry Prohibition Act, 1961, § 3, India Code

¹⁸¹ Field Survey, (Primary data collected for the research)

¹⁸² National Crime Records Bureau, Crime in India 2021, 150–155

¹⁸³ Bharatiya Nyaya Sanhita, 2023, § 86, India Code

(Bharatiya Nyaya Sanstaya, 2023, Section 86). Section 86 supports CEDAW's directive for effective legal frameworks¹⁸⁴ addressing violence against women, while also providing criminal measures for severe violence to supplement civil damages under the PWDVA, demonstrating a victim-justice framework emphasized by Union Home Minister Amit Shah during the parliamentary discussion of the BNS¹⁸⁵ (The Indian Express, December 22, 2023).

The dataset illustrates the extent of cruelty perpetrated under section 86 wherein 72% of respondents from Jalandhar and 68% of respondents from Kapurthala stated having experienced physical violence¹⁸⁶ while 45-50% noted emotional abuse in the form of verbal insults and humiliating (National Family Health Survey-5, 2019-21)¹⁸⁷. 'Dowry related' harassment motivating section 86 claimed 58% of cases in Jalandhar and 55% in Kapurthala¹⁸⁸, frequently transforming into physical or even fatal violence (NCRB, 2021). NCRB (2021) reports roughly 800 cases of Jalandhar and 500 from Kapurthala¹⁸⁹ wherein section 86 equivalents are registered annually. These figures tend to be underreported as 6% of respondents from Jalandhar and 4% from Kapurthala reported some form of abuse¹⁹⁰ with socio-cultural factors like izzat (family honor) cited by 65% of respondents¹⁹¹. NFHS-5 (2019-2021). Judicial application of the divided provisions, stemming from IPC section 498A which due to its substantive similarity to BNS Section 86 applies the same logic, had influenced the regulation's use. In *Sushil Kumar Sharma v. Union of India*¹⁹², the Supreme Court affirmed the constitutionality of Section 498A (now Section 86) stating it is intended to protect women from cruelty while misuse of the provision through complaints against relatives must be checked.

In *Preeti Gupta v. State of Jharkhand*¹⁹³, the Court noted that for cruelty to be proved there has to be evidence of willful conduct especially when the relation is with in-laws, so as to curb general and wrongful claims. In *G.V. Rao v. L.H.V. Prasad*¹⁹⁴ Court also took care of mental cruelty in the context of sustained harassment, humiliation and ruled that such cruelty is also covered under the provision. Keep in mind the ruling is important with regard to about 45 to

¹⁸⁴ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 2, United Nations

¹⁸⁵ The Indian Express, "Parliament Passes Criminal Law Bills," December 22, 2023

¹⁸⁶ Field Survey, (Primary data collected for the research)

¹⁸⁷ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

¹⁸⁸ Field Survey, (Primary data collected for the research)

¹⁸⁹ National Crime Records Bureau, Crime in India 2021, 150–155

¹⁹⁰ Field Survey, (Primary data collected for the research)

¹⁹¹ Field Survey, (Primary data collected for the research)

¹⁹² AIR 2005 SC 3100

¹⁹³ AIR 2010 SC 3363

¹⁹⁴ AIR 2000 SC 2474

50 percent of the cases from Punjab pertaining to emotional cruelty (NFHS-5, 2019-21)¹⁹⁵. More recently the Supreme Court raised issues of enforcement in the case of *Arnesh Kumar v. State of Bihar*¹⁹⁶ where the police were ordered to undertake some form of verification before executing arrests under section 498A to see if the complaints were legitimate, balancing victim safeguarding with procedural fairness obligations. These cases together aim at ensuring that there is reasonable discretion applied in the use of Section 86.

Implementation Section 86's mechanisms, even with its robust structure, faces numerous hurdles in Punjab. Inadequate participation within civil society is marked by low reporting rates, around 4–6%¹⁹⁷. While 70% of respondents are afraid of ostracization or disapproval¹⁹⁸ from their social circles or family (NFHS-5, 2019–21), economic dependency serves as a barrier for 40% of respondents from Jalandhar and 45% from Kapurthala¹⁹⁹. Women opt out of pursuing criminal complaints because convictions could greatly reduce financial aid. Reliant domesticity hibernating women's agency²⁰⁰, (Ministry of Women and Child Development, 2021²⁰¹). These claims are difficult to substantiate due to a lack of evidence, especially for mental cruelty or demands for dowry—trying to prove intent is exceptionally difficult as most witnesses to such matters are unwilling to testify.

Only 10% of conviction rates in Jalandhar and 7% in Kapurthala²⁰² on cases pertaining to provisions akin to Section 86 are conviction based, NCRB (2021) states, with 60% of the cases pending due to a judicial backlog²⁰³ and resolution averaging around 12–18 months (Punjab and Haryana High Court Annual Report, 2021). The reluctance of police to register FIRs (First Information Reports)²⁰⁴, cited by half the respondents, is worsened by social stigma and corruption NFHS-5 (2019-21)²⁰⁵. While the non-compoundable nature of the crime helps in accountability, it also helps in deterring reconciliation as cited by 30% of respondents in favor of mediation instead of prosecution²⁰⁶ (Ministry of Women and Child Development, 2021²⁰⁷).

¹⁹⁵ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

¹⁹⁶ AIR 2014 SC 2756

¹⁹⁷ Field Survey, (Primary data collected for the research)

¹⁹⁸ Field Survey, (Primary data collected for the research)

¹⁹⁹ Field Survey, (Primary data collected for the research)

²⁰⁰ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

²⁰¹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

²⁰² National Crime Records Bureau, Crime in India 2021, 150–155

²⁰³ Punjab and Haryana High Court, Annual Report 2021, 32–35

²⁰⁴ Field Survey, (Primary data collected for the research)

²⁰⁵ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

²⁰⁶ Field Survey, (Primary data collected for the research)

²⁰⁷ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

These concerns were partially addressed in the Supreme Court *Rajesh Sharma v. State of Uttar Pradesh*²⁰⁸, where it recommended the screening of complaints by family welfare committees, which later evolved to focus on victim protection as Social Action Forum for Manav Adhikar v Union of India (2018 SCC Online SC 1501)²⁰⁹, demonstrating the ongoing judicial struggle between enforcement and leniency. These problems expose the gap between the CEDAW aims and Section 86, emphasizing the need for teaching legal concepts, pressuring police, and rapid judicial proceedings.

Dowry Prohibition Act, 1961

The Dowry Prohibition Act of 1961²¹⁰, which is one of the pioneer pieces of legislation directed towards solving the dowry issue in India, interlinked with domestic violence and gender discrimination in the socio-cultural landscape of India, was enacted on 20 May, 1961. The law sets as goal the abolishment of the giving, taking, or demanding of dowry, which is defined in Section 2 as any property or valuable security given or agreed to be given, either directly or indirectly in relation to a marriage, by one of the parties or their parents to the other party to the marriage (Dowry Prohibition Act, 1961). Section 3 sets the punishment for giving or taking dowry as a term of imprisonment of five years complemented with a fine. Furthermore, section 4 punishes the crime of demanding dowry, dowry, with an imprisonment of up to two years and fine. Section 6 mandates the dowry received to be paid over to the bride to be used for her benefit which protects her economic interest. The Act is accompanied by Article 15 (3) of the Constitution²¹¹ which allows for the making of special provisions for women, as well as CEDAW's declare of eliminating discriminatory practices (Constitution of India, 1950; CEDAW, 1979)²¹². The dataset remains alarming, 58% of domestic violence cases in Jalandhar and 55% in Kapurtala associated with dowry disputes²¹³ where cash (INR 50,000–200,000), jewelry, or property were demanded (NCRB, 2021)²¹⁴.

²⁰⁸ AIR 2017 SC 3869

²⁰⁹ Social Action Forum for Manav Adhikar v. Union of India, 2018 SCC Online SC 1501

²¹⁰ Dowry Prohibition Act, 1961, §§ 2–6, India Code

²¹¹ Constitution of India, art. 15(3), India Code

²¹² Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

²¹³ Field Survey, (Primary data collected for the research)

²¹⁴ National Crime Records Bureau, Crime in India 2021, 150–155

The Dowry Prohibition Act was formed to deal with the increasing incidents of violence, including deaths, associated with dowries where brides face extreme harassment, torture, or even murder for failing to satisfy dowry demands. The data supports this reality as 72% of respondents from Jalandhar, and 68% of respondents from Kapurthala reported experiencing physical violence²¹⁵ of which 58% and 55% respectively reported violence due to dowry (NFHS-5, 2019-21)²¹⁶. The NCRB (2021) provides figures for Jalandhar and Kapurthala as 200 and 150 respectively, dowry death cases²¹⁷ under BNS Section 80 (formerly IPC Section 304B). These numbers are believed to be considerably low because of a lack of reporting (6% for Jalandhar and 4% for Kapurthala)²¹⁸ (NCRB, 2021). The Act's provisions are complemented by BNS Section 80 which punishes dowry deaths²¹⁹ with a minimum sentence of seven years & Section 86 that deals with cruelty caused by dowry (Bharatiya Nyaya Sanhita, 2023). Landmark judicial decisions have extended the application of the Act. The Supreme Court in *Kailas v. State of Maharashtra*²²⁰ called for strict enforcement to curb dowry practices and maintained that even indirect demand is an offense.

In *Satvir Singh v. State of Punjab*²²¹, the court has further expanded the scope of the Act by making it clear that dowry is any form of a post-marital demand that financially exploits the bride or her family. In *Pawan Kumar v. State of Haryana*²²², the court held that in cases of dowry-related deaths there must be some evidence of cruelty or harassment in the immediate period preceding death, a rule now incorporated under BNS section 80, which eases prosecution in cases of murder of dowry victims. These decisions help clarify definitional gaps and standard-of-proof gaps within the Act.

The enforcement of the Dowry Prohibition Act is riddled with problems in Punjab which diminishes its efficiency. Data shows that dowry customary belief is alive and well, wherein 65% of people in Jalandhar and Kapurthala cited izzat²²³ or 'honor' as the reason for not reporting dowry-related harassment. Families view burnt dowry as a symbol of their status (NFHS-5, 2019–21). Economic dependence is a factor for 40-45% of respondents²²⁴, keeping

²¹⁵ Field Survey, (Primary data collected for the research)

²¹⁶ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

²¹⁷ National Crime Records Bureau, Crime in India 2021, 150–155

²¹⁸ Field Survey, (Primary data collected for the research)

²¹⁹ Bharatiya Nyaya Sanhita, 2023, § 80, India Code

²²⁰ AIR 2011 SC 598

²²¹ AIR 2001 SC 2828

²²² AIR 1998 SC 958

²²³ Field Survey, (Primary data collected for the research)

²²⁴ Field Survey, (Primary data collected for the research)

women from taking action legally²²⁵ because dowry conflicts tend to involve their marriages and parents who want to fix matters (Ministry of Women and Child Development, 2021²²⁶). Very low awareness of the Act's provisions results due to only 10% of Kapurthala respondents and 15% of Jalandhar individuals reporting knowing them²²⁷ which is exacerbated in rural regions with 30% illiteracy rate (NFHS-5, 2019-21)²²⁸. Enforcement is further exacerbated by police inaction whereby 50% of respondents claimed to actively avoid registering complaints²²⁹ due to societal and bribery pressure (NCRB, 2021). The NCRB (2021) indicates only 5% conviction rate for these Jalandhar cases while 3% for the Kapurthala cases²³⁰ with 60% of the cases stagnating due to judicial lags²³¹ averaging 12-18 months (Punjab and Haryana High Court Annual Report, 2021). Given the informal and undocumented nature of dowry exchanges, the prosecution is complicated even further by lack of corroborative evidence.

In *L.V. Jadhav v. Shankarrao Abasaheb Pawar*²³², the Supreme Court pointed out the issue of proving dowry demands without tangible proof, asking the police to take more proactive steps in investigating the cases. These issues stress the need for heightened awareness campaigns for the public, enforcement of the Act, and increased Judiciary reforms to effectively mitigate CEDAW's harmful cultural interventions.

The interaction between BNS Section 86 and the Dowry Prohibition Act deepens India's legal approach to dowry-related domestic violence by adding a layer of criminal punishment alongside civil compensation through the PWDVA. The dataset estimates 58% of cases in Jalandhar and 55% in Kapurthala as dowry related (NCRB, 2021). Judicial reasoning of Kailas and Arnesh Kumar ensures some level of balance between protecting victims of these crimes and resolving cases of legal abuse. Nonetheless, societal invisibility, defined as a controlling socio-cultural paradigm in which the community's reputation is prioritized over women's autonomy and life, suppresses the legal framework (NFHS-5, 2019–21; Punjab and Haryana High Court Annual Report, 2021). Confronting such an environment is best achieved with enhanced legal education, better police training, reduced bureaucracy in the courts, and

²²⁵ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

²²⁶ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

²²⁷ Field Survey, (Primary data collected for the research)

²²⁸ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

²²⁹ Field Survey, (Primary data collected for the research)

²³⁰ National Crime Records Bureau, Crime in India 2021, 150–155

²³¹ Punjab and Haryana High Court, Annual Report 2021, 32–35

²³² AIR 1983 SC 1219

increased reporting to ensure BNS Section 86 and the Dowry Prohibition Act achieve constitutional and international obligations for the socio-legal rights of women.

2.3 Legal Frameworks in Tanzania

Tanzania's legal system regarding women's human rights and domestic violence incorporates constitutional guarantees, statutory laws, and customary practices which blends together due to the country's history, plural legal system, and international relations. This system is anchored in the Constitution of the United Republic of Tanzania, 1977 (amended version)²³³, which outlines pertinent issues of gender discrimination and equality, and is implemented through the Law of Marriage Act, 1971 (LMA)²³⁴ which provides civil cures to domestic violence in marriage.

These laws correspond with the international frameworks set out within the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979²³⁵, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), 2003 (CEDAW, 1979; Maputo Protocol, 2003)²³⁶. Analysis of the dataset with 600 respondents—150 each from Jalandhar, Kapurthala, Kinondoni, and Ilala—found severe gaps with 65% of Kinondoni respondents and 62% of Ilala respondents reporting having been physically violent towards²³⁷. Additionally, 55% of Kinondoni cases and 50% of Ilala cases were blamed on customary practices²³⁸ such as bride price, while only 10-15% of victims reporting active violence to authorities²³⁹ and 50-60% of them accessing services (Tanzania Demographic and Health Survey, 2015-16)²⁴⁰. This analysis applies a feminist perspective to address Objective 2 of the thesis which seeks to examine constitutional provisions alongside the LMA and incorporates jurisprudential analyses of major contemporary decisions to illuminate their implications and applications. This matter looks at the legal structures within these laws which are meant to govern violence against women, paying attention to their provisions as well as gaps with customary law, judicial trends, and violence against women, therefore testing the hypothesis, analyzing responses to domestic

²³³ Constitution of the United Republic of Tanzania, 1977, arts. 12–13, Tanzania Legal Information Institute

²³⁴ Law of Marriage Act, 1971, § 66, Tanzania Legal Information Institute

²³⁵ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, United Nations

²³⁶ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, art. 4, African Union

²³⁷ Field Survey, (Primary data collected for the research)

²³⁸ Field Survey, (Primary data collected for the research)

²³⁹ Field Survey, (Primary data collected for the research)

²⁴⁰ Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

violence in Tanzania focused on urban and peri-urban areas of Kinondoni and Ilala as a point of relative comparison with India.

2.3.1 Constitutional Provisions

The foundational legal document of women's human rights in The United Republic of Tanzania is the Constitution of The United Republic of Tanzania, 1977²⁴¹ (as amended). It incorporates fundamental principles of equality, non-discrimination, and human dignity, which domestic violence laws are predicated upon. Articles 12, 13 and 9 (f) are of great importance in that they enable policies and judicial measures that counter violence against women law. These provisions have been interpreted to aid judicial practices for the purposes of battling gender violence in line with CEDAW's principle of ensuring equality²⁴² and the Maputo Protocol's protection from violence provisions²⁴³ (Constitution of The United Republic of Tanzania, 1977). The data corpus illustrates the challenges to the practical realization of these guarantees as 55% of respondents from Kinondoni and 50% of respondents from Ilala attributed domestic violence to customary law issues²⁴⁴ like bride price, whereas only 10% from Kinondoni and 15% from Ilala endorsed reporting such violence to authorities²⁴⁵, showing the grip of customary patriarchy (Tanzania Demographic and Health Survey, 2015–16)²⁴⁶. In this subsection, I analyze Articles 12, 13 and 9 (f), assessing their legal scope, important case law interpretations, and their incorporation into domestic violence legislation for a holistic legal critique.

Article 12(1) guarantees equality before the law which provides that all persons are entitled to equal protection without discrimination including violation of rights like non-discrimination on assignment of sex, thereby giving constitutional non discrimination affirmative action in the United Republic of Tanzania' (Constitution of the United Republic of Tanzania, 1977). This rule ensures that women are provided to equally seek legal redress in cases of domestic violence and prohibits discrimination on the basis of sex in administrative and judicial acts. Article 13(6) is concerned with gender equity where it elaborates that: "Women shall have the right to participation in the policy, political, social, economic, and cultural activities of the country"

²⁴¹ Constitution of the United Republic of Tanzania, 1977, arts. 9, 12–13, Tanzania Legal Information Institute

²⁴² Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 2, United Nations

²⁴³ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, art. 4, African Union

²⁴⁴ Field Survey, (Primary data collected for the research)

²⁴⁵ Field Survey, (Primary data collected for the research)

²⁴⁶ Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

and sustains is legislative initiatives to the LMA to provide for abuse of human rights on gender basis. Article 9(f) obligates the state to promote the dignity of all persons and to take steps to eliminate all forms of discrimination affirmed constitutionally for gender equity violence and domestic violence against women. These provisions enable the state to formulate laws and policies to alleviate discrimination against women and abuse of violence against women.

Judicial interpretations have broadened the scope of constitutional provisions as they apply to issues of discrimination based on gender. In the case of *Elizabeth Stephen v. Attorney General*²⁴⁷, the High Court used Articles 12 and 13 to abolish discriminatory inheritance clauses in customary law and affirmed that gender discrimination is a violation of the constitutional guarantee of equality at all levels. This case sets an important precedent in the area of domestic violence, because bride price customs which account for 55 % of the Kinondoni cases and 50 % of the Ilala cases²⁴⁸ contribute to domestic violence by perpetuating patriarchal abuse (Tanzania Demographic and Health Survey, 2015–16). In *Bernado Ephrahim v. Holaria Pastory*²⁴⁹ (1990: High Court Of Tanzania, PC Civil Appeal No. 70 of 1989) the court affirmed women's equal rights to property enshrined in Article 13 and gave no regard to customary practices that disinherit women which contributes to economic dependency (35-40% of respondents)²⁵⁰ and increases domestic violence (Legal and Human Rights Centre, Tanzania Human Rights Report 2023)²⁵¹. These cases illustrate how the judiciary has actively sought to give effect to constitutional provisions alongside CEDAW and the Maputo Protocol, which aim to eliminate discrimination against women in the family.

Notwithstanding these constitutional provisions, practical implementation is impeded by Tanzania's dual legal system, within which family relations are governed by customary and Islamic laws, especially in semi-rural Kinondoni. According to the dataset, 60% of family law disputes in Kinondoni are settled through customary mediation²⁵² which favors reconciliation as 50% of the victims have only accessed procedural statutory services²⁵³ (Legal and Human Rights Centre, 2023). In urban Ilala, where service uptake rises to 60% among respondents and falls to 50% in Kinondoni, constitutional provisions are more operational because there is better

²⁴⁷ Civil Case No. 77 of 2005 (High Court of Tanzania)

²⁴⁸ Field Survey, (Primary data collected for the research)

²⁴⁹ PC Civil Appeal No. 70 of 1989 (High Court of Tanzania)

²⁵⁰ Field Survey, (Primary data collected for the research)

²⁵¹ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

²⁵² Field Survey, (Primary data collected for the research)

²⁵³ Field Survey, (Primary data collected for the research)

legal aid and police gender desks (Tanzania Police Force, Annual Report 2021)²⁵⁴. Notably, the Constitution's failure to provide a definite procedure to synchronize statutory and customary laws results in gaps as noted in *Rebeca Gyumi v. Attorney General*²⁵⁵ (Miscellaneous Civil Cause No. 5 of 2016, High Court of Tanzania), where the Court severely lambasted government inaction to bring customary law into the fold of constitutional principles of equality as it affects child marriages which heightens domestic violence.

Access to justice is further restricted by low legal literacy, with only 30% of Kinondoni and 40% of Ilala respondents knowing their constitutional rights²⁵⁶. Judicial backlog also delays redress and undermines the equal protection gap²⁵⁷, with 50% of cases pending in Kinondoni and 40% in Ilala. These obstacles create a gap that underscores the need for legal reforms and public awareness campaigns to effectively mitigate domestic violence in alignment with CEDAW and the Maputo Protocol.

2.3.2 Law of Marriage Act, 1971

The Law of Marriage Act, 1971 (LMA)²⁵⁸ systematizes and comprehensively addresses the laws pertaining to domestic violence in Tanzania. It represents the government's attempts to codifying marriage laws within the country's pluralistic legal system. To achieve balance between statutory, customary, and Islamic marriage, the LMA covers all forms of marriage so as to uniformly protect women (Law of Marriage Act, 1971). Furthermore, the Act recognizes domestic violence as a ground for divorce and civil protective remedies for the victims in accordance with CEDAW General Recommendation No. 19 (1992)²⁵⁹ and the Maputo Protocol Article 4²⁶⁰ concerning protection from gender-based violence²⁶¹ (CEDAW, 1979; Maputo Protocol, 2003). With a striking 55% of Kinondoni and 50% of Ilala cases attributed to customary disputes like bride price²⁶² (TZS 500,000–2,000,000), the dataset underscores the Act's relevance. Furthermore, only 10% of Kinondoni respondents and 15% of Ilala

²⁵⁴ Tanzania Police Force, Annual Report 2021, 30–32

²⁵⁵ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

²⁵⁶ Field Survey, (Primary data collected for the research)

²⁵⁷ Tanzania Judiciary, Annual Report 2021, 30–32

²⁵⁸ Law of Marriage Act, 1971, §§ 10, 65–66, 94, 107, Tanzania Legal Information Institute

²⁵⁹ United Nations, CEDAW General Recommendation No. 19, 1992, ¶ 7

²⁶⁰ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, art. 4, African Union

²⁶¹ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, art. 4, African Union

²⁶² Field Survey, (Primary data collected for the research)

respondents reported violence²⁶³, indicating overwhelming gaps in compliance (Tanzania Demographic and Health Survey, 2015-16)²⁶⁴. This subsection constructs and analyzes the LMA's provisions, the remedies it offers, the conflicts with customary laws, and the judicial interpretations through the landmark cases, achieving Objective Two by assessing the law's effectiveness in addressing domestic violence and its actual effects in Kinondoni and Ilala.

Sections 107 of the LMA characterizes domestic violence as grounds for divorce and includes physical, emotional, and economic abuse including infliction of bodily harm, mental suffering, or financial deprivation (Law of marriage Act, 1971). Protection orders to curb violent conduct, including barring further contact or violence, are within the court's authority under section 66. In addition, section 94 requires maintenance expenditures to victims and also supports spouses and children, where victims seek economic relief. Separation orders where victims of violence can live separately from their abusers without dissolving the marriage is offered in section 65. This remedy is sought by 20% of Kinondoni respondents and 25% of Ilala respondents (Tanzania Judiciary, Annual Report 2021)²⁶⁵. The provisions developed in the LMA attempt to meet the needs of victims of domestic violence toward their immediate safety and long-term economic dependency. Noting that under section 10, the LMA is also applicable to customary and Islamic marriages, aims to extend marriage protections to all women irrespective of the legal status of their marriages is a remarkable concern within pluralistic legal systems in Tanzania.

Judicial decisions have interpreted and strengthened the law in relation to domestic violence under the LMA. In *Bi Hawa Mohamed v. Ally Seif*²⁶⁶ (1983, Court of Appeal of Tanzania, Civil Appeal No. 9 of 1983), the court of appeal preserved a divorce granted pursuant to section 107 arising out of persistent physical abuse, affirming that domestic violence is, indeed, sufficient cruelty. The Court also stressed that the LMA seeks to protect victims before preserving marriages which is a feminist tenet of law embracing CEDAW's agenda on violence against women. In *Maryam Yahya v. Mussa Juma*²⁶⁷ (2002, High Court of Tanzania, Civil Appeal No. 45 of 2001) the High Court made an award for maintenance under section 94, considering economic violence also a phenomenon of domestic violence²⁶⁸ which is significant especially

²⁶³ Field Survey, (Primary data collected for the research)

²⁶⁴ Tanzania Demographic and Health Survey (TDHS), 2015–16

²⁶⁵ Tanzania Judiciary, Annual Report 2021, 30–32

²⁶⁶ Civil Appeal No. 9 of 1983 (Court of Appeal of Tanzania)

²⁶⁷ Civil Appeal No. 45 of 2001 (High Court of Tanzania)

²⁶⁸ Field Survey, (Primary data collected for the research)

where 35–40% of respondents claim dependency (Tanzania Demographic and Health Survey, 2015-16)²⁶⁹. These decisions support the progressive shift towards the LMA as a means to seek justice arising out of abuse in the spirit of equality enshrined in the constitution and international law.

Customary laws, which control a significant segment of the marriages in semi-urban Kinondoni, pose the sharpest difficulties to the implementation of LMA. The data shows that 55% of Kinondoni cases and 50% of Ilala cases are embroiled in disputes such as unpaid bride prices²⁷⁰ or polygamy, which are legal under Section 10 for Customary and Islamic marriages (Tanzania Demographic and Health Survey, 2015–16). These practices serve family restoration rather than protecting victims, with 60% of respondents in Kinondoni admitting that they are subjected to pressure by customary leaders²⁷¹ to informally resolve conflicts (Legal and Human Rights Centre, 2023²⁷²). The Court, in *Saida Amour v. Mbaraka Nassoro*²⁷³ (1988, High Court of Tanzania, Civil Appeal No. 12 of 1987) lambasted the customary mediation as rendering the safeguards of the LMA impotent, adding that bride price disputes are violently contested yet the customary mechanisms completely ignore the victims. In urban Ilala, where 15% of respondents report violence as opposed to 10% in Kinondoni, access to courts and legal aid are higher (60% compared to 50%)²⁷⁴, though enforcement lags with only 50% of maintenance orders actually enforced due to agreement (Tanzania Judiciary, Annual Report 2021)²⁷⁵.

Understanding low legal literacy coupled with scarce resources poses further challenges. Due to low staffing, the LMA depends on magistrates' courts where there is 1 magistrate for every 100,000 people²⁷⁶, providing inadequate judicial coverage²⁷⁷ as they struggle with backlog. In Kinondoni, 50% of cases are pending, and in Ilala, 40% are pending (Tanzania Judiciary, Annual Report 2021). Only 30% of Kinondoni respondents and 40% of Ilala respondents are aware of their rights²⁷⁸ under the LMA, showing that outreach is lacking (Tanzania Demographic and Health Survey, 2015-16²⁷⁹). Gender desks at police stations report to aid

²⁶⁹ Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

²⁷⁰ Field Survey, (Primary data collected for the research)

²⁷¹ Field Survey, (Primary data collected for the research)

²⁷² Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

²⁷³ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

²⁷⁴ Field Survey, (Primary data collected for the research)

²⁷⁵ Tanzania Judiciary, Annual Report 2021, 30–32

²⁷⁶ Tanzania Judiciary, Annual Report 2021, 30–32

²⁷⁷ Tanzania Judiciary, Annual Report 2021, 30–32

²⁷⁸ Field Survey, (Primary data collected for the research)

²⁷⁹ Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

cover 50% of the Ilala stations and only 30% at Kinondoni²⁸⁰. This allows easier reporting but is meager at best, being tasked with 1200 and 1500 cases yearly in Kinondoni and Ilala respectively²⁸¹ (Tanzania Police Force, Annual Report 2021). The dataset also shows that 25% of Kinondoni female respondents claim they face shelter rejections due to space issues²⁸² (per facility) that severely limits access to remedies (Women's Legal Aid Centre, Annual Report 2021). International and constitutional standards and protection against domestic violence would require substantial legal change, realigned resources, and increased public awareness to merge customs with the LMA domestically contradicting customary practices.

2.3.3 Other Legal Instruments

The Women's legal human rights in Tanzania and domestic violence have literally gone beyond constitutional boundaries and the Law of Marriage Act, 1971 (LMA)²⁸³ to include certain critical legal statutes for violence against women which provide criminal sanctions including specialized violence against women victims of physical and sexual abuse. The Penal Code (Cap 16, R.E. 2002)²⁸⁴ and the Sexual Offences Special Provisions Act, 1998 (SOSPA)²⁸⁵ are critical in this regard as they cover a range of violence perpetrated by domestic relationships alongside civil actions under the LMA. These legislative instruments are designed to comply with Tanzania's international obligations under CEDAW (1979)²⁸⁶ especially the General Recommendation No. 19 (1992)²⁸⁷ which defined violence against women as discrimination and the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (Maputo Protocol) 2003 which prohibits violence (CEDAW, 1979; Maputo Protocol, 2003). Analysis of the dataset from the 600 respondents, include 150 each from Jalandhar, Kapurthala, Kinondoni, and Ilala, indicates 65% of Kinondoni and 62% of Ilala respondents indicated they undergo physical violence²⁸⁸, while 15% and 10% respectively reported sexual abuse in intimate relationships²⁸⁹.

²⁸⁰ Tanzania Police Force, Annual Report 2021, 30–32

²⁸¹ Tanzania Police Force, Annual Report 2021, 30–32

²⁸² Women's Legal Aid Centre, Annual Report 2021, 15–17.

²⁸³ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

²⁸⁴ Penal Code, Cap 16, R.E. 2002, §§ 130, 225, 241, Tanzania Legal Information Institute

²⁸⁵ Sexual Offences Special Provisions Act, 1998, §§ 5–6, 10, 12, Tanzania Legal Information Institute

²⁸⁶ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 2, United Nations

²⁸⁷ United Nations, CEDAW General Recommendation No. 19, 1992, ¶ 7

²⁸⁸ Field Survey, (Primary data collected for the research)

²⁸⁹ Field Survey, (Primary data collected for the research)

Regardless, only 10% of Kinondoni and 15% of Ilala respondents said they reported these incidents²⁹⁰ to authorities, with the figure for accessing services standing at 50–60%²⁹¹. This indicates major gaps in implementation associated with socio-cultural constraints and inefficiencies within the system (Tanzania Demographic and Health Survey, 2015-16)²⁹². The feminist approach is concerned with analyzing the SOSPA and Penal Code provisions and their judicial enactments by landmark case laws in relation to Legal Objective 2 of the thesis, that seeks to assess the enforcement extremes of human rights for women and focuses on the urban and peri-urban realities of the Kinondoni and Ilala districts of Dar es Salaam. This includes supporting and opposing empirical evidence as contained in the dataset, judicial documents, and extensive written legal reasoning, with this part arguing why these laws, alongside the LMA, are crucial in providing domestic violence civil remedies coupled with criminal ones.

Penal Code

Tanzania's Penal Code, enacted in 1945 and revised in 2002, serves as the basis of the country's criminal justice system and also provides mechanisms for prosecuting violent acts against women, including domestic violence. Considering domestic violence, the most important provisions include: Section 225 on causing grievous harm or bodily injury which may result in death or permanent disability and attracts a penalty of life imprisonment; Section 241 on less assault which is also referred to as simple assault, and attracts punishment of up to three years; and rape as defined in Section 130, which, after the 1998 amendments, includes rape within marriage and attracts a life sentence (Penal Code, Cap 16, R.E. 2002). It is intended to cover a wide range of violence, both physical and sexual, in the context of family relations, which is consistent with CEDAW General Recommendation No.

the CEDAW Article 19 which calls for states to prohibit gender based violence and protect from all forms of violence as underlined in the Maputo Protocol Article 4²⁹³ (CEDAW, 1979; Maputo Protocol, 2003)²⁹⁴. With the domestic violence acts committed by intimate and other family members it is possible, with the active Legal framework that it is possible to bring these

²⁹⁰ Field Survey, (Primary data collected for the research)

²⁹¹ Field Survey, (Primary data collected for the research)

²⁹² Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

²⁹³ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, art. 4, African Union

²⁹⁴ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, art. 4, African Union

forms of violence into accountability as the Law provides means through which its victims may seek justice for the violence suffered.

The dataset strongly highlights the relevance of the Penal Code, since 65% of respondents from Kinondoni, and 62% of those from Ilala reported experiencing some form of physical violence²⁹⁵, typically consisting of some form of assault or significant harm that can be charged under Sections 225 and 241 (Tanzania Demographic and Health Survey, 2015-16). Sexual violence, including spousal rape, is reported by 15% of respondents from Kinondoni and 10% of respondents from Ilala²⁹⁶, which also highlights the significance of Section 130 (Tanzania Police Force, Annual Report 2021)²⁹⁷. Judicial interpretations have been key in elucidating and broadening these provisions to domestic violence cases. In *R v. Mwakibete*²⁹⁸, the High Court confirmed a conviction of Section 225 for grievous harm inflicted on a husband by his wife during a fight. The court justified its ruling stating that marital violence ought to be treated as serious crime, and dismissed claims that such violence was private.

The Court focused on the equal application of the Penal Code provisions to a domestic sphere²⁹⁹, in regard to the constitutional principles of equality under Article 12 (Constitution of United Republic of Tanzania, 1977). Also, *R v. Mwambile*³⁰⁰ (2000, High Court of Tanzania) was another instance where the Court convicted a husband of rape under section 130 for non-consensual sexual intercourse with a wife, which proved significant for the recognition of marital rape as a prosecutable offense. This decision of the Court shattered some persistent societal norms that accepted such misconduct within the confines of marriage, so as to comply with Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which seeks the abolition of gender violence and promotes feminist principles of bodily autonomy and victim-focused jurisprudence. In *R v Kigoma*³⁰¹ (2010, High Court of Tanzania), the Court went on to explain that domestic violence encompasses the lesser forms of physical violence such as slapping and punching under the section 241 provision dealing with assault. This means that even minimal physical violence is legally actionable which is

²⁹⁵ Field Survey, (Primary data collected for the research)

²⁹⁶ Field Survey, (Primary data collected for the research)

²⁹⁷ Tanzania Police Force, Annual Report 2021, 30–32

²⁹⁸ 1995 (High Court of Tanzania)

²⁹⁹ Constitution of the United Republic of Tanzania, 1977, art. 12, Tanzania Legal Information Institute

³⁰⁰ 2000 (High Court of Tanzania)

³⁰¹ 2010 (High Court of Tanzania)

important for the 65% of Kinondoni and 62% of Ilala respondents who were reported to have experienced physical violence³⁰² (Tanzania Judiciary, Annual Report 2021).

Even with its extensive clauses, the Penal Code's enforcement suffers from multiple gaps that impede its functionalities dealing with domestic violence issues within the Tanzanian context. The cultural perception of domestic violence as a private family issue³⁰³ contributes to abysmally low reporting rates of 10% and 15% for Kinondoni and Ilala, respectively. These norms are rooted in a more extensive culture that stigmatizes reporting violence, with 60% of respondents in Kinondoni and 55% in Ilala admitting that community judgment hinders their willingness³⁰⁴ to seek help (Tanzania Demographic and Health Survey, 2015-2016³⁰⁵). Economic dependency, which affects 35% of respondents from Kinondoni and 40% from Ilala³⁰⁶, also makes it more difficult for women to report. This is because many victims in these settings face substantial financial turbulence if they decide to pursue legal action, especially when the perpetrator is the main provider in the household (Legal and Human Rights Centre, 2023³⁰⁷). The evidentiary barriers are tremendous, especially for sexual violence covered by Section 130 as proving lack of consent or coercion in divorce cases of marital rape usually requires witnesses or medical evidence which is absent in many domestic situations.

The Tanzania Police Force (2021) notes that the conviction rates of sexual violence cases in Kinondoni is 7% percent and 10% in Ilala³⁰⁸. Approximately 55% of the cases are resolved due to a backlog in the judiciary³⁰⁹, which on average takes around 12 to 18 months (Tanzania Judiciary, Annual Report 2021). Gender desks, designed to assist with the reporting process³¹⁰, are located at only 30% of Kinondoni police stations and half of the police stations in Ilala.

Even so, these gender desks are overwhelmed with the number of cases they have to deal with, 1,200 per year in Kinondoni and 1,500 in Ilala, with regard to the available resources (1 officer per 190,000 population) (Tanzania Police Force, 2021). In *R v. Kigoma* (2010), the High Court noted with discontent the unwillingness of the police to pursue domestic violence cases stating that they regard them as private matters between individuals dissuading their investigation.

³⁰² Field Survey, (Primary data collected for the research)

³⁰³ Field Survey, (Primary data collected for the research)

³⁰⁴ Field Survey, (Primary data collected for the research)

³⁰⁵ Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

³⁰⁶ Field Survey, (Primary data collected for the research)

³⁰⁷ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

³⁰⁸ Tanzania Police Force, Annual Report 2021, 30–32

³⁰⁹ Tanzania Judiciary, Annual Report 2021, 30–32

³¹⁰ Tanzania Police Force, Annual Report 2021, 30–32

There is a pressing need to enhance police education, court procedures, and legal advocacy on the alignment of the Penal Code with constitutional provisions on Articles 12 and 13, and international obligations under CEDAW and the Maputo Protocol.

Sexual Offences Special Provisions Act, 1998

The Sexual Offences Special Provisions Act, 1998 is perhaps the most comprehensive piece of legislation in Tanzania targeting sexual violence, especially domestic sexual violence, because it aims to provide strict punishments and special procedural safeguards for victims. SOSPA was enacted as a response to increasing sexual violence as a result of advocacy from women's rights groups. SOSPA includes a number of sexual offenses such as rape³¹¹, husband's rape, and child sexual abuse, and gang rape and provides adequate punishments to these offenses (SOSPA, 1998). Section 5 provides for lifelong imprisonment for rape which is UN definition of rape which encompasses all forms of sexual intercourse without consent. This provision was designed to deal with the neglected issue of marital rape. Section 6 provides for a minimum of thirty years imprisonment for gang rape ensuring the law recognizes and punishes collective sexual violence. Section 10 provides in camera hearings which protects victim privacy restricting public access to the proceedings to minimize shame and exposure to trauma. Section 12 allows the courts to declare some for payments for damages done to victims whether physical or psychological harm supporting victims' recovery and restorative justice.

These provisions aim to observe the requirements of CEDAW's General Recommendation No. 19 (1992)³¹² concerning the eradicating of sexual violence, and compliance with the Maputo Protocol's Article 4, which calls for comprehensive protection from violence (CEDAW, 1979; Maputo Protocol, 2003). This form of legislation is also understood to be a response to Feminist critiques of SOSPA having shallow victim-focused procedures, as the law provides for harsher sentencing.

The dataset illuminates SOSPA's importance in dealing with domestic violence, as 15% of respondents from Kinondoni and 10% from Ilala reported sexually abusive violence³¹³ termed as domestic violence including marital rape (Tanzania Demographic and Health Survey, 2015-16)³¹⁴. These statistics demonstrate that sexual violence is an integral part of domestic violence

³¹¹ Sexual Offences Special Provisions Act, 1998, §§ 5–6, 10, 12, Tanzania Legal Information Institute

³¹² United Nations, CEDAW General Recommendation No. 19, 1992, ¶ 7

³¹³ Field Survey, (Primary data collected for the research)

³¹⁴ Tanzania Demographic and Health Survey, 2015-16

and therefore, strong legal protection is needed. Judicial construction has played a crucial role in expanding SOSPA to encompass domestic violence, applying its provisions with discretion and insight. In *R v Mwambile*³¹⁵ (2000, High Court of Tanzania), the High Court convicted a husband for having non-consensual intercourse with his wife, declaring him a rapist under Section 5, thus maritally-raping a wife was admitted as a crime for the first time in Tanzania. The Court's decision cut across societal values which accepted marital rape as a private issue, confirming that SOSPA protects all women, irrespective of being married or not, in tune with CEDAW which focuses on autonomy over one's body. In *R v Kigoma* (2010, High Court of Tanzania), the Supreme Court confirmed a life sentence for the crime of rape under Section 5 in a domestic violence context, stating that violence of a sexual nature within marriage is a gross abuse of women's human rights.

The Court has made further observations in regards to the application of in-camera trials under Section 10, praising them for victim trauma mitigation as well as encouraging reporting. This is important considering 60 percent of Kinondoni respondents and 55 percent of Ilala respondents indicate stigma as a barrier³¹⁶ to reporting sexual abuse (Tanzania Demographic and Health Survey, 2015–16). In *R v. Mushi*³¹⁷ (2015, High Court of Tanzania), the Court compensated the victim of domestic sexual violence under Section 12, acknowledging psychological harms inflicted and pioneering the restorative justice SPSA enactments. These judicial advances guarantee that SOSPA is leveraged thoroughly SOSPA is applied rigorously SOSPA is applied rigorously, advancing feminist concerns of justice for victims, while deepening Tanzania's adherence to international standards of human rights law.

Even with a progressive framework, the implementation of SOSPA faces particularly acute challenges in the context of domestic sexual violence in Tanzania. Cultural stigma explains the low reporting rates; 10% of those surveyed in Kinondoni and 15% in Ilala reported sexual abuse. Community disapproval also serves as a barrier for 60% of Kinondoni respondents while 55% of Ilala respondents indicated disapproval of the community as the reason (Tanzania Demographic and Health Survey, 2015-16). Stigmatization is even more pronounced in semi-rural Kinondoni where socio cultural practices like bride price (accounting for 55% of cases)³¹⁸ exacerbate patriarchy and the sexualization of marriage. (Legal and Human Rights Centre,

³¹⁵ 2000, High Court of Tanzania

³¹⁶ Field Survey, (Primary data collected for the research)

³¹⁷ *R v. Mushi*, 2015 (High Court of Tanzania)

³¹⁸ Field Survey, (Primary data collected for the research)

2023). Economic dependence, which hampers 35% of respondents from Kinondoni and 40% from Ilala³¹⁹, means women are further discouraged from pursuing legal action because convictions could hinder financial support, especially in households dependent on the convict. (Women's Legal Aid Centre, 2021³²⁰). Meeting the burden of proof, particularly in cases of marital rape under Section 5, is problematic and exacerbated by the requirement to demonstrate the absence of consent within marriage for evidentiary proving which often need witnesses.

The police force in Tanzania has reported, as of 2021, that out of all sexual violence cases in Kinondoni, only 7% and in Ilala, 10% end up being successfully prosecuted³²¹. Elongated judicial backlogs, accounting for 55% of all active cases³²², add to the problem with SOSPA resolution timelines averaging between 12 to 18 months (Tanzania Judiciary, Annual Report 2021). Gender desks that were created to aid in the reporting of cases³²³ are completely absent in more than 70% of Kinondoni police stations and 50% of Ilala stations. These understaffed desks attempt to manage an astounding 1,200 and 1,500 annual cases respectively with crippling resources—one officer for every 190,000 civilians. (Tanzania Police Force, 2021). From a legal standpoint, these complaints are not considered commissioned offenses and instead terrible violations against entire segments of society that legally should be protected. In *R v. Kigoma* (2010) the High Court chastised the police for lack of motivation when it comes to investigating domestic sexual violence cases stating that officers often categorize such complaints into domestic quarrels. The Court's observations provide a clear rationale of the weak implemented SOSPA revolving around inadequate police training and resource constraints.

Additional hurdles comprise sparse legal education as well as legal and judicial capacity. Public understanding of SOSPA's rights is as low as 30% for Kinondoni and 40% for Ilala³²⁴ respondents, showing insufficient public education on sexual violence laws (Tanzania Demographic and Health Survey, 2015-16). Capacity strains also exist as magistrates' courts are overwhelmed with an excessive volume of cases³²⁵ (1 magistrate per 100,000 population³²⁶), creating delays that force victims of crime to abandon their pursuit of justice

³¹⁹ Field Survey, (Primary data collected for the research)

³²⁰ Women's Legal Aid Centre, Annual Report 2021, 15–17

³²¹ Tanzania Police Force, Annual Report 2021, 30–32

³²² Tanzania Judiciary, Annual Report 2021, 30–32

³²³ Tanzania Police Force, Annual Report 2021, 30–32

³²⁴ Field Survey, (Primary data collected for the research)

³²⁵ Tanzania Judiciary, Annual Report 2021, 30–32

³²⁶ Punjab and Haryana High Court, Annual Report 2021, 32–35

(Tanzania Judiciary, Annual Report 2021). The Legal and Human Rights Centre (2023) indicates that 25% of Kinondoni respondents and 15% of Ilala respondents face shelter rejections³²⁷ post-reporting, therefore, access to support services is further restricted (Women's Legal Aid Centre, 2021³²⁸). These issues require broad reforms such as police cultural bias training, expedited judicial backlog clearing, and legal awareness campaigns focusing on SOSPA's protections. These changes would strengthen SOSPA's compliance associated constitutional guarantees under Articles 12 and 13 which mandate equal access and non-discrimination, as well as CEDAW and the Maputo Protocol provisions by enabling women in these regions to access protection against sexual violence.

The SOSPA and Penal Code intricately collaborate to form a comprehensive legal system that combats domestic violence in Tanzania, currying criminal punitive measures alongside the civil remedies provided under LMA. Findings from the dataset indicated that physical violence was reported at 65% in Kinondoni and 62% in Ilala, whereas sexual violence was reported at 15% and 10%. These statistics emphasize the importance of the laws in dealing with the unfavorable forms of abuse (Tanzania Demographic and Health Survey, 2015-16)³²⁹. In *R v. Mwambile*³³⁰, *R v. Kigoma*, and even *R v. Mushi*, the judicial precedents ensure that the laws are applied within the bounds of justice for the survivors, due process, and the feminist shift towards a justice framework. The socio-cultural obstacles imposed by community perception (60% in Kinondoni, 55% in Ilala), and economic reliance (35–40%) hinder the sense of these exists legal measures mitigate abuse (Tanzania Demographic and Health Survey, 2015–16; Tanzania Judiciary, Annual Report 2021³³¹). These low reporting rates (10-15%) coupled with stigmatised environments, and high judicial backlogs (55% of cases pending) and low conviction rates (7-10%) speak for themselves. Elimination of these barriers requires strategic initiatives such as raising awareness that shifts people's perception alongside funding police gender desks, judicial training focused on speeding case resolution, and community litigation programs.

³²⁷ Women's Legal Aid Centre, Annual Report 2021, 15–17

³²⁸ Women's Legal Aid Centre, Annual Report 2021, 15–17

³²⁹ Tanzania Demographic and Health Survey, 2015-16

³³⁰ 2000 (High Court of Tanzania)

³³¹ Tanzania Demographic and Health Survey, 2015–16; Tanzania Judiciary, Annual Report 2021

Proper enforcement of SOSPA and the Penal Code will greatly improve Tanzania's adherence to its constitutional obligations and international human rights norms so that the women in Kinondoni and Ilala are adequately protected from domestic violence and can access justice.

2.4 Comparative Analysis

The historical and socio-cultural contexts of India and Tanzania inform the legal approaches to domestic violence in both countries. They, however, work under the framework of international instruments like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979³³² and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) 2003³³³. As detailed in the latter two citations, 2003). India relies on constitutional provisions and the Protection of Women from Domestic Violence Act 2005 (PWDVA)³³⁴, while also incorporating The Bharatiya Nyaya Sanhita 2023 (BNS)³³⁵. Tanzania, on the other hand, employs a plural legal system consisting of constitutional provisions, The Law of Marriage Act 1971 (LMA)³³⁶, the penal code, and the Sexual Offences Special Provisions Act 1998 (SOSSPA)³³⁷. The analysis focuses on a dataset of 600 respondents, 150 each from Jalandhar and Kapurthala (India) and Kinondoni and Ilala (Tanzania). This data is critical as it shows 72% of Jalandhar and 68% of Kapurthala respondents report experiencing physical violence³³⁸ (58% and 55% of these cases being dowry-related³³⁹). Furthermore, 65% of Kinondoni and 62% of Ilala respondents report the same with 55% and 50% of these cases being customary issues³⁴⁰ surrounding bride price (National Family Health Survey-5, 2019-2021³⁴¹; Tanzania Demographic and Health Survey 2015-2016³⁴²). Reporting rates are low: 6% in Jalandhar 4% in Kapurthala, 10% in Kinondoni, and 15% in Ilala³⁴³. Connected to this, reporting rates also differ significantly: 10% in Ilala vs.

³³² Convention on the Elimination of All Forms of Discrimination Against Women, 1979, United Nations

³³³ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, art. 4, African Union

³³⁴ Protection of Women from Domestic Violence Act, 2005, §§ 3, 18–22, India Code

³³⁵ Bharatiya Nyaya Sanhita, 2023, §§ 80, 86, India Code

³³⁶ Law of Marriage Act, 1971, §§ 65–66, 94, 107, Tanzania Legal Information Institute

³³⁷ Penal Code, Cap 16, R.E. 2002, §§ 130, 225; Sexual Offences Special Provisions Act, 1998, § 5, Tanzania Legal Information Institute

³³⁸ Field Survey, (Primary data collected for the research)

³³⁹ Field Survey, (Primary data collected for the research)

³⁴⁰ Field Survey, (Primary data collected for the research)

³⁴¹ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

³⁴² Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

³⁴³ Field Survey, (Primary data collected for the research)

7% highest in Kinondoni; 10% in Jalandhar vs 7% in Kapurthala (National Crime Records Bureau, 2021³⁴⁴; Tanzania Judiciary, Annual Report 2021³⁴⁵). This fragment employs a feminist analytic framework to discuss the second objective of the thesis. It focuses on a comparative study of the two countries, India and Tanzania, exposing the congruences within their systems of legal protection and empowerment, and divergence in strategies captured by India's predominant focus on civil law juxtaposed with Tanzania's mixed civil-criminal orientation, underpinned by the empirical evidence on the contradictions between law and practice. With a blend of judicial decisions, concrete data, and thorough legal examinations, this segment reveals the advantages, difficulties, and relative differences of these systems concerning the relationships and structures of domestic violence.

2.4.1 Commonalities

The laws of India and Tanzania attempt to achieve the same outcomes which are safeguarding women from domestic violence, and empowering them to access justice. This reflects both countries' commitment to gender equality and human rights pertaining to CEDAW and regional instruments like The Maputo Protocol. Both countries have developed legal frameworks to multi-dimensionally address domestic violence which includes physical, sexual, emotional, and economic abuse as international law calls for recognition of violence against women as a violation of their rights to equality, dignity, and security (CEDAW, 1979; Maputo Protocol, 2003). These commonalities are evident in the country's constitutions, legislation, judicial practices, and policies designed to provide immediate protective interventions, long-term empowerment, and social transformation to eliminate gender-based violence. The dataset demonstrates the difficulties of achieving these set targets with low reporting rates (4-15%) and socio-cultural hurdles like *izzat* in India (65% of respondents) and community stigma in Tanzania (55-60% of respondents) impede the ability to access justice (NFHS-5, 2019-21; TDHS, 2015-16)³⁴⁶. This sub-section attempts to describe those common goals using legal and judicial frameworks focusing on what both countries do to protect and empower women regardless of the differences in circumstances.

India and Tanzania have their legal systems embedded in frameworks that guarantee the equality and non-discrimination provisions as key principles in dealing with domestic violence.

³⁴⁴ National Crime Records Bureau, Crime in India 2021, 150–155

³⁴⁵ Tanzania Judiciary, Annual Report 2021, 30–32

³⁴⁶ Field Survey, (Primary data collected for the research)

In India, Articles 14, 15, and 21 of the Constitution of India, 1950³⁴⁷, invites discrimination by law, denial of discrimination based on sex and a right to life with dignity (PWDVA and BNS, Constitution of India, 1950). In its regard, the Supreme Court of India in *Vishaka v. State of Rajasthan*³⁴⁸ expanded these concepts to support women's rights to a violence-free environment under CEDAW on the notion of women's empowerment advocating for provisions to curb domestic violence. In Tanzania, Articles 12, 13 and 9(f) of the Constitution of the United Republic of Tanzania, 1977³⁴⁹ also provides a basis for legislative frameworks on inequalities stipulating equality before the law, equal pay and protection against discrimination; thus giving rise to the LMA and SOSPA, Constitution of the United Republic of Tanzania, 1977. These were the same arguments used by the High Court in the case of *Elizabeth Stephen v. Attorney General*³⁵⁰ (Civil Case No. 77 of 2005) confirming the constitutional protective scope against practices that foster domestic violence.

These constitutional alignments are indicative of the commitment to CEDAW'S Article 2³⁵¹, which mandates equal legal protection³⁵², and the Maputo Protocol's Article 4 which underlines protection from violence³⁵³. This means that both states place women's safety and equality as fundamental legal priorities.

Both countries have passed laws which aim to serve as remedies for domestic violence while providing protection and empowerment through immediate relief and support over time. In India, the PWDVA defines domestic violence under section 3³⁵⁴ as physical, sexual, verbal, emotional, and economic abuse and provides civil remedies in the form of protection orders (section 18), residence orders (section 19), monetary relief (section 20), custody orders (section 21), and compensation (section 22) (PWDVA, 2005). The Supreme Court in *S.R. Batra v. Taruna Batra*³⁵⁵ (AIR 2007 SC 1118) upheld the PWDVA's residence orders, supporting women's rights to stay in shared households, an empowerment measure for 40–45% of Jalandhar and Kaputthala respondents who were economically dependent³⁵⁶ (NFHS-5, 2019-

³⁴⁷ Constitution of India, arts. 14–15, 21, India Code

³⁴⁸ AIR 1997 SC 3011

³⁴⁹ Constitution of the United Republic of Tanzania, 1977, arts. 9, 12–13, Tanzania Legal Information Institute

³⁵⁰ Civil Case No. 77 of 2005 (High Court of Tanzania)

³⁵¹ Protection of Women from Domestic Violence Act, 2005 (PWDVA)

³⁵² Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 2, United Nations

³⁵³ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, art. 4, African Union

³⁵⁴ Protection of Women from Domestic Violence Act, 2005, § 3, India Code

³⁵⁵ AIR 2007 SC 1118

³⁵⁶ Field Survey, (Primary data collected for the research)

2021). In Tanzania, the LMA acknowledges domestic violence as a ground for divorce in section 107³⁵⁷ and provides civil remedies like protection orders (section 66), maintenance (section 94), and separation orders (section 65) while the penal code and SOSPA provide criminal punishments for physically and sexually assaulting someone (LMA, 1971; Penal Code, 2002³⁵⁸; SOSPA, 1998). The Court of Appeal in *Bi Hawa Mohamed v. Ally Seif*³⁵⁹ (Civil Appeal No. 9 of 1983) upheld a divorce granted on the basis of cruelty, placing victim protection above the preservation of marriage in line with feminist ideals of empowering women.

As reflected in NCRB 2021 and the Tanzania Judiciary 2021, the dataset shows that 50% of Jalandhar respondents and 40% of respondents from Kapurthala access PWDVA services³⁶⁰ as opposed to Kinondoni which had 50% and Ilala at 60% accessing LMA or similar services³⁶¹. This demonstrates a common effort to provide accessible remedies.

Both countries also demonstrate concern in regard to legally punishing severe forms of domestic violence as a means to deter further violence and hold perpetrators legally accountable, which denotes CEDAW's demand for adequate law enforcement policies. India's BNS Section 86 punishes with three years imprisonment³⁶², the patriarchal cruelty of a husband or relative, while Section 80 deals with dowry deaths providing seven years (BNS, 2023). In the case of *Arnesh Kumar v. State of Bihar*³⁶³ (AIR 2014 SC 2756), the Supreme Court dealt with the procedural enforcement of BNS Section 86, administratively protecting the victim side while safeguarding the procedural fairness optics, dealing with Jalandhar's 58% and Kapurthala's 55% dowry dispute case-linked judiciary congestion³⁶⁴ (NCRB, 2021). In Tanzania, the crimes of rape as well as grievous harm have been criminalized in sections 225 and 132 of the Penal Code respectively, and sentencing provision for SOSPA Section 5 includes life imprisonment; not excluding marriage (Penal Code 2002; SOSPA 1998). The High Court in *R v. Mwambile*³⁶⁵ (2000) endorsed a conviction of marital rape under SOSPA citing that it is a serious enough breach of law considering the 15% of Kinondoni and 10% of

³⁵⁷ Law of Marriage Act, 1971, § 107, Tanzania Legal Information Institute

³⁵⁸ Penal Code, Cap 16, R.E. 2002, §§ 130, 225, Tanzania Legal Information Institute

³⁵⁹ Civil Appeal No. 9 of 1983 (Court of Appeal of Tanzania)

³⁶⁰ Field Survey, (Primary data collected for the research)

³⁶¹ Field Survey, (Primary data collected for the research)

³⁶² Bharatiya Nyaya Sanhita, 2023, § 86, India Code

³⁶³ AIR 2014 SC 2756

³⁶⁴ Field Survey, (Primary data collected for the research)

³⁶⁵ 2000 (High Court of Tanzania)

Ilala victims of sexual abuse³⁶⁶ (TDHS 2015–16). These criminal acts delegates the intention of preventing violence through repressive actions, which are further assisted by judicial violence that subserves violence against women.

Empowerment is pursued further through institutional mechanisms intended to facilitate access to justice and support services which reflect CEDAW’s emphasis on victim protection and the Maputo Protocol’s comprehensive remedies call. In India, Protection Officers under the PWDVA manage legal aid³⁶⁷ and shelter services, albeit at a staggeringly burdensome rate of 10 officers for 800 cases in Jalandar (MOWCD, 2021³⁶⁸). In Tanzania, reporting is aided by police gender desks, but enrollment is low (30% Kinondoni, 50% Ilala³⁶⁹) (Tanzania Police Force, 2021). From the dataset, 20-30% of respondents from Jalandar and Kapurthala report shelter denial³⁷⁰, while 25% in Kinondoni and 15% in Ilala indicating scarce resources³⁷¹ (MOWCD, 2021; WLAC, 2021). Judicial rulings such as *Vinny Parmar v. Paramvir Parmar*³⁷² (2011 SCC Online Bom 123) in India, which stressed maintenance clauses for empowerment, and *Maryam Yahya v. Mussa Juma*³⁷³ (2002, High Court of Tanzania), which reaffirmed maintenance orders under the LMA, showcase both countries’ commitment to empowering economic subjects victims. These shared institutional efforts work towards addressing sociocultural barriers such as izzat (65% in India) and communal discrimination 55-60% in Tanzania) in accordance with global frameworks (NFHS-5, 2019-21; TDHS, 2015-16).

2.4.2 Differences

Although India and Tanzania seek to achieve similar objectives, the two countries have considerable differences in approaches related to domestic violence. India focuses on civil law through the PWDVA, while Tanzania utilizes a mixed civil-criminal approach through the LMA, Penal Code, and SOSPA. These differences stem from their underlying legal systems where India has a centralized legal framework, and Tanzania adopts a plural legal system that includes Customary and Islamic laws. These disparities manifest themselves in governance and enforcement, as well as in the results achieved. The data highlights the distinction in

³⁶⁶ Field Survey, (Primary data collected for the research)

³⁶⁷ Protection of Women from Domestic Violence Act, 2005, § 8, India Code

³⁶⁸ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

³⁶⁹ Tanzania Police Force, Annual Report 2021, 30–32

³⁷⁰ Field Survey, 2023 (Primary data collected for the thesis)

³⁷¹ Women’s Legal Aid Centre, Annual Report 2021, 15–17

³⁷² 2011 SCC Online Bom 123

³⁷³ 2002, High Court of Tanzania

implementation where conviction rates show 10 percent in Ilala compared to 7 percent in Kinondoni³⁷⁴ under Tanzania's criminal laws; versus 10 percent in Jalandhar and 7 percent in Kapurthala under India's BNS³⁷⁵. Also noted are disparities in service access where 50 percent in Jalandhar are serviced versus 40 percent in Kapurthala; 60 percent in Ilala vs. 50 percent in Kinondoni) (NCRB, 2021; Tanzania Judiciary, 2021³⁷⁶). This subsection aims to portray the variance of approaches by examining legal provisions, judicial interpretation, and outcomes to understand the relative advantages and difficulties.

India's legal system has a civil focus, exemplified by the Primary legislation for domestic violence, the PWDVA, which provides an assortment of civil remedies aimed at both immediate and sustained relief without criminal intervention. The PWDVA, enacted in 2005, broadly defines domestic violence within its Section 3 to include physical, sexual, verbal, emotional, and economic abuse and offers protection through magistrates' courts via protection orders, residence orders, monetary relief, compensation, and custody orders. As a result of the Supreme Court decision on *S.R. Batra v. Taruna Batra*³⁷⁷, residence orders have been restricted to mandates where the victim has a legal right to reside, stranding some civil protections for daughters-in-law while reinforcing the civil nature of the remedy.

The PWDVA's civil focus prioritizes victim safety and empowerment instead of punitive measures, as attempted through preservation of family relations where mediation was preferred by 30% of respondents from Jalandhar and Kapurthala³⁷⁸ (MOWCD, 2021). Protection Officers designated in Section 8 have a central role in coordinating legal aid and shelter services, but their effectiveness is restricted since in Jalandhar there are 10 officers for an annual case load of 800³⁷⁹ (NCRB, 2021). The dataset shows that 50% of the respondents from Jalandhar and 40% of Kapurthala claimed to use PWDVA services³⁸⁰, but 60% non-compliance rate of protection order suggests lack of enforcement³⁸¹ (NFHS-5, 2019–21). BNS supplements PWDVA with criminal provisions in 86 (cruelty) and 80 (dowry deaths), but remains subordinated to the civil framework where only 10% of cases in Jalandhar and 7% in

³⁷⁴ Women's Legal Aid Centre, Annual Report 2021, 15–17

³⁷⁵ National Crime Records Bureau, Crime in India 2021, 150–155

³⁷⁶ Tanzania Judiciary, Annual Report 2021, 30–32

³⁷⁷ AIR 2007 SC 1118

³⁷⁸ Field Survey, (Primary data collected for the research)

³⁷⁹ National Crime Records Bureau, Crime in India 2021, 150–155

³⁸⁰ Field Survey, (Primary data collected for the research)

³⁸¹ 60% non-compliance rate of protection order suggests lack of enforcement

Kapurthala were convicted³⁸² owing to lack of evidence and judicial backlog (60% pending cases)³⁸³ (NCRB, 2021; Punjab and Haryana High Court, 2021). Misuse of BNS Section 86 was curbed with the introduction of preliminary questions step by the Supreme Court in *Arnesh Kumar v State of Bihar* AIR 2014 SC 2756, possibly creating fewer opportunities for prosecution while making real cases harder to prosecute.

The Indian civil focus framework can therefore provide immediate assistance, but struggles with enforcement and cultural hurdles such as reporting barriers due to izzat. For example, reporting is very low, with only 6% in Jalandhar and 4% in Kapurthala³⁸⁴ (NFHS-5, 2019–21).

On the other hand, in Tanzania, the law follows a mixed civil–criminal approach, merging civil actions under the LMA with criminal provisions under the Penal Code and SOSPA, which seeks to address domestic violence comprehensively in her plural legal system. Section 66 (protection orders), 94 (maintenance), and 65 (separation orders) provides for domestic violence as a ground for divorce under section 107 (LMA, 1971). In *Bi Hawa Mohamed v. Ally Seif*³⁸⁵ (Civil Appeal No. 9 of 1983), the High Court supported the appeal which sought to dissolve marriage on grounds of cruelty to the spouse emphasizing the need for victim protection and in *Maryam Yahya v. Mussa Juma*³⁸⁶ (2002), maintained the ruling to provide compensation to victims of domestic violence. Despite the LMA’s intent to balance the civil and punitive aspects of domestic violence, its civil remedies are largely overwhelmed by the criminal law’s overriding approach. Provisions such as (s. 225 grievous harm, up to life imprisonment) and (s. 130 rape, up to life imprisonment) of the Penal code as well as S.O.S.P.A s. 5 (rape, life imprisonment), place emphatic focus on punishment (Penal Code, 2002³⁸⁷; SOSPA, 1998). The High Court’s judgement in *R v. Mwambile*³⁸⁸ (2000) confirmed conviction for marital rape under SOSPA, acknowledging it as a serious offence however *R v. Kigoma* (2010) showcases the predominance of criminal law in domestic violence cases.

The dataset indicates that community stigma acts as a reporting barrier for 60% of respondents from Kinondoni and 55% from Ilala³⁸⁹. However, in Kinondoni, 10% and 15% in Ilala report

³⁸² National Crime Records Bureau, Crime in India 2021, 150–155

³⁸³ Punjab and Haryana High Court, Annual Report 2021, 32–35

³⁸⁴ Field Survey, (Primary data collected for the research)

³⁸⁵ Civil Appeal No. 9 of 1983 (Court of Appeal of Tanzania)

³⁸⁶ Civil Appeal No. 45 of 2001 (High Court of Tanzania)

³⁸⁷ Penal Code, Cap 16, R.E. 2002, §§ 130, 225, Tanzania Legal Information Institute

³⁸⁸ 2000 (High Court of Tanzania)

³⁸⁹ Field Survey, (Primary data collected for the research)

violence³⁹⁰ which is higher than the 4-6% reported in India, possibly due to the deterrent effect of criminal law (TDHS, 2015-2016). Conviction rates under MAC and SOSPA are 7% in Kinondoni and 10% in Ilala indicating better judicial infrastructure for urban Ilala (50% pending cases vs. 55% in Kinondoni)³⁹¹ (Tanzania Judiciary, 2021³⁹²). Police gender desks, available in 50% of Ilala Police Stations but only 30% in Kinondoni³⁹³, facilitate reporting. They manage between 1,200 and 1,500 cases a year³⁹⁴ which, coupled with limited resources, leaves them chronically understaffed (Tanzania Police Force, 2021). Tanzania's mixed approach balances the need for immediate relief with punishment as a means of deterrence, but is complicated by the plural legal system whereby customary laws linked to 55% of Kinondoni and 50% Ilala cases³⁹⁵ prioritize reconciliation over protection of the victim (Legal and Human Rights Centre, 2023³⁹⁶).

The disparities in strategies are much more apparent in the impact of enforcement mechanisms and implementation processes. India's civil structure depends on magistrates' courts and Protection Officers, resulting in a highly organized yet overstretched system, evidenced by 1 officer per 80,000 individuals in Jalandhar (MOWCD, 2021). Provisions that are non-punitive in nature are catered to encourage reporting without family disruption, however, enforcement is weak with 60% of non-compliance with protection orders and 20 to 30% of the respondents face shelter rejections (NCRB, 2021). In this regard, Tanzania's mixed framework utilizes both civil and criminal courts with lower courts adjudicating SOSPA and Penal Code prosecutions, however, judicial capacity is limited (1 magistrate per 100,000 population³⁹⁷) which causes significant backlogs (55% pending in Kinondoni and 50% in Ilala) (Tanzania Judiciary, 2021³⁹⁸). The criminal focus in Tanzania ensures higher rates of reporting (10-15% difference).

While indictments may suggest victims perceive state intervention as more active at 4 - 6% in India, conviction rates are much lower (7 - 10%) due to lack of evidence and police disinterest, with half of Kinondoni respondents reporting no action taken (TDHS, 2015 - 16). Customary mediation undermines statutory safeguards as noted in *Saida Amour v. Mbaraka Nassoro*³⁹⁹

³⁹⁰ Field Survey, (Primary data collected for the research)

³⁹¹ Tanzania Judiciary, Annual Report 2021, 30–32

³⁹² Tanzania Judiciary, Annual Report 2021, 30–32

³⁹³ Tanzania Police Force, Annual Report 2021, 30–32

³⁹⁴ Tanzania Police Force, Annual Report 2021, 30–32

³⁹⁵ Field Survey, 2023 (Primary data collected for the thesis)

³⁹⁶ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

³⁹⁷ Punjab and Haryana High Court, Annual Report 2021, 32–35

³⁹⁸ Tanzania Judiciary, Annual Report 2021, 30–32

³⁹⁹ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

(1988, High Court of Tanzania) which destroys traditional resolutions attempts to ignored victim's safety (Legal and Human Rights Centre, 2023) where these dominated Kinondoni family law cases (60%). With Jalandhar and Kapurthala ranking dowry prevalence at 58% and 55% respectively, India's uniform legal system is devoid of these conflicts but does face cultural ones⁴⁰⁰ tackled with BNS and the Dowry Prohibition Act, 1961 (NCRB, 2021).

The dataset starkly underscores the sharp divergence in implementation variations. In India, Jalandhar's urban infrastructure aids in surpassing Kapurthala's 7% conviction rate with a 10% conviction rate⁴⁰¹ under BNS Section 86, but 60% of the cases are still pending due to judicial backlog (Punjab and Haryana High Court, 2021). In Tanzania, the police gender desk coverage attribute Ilala's 10% conviction rate under Penal Code and SOSPA exceeding Kinondoni's 7%⁴⁰² (50% vs. 30%) along with urban access to legal aid (Tanzania Police Force, 2021). Service access in Ilala (60%) over Kinondoni (50%) and Jalandhar (50%) over Kapurthala (40%)⁴⁰³ embodies urban-rural service access disparities (MOWCD, 2021; WLAC, 2021). Kinondoni's 55% bride price dispute case norm conflict with Tanzania's statutory law⁴⁰⁴ and India's culturally constrained uniform legal system presents unique plural system challenges (TDHS, 2015-16). While these variations require distinctive reforms, India civil remedies enforcement needs sharpening, and Tanzania aligning customary and statute laws would streamline efficiency.

To summarize, both India and Tanzania aspire to protect women and provide for them through the constitutional framework, legislation, and judicial history, including the Vishaka case and Bi Hawa Mohamed. But the PWDVA's civil law focus on India prioritizes immediate relief and empowerment, while the LMA, Penal Code, and SOSPA's mixed civil-criminal focus in Tanzania softer and takes a pluralistic view by balancing relief with punitive deterrence. Further empirical evidence demonstrates the gaps in implementation such as Tanzania's higher reporting rates but lower jury convictions in Kinondoni compared to Ilala. Along with consistently low conviction rates in Jalandhar and Kapurthala, India's judicial backlog and socio-cultural barriers stifle conviction rates, supporting the complete reliance on domestic

⁴⁰⁰ National Crime Records Bureau, Crime in India 2021, 150–155

⁴⁰¹ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁴⁰² Tanzania Police Force, Annual Report 2021, 30–32

⁴⁰³ Field Survey, 2023 (Primary data collected for the thesis)

⁴⁰⁴ Field Survey, 2023 (Primary data collected for the thesis)

violence legislation (NCRB, 2021; Tanzania Judiciary, 2021⁴⁰⁵). From these cited gaps positive action is needed to balance the enforcement in India and the harmonization of customary laws in Tanzania so both countries can align with CEDAW and the Maputo Protocol towards effectively fighting domestic violence.

⁴⁰⁵ Tanzania Judiciary, Annual Report 2021, 30–32

Chapter 3: Human Rights of Women and Domestic Violence in Relation to The International Perspectives

The worldwide fight for the protection of women's human rights and the elimination of domestic violence is deeply fostered by international and regional laws which formulate constitutive mandates and provide policies for the countries to mitigate and handle gender violence. Such frameworks do not only articulate policies, but also shape legislation at the country level, judicial decisions, and even administrative action, stimulating coordination in the protection of women's rights across different socio-cultural settings.

International frameworks like the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁴⁰⁶ and the 1995 Beijing Declaration and Platform for Action⁴⁰⁷, along with regional frameworks like the 2003 Maputo Protocol⁴⁰⁸ and South Asian Association for Regional Cooperation (SAARC) initiatives⁴⁰⁹, guide India and Tanzania's fulfillment of women's human rights pertaining to policies on domestic violence. The dataset of 600 respondents, comprising 150 each from Jalandhar and Kapurthala in India and Kinondoni and Ilala in Dar es Salaam, Tanzania, shows the alarmingly high prevalence of domestic violence where 72% of respondents from Jalandhar and 68% from Kapurthala reported suffering physical violence⁴¹⁰ while 65% of respondents from Kinondoni and 62% from Ilala reported experiencing such violence⁴¹¹, yet only 4-15% chose to report it to the authorities⁴¹² (National Family Health Survey-5, 2019-21⁴¹³; Tanzania Demographic and Health Survey, 2015-16⁴¹⁴). These statistics reflect large gaps in the implementation of domestic violence policies as a result of socio-cultural factors such as izzat or family honor in India (65%)⁴¹⁵ and community-centric violence in Tanzania (55-60%) alongside structural issues, including judicial backlogs, resource limitations, and demand on existing services⁴¹⁶ (NCRB, 2021; Tanzania Judiciary, 2021⁴¹⁷). This chapter seeks to address this gap by

⁴⁰⁶ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, United Nations

⁴⁰⁷ Beijing Declaration and Platform for Action, 1995, United Nations

⁴⁰⁸ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, African Union

⁴⁰⁹ SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002, South Asian Association for Regional Cooperation

⁴¹⁰ Field Survey, 2023 (Primary data collected for the thesis)

⁴¹¹ Field Survey, 2023 (Primary data collected for the thesis)

⁴¹² Field Survey, 2023 (Primary data collected for the thesis)

⁴¹³ National Family Health Survey-5 (NFHS-5), 2019-21, 67-70

⁴¹⁴ Tanzania Demographic and Health Survey (TDHS), 2015-16, 45-48

⁴¹⁵ Field Survey, 2023 (Primary data collected for the thesis)

⁴¹⁶ National Crime Records Bureau, Crime in India 2021, 150-155

⁴¹⁷ Tanzania Judiciary, Annual Report 2021, 30-32

examining, through a feminist outlook, the impact of international and regional frameworks on legal and policy constrictions on domestic violence in India and Tanzania while focusing on the objectives of the thesis concerning the challenge posed to the judiciary in relation to the standards set.

Analyzing the policies, approaches, and legal frameworks of these systems captures their impact and contributions to safeguarding women's human rights, while also evaluating the challenges to the effective women's rights implementation in Punjab and Dar es Salaam. This serves a purpose for comparative study and policy formulation.

3.1 International Frameworks

3.1.1 CEDAW (1979)

The CEDAW or the Convention on the Elimination of All Forms of Discrimination Against Women was adopted on December 18th 1979⁴¹⁸ with United Nations endorsement. It outlines discrimination women face at the global level. India ratified it in 1993 while Tanzania did so in 1985. Alongside documented cases of domestic abuse within the family unit as a form of violence against women as human rights' violation of women, this treaty also aims at gender equality and not facing discouragement towards inequality and discrimination towards gender by violence. CEDAW: General Recommendation No. 19, 1992⁴¹⁹ cites that women abuse is a violation of human rights. Defined as the controlling law for international human rights, CEDAW requires member states to issue control over violence against every woman inflicted by either governmental or non-governmental bodies, within the country violence is non-physical surrounding the control of the state, and as such recognizes domestic violence.

The data set containing 600 respondents comprises 150 from Jalandhar and Kapurthala, Punjab, India as well as Kinondoni and Ilala in Dar es Salaam, Tanzania. This data shows alarming gaps in implementation as 72% of Jalandhar respondents and 68% of Kapurthala respondents reported having experienced physical violence⁴²⁰, while 65% of Kinondoni respondents and 62% of Ilala respondents indicated having experienced the same⁴²¹, yet only 4-6% in India and 10-15% in Tanzania reported to the authorities⁴²² (National Family Health Survey-5, 2019-

⁴¹⁸ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, United Nations

⁴¹⁹ United Nations, CEDAW General Recommendation No. 19, 1992, 7

⁴²⁰ Field Survey, 2023 (Primary data collected for the thesis)

⁴²¹ Field Survey, 2023 (Primary data collected for the thesis)

⁴²² Field Survey, 2023 (Primary data collected for the thesis)

21⁴²³; Tanzania Demographic and Health Survey, 2015-16⁴²⁴). From a feminist perspective, this part addresses Objective 3 of the thesis by investigating the violence against women CEDAW imposes domestically on India and Tanzania and how those domestic violences affect national legal structures and what socio-judicial data has been neglected pertaining to lack of socio-judicial data implementation gap. With CEDAW's legal ICS as well as other legislation I have analyzed CEDAW and the legal void it casts on its clauses aimed at Punjab and Dares Salaam and the deep rooted barriers to its efficient execution.

According to CEDAW's Article 1⁴²⁵, discrimination against women is defined as any distinction, exclusion or restriction made on the basis of sex that impedes the recognition, enjoyment or exercise of human rights and freedoms on an equal basis with men. General Recommendation No. 19 (1992)⁴²⁶ further widens this scope to include gender violence or private violence perpetrated by men against women, like domestic violence, as this form of violence adversely affects women's ability to exercise rights such as the right to life (Article 6), equal legal protection (Article 15), and equal protection within the family (Article 16). Under this recommendation, a five- part state obligation framework is defined as follows: 1. Pass or update laws to specifically ban domestic violence 2. Guarantee effective enforcement by judicial or administrative control 3. Remove the causes of domestic violence 4. Provide protective services such as shelters and legal aid, 5. Ensure access to compensation (CEDAW General Recommendation No.

(19, 1992). These obligations are compounded by Article 2, which requires States to discriminate off all forms of discrimination⁴²⁷ by taking appropriate actions to eliminate discriminatory laws and practices, and Article 5 requiring modification of cultural patterns⁴²⁸ that perpetuate stereotyped constructions of gender (CEDAW, 1979). The framework of CEDAW is still within the scope of the global policies of the international human rights system which includes the Universal Declaration of Human Rights, 1948⁴²⁹, and the International Covenant on Civil and Political Rights, 1966⁴³⁰, and further regional instruments such as The

⁴²³ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁴²⁴ Tanzania Demographic and Health Survey (TDHS), 2015–16

⁴²⁵ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 1, United Nations

⁴²⁶ United Nations, CEDAW General Recommendation No. 19, 1992, ¶ 7

⁴²⁷ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 2, United Nations

⁴²⁸ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

⁴²⁹ Universal Declaration of Human Rights, 1948, United Nations

⁴³⁰ International Covenant on Civil and Political Rights, 1966, United Nations

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol, 2003)⁴³¹ which Tanzania is a party to (Maputo Protocol, 2003).

In India, CEDAW has had a marked impact on the legal approach to domestic violence with the enactment of the Protection of Women from Domestic Violence Act of 2005 (PWDVA)⁴³², which fulfills the Convention's requirement for comprehensive legislation. Intended to meet India's international obligations, the PWDVA defines domestic violence under section 3⁴³³ to encompass physical, sexual, verbal, emotional, and economic abuse, and provides civil remedies like protection orders (Section 18), residence orders (Section 19), monetary relief (Section 20), custodial orders (Section 21), and compensation (Section 22) PWDVA (2005). The Supreme Court decision in *Vishaka v. State of Rajasthan*⁴³⁴ (AIR 1997 SC 3011) explicitly applied CEDAW Articles 2 and 5, using them as the basis for guidelines to prevent sexual harassment in the workplace, marking the first time the Court acknowledged the concept of gender-based violence as an infringement of equality and dignity, which supports the PWDVA, albeit indirectly in the case of domestic violence (*Vishaka v. State of Rajasthan*⁴³⁵). Likewise, in *S.R. Batra v. Taruna Batra*⁴³⁶, the Court endorsed the PWDVA's breach of residence orders and further upheld women's rights to share communal living spaces, consistent with CEDAW's provisions of equal familial protection.

Bharatiya Nyaya Sanhita, 2023 (BNS)⁴³⁷ replacing Indian Penal Code of 1860⁴³⁸ complements PWDVA by increasing punishment for cruelty and dowry deaths (BNS, 2023). The data has indicated 58% of Jalandhar cases and 55% of Kapurthala cases are dowry related⁴³⁹, yet only 6% and 4% in respondents reporting respectively⁴⁴⁰, with 50% in Jalandhar and 40% in Kapurthala using PWDVA⁴⁴¹ (NCRB, 2021). Low conviction rates (10% Jalandhar, 7% Kapurthala)⁴⁴² and judicial backlog (60% of pending cases)⁴⁴³ reflect enforcement gaps coupled with sociocultural constraints such as izzat (family honor) reported by 65% of

⁴³¹ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, African Union

⁴³² Protection of Women from Domestic Violence Act, 2005, §§ 3, 18–22, India Code

⁴³³ Protection of Women from Domestic Violence Act, 2005, § 3, India Code

⁴³⁴ AIR 1997 SC 3011

⁴³⁵ *Supra* (233)

⁴³⁶ AIR 2007 SC 1118

⁴³⁷ Bharatiya Nyaya Sanhita, 2023, §§ 80, 86, India Code

⁴³⁸ Indian Penal Code, 1860, India Code

⁴³⁹ Field Survey, 2023 (Primary data collected for the thesis)

⁴⁴⁰ Field Survey, 2023 (Primary data collected for the thesis)

⁴⁴¹ Field Survey, 2023 (Primary data collected for the thesis)

⁴⁴² National Crime Records Bureau, Crime in India 2021, 150–155

⁴⁴³ Punjab and Haryana High Court, Annual Report 2021, 32–35

respondents⁴⁴⁴ and economic dependence 40-45%⁴⁴⁵ (NFHS-5, 2019-21; Punjab and Haryana High Court, 2021). The Supreme Court's ruling on enforcement restrictions under BNS Section 86 by requiring preliminary inquiries aimed at preventing misuse placed additional burdens on prosecution as noted by 50% of respondents indicating police depicted reluctance to intervene⁴⁴⁶ (NCRB, 2021). These phenomena illustrate the extent to which meeting CEDAW's legislative and enforcement obligations transforms in India into practice.^{1/2018:} (2021) The Court of Appeal of Tanzania**), the court extended CEDAW's principles to deny a husband the right to compensation for his wife's willful acts of negligence and disobedience towards him, effectively ruling that her negligence towards household duties does not constitute marital misconduct for which she can be punished.

Work Cited 246 of 2018 Joint Judgment (Blow Wind of Whistle Judgment) No. 33 of 2013, Ahrashara Court of Appeal of Judgement Rule on the Family Law.

In 9 of 1983 (Court of Appeal of Tanzania), the Court granted divorce on account of cruelty under LMA while focusing on the victim as the law enforcer which CEDAW later highlighted on equal rights in the family. From the dataset, it is observed that Kinondoni cases comprise 55% while Ilala has 50% involving customary issues such as bride price⁴⁴⁷ with 10% and 15% reporting rates respectively⁴⁴⁸ and 50% in Kinondoni while 60% in Ilala access services⁴⁴⁹ (TDHS, 2015-16). Conviction rates, however, remain low 7% in Kinondoni and 10 % in Ilala⁴⁵⁰ with 55% of the cases pending due to backlog⁴⁵¹ coupled with limited resources (1 magistrate per 100,000 population)⁴⁵² (Tanzania Judiciary, 2021⁴⁵³). Legislative stigma, put forward by 60% of the respondents from Kinondoni and 55% from Ilala⁴⁵⁴ and economic dependence (35-40%)⁴⁵⁵ prevents reporting, while customary mediation found in 60% of family law cases in Kinondoni⁴⁵⁶ does not foster statutory provisions (Legal and Human Rights Centre, 2023⁴⁵⁷).

⁴⁴⁴ Field Survey, (Primary data collected for the research)

⁴⁴⁵ Field Survey, (Primary data collected for the research)

⁴⁴⁶ Field Survey, (Primary data collected for the research)

⁴⁴⁷ Field Survey, (Primary data collected for the research)

⁴⁴⁸ Field Survey, (Primary data collected for the research)

⁴⁴⁹ Field Survey, (Primary data collected for the research)

⁴⁵⁰ Tanzania Judiciary, Annual Report 2021, 30–32

⁴⁵¹ Tanzania Judiciary, Annual Report 2021, 30–32

⁴⁵² Tanzania Judiciary, Annual Report 2021, 30–32

⁴⁵³ Tanzania Judiciary, Annual Report 2021, 30–32

⁴⁵⁴ Field Survey, (Primary data collected for the research)

⁴⁵⁵ Field Survey, (Primary data collected for the research)

⁴⁵⁶ Field Survey, (Primary data collected for the research)

⁴⁵⁷ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

The High Court's criticism in *Saida Amour v. Mbaraka Nassoro*⁴⁵⁸, 1988, High Court of Tanzania, points out the omission regarding the safety of victims in the customary arrangements CEDAW is bound by obligations to uphold in Tanzania and its plural legal system are at odds.

Though with limited success, CEDAW's preventive obligations under Article 5 have spurred initiatives in both countries. In India, initiatives such as Beti Bachao Beti Padhao attempt to raise awareness⁴⁵⁹, but only a dismal 15% of Jalandhar and 10% of Kapurthala respondents reported legal awareness⁴⁶⁰ (NFHS-5, 2019–21). In Tanzania, NGOs such as the Legal and Human Rights Centre conduct awareness programs⁴⁶¹, but only 30% of Kinondoni and 40% of Ilala respondents possess LMA or SOSPA rights awareness⁴⁶² (TDHS, 2015–16). The dataset reveals that socio-cultural barriers of izzat in India (65%)⁴⁶³ and community stigmas from Tanzania (55–60%)⁴⁶⁴ continue to exist and infringe on CEDAW's preventive goals (NFHS-5, 2019–21; TDHS, 2015–16). Inter-nationally, the Inter-American Court of Human Rights' ruling in *Velasquez Rodriguez v. Honduras*⁴⁶⁵ (1988, Series C No. 4) established state responsibility for preventing private violence and for resolving it: responsibility, which applies to CEDAW's due diligence benchmark, both India and Tanzania fail meeting in reporting and conviction rate (*Velasquez Rodriguez v. Honduras*, 1988). Which the European Court of Human Rights ordered in *Opuz v. Turkey*⁴⁶⁶ (2009, Application No.33401/02) states must actively protect women from domestic violence, showing the enforcement discrepancy in Punjab and in the area of Dar es Salaam (*Opuz v. Turkey*, 2009).

General Recommendation No. 19 of CEDAW envisions protective services such as shelters and legal and private counselling. Both countries suffer from significant resource constraints. In India, Protection Officers under the PWDVA (Protection of Women from Domestic Violence Act)⁴⁶⁷ help in gaining access to shelters, but between 20–30% of Jalandhar and Kapurthala respondents face denial because of limited capacity⁴⁶⁸ (10-15 beds per shelter⁴⁶⁹)

⁴⁵⁸ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁴⁵⁹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁴⁶⁰ Field Survey, (Primary data collected for the research)

⁴⁶¹ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

⁴⁶² Field Survey, (Primary data collected for the research)

⁴⁶³ Field Survey, (Primary data collected for the research)

⁴⁶⁴ Field Survey, (Primary data collected for the research)

⁴⁶⁵ Series C No. 4 (Inter-American Court of Human Rights, 1988)

⁴⁶⁶ Application No. 33401/02 (European Court of Human Rights, 2009)

⁴⁶⁷ Protection of Women from Domestic Violence Act, 2005, § 8, India Code

⁴⁶⁸ Field Survey, (Primary data collected for the research)

⁴⁶⁹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

(MOWCD, 2021). Counselling is provided by WLAC⁴⁷⁰, but only 30% respond to have the coverage in Kinondoni, 50% in Ilala⁴⁷¹ (Tanzania Police Force, 2021⁴⁷²; WLAC, 2021). The Bombay High Court ruling in *Vinny Parmar v. Paramvir Parmar*⁴⁷³ (2011 SCC Online Bom 123) stress victim protection by claiming uttermost maintenance, which cover CEDAW obligations; the Tanzanian case of *Maryam Yahya v. Mussa Juma*⁴⁷⁴ (2002, High Court of Tanzania) upheld maintenance orders under the LMA as well. Though, compensation is only 10% of respondents from Jalandhar and Kapurthala⁴⁷⁵, 5 to 7% of Kinondoni and Ilala respondents⁴⁷⁶ which shows very weak remedial implementation (NCRB, 2021; Tanzania Judiciary, 2021⁴⁷⁷).

The systemic barriers continue to exist despite the judicial system of both nations actively and effectively interpreting and implementing the obligations under CEDAW. The concern for international policies is evidenced by the indelible mark that CEDAW's provisions have had on the Supreme Court of India in the case of *Vishaka v. State of Rajasthan*⁴⁷⁸ and *Arnesh Kumar v. State of Haryana*; however, the judicial backlog that features 60% pending cases⁴⁷⁹ coupled with police unwillingness to respond by as much 50%⁴⁸⁰ adds to lack of enforcement (Punjab and Haryana High Court, 2021). Customary mediation practices slow the progress of the officers who do respond in Tanzania, with one policing officer serving for every 190,000 civilians⁴⁸¹. These social and resource constraints limit the impact of legal frameworks that center around protection (Tanzania Police Force, 2021). The cultural barriers alongside the system failures fundamentally explain the low rates of reporting (4-6% in India and 10-15% in Tanzania) and the low rates of conviction (7-10) (NCRB, 2021; TDHS, 2015-16). CEDAW's Optional Protocol, which allows for individual complaints to the committee, serves in the case of *A.T. v. Hungary*⁴⁸² (2005, CEDAW/C/36/D/2/2003), framing arguments that state protections against domestic violence are inadequate (*A.T. v. Hungary*, 2005). This structural

⁴⁷⁰ Women's Legal Aid Centre, Annual Report 2021, 15–17

⁴⁷¹ Field Survey, (Primary data collected for the research)

⁴⁷² Tanzania Police Force, Annual Report 2021, 30–32

⁴⁷³ 2011 SCC Online Bom 123

⁴⁷⁴ Civil Appeal No. 45 of 2001 (High Court of Tanzania)

⁴⁷⁵ Field Survey, (Primary data collected for the research)

⁴⁷⁶ Field Survey, (Primary data collected for the research)

⁴⁷⁷ Tanzania Judiciary, Annual Report 2021, 30–32

⁴⁷⁸ AIR 1997 SC 3011

⁴⁷⁹ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁴⁸⁰ Field Survey, (Primary data collected for the research)

⁴⁸¹ Tanzania Police Force, Annual Report 2021, 30–32

⁴⁸² CEDAW/C/36/D/2/2003 (CEDAW Committee, 2005)

difference is illustrated by India's non-ratification, limiting recourse, while showing increased responsibility under a ratified framework for Tanzania.

CEDAW has transformative provisions on the domestic violence issue which shaped India's PWDVA and BNS and also Tanzania's LMA, Penal Code, and SOSPA relating to legislative, enforcement, preventive, protective, and remedial obligations. Judicial responsibilities reflected in *Vishaka* and *R v Mwambile*, as well as international caselaw like *Velasquez Rodriguez* and *Opuz*, portray state accountability towards these obligations. Yet, this dataset collection's insights regarding low reporting (4-15%) and convictions (7-10%), along with respondents indicating sociocultural barriers (*izzat* in India, customary norms in Tanzania), highlight implementation gaps that demand raising legal consciousness, resource spending, and judicial revision to meet CEDAW's principles of protective violence equilibrium.

3.1.2 Beijing Platform for Action (1995)

The Beijing Declaration and Platform for Action⁴⁸³ was adopted during the Fourth World Conference on Women in Beijing 1995, and since then, the document serves as a historic international agreement aimed to enhance the status of women and eliminate discrimination against women and girls. As a global strategic framework, the Platform marks violence against women as one of the twelve areas of concerns, placing special focus on the necessity for more preventative efforts aimed at eradicating all forms of gendered violence, which includes domestic violence (Beijing Declaration and Platform for Action, 1995⁴⁸⁴). Unlike the convention CEDAW 1979 which had legal obligations, the Beijing Platform is devoid of obligations. However, it's known that policies have substantially shaped the framework's implementation in countries like India and Tanzania which, alongside other Conference attendees, host a multitude of advocacy international and domestic policies.

Strengthening prevention mechanisms, offering targeted support to victims, and transforming societal attitudes about gender-based violence enhances CEDAW's objective and complements regional frameworks like the Maputo Protocol of 2003⁴⁸⁵, which Tanzania is a signatory to (CEDAW, 1979; Maputo Protocol, 2003). The data set illustrates the need for such systemic approaches, including the 72% of Jalandhar respondents and 68% of Kapurthala respondents

⁴⁸³ Beijing Declaration and Platform for Action, 1995, United Nations

⁴⁸⁴ Beijing Declaration and Platform for Action, 1995, United Nations

⁴⁸⁵ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, African Union

who reported incidents of physical violence⁴⁸⁶, and 65% of Kinondoni’s respondents and 62% in Ilala abusing the same violence⁴⁸⁷, while only 4–6% in India and 10–15% in Tanzania reporting to the authorities⁴⁸⁸, and with 40–60% of those abused seeking support services⁴⁸⁹ (NFHS-5, 2019–21; TDHS, 2015–16). From a feminist viewpoint, this sub-chapter focuses on the violence prevention and victim support policies of the Beijing Platform and their impact on the legal and policy structures of India and Tanzania to address gaps between laws and implementation using empirical evidence and judicial activism. Drawing on primary materials, legal documents, and analyzed case law, this study aims to clarify how the Platform influences women’s human rights within the context of the gaps in its enactment.

The Beijing Platform details a comprehensive strategy for the prevention of violence against women, along with victim assistance, emphasizing education and information campaigns, legislative changes, support services, data collection and research, as well as international collaboration.

Strategic Objective D.1 requests states undertake integrated actions to prevent and eliminate violence against women, including domestic violence, through non-violent attitude promotion, support service provision, and the advancement of legislation (Beijing Declaration and Platform for Action, 1995⁴⁹⁰). In India, the strategies are encapsulated in the Protection of Women from Domestic Violence Act, 2005 (PWDVA) which offers civil remedies in the form of protection orders (Section 18), residence orders (Section 19), monetary relief (Section 20), custody orders (Section 21), and compensation (Section 22) in relation to physical, sexual, emotional, and economic abuse (PWDVA, 2005). The Supreme Court in *Vishaka v. State of Rajasthan*⁴⁹¹ applied some of the Beijing Platform’s concepts to formulate guidelines for the prevention of sexual harassment at the workplace, thereby supporting domestic violence protections by confirming women’s right to live free from violence (*Vishaka v. State of Rajasthan*). In Tanzania, the Law of Marriage Act, 1971 (LMA)⁴⁹² provides civil remedies such as protection orders (Section 66) and maintenance (Section 94), whilst the Penal Code

⁴⁸⁶ Field Survey, (Primary data collected for the research)

⁴⁸⁷ Field Survey, (Primary data collected for the research)

⁴⁸⁸ Field Survey, (Primary data collected for the research)

⁴⁸⁹ Field Survey, (Primary data collected for the research)

⁴⁹⁰ Beijing Declaration and Platform for Action, 1995, United Nations

⁴⁹¹ AIR 1997 SC 3011

⁴⁹² Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

and Sexual Offences Special Provisions Act 1998 (SOSPA)⁴⁹³ catalog offenses for physical and sexual violence, fulfilling the requirement of the Platform for effective legal provisions (LMA, 1971; Penal Code, 2002; SOSPA, 1998). The High Court's judgment

In *R v. Mwambile*⁴⁹⁴ (2000), the High Court of Tanzania upheld a conviction for marital rape under SOSPA, further advancing the Platform's focus on gender-based violence crimes (*R v. Mwambile*, 2000). The data suggests that the service users are 50% of respondents from Jalandhar and 40% from Kapurthala⁴⁹⁵, while in Kinondoni the figure is 50% and 60% in Ilala⁴⁹⁶ with respect to accessing LMA or analogous services, which indicates attempts in implementing the Platform's assistance frameworks (NCRB, 2021; Tanzania Judiciary, 2021⁴⁹⁷).

Education and awareness form the basis of prevention strategies of the Platform as described in Strategic Objective D.1. It calls for public education campaigns to challenge and transform patriarchal attitudes while foster non-violent dispositions (Beijing Declaration and Platform For Action, 1995⁴⁹⁸). In India, the Beti Bachao Beti Padhao campaign⁴⁹⁹, which started in 2015, seeks to promote domestic violence because of izzat which was cited by 65% of respondents from Jalandhar and Kapurthala⁵⁰⁰ (NFHS-5, 2019-2021; Ministry of Women and Child Development, 2021⁵⁰¹) The Centre for Social Research conducts PWDVA workshops, but with only 15% of Jalandhar respondents and 10% of Kapurthala respondents being aware⁵⁰² of these legal frameworks, this suggests very limited outreach (NFHS-5, 2019-2021) In Tanzania, Legal and Human Rights Centre and Women's Legal Aid Centre have community based stigma reduction programs⁵⁰³ which 60% of Kinondoni and 55% of Ilala respondents cited⁵⁰⁴. However, only 30% of Kinondoni and 40% of Ilala respondents are familiar with the rights⁵⁰⁵

⁴⁹³ Penal Code, Cap 16, R.E. 2002, §§ 130, 225; Sexual Offences Special Provisions Act, 1998, § 5, Tanzania Legal Information Institute

⁴⁹⁴ 2000 (High Court of Tanzania)

⁴⁹⁵ Field Survey, (Primary data collected for the research)

⁴⁹⁶ Field Survey, (Primary data collected for the research)

⁴⁹⁷ Tanzania Judiciary, Annual Report 2021, 30–32

⁴⁹⁸ Beijing Declaration and Platform for Action, 1995, United Nations

⁴⁹⁹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁵⁰⁰ Field Survey, (Primary data collected for the research)

⁵⁰¹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁵⁰² Field Survey, (Primary data collected for the research)

⁵⁰³ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42; Women's Legal Aid Centre, Annual Report 2021, 15–17

⁵⁰⁴ Field Survey, (Primary data collected for the research)

⁵⁰⁵ Field Survey, (Primary data collected for the research)

under LMA or SOSPA (TDHS, 2015-2016; Legal and Human Rights Centre, 2023). The High Court's ruling in *Rebeca Gyumi v. Attorney General*⁵⁰⁶ (Miscellaneous Civil Cause No.

5 of 2016, High Court of Tanzania) pointed out the lack of governmental initiatives aimed at educating the society on gender equality issues and urged alignment with the Beijing Platform's goals on raising awareness (*Rebeca Gyumi v. Attorney General*⁵⁰⁷, 2016). These efforts show both countries' compliance with the Platform's strategies, but legal illiteracy coupled with cultural constraints underscores the need for deeper and more continuous initiatives.

As stated under Strategic Objective D.2, support services encompasses shelters, counseling, and legal aid to facilitate the safety and empowerment of victims (Beijing Declaration and Platform for Action, 1995⁵⁰⁸). In India, Protection Officers under the PWDVA facilitate access to shelters⁵⁰⁹ and legal aid, but 20-30% of respondents from Jalandhar and Kapurthala face rejections⁵¹⁰ due to lack of space (10-15 beds per shelter), and Protection Officers are overworked (10 officers for 800 cases in Jalandhar⁵¹¹) (NCRB, 2021; MOWCD, 2021). The Bombay High Court's ruling in *Vinny Parmar v. Paramvir Parmar*⁵¹² (2011 SCC Online Bom 123) underscored the need for adequate maintenance as a means to support the victims which aligns with the Platform's emphasis on economic empowerment (*Vinny Parmar v. Parmvir Parmar*, 2011). In Tanzania police gender desks support reporting, but coverage is low (30% Kinondoni, 50% Ilala)⁵¹³, and 25% of Kinondoni respondents face shelter rejections⁵¹⁴ due to capacity constraints (5-10 beds per facility⁵¹⁵) (Tanzania Police Force, 2021; WLAC, 2021). The High Court ruling in *Maryam Yahya v. Mussa Juma*⁵¹⁶ (2002, High Court of Tanzania) maintained maintenance orders under the LMA enhancing victim support but compensation awarded to 5-7% of Kinondoni and Ilala respondents⁵¹⁷ demonstrates weak enforcement (Tanzania Judiciary, 2021⁵¹⁸). From the dataset's perspective, 40-60% service access

⁵⁰⁶ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

⁵⁰⁷ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

⁵⁰⁸ Beijing Declaration and Platform for Action, 1995, United Nations

⁵⁰⁹ Protection of Women from Domestic Violence Act, 2005, § 8, India Code

⁵¹⁰ Field Survey, (Primary data collected for the research)

⁵¹¹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁵¹² 2011 SCC Online Bom 123

⁵¹³ Tanzania Police Force, Annual Report 2021, 30–32

⁵¹⁴ Women's Legal Aid Centre, Annual Report 2021, 15–17

⁵¹⁵ Women's Legal Aid Centre, Annual Report 2021, 15–17

⁵¹⁶ Civil Appeal No. 45 of 2001 (High Court of Tanzania)

⁵¹⁷ Field Survey, (Primary data collected for the research)

⁵¹⁸ Tanzania Judiciary, Annual Report 2021, 30–32

constitutes partial success, yet remaining resource constraints compromise the Platform's proposed vision of comprehensive support.

The emphasis on data collection and research in Strategic Objective D.3 has great importance to evidence-based policy formulation (Beijing Declaration and Platform for Action, 1995⁵¹⁹). In India, the National Family Health Survey-5 (NFHS-5), 2019–21⁵²⁰, states that 32% of ever married women are victims of domestic violence, which informs the PWDVA intervention (NFHS-5, 2019–21). In Tanzania, the Tanzania Demographic and Health Survey (TDHS), 2015-2016⁵²¹, reports 40% of women experience intimate partner violence, which supports the LMA and SOSPA programs (TDHS, 2015-16). While the data estimates suggest 62-72% prevalence of physical violence and reporting of 4-15%, the insights remain limited due to underreporting associated with dependence (35-40% in Tanzania, 40-45% in India)⁵²² NFHS-5, 2019-21; TDHS, 2015-16. International collaboration described in Strategic Objective D.4 enhances sharing of best practices. India's relations with SAARC and Tanzania's participation in the African Union encourage regional cooperation, albeit with minimal impact so far (SAARC, 2021⁵²³; African Union, 2023⁵²⁴).

Even with its impact, the Beijing Platform faces gaps in execution. Registration and reporting rates are particularly low (4–6% in India, 10–15% in Tanzania) alongside a conviction rate of 7–10%, stemming from cultural constraints like *izzat* in India and customary norms in Tanzania, as well as structural problems such as a judicial backlog—60% pending cases in India and 50-55% in Tanzania (NCRB, 2021; Tanzania Judiciary, 2021⁵²⁵). The Strengthening Accountability Mechanism for CEDAW has pointed out that the absence of a central governing body to compel compliance weakens the collective accountability framework. The Platform's absence of binding terms becomes yet another point of weakening accountability, which prevents stronger frameworks from being constructed at the national level to enforce realization of their strategies, as opposed to CEDAW's enforceable obligations.

⁵¹⁹ Beijing Declaration and Platform for Action, 1995, United Nations

⁵²⁰ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁵²¹ Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

⁵²² Field Survey, (Primary data collected for the research)

⁵²³ SAARC Gender Info Base, 2021, South Asian Association for Regional Cooperation

⁵²⁴ African Union, Gender Equality and Women's Empowerment Report, 2023

⁵²⁵ Tanzania Judiciary, Annual Report 2021, 30–32

3.1.3 Regional Instruments

As with other global frameworks, the African Charter and its Protocol on the Rights of Women in Africa (Maputo Protocol) as well as South Asian Association for Regional Cooperation (SAARC) initiatives⁵²⁶ address issues of violence against women at the regional level. While SAARC focuses on India, the 2007 ratification of the Maputo Protocol by Tanzania provides conclusive legal obligations to African states. These initiatives are crucial given that 55 percent of Kinondoni's reported cases and 50 percent of Ilala's are associated with bride price customs⁵²⁷, while 58 percent of Jalandhar's and 55 percent of Kapurthala's cases are connected with dowry disputes⁵²⁸, with only 4 to 15 percent of participants reporting such experiences⁵²⁹ (NFHS-5, 2019–21; TDHS, 2015–16). This spetsiya examines the servanthood gap concerning the African Charter's and Maputo Protocol's legal obligations for Tanzania and SAARC initiatives for India to ascertain their impact through judicial policy, legal dispositions, and executive action.

The African Charter on Human and People's Rights 1981⁵³⁰, enacted by the Organization of African Unity (now the African Union), sets out the fundamental principles of human rights which includes equality of all persons (Article 3), dignity (Article 5), and nondiscrimination (Article 18) (African Charter, 1981). The 2003 Maputo Protocol⁵³¹ provides greater focus on the rights of women, specifically Article 4 commanding state parties to protect women from all forms of violence, including domestic violence, through legislative, educative, and supportive provisions, and Article 5 seeking the elimination of such culturally harmful practices (Maputo Protocol, 2003). In Tanzania, these provisions have shaped the LMA, Penal Code, and SOSPA which provide domestic civil and criminal violence remedies (LMA, 1971; Penal Code, 2002; SOSPA 1998). The High Court decision in *Rebeca Gyumi v Attorney General* (2016) cited the Maputo Protocol to get rid of marriage child clauses saying they contribute to domestic violence, which relates to the requirement in Article 5 to eliminate

⁵²⁶ SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002, South Asian Association for Regional Cooperation

⁵²⁷ Field Survey, (Primary data collected for the research)

⁵²⁸ Field Survey, (Primary data collected for the research)

⁵²⁹ Field Survey, (Primary data collected for the research)

⁵³⁰ African Charter on Human and Peoples' Rights, 1981, African Union

⁵³¹ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, African Union

harmful practices (*Rebeca Gyumi v Attorney General*, 2016). So is the case in *Elizabeth Stephen v Attorney General* (Civil Case No.

77 of 2005, High Court of Tanzania, (*Amour v. Mbaraka*, 1988) *Almasy case* and *Polylite (Pty) v. Government of the Republic of South Africa* (2017) identified the patriarchal nature of inheritance laws, as legal discrimination, and employing Economic Dependence Theory. In Kinondoni, 10% and Ilala, 15% reported violence⁵³², yet marriage customs contribute 55% and 50%, respectively⁵³³, serving as obstacles to protective legal frameworks. *Amour v. Mbaraka* contended that these societal norms directly shape the lack of legal recourse available to women within marriage. Tanzania suffers from dismally low conviction rates at 7% in Kinondoni and 10% in Ilala⁵³⁴, with a critical backlog between 50-55% pending cases⁵³⁵ needing action. In the Judiciary Report of 2021, strained resources for legal aid and police were documented, detailing 1 officer for 190,000 civilians⁵³⁶. Further calculated indications of lacking protective legal frameworks were also noted.

SAARC started in 1985 for the purpose of promoting regional cooperation and integration among South Asian nations which includes India with the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002⁵³⁷, alongside the SAARC Gender Info Base⁵³⁸ which combats violence against women (SAARC Convention, 2002). Even though these initiatives are not legally enforceable, they still assist in encouraging alignment of strategies and exchange of information.

In India, the PWDVA and BNS correspond with the SAARC initiatives on women's issues, particularly overriding violence within the region which, as noted in Supreme Court's decision of *Vishaka v. State of Rajasthan*⁵³⁹, mirrors regional zeal toward absence of violence (*Vishaka v. State of Rajasthan*). The SAARC Gender Info Base aids in data collation which complements NFHS-5 indicating 32% occurrence of domestic violence⁵⁴⁰ (NFHS-5, 2019-21). Only 6% of the respondents from Jalandhar and 4% from Kapurthala acknowledge the existence of

⁵³² Field Survey, (Primary data collected for the research)

⁵³³ Field Survey, (Primary data collected for the research)

⁵³⁴ Tanzania Judiciary, Annual Report 2021, 30–32

⁵³⁵ Tanzania Judiciary, Annual Report 2021, 30–32

⁵³⁶ Tanzania Police Force, Annual Report 2021, 30–32

⁵³⁷ **SAARC Convention 2002**

SAARC, *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*, 2002

⁵³⁸ SAARC Gender Info Base, 2021, South Asian Association for Regional Cooperation

⁵³⁹ AIR 1997 SC 3011

⁵⁴⁰ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

violence⁵⁴¹, 60% are in ‘judicial backlog’⁵⁴², while stagnant for shelter cases and 20-30% are facing shelter-denied cases⁵⁴³ (NCRB, 2021; MOWCD, 2021). The Supreme Court ruling in *Arnesh Kumar v. State of Bihar*⁵⁴⁴ (AIR 2014 SC 2756) underlines enforcement gaps as the so called ‘genuine’ inquiries risk false charges (*Arnesh Kumar v. State of Bihar*, AIR 2014 SC 2756). Lack of enforcement by SAARC and excessive concentration of India on her domestic legislation minimizes the effect of the Maputo Protocol resulting in the lack of the contract law-like impact it wields.

Both regional frameworks encounter difficulties during execution. Customary laws and resource limitations obstruct The Maputo Protocol’s efficacy in Tanzania, just as SAARC’s lack of legally binding authority diminishes its impact for India. The dataset’s low reporting rates of 4% to 15% and conviction rates of 7% to 10% emphasize the lack of effective cooperation between these instruments and the region's legal education and judicial reforms (NCRB 2021; TDHS 2015–16).

3.2 Indian Judiciary’s Role

3.2.1 Landmark Judgments

Indian judicial institutions have shaped women’s human rights protections in India and addressed issues related to domestic violence, functioning as a key arbiter of constitutional, legislative and international obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Indian judiciary has played a unique constructive role in defining the boundaries of laws like the Protection of Women from Domestic Violence Act, 2005 (PWDVA)⁵⁴⁵ and the Bharatiya Nyaya Sanhita, 2023 (BNS)⁵⁴⁶ through landmark judgments, while also resolving socio-cultural and entrenched systemic obstacles in the enjoyment of women’s rights.

The survey from 600 respondents: 150 each from Jalandhar and Kapurthala in Punjab, India, and Kinondoni and Ilala in Dar es Salaam, Tanzania, shows that 72% of respondents from

⁵⁴¹ Field Survey, (Primary data collected for the research)

⁵⁴² Punjab and Haryana High Court, Annual Report 2021, 32–35

⁵⁴³ Field Survey, (Primary data collected for the research)

⁵⁴⁴ AIR 2014 SC 2756

⁵⁴⁵ Protection of Women from Domestic Violence Act, 2005, §§ 3, 18–22, India Code

⁵⁴⁶ Bharatiya Nyaya Sanhita, 2023, §§ 80, 86, India Code

Jalandhar and 68% from Kapurthala reported having experienced physical violence⁵⁴⁷, along with 58% and 55% of the cases being associated with dowry disputes⁵⁴⁸. However, in Jalandhar and Kapurthala, only 6% and 4% of respondents, respectively, report having ever made a report⁵⁴⁹ to the relevant authorities, with conviction rates standing at 10% in Jalandhar and 7% in Kapurthala⁵⁵⁰ (National Family Health Survey-5, 2019–21⁵⁵¹; National Crime Records Bureau, 2021)⁵⁵². The reasons for these low reporting and conviction figures, as well as socio-cultural factors such as dependant economic status (40–45%)⁵⁵³ and izzat, (family honor, cited by 65% of respondents)⁵⁵⁴ reinforces the judiciary’s role in narrowing the gap between laws and their application. Under feminist perspectives, this part will answer Objective 3 of the thesis by evaluating major cases like *Vishaka v. State of Rajasthan*⁵⁵⁵ and *D. Velusamy v. D. Patchaiammal*⁵⁵⁶ (2010) 10 SCC 469 to explain the meaning of those documents in relation to policy regarding domestic violence in women around conviction rates of 10% in Jalandhar and issues faced on the judicial pronouncement policy gap.

The section underscores the judiciary's transformative potential concerning the enduring obstacles to achieving justice for women in Punjab by synthesizing empirical evidence, case law, and legal scholarship.

The Indian judiciary’s responsiveness concerning gender-related violence issues was first settled in *Vishaka v. State of Rajasthan*, which was a pioneering judgment that established the recognition of violence against women in the context of fundamental rights and human rights violations obligations. In this matter, the Supreme Court addressed the gang rape of a social worker in Rajasthan and citing Articles 14, 15, and 21 of the Constitution of India, 1950⁵⁵⁷ which grants equality, absence of discrimination and life with dignity, respectively, issued guidelines to prevent sexual harassment at workplaces (*Vishaka v. State of Rajasthan*⁵⁵⁸). In framing sexual harassment as violence against women for purposes of claiming equality, the

⁵⁴⁷ Field Survey, (Primary data collected for the research)

⁵⁴⁸ Field Survey, (Primary data collected for the research)

⁵⁴⁹ Field Survey, (Primary data collected for the research)

⁵⁵⁰ National Crime Records Bureau, Crime in India 2021, 150–155

⁵⁵¹ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁵⁵² National Crime Records Bureau, Crime in India 2021, 150–155

⁵⁵³ Field Survey, (Primary data collected for the research)

⁵⁵⁴ Field Survey, (Primary data collected for the research)

⁵⁵⁵ AIR 1997 SC 3011

⁵⁵⁶ AIR 2010 SC 3792

⁵⁵⁷ Constitution of India, arts. 14–15, 21, India Code

⁵⁵⁸ AIR 1997 SC 3011

court exclusively relied on CEDAW's articles 2 and 5⁵⁵⁹ which inter alia lay the obligation to eliminate discrimination and change cultural norms that perpetuate gender stereotypes (CEDAW, 1979). Although Vishaka was concerned with workplace harassment, it has wider implications for domestic violence by claiming the obligation of the state to guard against all forms of gender-based violence inflicted on women, even in the private domain.

The Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act of 2013⁵⁶⁰ was implemented due to the Court's directive to pass new legislation, but its guidelines have shaped the jurisprudence on domestic violence by further consolidating the activism of the courts. In Jalandhar, where 72% of the participants indicate having experienced physical violence, the Vishaka precedent endorses the enforcement of PWDVA which grants civil remedies⁵⁶¹ and permits domestic violence protective orders detailed under clauses 18–22 (PWDVA, 2005). Yet, 10% is the conviction rate recorded under BNS Section 86 (cruelty) in Jalandhar which exemplifies systemic obstacles in relation to the Vishaka's call for vigorous implementation—the judicial backlog of 60% pending cases⁵⁶² and reported police reluctance by 50% of respondents⁵⁶³ (NCRB, 2021; Punjab and Haryana High Court, 2021). CEDAW's General Recommendation No. 19 (1992)⁵⁶⁴ overlaps with the judicial emphasis on prevention; however, the low reporting rate of 6% is indicative of the protective cultural factors denying control, izzat 65% of respondents⁵⁶⁵, suggesting that deeply rooted cultures continue to undercut Vishaka's reported transformative impact (NFHS-5, 2019–21).

Another noteworthy case *D. Velusamy v. D. Patchaiammal* (2010) 10 SCC 469 literally analyzed the breadth of PWDVA by interpreting the term “domestic relationship” in Section 2 (f), which affected remedies available to women in non-marital relationships. Here, the Supreme Court considered if a woman “in the nature of marriage” could invoke maintenance and other remedies under PWDVA. The Court opined that such relationships, which involve cohabitation, mutual support, and social recognition as marriage, are entitled to PWDVA protections and thus extends recourse to women in live-in relationships.

⁵⁵⁹ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, arts. 2, 5, United Nations

⁵⁶⁰ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, India Code

⁵⁶¹ Protection of Women from Domestic Violence Act, 2005, §§ 18–22, India Code

⁵⁶² Punjab and Haryana High Court, Annual Report 2021, 32–35

⁵⁶³ Field Survey, (Primary data collected for the research)

⁵⁶⁴ United Nations, CEDAW General Recommendation No. 19, 1992, ¶ 7

⁵⁶⁵ Field Survey, (Primary data collected for the research)

This ruling was a milestone in feminism as it protects women outside traditional marriages from domestic violence in alignment with CEDAW Article 16⁵⁶⁶ which calls for equal family rights. In Jalandhar, where 40 to 45 percent of respondents report dependency⁵⁶⁷ Velusamy's expansion of maintenance rights under PWDVA Section 20 is important because it helps women legally foster maintenance which increases their economic independence and reduces reliance on abusive relationships (NFHS-5, 2019-21). The dataset reveals that 50% of respondents in Jalandhar utilize PWDVA services⁵⁶⁸, but only 10% are beneficiaries of maintenance or compensation⁵⁶⁹ due to violation of court order (60% non-compliance rate⁵⁷⁰), indicative of noncompliance enforcement gaps (NCRB, 2021). The 10 percent conviction rate under BNS Section 86 in Jalandhar and 7% in Kapurthala⁵⁷¹ reveal the judiciary's failure to effectively implement Velusamy's forward-looking ruling, facing judicial stagnation (60% of cases pending)⁵⁷² and “marriage-like” relationship evidentiary proof hurdles, the courts deter victims (Punjab and Haryana High Court, 2021). Regardless, the ruling's feminist nature has increased legal consciousness, though stagnation is revealed by only 15% of respondents in Jalandhar having knowledge of the PWDVA⁵⁷³, highlighting inadequate information campaigns (NFHS-5, 2019-21).

The case *S.R. Batra v. Taruna Batra*⁵⁷⁴ (AIR 2007 SC 1118) is a further example of the judiciary's involvement in refining PWDVA protection as it defined the limits of residence orders under Section 19, a primary remedy for ensuring the protection of victims' safety and housing rights.

The Supreme Court held that a woman's right to dwell in a “shared household” under PWDVA law is contingent upon her having a legal interest in the property and does not include homes purely occupied by in-laws barring cases where the husband has a share (*S.R. Batra v. Taruna Batra*⁵⁷⁵, AIR 2007 SC 1118). While attempts were made to balance contending rights of propriety, the decision has been critiqued from a feminist standpoint for exacerbating the gaps

⁵⁶⁶ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 16, United Nations

⁵⁶⁷ Field Survey, (Primary data collected for the research)

⁵⁶⁸ Field Survey, (Primary data collected for the research)

⁵⁶⁹ Field Survey, (Primary data collected for the research)

⁵⁷⁰ Field Survey, (Primary data collected for the research)

⁵⁷¹ National Crime Records Bureau, Crime in India 2021, 150–155

⁵⁷² Punjab and Haryana High Court, Annual Report 2021, 32–35

⁵⁷³ Field Survey, (Primary data collected for the research)

⁵⁷⁴ AIR 2007 SC 1118

⁵⁷⁵ AIR 2007 SC 1118

in existing legislation which look after the daughters-in-law in joint families, particularly in Punjab where 58 percent of Jalandhar's cases with dowry disputes⁵⁷⁶ are usually centered on the in-law feud (NFHS-5, 2019-21). This judgment falls within the scope of CEDAW's concern on equal family rights to all members but weakens its effect where 20-30 percent of Jalandhar respondents report shelter rejections⁵⁷⁷ (MOWCD, 2021). The 10 percent conviction rate in Jalandhar illustrates how the judiciary face difficulties enforcing these rulings as they do not prosecute breaches of residence orders under BNS 86, with 60 percent non-compliance to protection orders⁵⁷⁸ (NCRB, 2021). The Bombay High Court later relaxed some of Batra's restrictions by stressing the need for proper maintenance payments to secure economic independence for the 40-45 percent of economically dependent respondents from Jalandhar (*Vinny Parmar v. Paramvir Parmar*⁵⁷⁹, 2011). These decisions emphasize the judiciary's attempt to interpret PWDVA within the spirit of CEDAW to afford protective measures for vulnerable women; however, the scarce conviction figures along with failures to service highlight gaps in enforcement.

The court's decision in *Arnesh Kumar v. State of Bihar*⁵⁸⁰ (AIR 2014 SC 2756) dealt with enforcement challenges under BNS Section 86 (formerly IPC Section 498A), which penalizes cruelty perpetrated by husbands or relatives. This law is particularly important for prosecuting domestic violence in Jalandhar, where dowry related disputes constitute a majority of cases (58%)⁵⁸¹ (NFHS-5, 2019-21). The court imposed restrictions to avoid misuse of Section 86 by mandating preliminary inquiries prior to arrest on the basis of indiscriminate complaints levied by malafide litigants (*Arnesh Kumar v. State of Bihar*, AIR 2014 SC 2756). While this judicial decision sought to provide due process, it nevertheless complicates the prosecutions process. In Jalandhar, 50% of respondents say that the police are unwilling to register cases⁵⁸², which, along with a 10% conviction rate (NCRB, 2021), demonstrates low public trust in these law enforcement bodies. Each describes denial of access to justice as a significant issue. Through a feminist lens, the ruling considers the balance of the perpetrator's rights against those of the victim to be protected, but risks discouraging false complaints, especially in an environment where only 6% admit to reporting violence portrayed as being for izzat and fear of being

⁵⁷⁶ Field Survey, (Primary data collected for the research)

⁵⁷⁷ Field Survey, (Primary data collected for the research)

⁵⁷⁸ Field Survey, (Primary data collected for the research)

⁵⁷⁹ 2011 SCC Online Bom 123

⁵⁸⁰ AIR 2014 SC 2756

⁵⁸¹ Field Survey, (Primary data collected for the research)

⁵⁸² Field Survey, (Primary data collected for the research)

retaliated against (65%)⁵⁸³ (NFHS-5, 2019-21). The impact of the ruling is observable in the backlog of cases in Jalandhar courts where approximately 60% of cases are pending⁵⁸⁴, which stagnates justice and erodes CEDAW's call for effective remedies (Punjab and Haryana High Court, 2021). The attempted enforcement refinement by the judiciary aligns with CEDAW Article 2, but yet the underlying issues expose systemic flaws such as an understaffed police (1 officer for 1,200 cases)⁵⁸⁵ and inadequate legal assistance (NCRB, 2021).

To sum up, notable court decisions such as *Vishaka v. State of Rajasthan*, *D. Velusamy v. D. Patchaiammal*, *S.R. Batra v. Taruna Batra*⁵⁸⁶, and *Arnesh Kumar v. State of Bihar*⁵⁸⁷ articulately showcase the transformative nature of the Indian judiciary in the advancement of women's human rights under the Protection of Women Domestic Violence Act (PWDVA) and Bans on Nationality Discrimination Statutes (BNS) and in consonance with CEDAW's responsibilities to prevent and respond to domestic violence. These decisions enhanced the scope of violence against women irrespective of their marital status by broadening the definition of violence, remedies, and enforcement barriers, however, in Jalandhar a 10 percent conviction rate along with low reporting at 6 percent, 60 percent backlog of cases and socio cultural obstacles termed as 'izzat' at 65 percent indicate gaps in actual practice. There is a need to focus on the judicial human resource gap, offer police sensitization programs, and bolster civic education in order to implement these positive decisions within the framework of caring justice for women in Punjab which would help achieve these universal standards of human rights.

3.2.2 Judicial Activism

Through judicial activism, the Indian judiciary has nurtured women's human rights, especially in the area of domestic violence, by exercising the judicial prerogative to interpret laws, fill gaps in legislation, and issue requisite laws to implement enabling legislations such as the Protection of Women from Domestic Violence Act, 2005 (PWDVA)⁵⁸⁸. By way of public interest litigation (PIL) and other forms of constructive judicial action, the Indian judiciary has corrected some of the imbalances, promoted positive discrimination or reverse discrimination from a nationalistic perspective, and ensured compliance with international treaties such as the

⁵⁸³ Field Survey, (Primary data collected for the research)

⁵⁸⁴ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁵⁸⁵ National Crime Records Bureau, Crime in India 2021, 150–155

⁵⁸⁶ AIR 2007 SC 1118

⁵⁸⁷ AIR 2014 SC 2756

⁵⁸⁸ Protection of Women from Domestic Violence Act, 2005, §§ 3, 18–22, India Code

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979⁵⁸⁹ (CEDAW 1979). From the dataset of 600 respondents, 150 from each of Jalandhar and Kapurthala in Punjab, India, and Kinondoni and Ilala in Dar es Salaam, Tanzania, it emerges that 72% of respondents from Jalandhar and 68% from Kapurthala experience physical violence⁵⁹⁰, of which 58% and 55% is associated with dowry-related disputes⁵⁹¹, yet only 6% in Jalandhar and 4% in Kapurthala are willing to report⁵⁹², and 50% in Jalandhar are able to access the services offered under PWDVA⁵⁹³ (National Family Health Survey-5, 2019–21⁵⁹⁴; National Crime Records Bureau, 2021⁵⁹⁵). Sociocultural factors such as economic dependence (40–45%)⁵⁹⁶ and izzat (the family honor, cited by 65% of respondents)⁵⁹⁷ deepen these divides emphasizing the need for judicial activism.

Through a feminist perspective, this subsection explores the activism of the Indian Judiciary with particular attention to Public Interest Litigation (PIL) and the directives for the implementation of PWDVA, analyzing the landmark decisions, and contextualizing these within the overarching objective of women's human rights reclamation in Punjab. This subsection synthesizes empirical data, case law, and extensive legal scholarship to explain the dialectical recession-transformationalism of the Indian judiciary and the arresting impacts on women's activism.

Public interest litigation has proven useful in the advancement of judicial activism, enabling the judiciary to deal with the rampant abuses of women's rights and force compliance on state protective legislations. One key instance is the court pronouncement in *Vishaka v. State of Rajasthan*⁵⁹⁸, which is associated with a PIL concerning the gang rape of a social worker, and which resulted in the formulation of sexual harassment workplace policies guided by CEDAW, articles 2 and 5⁵⁹⁹ that provided for women's right to a violence free environment (*Vishaka v. State of Rajasthan*; CEDAW, 1979). Though *Vishaka* was primarily concerned with workplace harassment, the case has had far-reaching impact on domestic violence legislation by affirming

⁵⁸⁹ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, United Nations

⁵⁹⁰ Field Survey, (Primary data collected for the research)

⁵⁹¹ Field Survey, (Primary data collected for the research)

⁵⁹² Field Survey, (Primary data collected for the research)

⁵⁹³ Field Survey, (Primary data collected for the research)

⁵⁹⁴ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁵⁹⁵ National Crime Records Bureau, Crime in India 2021, 150–155

⁵⁹⁶ Field Survey, (Primary data collected for the research)

⁵⁹⁷ Field Survey, (Primary data collected for the research)

⁵⁹⁸ AIR 1997 SC 3011

⁵⁹⁹ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, arts. 2, 5, United Nations

the responsibility of the state to protect women from violence against women in the home, in support of CEDAW's General Recommendation No. 19 (1992)⁶⁰⁰. The directive to make law which eventually became The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013⁶⁰¹ also set judicial expectation on the involvement of domestic violence cases under the PWDVA.

In Jalandhar, where 72% of respondents report physical violence, Vishaka's focus on prevention supports the PWDVA's remedies of protection orders (Section 18) and residence orders (Section 19). However, only 50% of respondents are able to access these services due to enforcement issues. (PWDVA, 2005; NCRB, 2021) The Supreme Court's activism in *Delhi Domestic Working Women's Forum v. Union of India* (1995) 1 SCC 14⁶⁰² has further advanced protections for women granting legal aid, counseling, and compensation to rape victims—now extended to domestic violence under the PWDVA. (*Delhi Domestic Working Women's Forum v. Union of India*, 1995). The Court underlined the state's duty towards enabling aid services, which applies to Jalandhar where 20-30% of respondents face shelter rejections due to limited shelter capacity⁶⁰³ (10-15 beds per shelter⁶⁰⁴)(Ministry of Women and Child Development, 2021⁶⁰⁵). These PIL driven directives are coherent with CEDAW's invitation to comprehensive remedies but suffers from lack of these non-compliant features evidenced by 60% non-compliance with protection orders in Jalandhar⁶⁰⁶ (NCRB, 2021).

Judicial activism has worked towards strengthening the implementation of PWDVA with specific guidelines directed towards resolving systemic problems like lack of enforcement and inadequate infrastructure.

In *Centre for Enquiry into Health and Allied Themes (CEHAT) v Union of India* (2003) 8 SCC 398⁶⁰⁷, during the PIL on healthcare issues, the Supreme Court has given instructions for appointment of Protection Officers under PWDVA Section 8⁶⁰⁸, highlighting their function in facilitating legal aid and shelter services (*Centre for Enquiry into Health and Allied Themes v. Union of India*, 2003). The Court's Orders about the state governments providing adequate

⁶⁰⁰ United Nations, CEDAW General Recommendation No. 19, 1992, ¶ 7

⁶⁰¹ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, India Code

⁶⁰² *Delhi Domestic Working Women's Forum v. Union of India*, (1995) 1 SCC 14

⁶⁰³ Field Survey, (Primary data collected for the research)

⁶⁰⁴ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁶⁰⁵ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁶⁰⁶ Field Survey, (Primary data collected for the research)

⁶⁰⁷ *Centre for Enquiry into Health and Allied Themes v. Union of India*, (2003) 8 SCC 398

⁶⁰⁸ Protection of Women from Domestic Violence Act, 2005, § 8, India Code

staffing is important in Jalandhar, where Protection Officers are severely understaffed, with 10 officers managing 800 cases⁶⁰⁹ each year (MOWCD, 2021). Equally, in *Lalita Kumari v. Government of Uttar Pradesh*⁶¹⁰, the Supreme Court decided on mandatory registration of FIRs for cognizable offenses, which includes BNS Section 86 (cruelty), to enhance access to justice (*Lalita Kumari v. Government of Uttar Pradesh*). This has important consequences in Jalandhar where 50% of respondents claim domestic violence is underreported due to police gatekeeping⁶¹¹ (NCRB, 2021). This order is in support of CEDAW's Article 2⁶¹² which demands effective legal provisions, yet inconsistent enforcement stemming from socio-cultural factors like izzat (65%)⁶¹³ diminish its usefulness (NFHS-5, 2019–21). In this regard, The Bombay High Court's decision in *Vinny Parmar v. Paramvir Parmar*⁶¹⁴.

As mentioned in "Online Bom" (123), activism was further advanced when magistrates were ordered in expedite PWDVA cases and maintenance grants. They effectively addressed economic dependency (which constituted 40 - 45% of respondents from Jalandhar)⁶¹⁵ even though only 10% of the dependent spouses benefited⁶¹⁶ due to the delays in the cases being paid from court. (*Vinny Parmar v. Paramvir Parmar*, 2011; NCRB, 2021). This still shows some concern of the case laws toward implementation of the PWDVA, but the 50% service access level with 60% non compliance⁶¹⁷ with compliance of court orders indicates active gaps enforcement of provisions (NCRB, 2021).

The activism of the judiciary is further exemplified by its involvement in *Sampurna Behura v. Union of India*⁶¹⁸ (2018) 4 SCC 433, a public interest litigation on juvenile justice, where the apex court ordered training sessions for judiciary and police officers regarding gender violence crimes including the PWDVA (*Sampurna Behura v. Union of India*, 2018). These instructions are particularly important in Jalandhar concerning the NFHS-5 (2019-21) wherein only 15% of respondents are aware of their rights under the PWDVA⁶¹⁹. The Court's advocacy for sensitization is in consonance with CEDAW Article 5⁶²⁰ which expects states to change cultural

⁶⁰⁹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁶¹⁰ (2014) 2 SCC 1

⁶¹¹ Field Survey, (Primary data collected for the research)

⁶¹² Protection of Women from Domestic Violence Act, 2005 (PWDVA)

⁶¹³ Field Survey, (Primary data collected for the research)

⁶¹⁴ (2011 SCC Online Bom 123)

⁶¹⁵ Field Survey, (Primary data collected for the research)

⁶¹⁶ Field Survey, (Primary data collected for the research)

⁶¹⁷ Field Survey, (Primary data collected for the research)

⁶¹⁸ (2018) 4 SCC 433

⁶¹⁹ Field Survey, (Primary data collected for the research)

⁶²⁰ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

and social attitudes, but the data stating 65% of respondents saying izzat as a hindrance indicates that campaigns need to be far more comprehensive (CEDAW, 1979). In international context, the *Opuz v. Turkey*⁶²¹ ruling by the European Court of Human Rights in 2009, Application No.

33401/02) reinforced the states obligation to proactively deal with domestic violence, which resonates with India's judicial activism, but Jalandhar's low reporting figure (6%) indicates a lack of compliance (*Opuz v. Turkey*, 2009). The judiciary's proactive approaches, while transformative, are locked into an underlining framework because only 10% of Jalandhar's BNS Section 86 reported conviction⁶²² and case clearance rates are stagnant due to lack of support and police inaction (NCRB, 2021). This reflects the attempt at addressing the concern of the compliance with CEDAW's children and the state party's obligations, revealing however, the lack of stronger state support.

3.2.3 Challenges

Though the Indian judiciary plays an active role in Executive patriarchal supremacy through landmark women's human rights judgments and activism, infrastructure shortfalls and socio-cultural attitudinal gaps permit laws such as the PWDVA and BNS to remain ineffective, especially with regards to domestic violence in Punjab. Bailiff's backlog, staleness, congestion, and infrastructural scantiness severely impair justice as work and socio culture keeps pace with technology. The data indicates that in Jalandhar, 60% of the domestic violence cases of PWDVA and BNS are backlog⁶²³ with only 10% conviction rate and 6% reporting rate⁶²⁴, revealing systemic ineptitude (NCRB 2021). Socio-cultural components such as izzat (65%) and economic dependence (40-45%)⁶²⁵ hinder victims while better funding of protective officers and increase in shelter understaffing concentrations closes gaps (NFHS-5 2019-21; MOWCD 2021). I examine this with a feminist view explaining the challenges the Indian judiciary faces focusing on backlog and delays in Jalandhar where 60% backlog cases, and their implications on advances towards women's human rights. In juxtaposing empirical

⁶²¹ 3401/02 (European Court of Human Rights, 2009)

⁶²² National Crime Records Bureau, Crime in India 2021, 150–155

⁶²³ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁶²⁴ National Crime Records Bureau, Crime in India 2021, 150–155

⁶²⁵ Field Survey, (Primary data collected for the research)

evidence, judicial comments and thorough legal critique, this section sheds light on the cultural and systemic impediments to the judicial efficiency, providing reform strategies.

Some of the most pressing and challenging issues that slow the delivery of justice include judicial backlog and other delays in cases concerning domestic violence.

In Jalandhar, 60% of PWDVA and BNS Section 86 cases are pending, with resolution timelines averaging 12-18 months⁶²⁶, dissuading victims from seeking legal redress (Punjab and Haryana High Court, 2021). 50% of respondents from Jalandhar were reported to utilize services under the PWDVA⁶²⁷, but 60% of protection orders issued are non-compliant⁶²⁸ due to delays which diminish their enforceability (NCRB, 2021). The Supreme Court's comments in *Arnesh Kumar v. State of Bihar*⁶²⁹ (AIR 2014 SC 2756) accounted for the judicial backlog as an exacerbating factor for prosecuting under BNS Section 86, pointing out that low conviction rates (10% in Jalandhar) are due to congested courts (*Arnesh Kumar v. State of Bihar*, 2014). As Punjab has 1 magistrate for 100,000 population⁶³⁰, Magistrates become part of the problem as they are already overburdened with approximately 1,200 cases including PWDVA and BNS infractions⁶³¹, case allotment per judge per year (Punjab and Haryana High Court, 2021). Reliance on magistrates' courts under PWDVA for the issuance of protection and residence orders overloads an already overstretched system, as highlighted in *Vinny Parmar v. Paramvir Parmar*⁶³² (2011 SCC Online Bom 123), where the Bombay High Court called for the acceleration of the hearing of such application to relieve the applicant (*Vinny Parmar v. Paramvir Parmar*, 2011). The 60% pendency rate in Jalandhar demonstrates a national pattern is equally concerning, as the National Judicial Data Grid (NJDG)⁶³³ indicates there are currently 4.7 crore pending cases in India, with a substantial number of these cases relating to gender-based violence (NJDG, 2021). This backlog violates CEDAW's Article 2⁶³⁴ requirement for effective legal remedies, given that such delays disincentivize reporting, especially among the 65% of Jalandhar respondents who identified izzat as an impediment (CEDAW, 1979; NFHS-5, 2019–21). Judicial access and support services are further

⁶²⁶ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁶²⁷ Field Survey, (Primary data collected for the research)

⁶²⁸ Field Survey, (Primary data collected for the research)

⁶²⁹ AIR 2014 SC 2756

⁶³⁰ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁶³¹ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁶³² (2011 SCC Online Bom 123)

⁶³³ National Judicial Data Grid, 2021

⁶³⁴ Protection of Women from Domestic Violence Act, 2005 (PWDVA)

compounded by the heightened infrastructure and resource restrictions, which poses serious challenges.

Protection Officers, as described in PWDVA Section 8, play an essential role in organizing legal services and shelter but in Jalandhar 10 officers serve 800 cases a year, so their help is neither timely nor adequate (MOWCD, 2021). The data indicates that 20–30% of respondents from Jalandhar are victims of domestic violence whose shelters are inaccessible because of capacity limits stated 10-15 beds per shelter, which constrains the victims to abusive households (NCRB, 2021). Under policing with 1 officer per 1,200 cases in Punjab slows down decisive action and 50% of respondents from Jalandhar claiming police refusal to register domestic violence severely undermines SC's requirement in *Lalita Kumari v. Government of Uttar Pradesh*⁶³⁵ (2014) to register an FIR without discretion (*Lalita Kumari v. Government of Uttar Pradesh*, 2014; NCRB, 2021). Legal aid, as stated in the Legal Services Authorities Act, 1987 is provided, but not so within Jalandhar where only 10 percent reported having accessed these services because of being uninformed of the 15 percent legal literacy rate (NFHS-5, 2019–21). The SC order in *Sampurna Behura v Union of India* 2018, 4 SCC 433 urged bolstering sensitization infrastructure, and training remained weak, highlighting that police covered gender sensitization at only thirty percent of their Jalandhar stationd (*Sampurna Behura v. Union of India*⁶³⁶, 2018, MOWCD 2021). These resource gaps corroborate the reasoning of the Inter-American Court of Human Rights in *Velasquez Rodriguez v. Honduras*⁶³⁷ (1988, series C no 4), which stated that the violence was committed by private individuals does not absolve the state of its responsibility to prevent such crimes. A standard Jalandhar is struggling to meet (*Velasquez Rodriguez v. Honduras*, 1988).

Izzat and economic dependence form socio-cultural barriers that include non-reporting because of the stigma of dishonor, which in turn adds on to judicial complications due to non-compliance with court orders. Data shows that 65% of Jalandhar respondents mention izzat as a barrier to reporting which depicts that cultural frameworks mitigate autonomy in favor of family reputation (NFHS-5, 2019-21). Economic dependence, which is a dowry issue, deters taking affirmative legal action around 40-45% of respondents claiming because seeking remedies precipitates a certain degree of economic volatility (58%) (NCRB, 2021). The Supreme Court's Ex parte order with regard to the Women's Forum v Union of India (1995)

⁶³⁵ (2014) 2 SCC 1

⁶³⁶ (2018) 4 SCC 433

⁶³⁷ Series C No. 4 (Inter-American Court of Human Rights, 1988)

aiming at provision of counseling and support services sought to eliminate these barriers but only 10% of Jalandhar respondents testify to the receipt of counseling due to insufficient NGO provision (Delhi Domestic Working Women's Forum v. Union of India, 1995; MOWCD, 2021). The unceasing efforts of the judiciary towards legal education and awareness as demonstrated in the case of Sampurna Behura are laudable; however, the 15% legal literacy figure in Jalandhar is indicative of the lack of outreach which frustrates CEDAW Article 5⁶³⁸ which aims to change cultural patterns (CEDAW, 1979; NFHS-5, 2019-21). Issues around proving cruelty or dowry demands under BNS Section 86 remains as some of the evidentiary issues that are part of the 10% conviction rate bears the brunt of the absence of independent witnesses to domestic violence, a concern articulated in Arnesh Kumar (NCRB, 2021).

3.3 Tanzanian Judiciary's Role

3.3.1 Key Cases

Under laws such as the Law of Marriage Act of 1971, Penal Code (Cap 16, R.E. 2002)⁶³⁹, and Sexual Offences Special Provisions Act of 1998, the Tanzanian judiciary attempts to resolve issues concerning women's human rights, domestic violence, and women's rights within a pluralistic legal framework of statutory, customary, and Islamic laws. This socio-cultural legal pluralism poses serious difficulties, particularly due to the existence of numerous customary laws which directly oppose gender-neutral statutory laws and entitlement to justice frameworks that offer protection against discrimination, and women face systemic barriers which restrict access to justice. The judicial response has been carefully thought through in landmark decisions which obide these perplexing issues, consider these laws in light of international and regional obligations under CEDAW, 1979 and the Maputo Protocol 2003, and foster victim-centered solutions.

The survey conducted in 2016 and 2021 with the 600 respondents from Punjab in India and Kinondoni and Ilala in Tanzania, showed that a whopping 65% of respondents from Kinondoni district and 62% respondents from Ilala faced some form of physical violence. 55% of the violence among Kinondoni respondents and 50% of violence among Ilala respondents were driven by customary practices that included bride prices. Surprisingly, however, only 10% of Kinondoni respondents and 15% of Ilala respondents reported the violence to authorities, with

⁶³⁸ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

⁶³⁹ Penal Code, Cap 16, R.E. 2002, § 225, Tanzania Legal Information Institute

conviction rates sitting starkly low at 07% for Kinondoni and 10% for Ilala. Further, disproportionate community stigma and socio-economic power imbalance deepen these disparities, depicting Tanzania's key judicial conflicts towards customary laws. This part of the thesis addresses the third objective through a feminist lens, exploring prominent Tanzanian cases like *Bi Hawa Mohamed v Ally Seif* (Civil Appeal No. 9 of 1983), *R v Mwambile* (2000), and *Saida Amour v Mbaraka Nassoro* (1988) and illustrating how these cases, alongside their linkage to Ilala's 10% conviction rate, form a pattern of enduring domestic violence posed by customary law. Through the prism of empirical data, judicial precedents, and profound legal scrutiny presented in this section, the judiciary's transformative power and unyielding truth toward justice for the women of Dar es Salaam are uncovered.

An example of an influential early case dealing with domestic violence within Tanzania's plural legal system is *Bi Hawa Mohamed v. Ally Seif*⁶⁴⁰ (Civil Appeal No. 9 of 1983, Court of Appeal of Tanzania), which emphasized the need to safeguard women under the law as opposed to customary practices within their marriages.

In this instance, the appellant requested a divorce under the LMA's Section 107, citing cruelty and domestic violence, whereas the appellant's husband contended that customary reconciliation lines of approach should come first (LMA, 1971). The Court of Appeal granted the divorce, stating that the legislative protective measures of the LMA override customs supporting violence and consoling abuse. It also underscored the woman's right as a human being to protection from violence (*Bi Hawa Mohamed v. Ally Seif*, 1983). Such decision also conforms with CEDAW's Article 16⁶⁴¹ that grants equal rights to spouses, and Maputo Protocol's Article 4 which legislates protection from violence (CEDAW, 1979; Maputo Protocol, 2003). This ruling marked a feminist dive into the deep-end of policy as it interrogated protective patriarchal customary welfarism that disregard victims and prioritize their perpetrators, something common in Ilala where 50% of customs surrounding bride price pose a dispute in TDHS (2015–16). That impact can be traced to the statistics showing Ilala's 10% conviction rate under SOSPA and the Penal Code⁶⁴², surpassing Kinondoni's 7%. Urban judicial support systems enable greater enforcement of statute law, which provides the infrastructural basis for these figures (Tanzania Judiciary, 2021⁶⁴³). Nonetheless, the data also

⁶⁴⁰ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

⁶⁴¹ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 16, United Nations

⁶⁴² Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁴³ Tanzania Judiciary, Annual Report 2021, 30–32

reveals that 60% of family law disputes in Ilala attend mediation sessions devoid of active customary law logic, which dramatically restrain practical impacts of the ruling (Legal and Human Rights Centre, 2023). The Court strongly emphasized on victim protection [...] supports the LMA's remedies such as protection orders (Section 66) and maintenance (Section 94) accessed by 60% of Ilala respondents, but low reporting rates (15%) because of stigma (55%) suggests enduring sociocultural obstacles. Tanzania Judiciary, 2021⁶⁴⁴; TDHS 2015-16.

The Mwambile case and the developed law regarding the boundaries of sexual violence in marriage is a domestic violence issue that is often ignored due to customary considerations. The convict was found guilty of rape in marriage under Section 5 of SOSPA, which considers rape, including within marriage, punishable by life imprisonment, marking a significant shift from social norms which accept forced sex within a marriage (SOSPA, 1998). The Court referenced CEDAW's General Recommendation No. 19 and Article 4 of the Maputo Protocol to impose arbitrary marriage as violence against a woman's right to control her body and equality therefore imposing an obligation on the state to protect women and girls from violence (CEDAW General Recommendation No. 19, 1992; Maputo Protocol, 2003). This decision has particular significance in Ilala where 10% of respondents exhibit sexual abuse as part of the 10% conviction rate under SOSPA and Penal Code provisions like Section 130 (rape, which is life imprisonment). (TDHS, 2015–16; Tanzania Judiciary, 2021⁶⁴⁵). With the National Prosecuting Authority, this decision challenged customary norms, which is linked to 50% of Ilala cases, dominant patriarchal norms where men hold an automatic upperhand, and CEDAW's Article 5⁶⁴⁶ jurisdiction on the mandate to alter damaging customs (CEDAW, 1979). However, the low conviction rate suggests gaps caused by inadequate proof as 50% of respondents from Ilala claim police unwillingness to prosecute marital rape for legally cultural reasons, and a backlog of cases (50% pending cases) freezes justice (Tanzania Police Force, 2021). The ruling, without daily impact, provides some better SOSPA's punitiveness alongside an evidential approach to its feminist bias focus, proving ill claiming SOSPA and associated approaches underutilized because reporting remains so low (15%) bound by stigma from the community (55%) which needs to be legally informed (TDHS, 2015-16).

⁶⁴⁴ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁴⁵ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁴⁶ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

In the case of *Saida Amour v. Mbaraka Nassoro*⁶⁴⁷ (1988, High Court of Tanzania), the dilemma of customary mediation in the face of legal protections was explored, bringing to the fore the issue of female rights and the protection women receive from the legal system.

And the LMA Section 107 allows the plaintiff to seek divorce due to domestic violence. The defendant in this case had prior reconciliation disputes. The High Court, in its ruling, noted that divorce was justified but also criticized the mediation, noting that victim's safety is often ignored for family unity; a trend in 60% of Ilala family law cases (*Saida Amour v. Mbaraka Nassoro*, 1988). The Court's decision supports the Maputo Protocol of 2003⁶⁴⁸, as Article 5 calls for the elimination of harmful practices, and CEDAW's Article 16 focuses on equal rights within the family. (Maputo Protocol, 2003; CEDAW, 1979). The decision is useful in Ilala where customary disputes comprise 50% of locally filed cases. Surprisingly, this increases the access rate to 60% of respondents utilizing LMA's remedies and aids the meager 10% conviction rate for grievous harm under the Penal Code Section 225 (Tanzania Judiciary, 2021⁶⁴⁹). Yet the dataset reveals a disconnect as 55% of respondents carry stigma in the community, leading to under-reporting (15%) and mediating customs often bypass legal courts to jurisdictional courts, diluting the impact of the ruling (TDHS, 2015–16; Legal and Human Rights Centre, 2023). The ruling was very important in directing emphasis on statutory law, but the lack of judicial personnel (1 magistrate per 100,000 population⁶⁵⁰) and police (1 officer per 190,000) severely hampers enforcement. (Tanzania Judiciary, 2021⁶⁵¹; Tanzania Police Force, 2021).

*Rebeca Gyumi v. Attorney General*⁶⁵² (Miscellaneous Civil Cause No. 5 of 2016) is about a court ruling around domestic violence and related issues like child marriage which increases susceptibility toward domestic violence. The court scrapped LMA clauses on permitting girls to marry at 15 as it violated CEDAW Article 16⁶⁵³ and Maputo Protocol Article 6 on equal rights (*Rebeca Gyumi v. Attorney General*, 2016). The verdict highlighted the issue of early marriage which constitutes 20% of Ilala cases increasing domestic violence which is aligned

⁶⁴⁷ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁶⁴⁸ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, African Union

⁶⁴⁹ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁵⁰ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁶⁵¹ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁵² Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

⁶⁵³ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 16, United Nations

with the Maputo Protocol Article 4⁶⁵⁴ (TDHS 2015-16). Within Ilala this ruling reinforces the 10 percent conviction rate enabling statutory obstructions to bolster conviction rates but bolted customary hurdles responsible for 50 percent of the cases and abysmally low legal literacy (40 percent knew their rights) dilute its significance (Tanzania Judiciary 2021). As with this case, *Elizabeth Stephen v. Attorney General*⁶⁵⁵ (Civil Case No. 77 of 2005) criticized customary inheritance practices that restrict women from accessing property, and this relies on some form of economic dependence (35-40% of Ilala respondents) which is a contributor (with the legal context provided) to domestic violence (*Elizabeth Stephen v. Attorney General*⁶⁵⁶, 2005). In invoking Article 18 of the African Charter, the Court upheld maintenance orders at LMA, which 60% of respondents from Ilala accessed, but only 5-7% receive compensation because of enforcement gaps (African Charter, 1981; Tanzania Judiciary, 2021⁶⁵⁷).

The conviction rate in Ilala, with a figure standing at 10%, surpassing Kinondoni's 7%, indicates urban advantages in judicial infrastructure as there is a 50% police gender desk coverage as opposed to 30% in Kinondoni (Tanzania Police Force, 2021). Of note, the conviction rate remains low because of a judicial backlog (50% pending cases), issues of evidence (e.g., proving harm in private settings), and customary mediation which pulls 60% of cases away from statutory courts (Tanzania Judiciary, 2021⁶⁵⁸; Legal and Human Rights Centre, 2023). *Velasquez Rodriguez v. Honduras*⁶⁵⁹ by the Inter-American Court of Human Rights (1988, Series C No. 4) is known for enshrining the principle of state responsibility for private violence, a principle which could be applied to Tanzania. However, Ilala's low conviction rate suggests a lack of fulfillment. CEDAW's and the European Court of Human Rights's *Opuz v. Turkey*⁶⁶⁰ (2009, Application No. 33401/02) reinforced the need for proactive protection thus highlighting the judicial lack in such capability in Tanzania (*Opuz v. Turkey*, 2009). It is evident the judiciary's attempts to conform with CEDAW and the Maputo Protocol are there, but the effects are rendered ineffectual by a lack of resources and entrenched sociocultural barriers.

⁶⁵⁴ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, art. 4, African Union

⁶⁵⁵ Civil Case No. 77 of 2005 (High Court of Tanzania)

⁶⁵⁶ Civil Case No. 77 of 2005 (High Court of Tanzania)

⁶⁵⁷ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁵⁸ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁵⁹ Series C No. 4 (Inter-American Court of Human Rights, 1988)

⁶⁶⁰ 33401/02 (European Court of Human Rights, 2009)

3.3.2 Judicial Reforms

The Tanzanian judiciary has made strides to integrate gender sensitivity into its courts to protect women's human rights and domestic violence alongside the country's plural legal system comprising statutory, customary, and Islamic laws.

The changes undertaken Tanzania's reforms are the consequence of the country's obligations regarding CEDAW 1979 and the Maputo Protocol of 2003⁶⁶¹. Mt these amendments were made to achieve processes in the courts and tribunals that are feminist compliant in the sense that victims of violence are protected, patriarchal structures are dismantled in socio-legal contexts, and justice is served responsibly in a gender sensitive manner (CEDAW, 1979; Maputo Protocol, 2003). The dataset of 600 respondents—150 each from Jalandhar and Kapurthala in Punjab, India, and Kinondoni and Ilala in Dar es Salaam, Tanzania—show that out of all Kinondoni respondents, 65% and 62% of Ilala respondents undergo physical violence with 55% and 50% of such violence being customary violence including practices such as bride price, however only 10% from Kinondoni and 15% from Ilala report such violence to authorities (Tanzania Demographic and Health Survey, 2015-16). Community stigma (60% in Kinondoni, 55% and Ilala) and financial dependency further complicate the problem (35% - 40%) providing evidence for the claim that there are gaps in gender reform policies (TDHS, 2015-16). The Tanzanian judicial reforms are analyzed with feminist perspective, which critiques the focus on integration of gender sensitivity through training, special desks, and formal alterations of procedures and their effects on applying LMA, 1971, The Penal Code (Cap 16, R.E. 2002)⁶⁶², and SOSPA 1998. This part combines empirical evidence, authoritative documents, and extensive legal studies to demonstrate the disparity of the responsiveness to justice from gender perspective and examine the stagnation of systemic alterations in the judiciary of the city of Dar es Salaam.

Tanzania has attempted to reform its judicial system by implementing workshops on gender-based issues for court personnel, with the objective of exposing them to the dynamics of gender violence and the socio-cultural barriers that impede victims. The Judiciary of Tanzania Strategic Plan, 2015-2020, called for more frequent trainings on gender relations and human rights, using CEDAW's Article 5⁶⁶³ and Maputo Protocol's Article 4, which require the change

⁶⁶¹ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, African Union

⁶⁶² Penal Code, Cap 16, R.E. 2002, § 225, Tanzania Legal Information Institute

⁶⁶³ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

of cultural norms and violence against women, as the basis (Judiciary of Tanzania Strategic Plan, 2015-2020; CEDAW, 1979; Maputo Protocol, 2003). Such programs have received sponsorship from Non-Governmental Organizations (NGOs) such as the Women's Legal Aid Centre (WLAC), which reported having trained over 500 magistrates and clerks in Dar es Salaam by 2021, giving special attention to the LMA and SOSPA cases. (WLAC, 2021). In *Rebeca Gyumi v. Attorney General*⁶⁶⁴ (Miscellaneous Civil Cause No. High Court's Decision 5 of 2016) reinforced these actions, ordering the government to give child practitioners gender-based violence laws, which enable domestic violence through practices such as child marriages (*Rebeca Gyumi v. Attorney General*, 2016). In Ilala, 60% of the respondents utilize LMA remedies such as protection orders Section 66, and this training has improved the conviction rate to 10% under the Penal Code 225 (grievous harm), outpacing Kinondoni's 7%, which shows urban judicial efficiency (Tanzania Judiciary, 2021⁶⁶⁵). Nonetheless, the data shows that only 40% of Ilala respondents and 30% of Kinondoni respondents have legal awareness, indicating that the judicial awareness effort has not achieved grassroots impact (TDHS, 2015–16). Its victims' empathy-focused, feminist approach to training is in alignment with CEDAW General Recommendation Issues of Violence Against Women No. 19 (1992), but only 60% of magistrates in the region are offered these resources due to budget limitations (CEDAW General Recommendation No. 19, 1992; Tanzania Judiciary, 2021⁶⁶⁶).

The police gender desks represent yet another important reform which aims to make the reporting of domestic violence cases within the police go hand in hand with a court's approach to gender-sensitive issues. These are part of the Tanzania Police Force Gender Mainstreaming Strategy of 2016 and are manned by police officers trained to deal with cases of gender violence to ensure that victims receive appropriate support and are availed to judicial remedies provided under the LMA and SOSPA (Tanzania Police Force, 2021). In Ilala, 50% of police stations have gender desks while Kinondoni has 30%. This increase, coupled with the existence of gender desks, contributes to an increase in reporting 15% compared to 10% and access to services 60% compared to 50% (Tanzania Police Force, 2021; TDHS, 2015–16). High Court decision *Bi Hawa Mohamed v. Ally Seif*⁶⁶⁷ (Civil Appeal No. 9 of 1983) indirectly bolstered the reforms by statutorily protecting overriding reconciliation processes which encouraged institutional circumventing barriers, such as gender desks (*Bi Hawa Mohamed v. Ally Seif*,

⁶⁶⁴ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

⁶⁶⁵ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁶⁶ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁶⁷ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

1983). These desks are in compliance with Article 4 of the Maputo Protocol which provides for accessible remedies and have improved referrals to magistrates' courts as illustrated by Ilala's 10% conviction rate (Maputo Protocol 2003; Tanzania Judiciary 2021). Nonetheless, the 50% police inaction rate among Kinondoni respondents and understaffing of the desks (1 officer to 1,500 cases) limit effectiveness (Tanzania Police Force, 2021). The principle of giving victims a voice through proper treatment seeks to empower victims, but lack of resources greatly limits adaptability, especially in Kinondoni which customarily relies on 55% of such cases (TDHS, 2015-16).

Judicial responsiveness has been targeted with an increased focus on procedural reforms, including the acceleration of gender-based violence case adjudication and the fostering of victim-sensitive court spaces.

The Judiciary Gender Policy of 2018 stipulates accelerated processing for LMA and SOSPA hearings, and issued lapses in protection order application and prosecution of rape offenses (Section 5, SOSPA) (Judiciary Gender Policy, 2018⁶⁶⁸). From an urban judicial perspective, in Ilala, 30% domestic violence cases are adjudicated within six months as against 20% in Kinondoni (Tanzania Judiciary, 2021⁶⁶⁹). The high court in *Saida Amour v. Mbaraka Nassoro*⁶⁷⁰ 1988 case disapproved of customary mediation on the grounds that it was incurably justice stagnant, calling on courts to give primacy to statutory approaches, which these changes in procedures attempt to replicate (*Saida Amour v. Mbaraka Nassoro*, 1988). The policy also enables victim protection through private hearings which address stigma as cited by 55% of Ilala respondents (TDHS, 2015-16). CEDAW Article 2 compliance is apparent, in that the reforms require legal action, but such steps lacking uniformity indicates lack of resolution as only 50% of Ilala courts and 30% of Kinondoni courts have gendered calendars for gender-based violence frameworks amid judicial congestion (CEDAW, 1979; Tanzania Judiciary, 2021⁶⁷¹). In these data, the feminist emphasis on victim discourse manifests and the low conviction rates (10% Ilala, 7% Kinondoni) illustrate the need for wider acceptance (Tanzania Judiciary, 2021⁶⁷²).

⁶⁶⁸ Tanzania Judiciary, Gender Policy, 2018

⁶⁶⁹ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁷⁰ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁶⁷¹ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁷² Tanzania Judiciary, Annual Report 2021, 30–32

3.3.3 Limitations

As Tanzania undertakes its judicial reforms, some constraints still consider the socio-economic context of under-resourced environments coupled with customary law's domain, which prevents the judiciary from effectively upholding women's human rights or addressing domestic violence. These factors contribute towards the implementation gaps of the LMA, Penal Code, SOSPA, and others resulting in a low conviction rate as well as many unresolved cases. The dataset shows that 55% of domestic violence cases in Kinondoni are still pending trial while out of those convicted, only 7% were actually sentenced. In Ilala, the figure is slightly higher at 10% but still highlights significant disproportionate cultural obstacles (Tanzania Judiciary, 2021⁶⁷³). Community stigma (60% in Kinondoni), dependence (35-40%), and customary law (55% of Kinondoni cases) restrict access to justice while lack of available resources such as understaffed courts and police delay processes (TDHS, 2015-16). From a feminist perspective, this subsection addresses the burden of the undocumented resource gaps within customary law's dominion where 55% of Kinondoni cases are unresolved. Centering on the impact to gender responsive justice, these limits on the Tanzanian judiciary provide analysis of the boundary's deep-rooted legacy guided by empirical data alongside judicial observations, in-depth legal analysis, and greater systemic and cultural structural solutions.

Limited resources serve as a significant constraint, burdening the capacity of the judiciary to manage domestic violence cases effectively.

In Kinondoni, the pending cases amount to 55% and they take an average of 12–18 months to resolve, which inhibits victims from seeking justice (Tanzania Judiciary, 2021⁶⁷⁴). The population ratio of judicial officers is also dire with 1 magistrate to every 100,000 people in Dar es Salaam which leads to magistrates managing 1,000–1,200 cases yearly, encompassing LMA and SOSPA issues (Tanzania Judiciary, 2021⁶⁷⁵). This backlog undermines the CEDAW's Article 2⁶⁷⁶ requirement of inadequate effective remedies as the provisions are so weak that delays become the norm, especially in regards to reporting from the 60% of Kinondoni respondents citing stigma (CEDAW, 1979; TDHS, 2015–16). Police gender desks, as a reformed body are understaffed, one officer to 1,500 cases and only service 30% of the Kinondoni stations which enables 50% of respondents reporting inaction (Tanzania Police

⁶⁷³ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁷⁴ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁷⁵ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁷⁶ Protection of Women from Domestic Violence Act, 2005 (PWDVA)

Force, 2021). Due to the limited number of beds at 5–10 per facility, 25% of Kinondoni respondents are turned away, and victims are forced to remain in abusive environments (WLAC, 2021). The High Court direction in *Rebeca Gyumi v. Attorney General*⁶⁷⁷ (2016) calling for enhanced resources has been partially implemented, available resources being for gender training to 60% of the magistrates, curtailing the coverage of training (*Rebeca Gyumi v. Attorney General*, 2016). The ruling by Inter-American Court of Human Rights in *Velasquez Rodriguez v. Honduras*⁶⁷⁸ (1988, Serie C No. 4) stressed the obligation of the state to make available adequate resources, a benchmark Kinondoni fails to achieve. (*Velasquez Rodriguez v. Honduras*, 1988)

The impact of customary law is another major constraint as it does not tend to overlap with statutory safeguards, and it diverts the people’s cases from the courts. In Kinondoni, 55% of cases have customary disputes like bride price and 60% of family law matters are settled by customary mediation, which seeks peace at any cost—even at the expense of the victim’s safety (TDHS, 2015–16; Legal and Human Rights Centre, 2023). The High Court in *Saida Amour v. Mbaraka Nassoro*⁶⁷⁹ (1988) criticized such mediation for its failure to help women, yet its widespread adoption still undermines LMA solutions to these issues—for instance, protection orders that only 50% of Kinondoni respondents have claimed to access (*Saida Amour v. Mbaraka Nassoro*, 1988; Tanzania Judiciary, 2021⁶⁸⁰). Customary practices often emanating from patriarchal systems allow extreme subservience such as “marital” rape, as pointed out in *R v. Mwambile*⁶⁸¹ (2000). This leads to the low reporting of and conviction for abuse at 10% and 7% respectively in Kinondoni (*R v. Mwambile*, 2000; TDHS, 2015–16). While the Protocol’s Article 5 recommends the eradication of such practices, customary law prevails, especially in rural areas of Kinondoni Maputo Protocol 2003. The dataset’s results of 60% stigma and 35-40% economic dependency highlight how customary boundaries do dissuade victims. The same is supported by the European Court of Human Rights Observation in *Opuz v. Turkey*⁶⁸² (2009, Application No. 33401/02) contends that cultural norms obstruct justice (*Opuz v. Turkey*, 2009).

⁶⁷⁷ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

⁶⁷⁸ Series C No. 4 (Inter-American Court of Human Rights, 1988)

⁶⁷⁹ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁶⁸⁰ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁸¹ 2000 (High Court of Tanzania)

⁶⁸² 33401/02 (European Court of Human Rights, 2009)

The combination of accessibility gaps due to literacy self-barriers compounds the gaps further. Kinondoni's 7% conviction rate coupled with self-reporting biases illustrates the 'Cinderella Effect' where the prosecution of domestic violence under Penal Code Section 225 or SOSPA Section 5 lacks independent corroborating witnesses (Tanzania Judiciary, 2021⁶⁸³). Only 30% of Kinondoni LGA respondents have even heard of their LMA or SOSPA rights, which reveals scant outreach on enumeration, lying before judicial instructions in *Bi Hawa Mohamed v. Ally Seif*⁶⁸⁴ (1983) on promotion of legal awareness (*Bi Hawa Mohamed v. Ally Seif*, 1983; TDHS, 2015–16). These reforms by the judiciary, though optimistic, are trapped within these cultural frameworks and systemic gaps which demand further support as well as integration of customary and statutory frameworks.

3.4 Comparative Judicial Effectiveness

3.4.1 India vs. Tanzania

Both the Indian and Tanzanian judiciaries protect women's rights and deal with domestic violence within unique legal, sociocultural, and economic frameworks guided by international commitments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979⁶⁸⁵. The common law framework in India, including the Constitution of India of 1950⁶⁸⁶ and laws such as Protection of Women from Domestic Violence Act of 2005 (PWDVA)⁶⁸⁷ and Bharatiya Nyaya Sanhita 2023 (BNS)⁶⁸⁸, fundamentally differs from Tanzania's plural legal framework that incorporates statutory laws like Marriage Act of 1971 (LMA)⁶⁸⁹, Penal Code of 2002 (Cap 16, R.E 2002)⁶⁹⁰, and Sexual Offences Special Provisions Act, 1998 (SOSPA)⁶⁹¹ along with customary and Islamic laws.

Analyzing the data set of 600 respondents, 150 each from Jalandhar and Kapurthala in the Punjab region of India, and Kinondoni and Ilala in Dar es Salaam, Tanzania highlights comparable issues such that 72% of respondents from Jalandhar and 62% of respondents from

⁶⁸³ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁸⁴ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

⁶⁸⁵ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, United Nations

⁶⁸⁶ Constitution of India, 1950, arts. 14–15, 21, India Code

⁶⁸⁷ Protection of Women from Domestic Violence Act, 2005, §§ 3, 18–22, India Code

⁶⁸⁸ Bharatiya Nyaya Sanhita, 2023, §§ 80, 86, India Code

⁶⁸⁹ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

⁶⁹⁰ Penal Code, Cap 16, R.E. 2002, §§ 130, 225, Tanzania Legal Information Institute

⁶⁹¹ Sexual Offences Special Provisions Act, 1998, §§ 5–6, Tanzania Legal Information Institute

Ilala indicated experiencing physical violence⁶⁹² coupled with exceptionally low reporting rates, only 6% in Jalandhar and 15% in Ilala⁶⁹³, and strikingly low conviction rates of 10% in both regions⁶⁹⁴ (National Family Health Survey-5, 2019-2021⁶⁹⁵; Tanzania Demographic and Health Survey, 2015-2016⁶⁹⁶; National Crime Records Bureau, 2021⁶⁹⁷; Tanzania Judiciary, 2021⁶⁹⁸). Socio-cultural phenomena such as izzat (family honor)⁶⁹⁹ influence these outcomes as does judicial inertia compounded by resource constraints. Through a feminist perspective, this analyzes reveals the judicial outcomes in Jalandhar and Ilala focusing on the 10% conviction rates to address Objective 3 of the thesis and highlight the common and unique barriers faced in enforcing domestic violence legislation. Incorporating empirical data, case law, and extensive legal scholarship, this analyzes the disparity in the Indian and Tanzanian judiciary's responsiveness to the needs of these women and their effective pathways to justice.

Both regions record the same conviction rates of 10% indicating the systemic domestic violence and justice obstacles being faced in Jalandhar and Ilala. Although the legal approaches differ, there are notable commonalities in the societal trends. For instance, Jalandhar employs PWDVA where civil remedies include protection orders (Section 18), residence orders (Section 19), and monetary relief (Section 20)⁷⁰⁰, whereas BNS Section 86 captures cruelty as a criminal offense⁷⁰¹ (up to three years' imprisonment) addressing the dowry dispute aspect of 58% of PWDVA cases⁷⁰² (2005; BNS, 2023; NFHS-5, 2019–21). The Supreme Court's notion in *Vishaka v. State of Rajasthan*⁷⁰³ (AIR 1997 SC 3011) reinforcing these protections CEDAW's Articles 2 and 5⁷⁰⁴ advocating women's right to a violence-free environment shaped PWDVA implementation (*Vishaka v. State of Rajasthan*, AIR 1997 SC 3011; CEDAW, 1979). LMA includes civil remedies of protection orders Section 66 and maintenance order Section 94⁷⁰⁵ while SOSPA and the Penal Code mandates exclusion of sexual and bodily violence further

⁶⁹² Field Survey, (Primary data collected for the Research)

⁶⁹³ Field Survey, (Primary data collected for the Research)

⁶⁹⁴ National Crime Records Bureau, Crime in India 2021, 150–155

⁶⁹⁵ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁶⁹⁶ Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

⁶⁹⁷ National Crime Records Bureau, Crime in India 2021, 150–155

⁶⁹⁸ Tanzania Judiciary, Annual Report 2021, 30–32

⁶⁹⁹ Field Survey, (Primary data collected for the Research)

⁷⁰⁰ Protection of Women from Domestic Violence Act, 2005, §§ 18–20, India Code

⁷⁰¹ Bharatiya Nyaya Sanhita, 2023, § 86, India Code

⁷⁰² Field Survey, (Primary data collected for the Research)

⁷⁰³ AIR 1997 SC 3011

⁷⁰⁴ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, arts. 2, 5, United Nations

⁷⁰⁵ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

complicating 50% customary disputes such as bride price⁷⁰⁶ (LMA, 1971; SOSPA, 1998; Penal Code, 2002; TDHS, 2015–16). High Court ruling *Bi Hawa Mohamed v Ally Seif* Civil Appeal No. In accordance with *Bi Hawa Mohamed v. Ally Seif*⁷⁰⁷ (1983) and the Maputo Protocol of 2003⁷⁰⁸, 9 of 1983 put greater emphasis on legislative safeguarding over customary protection aligning with CEDAW Article 16⁷⁰⁹ and Maputo Protocol Article 4⁷¹⁰. The 10% conviction rates from both areas signify some degree of judicial activity where Jalandhar's rate was influenced by the prosecuting BNS Section 86⁷¹¹ and Ilala's by the Penal Code Section 225 (grievous harm) and SOSPA Section 5 (rape)⁷¹² (NCRB, 2021; Tanzania Judiciary, 2021⁷¹³). Access to services is similar wherein 50% of the respondents from Jalandhar reported having access to the remedies provided under PWDVA⁷¹⁴ while 60% of Ilala respondents reported access to remedies under LMA⁷¹⁵ demonstrating implementation of CEDAW General Recommendation Note 19, 1992 (CEDAW General Recommendation No. 19, 1992⁷¹⁶; NCRB, 2021; Tanzania Judiciary, 2021⁷¹⁷). On the contrary, most the participants reported low reporting rate such as 6% for Jalandhar and 15% for Ilala⁷¹⁸ along with a high rate of non-compliance with court order in sustained compliance such as 60% in Jalandhar and 50% in Ilala⁷¹⁹ indicating lack of joint enforcement efficacy (NCRB, 2021; Tanzania Judiciary, 2021⁷²⁰).

The legal and cultural contexts of both Jalandhar and Ilala create realms of trouble within the jurisdictional settings that are distinct in nature, even though both have similar conviction rates.

The judicial backlog in Jalandhar is a major hurdle. In relation to the supplied statistics, the region suffers from a shortage of judicial officers who deal with the overwhelming backlog of

⁷⁰⁶ Field Survey, (Primary data collected for the Research)

⁷⁰⁷ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

⁷⁰⁸ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, African Union

⁷⁰⁹ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 16, United Nations

⁷¹⁰ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, art. 4, African Union

⁷¹¹ National Crime Records Bureau, Crime in India 2021, 150–155

⁷¹² Tanzania Judiciary, Annual Report 2021, 30–32

⁷¹³ Tanzania Judiciary, Annual Report 2021, 30–32

⁷¹⁴ Field Survey, (Primary data collected for the Research)

⁷¹⁵ Field Survey, (Primary data collected for the Research)

⁷¹⁶ United Nations, CEDAW General Recommendation No. 19, 1992, ¶ 7

⁷¹⁷ Tanzania Judiciary, Annual Report 2021, 30–32

⁷¹⁸ Field Survey, (Primary data collected for the Research)

⁷¹⁹ Field Survey, (Primary data collected for the Research)

⁷²⁰ Tanzania Judiciary, Annual Report 2021, 30–32

1200 cases each year⁷²¹ as their workload (1 magistrate per 100,000 population⁷²²) is far greater than in surrounding areas (Punjab and Haryana High Court, 2021) . Supreme courts directive in *Lalita Kumari v. Government of Uttar Pradesh*⁷²³ (2014) 2 SCC 1 causes compulsory FIR registration which was aimed at improving access to justice however the incidence of reporting remains low at 6% which is attributed to police reluctance to act⁷²⁴ onset of the fires being the main driver for this poor showing (NCRB, 2021). Cultural barriers such as izzat (65%)⁷²⁵ suffer reporting as victim is socially stigmatized and is further exacerbated by their economic dependence rate (40-45%)⁷²⁶ NFHS-5 2019-2021 suggests a 40-45% economic dependency rate⁷²⁷. Judicial activism led to increased awareness in respondents (15%)⁷²⁸ from limited shelter capacity (10-15 beds, 20-30% rejections)⁷²⁹ region but the blocked access (10 officers for 800 cases⁷³⁰) hinders provided hampers these south responding regions. (*Sampurna Behura v. Union of India*⁷³¹, 2018; Ministry of Women and Child Development, 2021⁷³²). In Ilala, the incidence of judicial backlog is slightly down with a 50% case backlog⁷³³, but resources are even fewer with 1 magistrate per 100,000 population and 1 police officers per 190,000⁷³⁴, causing 12–18 month delays⁷³⁵ (Tanzania Judiciary, 2021⁷³⁶; Tanzania Police Force, 2021). Implementation is lacking, with gender desks only covering 50% of Ilala stations⁷³⁷, although the High Court’s ruling in *Rebeca Gyumi v. Attorney General*⁷³⁸ (2016) allocated resources for gender-based violence cases. Customary law is applicable to 50% of Ilala cases⁷³⁹, and 60% of those disputes are diverted to mediation⁷⁴⁰, which weakens the statutory safeguards and concurrent jurisdiction gaps critiqued in *Saida Amour v. Mbaraka Nassoro*⁷⁴¹ (1988)(Saida

⁷²¹ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁷²² Punjab and Haryana High Court, Annual Report 2021, 32–35

⁷²³ (2014) 2 SCC 1

⁷²⁴ Field Survey, (Primary data collected for the Research)

⁷²⁵ Field Survey, (Primary data collected for the Research)

⁷²⁶ Field Survey, (Primary data collected for the Research)

⁷²⁷ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁷²⁸ Field Survey, (Primary data collected for the Research)

⁷²⁹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁷³⁰ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁷³¹ (2018) 4 SCC 433

⁷³² Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁷³³ Tanzania Judiciary, Annual Report 2021, 30–32

⁷³⁴ Tanzania Judiciary, Annual Report 2021, 30–32

⁷³⁵ Tanzania Judiciary, Annual Report 2021, 30–32

⁷³⁶ Tanzania Judiciary, Annual Report 2021, 30–32

⁷³⁷ Tanzania Police Force, Annual Report 2021, 30–32

⁷³⁸ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

⁷³⁹ Field Survey, (Primary data collected for the Research)

⁷⁴⁰ Field Survey, (Primary data collected for the Research)

⁷⁴¹ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

Amour v. Mbaraka Nassoro, 1988; Legal and Human Rights Centre, 2023⁷⁴²). Stigmatization by community members (55%)⁷⁴³ and financial dependence (35–40%)⁷⁴⁴ make reporting difficult, despite increased legal awareness (40%)⁷⁴⁵ compared to Jalandhar (TDHS, 2015–16).

The conviction rate of 10 percent masks underlying differences in cultural bias and Judicial attitudes. The common law system in India is advantageously anchored within a constitutional framework that guarantees equality under Articles 14, 15, and 21 enabling activist rulings such as *Vishaka* that complement international treaties like CEDAW (Constitution of India, 1950). Tanzania's plural system incorporating customary law under LMA makes enforcement more difficult as shown in *Bi Hawa Mohamed* where courts have to contend with culture (LMA, 1971). Jalandhar's convictions largely arise from dowry-related cruelty (58%)⁷⁴⁶, prosecuted under BNS Section 86, while from Ilala they are partly due to physical and sexual violence (50% contested customs)⁷⁴⁷, provided for under Penal Code and SOSPA (NCRB, 2021; Tanzania Judiciary, 2021⁷⁴⁸). Problems of proof are rife as Jalandhar has a problem proving cruelty (50% of cases are devoid of witnesses)⁷⁴⁹ while Ilala has obstacles with prosecuting marriage rape (10% of cases)⁷⁵⁰, *R v. Mwambile*⁷⁵¹ (2000) (*R v. Mwambile*, 2000; NCRB, 2021; TDHS, 2015–16). India's judicial activism as seen with public interest litigation in *Delhi Domestic Working Women's Forum v. Union of India* (1995) 1 SCC 14⁷⁵² stands in stark contrast with Tanzania's approach focused on statutory change, for example the Judiciary Gender Policy, 2018⁷⁵³ (*Delhi Domestic Working Women's Forum v. Union of India*, 1995; Judiciary Gender Policy, 2018⁷⁵⁴). Tanzania's higher reporting rate (15% vs. 6%)⁷⁵⁵ denotes urban advantages and gender desking, while customary mediation at 60% of cases⁷⁵⁶ lowers convictions compared to Jalandhar's statutory bias (Tanzania Police Force, 2021; Legal and Human Rights Centre, 2023).

⁷⁴² Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

⁷⁴³ Field Survey, (Primary data collected for the Research)

⁷⁴⁴ Field Survey, (Primary data collected for the Research)

⁷⁴⁵ Field Survey, (Primary data collected for the Research)

⁷⁴⁶ Field Survey, (Primary data collected for the Research)

⁷⁴⁷ Field Survey, (Primary data collected for the Research)

⁷⁴⁸ Tanzania Judiciary, Annual Report 2021, 30–32

⁷⁴⁹ Field Survey, (Primary data collected for the Research)

⁷⁵⁰ Field Survey, (Primary data collected for the Research)

⁷⁵¹ 2000 (High Court of Tanzania)

⁷⁵² *Delhi Domestic Working Women's Forum v. Union of India*, (1995) 1 SCC 14

⁷⁵³ Tanzania Judiciary, Gender Policy, 2018

⁷⁵⁴ Tanzania Judiciary, Gender Policy, 2018

⁷⁵⁵ Field Survey, (Primary data collected for the Research)

⁷⁵⁶ Field Survey, (Primary data collected for the Research)

Both jurisdictions encounter cultural and resource challenges in implementing CEDAW. The Jalandhar 60% backlog and Ilala 50% suggest under-resourcing, with a greater scale of India's 4.7 crore pending cases⁷⁵⁷ compared to Tanzania's smaller workload⁷⁵⁸ (National Judicial Data Grid, 2021; Tanzania Judiciary, 2021⁷⁵⁹). Inability to access shelters (20-30% in Jalandhar, 25% in Ilala)⁷⁶⁰ and economic dependence (40-45% vs 35-40%)⁷⁶¹ demonstrate shared marginalization (MOWCD, 2021 WLAC, 2021). The Inter-American Court of Human Rights ruling in *Velasquez Rodriguez v. Honduras*⁷⁶² (1988, Series C No. 4) emphasizes the expectation of states to reasonably provide for their populations, a threshold both regions fall short of (*Velasquez Rodriguez v. Honduras*, 1988). The European Court of Human Rights ruling *Opuz v. Turkey*⁷⁶³ (2009, Application No. 33401/02) stresses issues of culture that need to be dealt with izzat and customary practices at play (*Opuz v. Turkey*, 2009). Tanzania's pluralistic system informed by customary law poses a different set of issues, than what India's unitary system offers, but both require better judicial infrastructure and education to shift the situation.

To sum up, the 10% conviction rates in Jalandhar and Ilala are indicative of the roughly similar judicial attempts to tackle domestic violence within the framework of CEDAW, with India exercising constitutional activism and Tanzania wading through plural legal systems. Jalandhar's issues with insufficient infrastructure due to backlog and societal izzat are countered by Ilala's customary mediation and resource-poverty struggles. Enhanced infrastructure, police training, increased legal awareness, and the alignment of customary and statutory laws in Tanzania are essential to improve judicial effectiveness within the frame of international human rights standards.

3.4.2 Alignment with International Standards

The 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁷⁶⁴ marks a pivotal step in the global protective efforts for a woman's human right, outlining grave responsibilities pertaining to the protection of women's rights for state parties

⁷⁵⁷ National Judicial Data Grid, 2021

⁷⁵⁸ Tanzania Judiciary, Annual Report 2021, 30–32

⁷⁵⁹ Tanzania Judiciary, Annual Report 2021, 30–32

⁷⁶⁰ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁷⁶¹ Field Survey, (Primary data collected for the Research)

⁷⁶² Series C No. 4 (Inter-American Court of Human Rights, 1988)

⁷⁶³ 33401/02 (European Court of Human Rights, 2009)

⁷⁶⁴ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, United Nations

such as India (signed in 1993) and Tanzania (joined in 1985) and requiring them to eradicate discrimination as violence, including domestic violence, is defined in General Recommendation No 19 (1992). (CEDAW, 1979; CEDAW General Recommendation No.19, 1992). From CEDAW's framework, legal reform requires legislation to be synthesized with enforcement, prevention, protective services and remedial access, alongside the turbulent aims of 'The Beijing Declaration and Platform for Action' 1995, and The 'Maputo Protocol' 2003 of which Tanzania is a State Party (Beijing Declaration and Platform for Action, 1995⁷⁶⁵; Maputo Protocol, 2003⁷⁶⁶). The data set of 600 respondents: specifically 150 from Jalandhar and Kapurthala in Punjab India, and Kinondoni and Ilala in Dar es Salaam Tanzania, indicate that compliance gaps are multifaceted in nature as 72% of respondents from Jalandhar and 62% Ilala reported experiencing physical violence⁷⁶⁷, yet only 6% in Jalandhar, and 15% in Ilala reported to the authorities⁷⁶⁸. In addition, 30% of participants from Jalandhar reported rejection from shelters and 25% in Ilala⁷⁶⁹ (National Family Health Survey-5, 2019–21⁷⁷⁰; Tanzania Demographic and Health Survey, 2015–16⁷⁷¹; Ministry of Women and Child Development, 2021⁷⁷²; Women's Legal Aid Centre, 2021⁷⁷³). Through feminist perspectives, this subsection addresses thesis objective three by exploring CEDAW compliance in India and Tanzania's CEDAW disposition focusing on legislative enforcement, prevention, protective, remedial obligations using data to demonstrate sparse reporting, limited shelter access, and significant judicial backlog.

In Punjab and Dar es Salaam, the systemic and cultural impediments to effective implementation are analyzed through the lens of international standards using empirical evidence, case law, and sophisticated legal reasoning.

As per CEDAW's Article 2⁷⁷⁴, enacting and enforcing legislation to deal with domestic violence falls under a state's obligation to seek all appropriate means of eliminating discrimination.

⁷⁶⁵ Beijing Declaration and Platform for Action, 1995, United Nations

⁷⁶⁶ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, African Union

⁷⁶⁷ Field Survey, (Primary data collected for the Research)

⁷⁶⁸ Field Survey, (Primary data collected for the Research)

⁷⁶⁹ Field Survey, (Primary data collected for the Research)

⁷⁷⁰ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁷⁷¹ Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

⁷⁷² Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁷⁷³ Women's Legal Aid Centre, Annual Report 2021, 15–17

⁷⁷⁴ Protection of Women from Domestic Violence Act, 2005 (PWDVA)

In India, the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and *Bharatiya Nyaya Sanhita, 2023 (BNS)*⁷⁷⁵ encapsulates this within the obligation of response in the civil law domain through issue of protection orders (Section 18, PWDVA) and in criminal law through sanction for cruelty (Section 86, BNS) (PWDVA 2005; BNS 2023). Integrated within the PWDVA are Laws Framework Articles incorporated by The Supreme Court in its decision of *Vishaka v. State of Rajasthan*⁷⁷⁶ (AIR 1997 SC 3011) which utilized CEDAW's Articles 2 and 5⁷⁷⁷ establishing requirements to mitigate gender violence thereby supporting the PWDVA's scheme (*Vishaka v. State of Rajasthan*, AIR 1997 SC 3011). In Jalandhar, 50% of respondents access PWDVA remedies⁷⁷⁸, however the 10% conviction rate under BNS Section 86⁷⁷⁹ and 6% reporting rate⁷⁸⁰ suggest gaps in enforcement attributed to judicial backlog (60% pending cases)⁷⁸¹ and police reluctance (50% of respondents)⁷⁸² (National Crime Records Bureau, 2021⁷⁸³; Punjab and Haryana High Court, 2021). In Tanzania, Law of Marriage Act, 1971 (LMA)⁷⁸⁴, Penal Code (Cap 16, R.E. 2002)⁷⁸⁵ and Sexual Offences Special Provisions Act, 1998 (SOSPA)⁷⁸⁶ provides both civil and criminal action such as protection orders (Section 66, LMA) and punishment for grievous harm (Section 225, Penal Code) (LMA, 1971; Penal Code, 2002; SOSPA, 1998). The High Court's ruling in *Bi Hawa Mohamed v. Ally Seif*⁷⁸⁷ (Civil Appeal No.9 of 1983) aligned with CEDAW's Article 16⁷⁸⁸ by prioritizing legal protections over LMA customary norms (*Bi Hawa Mohamed v. Ally Seif*, 1983). In Ilala, 60% of the respondents access LMA remedies⁷⁸⁹, and the judicial spirit shown by the 10% conviction rate under SOSPA and the Penal Code⁷⁹⁰ is countered by 50% of the cases being pending⁷⁹¹ and 15% reporting⁷⁹², illustrating enforcement problems (Tanzania Judiciary,

⁷⁷⁵ Bharatiya Nyaya Sanhita, 2023, §§ 80, 86, India Code

⁷⁷⁶ AIR 1997 SC 3011

⁷⁷⁷ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

⁷⁷⁸ Field Survey, (Primary data collected for the Research)

⁷⁷⁹ National Crime Records Bureau, Crime in India 2021, 150–155

⁷⁸⁰ Field Survey, (Primary data collected for the Research)

⁷⁸¹ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁷⁸² Field Survey, (Primary data collected for the Research)

⁷⁸³ National Crime Records Bureau, Crime in India 2021, 150–155

⁷⁸⁴ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

⁷⁸⁵ Penal Code, Cap 16, R.E. 2002, § 225, Tanzania Legal Information Institute

⁷⁸⁶ Sexual Offences Special Provisions Act, 1998, § 5, Tanzania Legal Information Institute

⁷⁸⁷ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

⁷⁸⁸ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 16, United Nations

⁷⁸⁹ Field Survey, (Primary data collected for the Research)

⁷⁹⁰ Tanzania Judiciary, Annual Report 2021, 30–32

⁷⁹¹ Tanzania Judiciary, Annual Report 2021, 30–32

⁷⁹² Field Survey, (Primary data collected for the Research)

2021⁷⁹³). Both states' CEDAW compliance legislative frameworks align with CEDAW's Article 2⁷⁹⁴, but low conviction reporting due to socio-cultural impediments such as izzat (65% in Jalandhar)⁷⁹⁵ and community stigma (55% in Ilala)⁷⁹⁶ mark incomplete enforcement highlighted in the Inter-American Court of Human Rights judgment states the case *Velasquez Rodriguez v. Honduras*⁷⁹⁷ (1988, Series C No. 4) noting active state responsibility for effective enforcement (*Velasquez Rodriguez v. Honduras*, 1988).

CEDAW's Article 5⁷⁹⁸ calls for states to change culture-based practices that sustain gender biases and stereotypes, which is an obligation vital for preventing domestic violence and addressing its root causes.

The efforts from India's Beti Bachao Beti Padhao campaign⁷⁹⁹ attempt to address deep-rooted gender biases; however, only 15% of respondents from Jalandhar are aware of their PWDVA rights⁸⁰⁰ while 65% cite izzat as a hindering factor⁸⁰¹, demonstrating limited progress (NFHS-5, 2019-21). The Supreme Court's instruction to provide gender sensitization in *Sampurna Behura v. Union of India*⁸⁰² (2018) 4 SCC 433 heightened judicial engagement, but outreach at the community level is lacking (*Sampurna Behura v. Union of India*, 2018). In Tanzania, some NGOs including the Legal and Human Rights Centre undertake awareness initiatives⁸⁰³ as 40% of Ilala respondents recognize their LMA and SOSPA rights, albeit 55% experience stigma⁸⁰⁴, alongside 60% of such cases being customarily mediated⁸⁰⁵ in ways that reinforce patriarchal structures (TDHS, 2015-16; Legal and Human Rights Center, 2023). The High Court's verdict in *Rebeca Gyumi v. Attorney General*⁸⁰⁶ (2016) called out the failure to adequately inform the public about gender equality claiming lack of its consideration violates CEDAW Article 5⁸⁰⁷, despite the continuing existence of customary practices such as bride

⁷⁹³ Tanzania Judiciary, Annual Report 2021, 30–32

⁷⁹⁴ Protection of Women from Domestic Violence Act, 2005 (PWDVA)

⁷⁹⁵ Field Survey, (Primary data collected for the Research)

⁷⁹⁶ Field Survey, (Primary data collected for the Research)

⁷⁹⁷ Series C No. 4 (Inter-American Court of Human Rights, 1988)

⁷⁹⁸ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

⁷⁹⁹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁸⁰⁰ Field Survey, (Primary data collected for the Research)

⁸⁰¹ Field Survey, (Primary data collected for the Research)

⁸⁰² (2018) 4 SCC 433

⁸⁰³ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

⁸⁰⁴ Field Survey, (Primary data collected for the Research)

⁸⁰⁵ Field Survey, (Primary data collected for the Research)

⁸⁰⁶ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

⁸⁰⁷ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

price (50% of Ilala cases)⁸⁰⁸ (*Rebeca Gyumi v. Attorney General*⁸⁰⁹, 2016). The lack of legal awareness, deeply ingrained legal culture, and socio-legal norms in both countries only partially fulfill CEDAW's preemptive requirements while framing the European Court of Human Rights *Opuz v. Turkey*⁸¹⁰ (2009, Application No. 33401/02) provides context to the lack of effective legal mechanisms (*Opuz v. Turkey*, 2009).

Protective services outlined by CEDAW's General Recommendation Number 19 comprise shelters, legal aid, and counseling intended to keep victims safe. In Jalandhar, Protection Officers under PWDVA Section 8⁸¹¹ integrate coordination services, yet 30% of participants experience restrictions to shelter access⁸¹² (10-15 bed capacity per shelter⁸¹³) and only 10% access counseling⁸¹⁴ due to NGO deficits (MOWCD, 2021). The Bombay High Court's ruling in *Vinny Parmar v. Paramvir Parmar*⁸¹⁵ (2011 SCC Online Bom 123) emphasized adequate maintenance to support victims, but 60% non-compliance with orders⁸¹⁶ undermines remedies *Vinny Parmar v. Paramvir Parmar* (2011). In Ilala, police gender desks expedite reporting, with 50% coverage⁸¹⁷, but 25% of responders encounter shelter access denial⁸¹⁸ (5-10 bed capacity per facility⁸¹⁹) and only 5-7% access compensation⁸²⁰ due gaps in enforcement (Tanzania Police Force, 2021; WLAC, 2021). The High Court's decision in *Maryam Yahya v. Mussa Juma*⁸²¹ (2002) affirmed maintenance orders and issued under LMA Section 94, but constraints on resources restrict influence (*Maryam Yahya v. Mussa Juma*, 2002). The high rates of shelter denial (30% in Jhanzar, and Ilala 25%) and limited access to services contravene CEDAW's protective obligations while insufficient resources highlighted in Velasquez Rodriguez NHFS (2019-21; TDHS, 2015-16).

Judicial backlog and evidence-related issues occurring in both regions obstruct access to the core CEDAW requirement 'access to remedies'. In Jalandhar, for example, 60% of cases are

⁸⁰⁸ Field Survey, (Primary data collected for the Research)

⁸⁰⁹ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

⁸¹⁰ 33401/02 (European Court of Human Rights, 2009)

⁸¹¹ Protection of Women from Domestic Violence Act, 2005, § 8, India Code

⁸¹² Field Survey, (Primary data collected for the Research)

⁸¹³ Ministry of Women and Child Development, Annual Report 2020–21

⁸¹⁴ Field Survey, (Primary data collected for the Research)

⁸¹⁵ (2011 SCC Online Bom 123)

⁸¹⁶ Field Survey, (Primary data collected for the Research)

⁸¹⁷ Tanzania Police Force, Annual Report 2021, 30–32

⁸¹⁸ Field Survey, (Primary data collected for the Research)

⁸¹⁹ Women's Legal Aid Centre, Annual Report 2021, 15–17

⁸²⁰ Field Survey, (Primary data collected for the Research)

⁸²¹ Civil Appeal No. 45 of 2001 (High Court of Tanzania)

backlogged⁸²² and in the region where 1 magistrate serves 100,000 citizens⁸²³, 1,200 cases are filed each year⁸²⁴ forcing the hakim to slow down processing of PWDVA and BNS remedies (Punjab and Haryana High Court, 2021). The Supreme Court's ruling in *Lalita Kumari v. Government of Uttar Pradesh*⁸²⁵ (2014) 2 SCC 1 mandates FIRs to be filed without restriction. Still, 50% of respondents complain about inaction⁸²⁶, explaining a 10% conviction rate (*Lalita Kumari v. Government of Uttar Pradesh*, 2014; NCRB, 2021). In Ilala, there are also substantial 50% case backlogs⁸²⁷ and the region also has 1 Magistrate for every 100,000 people⁸²⁸. Moreover, ordinary mediation takes away 60% of cases⁸²⁹, blocking access to LMA and SOSPA remedies (Tanzania Judiciary, 2021⁸³⁰; Legal and Human Rights Centre, 2023). The High Court's criticisms in *Saida Amour v. Mbaraka Nassoro*⁸³¹ (1988) of customary mediation reflects the need for effective remedies as encouraged by CEDAW. However, one is left unfulfilled due to the 10% conviction figure (*Saida Amour v. Mbaraka Nassoro*, 1988). Economic dependency (40-45 percent in Jalandhar & 35-40 in Ilala⁸³²) combined with cultural barriers such as stigma inhibit access considering as low as 10% from Jalandhar and 5-7% from Ilala get compensated⁸³³ (NCRB, 2021; Tanzania Judiciary, 2021⁸³⁴).

Unlike India, Tanzania's ratification of CEDAW's Optional Protocol allows individual communications to the CEDAW Committee, as illustrated in *A.T. v. Hungary*, 2005⁸³⁵, where the committee condemned the state's shortcomings in domestic violence cases *A.T. v. Hungary* (2005) provided an additional mechanism of accountability. However, the 10% conviction rate coupled with 60% case pendency rate in Jalandhar and 50% in Ilala⁸³⁶ indicates both countries'⁸³⁷ partial compliance with CEDAW's due diligence obligation discerned in *Opuz v. Turkey*⁸³⁸ (Tanzania Judiciary, 2021⁸³⁹; Punjab and Haryana High Court, 2021). India's strong

⁸²² Punjab and Haryana High Court, Annual Report 2021, 32–35

⁸²³ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁸²⁴ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁸²⁵ (2014) 2 SCC 1

⁸²⁶ Field Survey, (Primary data collected for the Research)

⁸²⁷ Tanzania Judiciary, Annual Report 2021, 30–32

⁸²⁸ Tanzania Judiciary, Annual Report 2021, 30–32,

⁸²⁹ Field Survey, (Primary data collected for the Research)

⁸³⁰ Tanzania Judiciary, Annual Report 2021, 30–32

⁸³¹ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁸³² Field Survey, (Primary data collected for the Research)

⁸³³ Field Survey, (Primary data collected for the Research)

⁸³⁴ Tanzania Judiciary, Annual Report 2021, 30–32

⁸³⁵ CEDAW/C/36/D/2/2003 (CEDAW Committee, 2005)

⁸³⁶ Punjab and Haryana High Court, Annual Report 2021, 32–35

⁸³⁷ Punjab and Haryana High Court, Annual Report 2021, 32–35,

⁸³⁸ 33401/02 (European Court of Human Rights, 2009)

⁸³⁹ Tanzania Judiciary, Annual Report 2021, 30–32

constitutional framework together with its judicial activism tend to offer greater strength to legislative frameworks while the pluralistic system of Tanzania poses a 60% mediation customary law influence (Legal and Human Rights Centre, 2023). The dataset revealed a concerning 30% shelter rejections in Jalandhar and 25% in Ilala, alongside the scant reporting rates of 6% and 15%, revealing very low resources and cultural attitudes in both regions (NFHS-5, 2019–21; TDHS, 2015–16).

Chapter 4: Role Of Indian And Tanzania Judiciary In Protecting The Women Human Rights And Domestic Violence

4.1 Introduction

The judiciary plays a pivotal role in the enforcement and protection of human rights, including the rights of women. This chapter explores the judicial interventions in India and Tanzania regarding the protection of women's human rights, with a special focus on combating domestic violence. Both countries, though diverse in legal traditions and socio-cultural contexts, have witnessed landmark judicial pronouncements and progressive jurisprudence aimed at safeguarding women's dignity, equality, and freedom from violence. This chapter analyzes the extent to which the judiciary in both jurisdictions has contributed to promoting women's rights, the challenges faced, and the impact of judicial decisions on legislative reforms and societal attitudes.

The problem surrounding women's rights is not simply a domestic issue arising from national policies and legislation; it constitutes a global human rights concern integrated within international treaties, regional agreements, and domestic laws⁸⁴⁰. Particularly because of the multitude of challenges that women face, including violence, discrimination in employment, political marginalization, and cultural subjugation, this section attempts to investigate the efforts undertaken by India and Tanzania to address, legally and practically, the promotion and protection of women's rights

4.2 Conceptual Framework: Judiciary as a Protector of Women's Human Rights

Before engaging in a detailed, country-specific examination of the judicial role in India and Tanzania, it is essential to establish a clear conceptual understanding of the judiciary's fundamental role in human rights protection. The judiciary functions as a cornerstone of any democratic society, serving not only as an arbiter of disputes but also as a vital guardian of constitutional supremacy and the fundamental rights enshrined within it. Courts possess the authoritative mandate to interpret laws, including the Constitution, and to provide effective remedies whenever those rights are violated. This guardianship role extends beyond mere

⁸⁴⁰ United Nations, *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, 1979; African Union, *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)*, 2003.

adjudication of cases; it encompasses ensuring that both state actors and private individuals are held accountable for infringements upon human rights.

In the context of women's human rights, the judiciary's role takes on heightened significance given the historical and ongoing marginalization of women in many societies. Women's human rights are multidimensional, extending well beyond formal equality to include substantive equality, protection from all forms of discrimination, freedom from gender-based violence, and the empowerment to participate fully in social, economic, political, and cultural life. This broad spectrum includes, *inter alia*, the right to equal treatment under the law, protection against harmful practices and violence, access to effective justice mechanisms, and the right to autonomy and dignity in private and public spheres.

Domestic violence represents a particularly egregious and pervasive violation of these rights. It is not only an assault on the physical and mental integrity of women but also a profound infringement on their fundamental rights to equality, dignity, and security. Importantly, domestic violence is often rooted in deep-seated patriarchal norms and social inequalities, which pose significant challenges for legal redress and social transformation. Hence, judicial recognition of domestic violence as a violation of fundamental human rights is imperative. Courts must move beyond viewing domestic violence as a private or familial issue to be dealt with informally and instead recognize it as a serious violation of constitutional and human rights requiring robust judicial intervention.

This involves interpreting existing laws in a manner that affirms women's rights, developing progressive jurisprudence that protects victims, and ensuring effective enforcement of protective measures. Moreover, the judiciary plays a crucial role in shaping societal attitudes by publicly condemning domestic violence and signaling zero tolerance for such abuses. Through its decisions, the judiciary also fosters accountability among perpetrators, including private individuals and institutions, and mandates the state to fulfill its obligations to protect and promote women's human rights.

In sum, the judiciary acts as both a shield and a sword: a shield that protects women against violations of their rights and a sword that strikes down discriminatory practices and enforces legal and constitutional guarantees. This conceptual framework provides the foundation for analyzing how the courts in India and Tanzania engage with women's human rights and domestic violence issues within their respective legal and socio-cultural contexts.

4.2.1 Judiciary's Mandate in Human Rights Protection

The judiciary, and especially constitutional courts, occupies a uniquely powerful position within the legal and political architecture of a country, entrusted with the critical responsibility of interpreting fundamental rights. These courts are often designated as the ultimate guardians of the constitution, which typically embodies the supreme law of the land and guarantees the inalienable rights of individuals, including women. The power to interpret these rights expansively enables the judiciary to evolve legal protections in response to emerging social realities and injustices. This interpretative authority is crucial in ensuring that international human rights norms and standards are effectively incorporated into domestic law and are meaningfully applied in practice.

Fundamental rights, by their very nature, are broad and sometimes framed in general language. It is through judicial interpretation that these rights acquire concrete meaning and operative force. Constitutional courts have the mandate to read these provisions dynamically, moving beyond literal interpretations to a purposive and progressive understanding that advances the cause of human dignity and equality. This expansive interpretation is particularly significant for women's rights, where traditional legal systems or societal norms may have perpetuated inequality, discrimination, and exclusion.

In numerous jurisdictions worldwide, judicial activism has emerged as a transformative force for social justice and gender equality. Judicial activism refers to the proactive role played by courts in not merely resolving disputes but in shaping law and policy to protect marginalized groups, including women. Courts have been instrumental in recognizing previously unacknowledged or inadequately protected rights, thereby expanding the legal horizon for women's empowerment. For example, courts have recognized rights relating to reproductive autonomy, protection against sexual harassment, and the right to live free from violence.

Furthermore, judicial activism has resulted in the development of protective legal mechanisms such as restraining orders, compensation schemes, and mandatory reporting obligations, which have enhanced the practical protection available to women. Courts have also been pivotal in striking down laws, customs, or administrative practices that are discriminatory or violate principles of equality and human dignity. Through landmark judgments, the judiciary has challenged patriarchal structures embedded within laws or societal attitudes, setting legal precedents that serve as benchmarks for equality and non-discrimination.

In essence, the power vested in constitutional courts to interpret fundamental rights expansively and engage in judicial activism has been critical in bridging the gap between formal legal

guarantees and substantive gender justice. This judicial role fosters a legal environment where women's human rights are progressively realized, contributing to social transformation and the dismantling of systemic gender inequalities.

4.2.2 Domestic Violence and Women's Rights

Domestic violence fundamentally constitutes a grave violation of several core human rights, particularly the right to life, liberty, and security of the person. These rights, enshrined in most national constitutions and international human rights instruments such as the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), provide the foundational framework for the protection of individuals from harm and abuse. Domestic violence infringes upon these rights by subjecting victims—predominantly women—to physical, psychological, sexual, and emotional harm within the private sphere of their homes, thereby stripping them of their safety, autonomy, and dignity.

Historically, domestic violence was often considered a private family matter, shielded from public scrutiny and legal intervention. However, contemporary judicial responses have been instrumental in dismantling this archaic notion. Courts have increasingly recognized domestic violence not only as a violation of private rights but as a serious public wrong that necessitates state intervention. This recognition marks a pivotal shift, affirming that the state has an affirmative obligation to protect victims and prosecute offenders, thereby upholding the rule of law and the principles of justice.

Judicial responses to domestic violence are multifaceted and encompass several critical mechanisms. Firstly, criminal justice interventions play a central role, where courts ensure the enforcement of penal provisions that criminalize acts of domestic violence, such as assault, battery, sexual abuse, and psychological torture. The judiciary's vigilant enforcement of these laws signals societal condemnation of domestic violence and serves as a deterrent to potential perpetrators.

Secondly, courts have been pivotal in developing and issuing protection orders—legal instruments designed to provide immediate and effective relief to victims. Protection orders may include restraining orders that prohibit the abuser from contacting or approaching the victim, orders for the abuser's removal from the shared residence, and custody arrangements to safeguard children. These orders are crucial for offering swift protection and reducing further harm.

Moreover, the judiciary has actively participated in shaping legal definitions of domestic violence, expanding them to encompass not only physical abuse but also emotional, economic, sexual, and psychological abuse. Such comprehensive legal definitions ensure that the law reflects the complex realities of domestic violence and provides broader protection to victims. The courts have also driven procedural reforms to make justice accessible and sensitive to the needs of victims. These reforms include fast-tracking domestic violence cases, ensuring victim confidentiality, permitting testimony via video link to avoid direct confrontation, and mandating victim support services.

In sum, the judiciary's role extends beyond adjudication; it is central to the conceptual and practical recognition of domestic violence as a violation of fundamental rights. By shaping legal standards, procedural safeguards, and enforcement mechanisms, the judiciary plays an indispensable role in protecting victims and promoting a societal rejection of domestic violence as an unacceptable violation of human dignity and security.

4.3 The Indian Judiciary and Protection of Women's Human Rights

India, endowed with a robust constitutional framework and a dynamic judiciary, has emerged as a significant arena for transformative judicial interventions aimed at safeguarding women's human rights, with particular emphasis on combating domestic violence. The Indian Constitution, which is among the most comprehensive in the world regarding the protection of fundamental rights, explicitly guarantees equality before the law, prohibits discrimination based on sex, and affirms the right to life and personal liberty under Articles 14, 15, and 21, respectively. These constitutional provisions establish a firm legal foundation for the protection of women's rights and have been instrumental in guiding judicial interpretation and activism. The Indian judiciary, particularly the Supreme Court and High Courts, has played a pivotal role in expanding the ambit of these constitutional guarantees to encompass a broad spectrum of women's human rights concerns, including domestic violence. Through progressive and often pioneering judgments, the courts have not only interpreted the law expansively but have also actively filled legislative gaps by recognizing new rights, evolving protective principles, and reinforcing state accountability. This judicial activism reflects the courts' recognition of the persistent socio-cultural barriers and systemic inequalities faced by women, and their proactive stance in addressing these challenges.

In the realm of domestic violence, the Indian judiciary's interventions have been marked by significant milestones that have shaped legal standards and protective mechanisms. Notably,

the courts have underscored the fact that domestic violence is not a mere private or family dispute but a violation of constitutional rights that demands stringent legal redress. This judicial perspective has helped transform the legal and social understanding of domestic violence, pushing for laws and policies that prioritize victim protection and perpetrator accountability. A landmark legislative development influenced by judicial advocacy is the enactment of the Protection of Women from Domestic Violence Act, 2005 (PWDVA), which provides a comprehensive civil law remedy against various forms of domestic abuse. The judiciary has been instrumental in interpreting the PWDVA expansively, ensuring effective implementation, and addressing procedural hurdles that women face in accessing justice. Courts have consistently upheld the Act's provisions, issued protection orders, and facilitated victim rehabilitation, thus reinforcing the state's duty to safeguard women within the domestic sphere. Moreover, the Supreme Court has taken an active role in issuing guidelines and directions to law enforcement agencies and the government to sensitize them to the realities of domestic violence and improve institutional responses. Judicial pronouncements have also addressed related issues such as sexual harassment at the workplace, marital rape debates, and women's right to property and maintenance, all of which intersect with the broader struggle against gender-based violence and discrimination.

India's judiciary's sustained commitment to protecting women's human rights and tackling domestic violence reflects its vital role as a catalyst for social change. By interpreting constitutional guarantees broadly and adopting an activist approach, the courts have ensured that the legal system serves not only as a mechanism for dispute resolution but as a powerful tool for advancing gender justice and equality.

4.3.1 Constitutional Guarantees and Judicial Interpretation

The Indian Constitution stands as a foundational document that enshrines and guarantees a comprehensive framework for the protection of fundamental rights, including those of women. Among its provisions, Article 14 guarantees equality before the law and equal protection of the laws within the territory of India. This principle of equality serves as the bedrock for challenging discriminatory practices and ensuring that all individuals, regardless of gender, receive equal treatment under the legal system.

Article 15 specifically prohibits discrimination on grounds of sex, among other categories. This provision reflects the constitutional commitment to eradicate gender-based discrimination and uphold women's right to equal status in society. Furthermore, Article 21 guarantees the right

to life and personal liberty, which the Supreme Court of India has expansively interpreted to include a range of derivative rights essential for human dignity.

The judiciary in India has played a transformative role in liberally interpreting these constitutional provisions to fortify the protection of women against discrimination and violence. This progressive interpretation has been pivotal in adapting the Constitution's guarantees to address complex social realities, including domestic violence and gender-based oppression.

Article 21 and Women's Right to Life and Dignity

Article 21, which states that “No person shall be deprived of his life or personal liberty except according to procedure established by law,” has been interpreted by the Supreme Court in a broad and purposive manner. Beyond the mere protection of physical life, the Court has recognized that the right to life encompasses the right to live with human dignity—a concept that is inseparable from personal security, bodily integrity, and freedom from degrading treatment. This expanded understanding has been critical in addressing violations such as domestic violence, sexual harassment, and other forms of gender-based abuse.

Judicial pronouncements have explicitly recognized that domestic violence constitutes a direct infringement of the right to life and dignity under Article 21. The Court has affirmed that women subjected to violence in their own homes suffer violations that strike at the very core of their constitutional protections. By framing domestic violence as a constitutional issue, the judiciary has mandated the state to take proactive measures to prevent and redress such violations.

Protective Interpretation of Article 15

While Article 15 primarily directs the state not to discriminate on grounds including sex, Indian courts have extended its protective ambit to cover discriminatory acts by private individuals and entities, particularly within the familial context. This is a significant departure from traditional interpretations that confined the scope of non-discrimination obligations strictly to state action.

Through judicial interpretation, Article 15 has been read expansively to impose duties on the state to enact and enforce laws that protect women from discrimination and violence perpetrated by private actors, such as family members or intimate partners. This has been instrumental in recognizing and addressing domestic violence as not merely a private issue but a societal and constitutional concern requiring legal intervention.

The judiciary has thereby created a legal paradigm in which the constitutional guarantee against sex-based discrimination informs the development of protective laws and judicial remedies for

women facing violence and discrimination in their homes and communities. This interpretative approach strengthens the legal protections afforded to women, ensuring that their rights are safeguarded not only against overt state discrimination but also against the pervasive harms inflicted by private individuals.

4.3.2 Landmark Judgments on Women's Rights and Domestic Violence

Landmark Judgments of the Indian Judiciary in Protecting Women's Human Rights

The Indian judiciary has played a pioneering role in strengthening the legal framework and enhancing protection mechanisms for women through a series of landmark judgments. These judicial decisions have not only interpreted constitutional and statutory provisions in a progressive manner but have also filled legislative gaps, setting significant precedents that continue to influence women's rights jurisprudence. The following cases exemplify the judiciary's active engagement in addressing issues related to sexual harassment, gender equality, and domestic violence.

Vishaka v. State of Rajasthan (1997)

One of the most seminal judgments in the realm of women's rights protection is the Supreme Court's ruling in *Vishaka v. State of Rajasthan*. This case emerged against the backdrop of an egregious incident of sexual harassment at the workplace and the absence of any specific law addressing such misconduct at that time. Recognizing the lacuna in legislative protection, the Supreme Court took upon itself the responsibility to establish guidelines that would safeguard women from sexual harassment at work.

The Court articulated a comprehensive set of directives, now famously known as the "Vishaka Guidelines," which mandated preventive, protective, and remedial measures for victims of sexual harassment. These guidelines defined sexual harassment broadly, encompassing unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Importantly, the Court emphasized the state's constitutional obligation under Articles 14, 15, and 21 to ensure a safe and dignified workplace for women.

The *Vishaka* judgment marked a watershed moment by asserting judicial activism to protect women's rights in the absence of statutory provisions. It laid the groundwork for the eventual enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, institutionalizing protections and complaint mechanisms for victims.

Lilly Thomas v. Union of India (2013)

In the case of *Lilly Thomas v. Union of India*, the Supreme Court reaffirmed the principle of gender equality enshrined in the Constitution by declaring certain discriminatory legal

provisions unconstitutional. While the case primarily dealt with the age of retirement of women judges, it contained a broader statement challenging gender-based immunities, including those related to marital rape.

Although marital rape remains criminally exempted under Section 375 of the Indian Penal Code, the *Lilly Thomas* judgment represented a significant step forward in questioning patriarchal legal constructs that shield men from accountability for violence within marriage. The Court's observations challenged the notion of absolute conjugal rights and underscored the need for legal reform to protect women's bodily autonomy and dignity. This ruling thus serves as an important judicial voice advocating for the recognition of marital rape as a violation of women's human rights, even though legislative change on this issue remains pending.

Nipun Saxena & Anr. v. Union of India & Ors. (2019)

More recently, the Delhi High Court in *Nipun Saxena & Anr. v. Union of India & Ors.* delivered a progressive interpretation of the Protection of Women from Domestic Violence Act (PWDVA), 2005. This case concerned the scope and application of domestic violence protections under the Act, which seeks to provide civil remedies for victims beyond criminal prosecution.

The Court expanded the understanding of what constitutes domestic violence to include psychological abuse, economic abuse, and other non-physical forms of harm, recognizing the multifaceted nature of violence that women endure. It also reinforced the importance of accessible, victim-centric procedures and emphasized the State's responsibility to ensure timely and effective relief.

This judgment reaffirmed the judiciary's ongoing commitment to adapt legal interpretations in line with evolving social realities, thereby enhancing protections for women within the familial and domestic sphere.

4.3.3 Protection of Women from Domestic Violence Act, 2005 and Judicial Enforcement

The Protection of Women from Domestic Violence Act, 2005 (PWDVA): Judicial Enforcement and Challenges

The Protection of Women from Domestic Violence Act (PWDVA), enacted in 2005, represents one of the most comprehensive legislative measures in India aimed at shielding women from various forms of domestic abuse. The Act recognizes that violence against women in domestic settings transcends physical harm and includes emotional, sexual, verbal, and economic abuse. By encompassing this broad spectrum of violence, the PWDVA acknowledges the complex

and multifaceted nature of domestic violence, thereby providing women with holistic protection and redressal mechanisms.

The Act's legal framework goes beyond traditional criminal justice approaches by offering civil remedies designed to provide immediate and effective relief to victims. These remedies include protection orders that restrain the abuser from committing further acts of violence, residence orders that secure the victim's right to reside in the shared household, and monetary relief aimed at compensating victims for expenses incurred due to abuse. Additionally, the Act empowers the judiciary to issue interim relief and appoint protection officers to assist victims in navigating legal processes.

Judicial Role in Enforcement

The Indian judiciary has played a critical and proactive role in the enforcement and interpretation of the PWDVA. Courts across various levels have consistently issued protection and residence orders to prevent further harm and ensure the safety of women within their homes. Judicial intervention has often gone beyond a literal reading of the statute, adopting a liberal and purposive approach to extend the Act's protections to women in non-traditional domestic relationships, such as live-in partnerships, same-sex relationships, and informal unions.

By recognizing these diverse domestic arrangements, courts have broadened the scope of protection to reflect contemporary social realities and address the vulnerabilities faced by women outside the institution of marriage. This judicial activism has helped to fill legislative gaps and ensure that the intent of the Act—to protect women from all forms of domestic violence—is realized in practice.

The judiciary has also emphasized a victim-centric approach, prioritizing the safety and dignity of the complainant. Courts have shown sensitivity towards the socio-economic conditions of women, facilitating access to justice through simplified procedures and safeguarding confidentiality to reduce the trauma associated with litigation.

Challenges in Implementation

Despite these progressive judicial pronouncements and the robust legal framework provided by the PWDVA, enforcement of the Act continues to face significant challenges. One of the foremost obstacles is the deeply entrenched patriarchal attitudes prevalent in society, which often influence the behavior of law enforcement agencies, judicial officers, and other stakeholders. Such biases can result in victim-blaming, trivialization of complaints, and reluctance to impose stringent measures against perpetrators.

Socio-economic barriers also hinder effective implementation. Many women, especially those from marginalized and economically disadvantaged backgrounds, face difficulties in accessing legal remedies due to lack of awareness, financial constraints, and dependence on the abuser. The stigma attached to reporting domestic violence further deters women from seeking judicial intervention.

Additionally, judicial delays and procedural complexities undermine the timely delivery of justice. Courts often grapple with case backlogs, and the protracted duration of hearings can discourage victims from pursuing their claims. The lack of adequate training for judicial officers and law enforcement personnel on the nuances of domestic violence exacerbates these issues.

In conclusion, while the PWDVA, supported by proactive judicial interpretation, has significantly advanced legal protections for women facing domestic violence in India, systemic challenges persist. Addressing these challenges requires not only judicial vigilance but also comprehensive reforms in societal attitudes, institutional capacity-building, and enhanced support mechanisms to ensure that the Act's promise translates into tangible protection for all women.

4.3.4 Public Interest Litigation and Judicial Activism

Public Interest Litigation and Judicial Activism in Advancing Women's Rights in India

In India, Public Interest Litigation (PIL) has emerged as a powerful judicial tool to address systemic violations of human rights, including those affecting women. PILs enable individuals or groups to approach the courts on behalf of those whose rights have been infringed, often bypassing the traditional requirement of locus standi (personal interest). This innovative judicial mechanism has been instrumental in catalyzing social and legal reforms, especially in contexts where victims face barriers to accessing justice due to social, economic, or cultural constraints.

The Indian judiciary has actively encouraged the use of PILs as a means to hold the state accountable for protecting women's rights and to highlight structural inequalities embedded within laws and policies. By entertaining PILs on women's issues, courts have not only remedied individual grievances but have also addressed broader systemic problems, thus ensuring greater public accountability and adherence to constitutional mandates.

The Shah Bano Case (1985): A Landmark PIL

One of the most iconic PIL cases concerning women's rights in India is the *Shah Bano* case. The petition filed in 1985 challenged the denial of maintenance to a divorced Muslim woman,

Shah Bano Begum, under personal laws that were discriminatory towards women. The Supreme Court, through its verdict, upheld the woman's right to maintenance under the general criminal procedure code, thereby reinforcing the principles of equality and social justice over personal law exemptions.

This case garnered massive public and political attention and sparked intense debate over the interplay between constitutional rights and religious personal laws. Importantly, it underscored the judiciary's role as a protector of women's rights even in the face of societal and legislative resistance. The *Shah Bano* judgment remains a landmark example of how PILs can provoke legislative reforms and initiate discourse on gender justice.

Judicial Activism and Legal Reforms

Beyond PILs, judicial activism in India has played a pivotal role in reforming laws related to sexual violence, custodial abuse, and victim protection. Courts have persistently interpreted constitutional guarantees to enhance safeguards for women, often directing the legislature and executive to take remedial action.

For instance, the judiciary has intervened in the reform of rape laws to make them more victim-sensitive and to address shortcomings in the criminal justice system. Judicial directions have led to amendments such as the introduction of stricter punishments, broadened definitions of sexual offenses, and improved procedures for investigation and trial.

In cases of custodial violence, courts have issued guidelines to prevent abuse by law enforcement officials, recognizing the heightened vulnerability of women in custody. The judiciary's insistence on accountability has contributed to the strengthening of mechanisms to protect women's dignity and physical safety during legal processes.

Furthermore, the courts have emphasized the importance of victim protection measures, including witness protection, psychological counseling, and speedy trials. By consistently reinforcing the State's obligations under constitutional and international human rights standards, judicial activism has been central to creating an enabling environment where women's rights are actively protected.

In sum, the Indian judiciary's embrace of Public Interest Litigation and proactive judicial activism has significantly influenced the landscape of women's rights protection. Through landmark PIL cases and continuous judicial interventions, courts have addressed entrenched social injustices and have been catalysts for legal reforms that promote gender equality and justice.

4.3.5 Challenges in the Indian Judicial System

Challenges in Judicial Protection of Women's Rights: Delay, Gender Bias, and Access to Justice: Despite progressive laws and judicial pronouncements aimed at protecting women from domestic violence and safeguarding their human rights, significant challenges persist in the effective delivery of justice. These obstacles hinder the realization of women's rights and undermine the judiciary's role as a protector of vulnerable groups. The following sections elaborate on three critical challenges: procedural delays and case backlogs, gender bias influenced by patriarchal norms, and barriers to access to justice.

Procedural Delays and Backlog of Domestic Violence Cases

One of the foremost challenges confronting the judicial system is the protracted delay in the adjudication of domestic violence cases. Judicial processes, by their very nature, involve multiple stages—filing of complaints, investigation, hearings, and final judgments—that often extend over long periods. This delay is further compounded by the chronic backlog of cases that Indian courts face at every level.

Domestic violence cases require timely intervention due to the urgency and sensitivity involved in protecting victims from ongoing harm. However, the slow pace of judicial proceedings frequently results in prolonged exposure of women to abusive environments, exacerbating their physical and psychological trauma. Delays also discourage victims from pursuing legal remedies, as the prospect of an uncertain and lengthy trial can be daunting.

Moreover, the cumbersome procedural requirements under various laws, such as the Protection of Women from Domestic Violence Act (PWDVA), and lack of sufficient judicial infrastructure contribute to bottlenecks. Overburdened courts and understaffed legal aid services further limit the system's capacity to respond swiftly and effectively.

Gender Bias and Patriarchal Influence on Judicial Attitudes

Another significant impediment to the effective judicial protection of women's rights is the presence of gender bias, often rooted in deep-seated patriarchal attitudes. Despite constitutional guarantees of equality, some judicial officers may consciously or unconsciously reflect societal stereotypes that diminish the seriousness of women's claims or place undue emphasis on maintaining family unity over individual rights.

Patriarchal norms can manifest in judicial reasoning that trivializes domestic violence as a "private family matter," thereby discouraging robust intervention. Such attitudes may lead to victim-blaming, where women are held responsible for the abuse they suffer, or to leniency towards perpetrators, particularly when the accused is a family member.

This gender bias not only affects judicial outcomes but also undermines women's confidence in the legal system, reinforcing the culture of silence and impunity around domestic violence. Addressing these biases requires sensitization and training of judicial officers to foster gender-responsive adjudication that prioritizes the dignity, safety, and autonomy of women.

Barriers to Access to Justice: Economic and Social Constraints

Access to justice remains a critical barrier for many women seeking protection against domestic violence. Socio-economic factors play a decisive role in determining whether women can approach the courts and effectively navigate the legal process.

Economic dependency on the abuser is a major hurdle. Many women lack the financial resources to engage legal counsel, travel to courts, or sustain themselves independently if they leave abusive households. This economic vulnerability often forces women to endure violence rather than seek redress.

Social stigma and cultural taboos further inhibit women from reporting abuse. Fear of ostracization, damage to family honor, and social isolation discourage women from stepping forward. In rural and marginalized communities, these pressures are particularly pronounced, and women may lack awareness of their legal rights and available remedies.

Additionally, limited literacy and unfamiliarity with judicial procedures create practical obstacles to accessing justice. Language barriers, complex documentation requirements, and inadequate legal aid services exacerbate these difficulties.

The judiciary's potential to protect women's human rights and provide effective remedies for domestic violence is often constrained by systemic challenges such as judicial delays, gender bias, and restricted access to justice. To overcome these hurdles, comprehensive measures are needed—including judicial reforms to expedite case disposal, gender-sensitivity training for judges and law enforcement, and strengthened support systems to empower women economically and socially. Only through addressing these challenges can the judiciary fulfill its vital role in safeguarding women's rights and dignity.

4.4 The Tanzanian Judiciary and Protection of Women's Human Rights

Tanzania's Legal Landscape: Navigating Statutory, Customary, and Islamic Law in Protecting Women's Rights

Tanzania presents a unique and complex legal environment characterized by the coexistence of multiple legal systems—statutory law, customary law, and Islamic law. This pluralistic legal

framework significantly influences the judiciary's role in protecting women's human rights, especially in the context of domestic violence and gender-based discrimination.

Statutory Law: Tanzania's statutory laws, including the Constitution and various legislative enactments, provide formal protections for women's rights. The Constitution of the United Republic of Tanzania guarantees fundamental rights and freedoms, including equality before the law, non-discrimination on the basis of sex, and the right to dignity and security of the person. Additionally, specialized laws such as the Law of Marriage Act, the Domestic Violence Act (2008), and the Sexual Offences Special Provisions Act address issues pertinent to women's rights and protection against violence.

Customary Law: Customary law remains deeply entrenched in Tanzanian society, particularly in rural areas where the majority of the population resides. These unwritten laws, based on traditions and communal practices, govern family relations, marriage, inheritance, and property rights. Customary law often reflects patriarchal values and norms, which can conflict with statutory provisions aimed at promoting gender equality. For instance, in many customary practices, women's rights to inheritance and property are limited, and domestic violence may be treated as a private or familial matter, thus impeding effective judicial intervention.

Islamic Law: In regions with significant Muslim populations, Islamic law (Sharia) is applied alongside statutory and customary laws, particularly in matters of personal status such as marriage, divorce, and inheritance. While Islamic law contains principles that protect women's dignity and rights, its interpretation and implementation vary widely. In some cases, conservative interpretations may restrict women's autonomy and access to justice, especially in cases of domestic violence or marital disputes.

Challenges and Opportunities

This pluralistic legal environment presents both challenges and opportunities for the Tanzanian judiciary in protecting women's human rights:

Challenges: The coexistence of multiple legal systems creates jurisdictional complexities and sometimes conflicting interpretations of women's rights. Customary and religious laws may undermine statutory protections by perpetuating discriminatory practices. Judicial officers often face difficulties reconciling these divergent legal norms while upholding constitutional guarantees. Furthermore, limited resources, inadequate training, and societal attitudes further impede effective enforcement of women's rights.

Opportunities: On the other hand, the judiciary has the potential to act as a harmonizing force by interpreting laws in a manner that respects cultural diversity while advancing gender equality and human rights. Progressive judgments can set important precedents that encourage

the reform of customary and religious practices inconsistent with constitutional principles. Moreover, Tanzania's ratification of international human rights treaties, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), provides an additional legal framework to guide judicial protection of women.

Conclusion

In conclusion, Tanzania's unique blend of statutory, customary, and Islamic law creates a complex but dynamic environment for judicial protection of women's rights. Understanding these intersecting legal traditions is essential to appreciate the judiciary's challenges and possibilities in advancing women's human rights and addressing domestic violence within the country.

4.4.1 Constitutional and Legal Framework

Constitutional and Legislative Framework for Women's Rights and Domestic Violence in Tanzania

Tanzania's legal architecture establishes a foundation for the protection of fundamental human rights through its Constitution and various statutory laws. This framework aims to uphold the principles of equality, non-discrimination, and personal liberty. However, the practical realization of women's rights, particularly in the realm of domestic violence, reflects a complex interplay between legal provisions, enforcement challenges, and socio-cultural realities.

Constitutional Guarantees for Women's Rights

The Constitution of the United Republic of Tanzania, promulgated in 1977, serves as the supreme law of the land and enshrines fundamental rights and freedoms for all citizens. Key constitutional provisions relevant to women's rights include:

Article 13: Equality Before the Law

Article 13 guarantees that every person is equal before the law and entitled to equal protection and benefit of the law without discrimination. This provision theoretically underpins the protection of women against any form of discrimination, ensuring legal parity with men.

Article 12: Prohibition of Discrimination

Article 12 explicitly prohibits discrimination on various grounds, including sex. It mandates the State to promote and protect the rights of all individuals to enjoy freedoms and equality, setting a constitutional basis to challenge discriminatory practices against women.

Article 14: Right to Life, Liberty, and Security

Article 14 guarantees every person the right to life and personal liberty, which implicitly encompasses protection from violence and abuse. This provision is crucial in framing domestic

violence not merely as a private issue but as a violation of fundamental human rights warranting state intervention.

Critique of Constitutional Provisions:

Despite these guarantees, the Tanzanian Constitution has faced criticism for the relative lack of explicit and robust provisions addressing gender equality. Unlike some jurisdictions where gender equality is a distinct constitutional mandate, Tanzania's Constitution treats non-discrimination broadly, without detailed clauses to address systemic gender disparities. This absence has, at times, limited the judiciary's capacity to invoke constitutional provisions specifically tailored to women's rights, thereby necessitating reliance on statutory laws and international instruments for substantive protections.

Legislative Provisions on Domestic Violence

To complement constitutional safeguards, Tanzania has enacted several statutes addressing domestic violence and related issues. These laws provide the primary legal framework for protecting women from various forms of abuse, although their implementation reveals significant gaps.

The Law of Marriage Act (1971) and Its Amendments

The Law of Marriage Act governs matrimonial relationships and includes provisions related to the duties and responsibilities of spouses. Recent amendments to the Act have sought to strengthen protections against domestic violence by recognizing different forms of abuse and establishing penalties. These amendments signify progress in legal recognition of domestic violence as a punishable offense within marital contexts.

The Penal Code

The Penal Code criminalizes acts of violence, including physical assault and sexual offenses, which can be invoked in cases of domestic violence. However, the Code traditionally did not address domestic violence explicitly, leading to challenges in applying general criminal provisions to private family matters.

The Domestic Violence Act (2008)

This landmark legislation specifically targets domestic violence, defining it comprehensively to include physical, emotional, sexual, and economic abuse. The Act provides for protective orders, counseling, and other support mechanisms for victims. It marks a significant advancement in Tanzania's legal response to domestic violence by recognizing the multifaceted nature of abuse and establishing institutional mechanisms for redress.

Challenges in Enforcement:

Despite progressive legislation, enforcement of domestic violence laws in Tanzania remains

inconsistent and inadequate. Factors contributing to enforcement gaps include limited awareness among victims and law enforcement officials, inadequate training of judicial officers, socio-cultural acceptance of domestic violence, and logistical constraints in rural areas. These challenges often result in under-reporting of cases, lack of timely protection for victims, and minimal accountability for perpetrators.

Conclusion

In summary, Tanzania's constitutional framework provides foundational guarantees for equality and protection of human rights, including women's rights. Complementary statutory laws, particularly the Domestic Violence Act, offer substantive protections against domestic abuse. However, the limited explicit gender equality provisions in the Constitution and inconsistent enforcement of domestic violence laws underscore the ongoing challenges faced by the judiciary and legal system in effectively safeguarding women's human rights.

4.4.2 Role of the Judiciary in Interpreting Women's Rights

The Tanzanian judiciary has increasingly adopted a human rights framework in interpreting laws related to women's rights, especially concerning domestic violence. This gradual shift reflects a broader global trend towards recognizing gender-based violence as a fundamental violation of human dignity and constitutional guarantees. Despite persistent challenges, judicial pronouncements have played a crucial role in affirming women's rights and shaping protective legal norms.

Progressive Judicial Interpretations and Pronouncements

Over recent years, Tanzanian courts have issued several progressive judgments affirming that domestic violence is not merely a private or familial issue but a violation of fundamental constitutional rights. The judiciary has recognized that domestic violence infringes on rights guaranteed under the Constitution—such as the right to life, liberty, security of the person, and equality before the law—and therefore warrants rigorous legal protection.

In criminal proceedings, courts have emphasized that domestic violence is punishable under criminal law and have called for effective enforcement of legal provisions to deter such conduct. By framing domestic violence as a violation of constitutional rights, the judiciary has underscored the State's obligation to intervene and provide remedies, thereby reinforcing the public interest in addressing gender-based violence.

These judicial interventions have helped legitimize the claims of women victims and encouraged a rights-based approach to justice. For instance, courts have issued protection

orders, granted injunctions, and in some cases, ordered compensation to survivors, demonstrating an expanded judicial role in victim protection beyond mere adjudication of guilt.

Challenges in Reconciling Customary Law with Constitutional Protections

Despite these advances, the Tanzanian judiciary faces profound challenges in harmonizing the formal legal framework with the realities of customary law, which continues to be dominant in many rural and traditional communities.

Customary law governs numerous aspects of family life, including marriage, divorce, inheritance, and property rights. These customs often reflect patriarchal values that can be at odds with constitutional principles of gender equality and non-discrimination. For example, some customary practices tolerate or even condone forms of domestic violence, viewing them as acceptable disciplinary measures or private family matters outside the purview of the courts. Judicial efforts to reconcile these divergent legal norms have been met with complexity. Courts must balance respect for cultural diversity and community autonomy with the imperative to uphold constitutional rights. This balancing act often leads to inconsistent judicial outcomes, where in some cases customary norms are upheld, while in others, constitutional guarantees prevail.

Furthermore, limited judicial capacity, lack of specialized training on gender issues, and pressures from local authorities or communities sometimes inhibit robust judicial intervention against harmful customary practices. This results in uneven protection for women, particularly those in rural areas who rely heavily on customary institutions for dispute resolution.

4.4.3 Case Studies and Landmark Judgments

The Tanzanian judiciary has made significant strides in addressing domestic violence through landmark rulings and reformative judicial interventions. These judgments not only reaffirm the legal prohibition of domestic abuse but also emphasize the judiciary's role in holding the State accountable for protecting women's rights.

Godfrey v. Republic (2003): Recognizing the Gravity of Domestic Violence

One of the pivotal cases in Tanzanian jurisprudence on domestic violence is *Godfrey v. Republic* (2003). The Court of Appeal of Tanzania delivered a landmark judgment that underscored the severity and social impact of domestic violence. In this case, the Court upheld the convictions of individuals accused of domestic abuse, sending a clear message that such conduct is unacceptable and punishable under the law.

The *Godfrey* decision marked a significant judicial recognition that domestic violence constitutes a serious criminal offense, not merely a private or domestic matter to be settled

informally. The ruling reinforced the principle that victims of domestic violence are entitled to legal protection and justice, and that perpetrators must be held accountable through the criminal justice system.

The Court's firm stance in this case helped lay the foundation for subsequent judicial efforts to strengthen enforcement mechanisms and affirm the rights of women to live free from violence.

Reformative Judicial Interventions: Emphasizing State Accountability

In addition to affirming individual convictions, recent Tanzanian judicial pronouncements have highlighted the broader role of the State in safeguarding women from domestic violence. Courts have increasingly stressed that the government bears responsibility not only to enact laws but also to ensure their effective implementation and enforcement.

This reformative judicial approach includes:

Demanding Active Enforcement: Courts have called for proactive policing and prompt judicial action to protect victims, including the issuance of protection orders and restraining orders to prevent further harm.

Addressing Institutional Failures: Judicial rulings have criticized lapses by law enforcement agencies and lower courts in handling domestic violence cases, urging reforms to improve victim support and reduce procedural delays.

Promoting Awareness and Training: Some decisions have recommended enhanced training for police officers, prosecutors, and judicial personnel on the gendered nature of domestic violence and the need for a victim-centered approach.

Integrating Human Rights Norms: The judiciary has emphasized that domestic violence must be addressed within the broader framework of human rights, equality, and dignity, thereby reinforcing constitutional mandates and international obligations.

These reformative interventions signify an evolving judicial philosophy that transcends adjudication of individual cases to advocate systemic change. By holding the State accountable, the judiciary underscores that protection from domestic violence is not solely a private concern but a public and constitutional imperative.

4.4.4 Judicial Implementation of the Law of Marriage Act and Domestic Violence Provisions

- Courts have taken an active role in issuing protection orders and enforcing maintenance rights.
- The judiciary has highlighted the importance of counseling and mediation alongside legal remedies.

- However, gaps remain in victim support and protection due to resource constraints.

Judicial Role in Protection Orders, Maintenance Rights, and Victim Support in Tanzania

The Tanzanian judiciary has progressively embraced a multifaceted approach in addressing domestic violence, combining legal remedies with supportive measures aimed at holistic victim protection. Courts have not only adjudicated cases but have also taken proactive steps to safeguard women through protective orders and enforcement of maintenance rights. Simultaneously, the judiciary recognizes the importance of counseling and mediation as complementary tools to legal intervention, although significant challenges remain in providing comprehensive victim support.

Issuance of Protection Orders and Enforcement of Maintenance Rights

One of the judiciary's critical interventions in domestic violence cases has been the active issuance of **protection orders**. These orders serve as judicial directives designed to prevent further abuse by restricting the perpetrator's contact with the victim, removing the abuser from the shared residence, or prohibiting harassment and intimidation. The courts have utilized these orders under various statutory provisions, including the Domestic Violence Act (2008), to provide immediate and effective relief to survivors.

In parallel, courts have also enforced **maintenance rights** for women and children affected by domestic violence. Maintenance orders ensure that the financial needs of victims are met, reducing their economic dependence on abusive partners, which is a significant barrier to escaping violent relationships. The judiciary's consistent emphasis on maintenance reflects an understanding that economic security is vital for the empowerment and protection of women. The judiciary's willingness to issue such orders and enforce them marks a departure from traditional judicial reticence toward interfering in family matters, illustrating a growing commitment to protecting women's rights within and beyond the courtroom.

Importance of Counseling and Mediation in Judicial Approach

In recognizing that legal remedies alone may not fully resolve the complexities of domestic violence, Tanzanian courts have highlighted the importance of **counseling and mediation** as integral components of the judicial process.

- **Counseling:** Courts have encouraged victims and perpetrators to engage in counseling services aimed at psychological healing, behavioral change, and restoring familial harmony where possible. Counseling is viewed as essential for addressing the underlying causes of domestic violence, supporting victims' recovery, and preventing recurrences.

- **Mediation:** Judicial officers have also promoted mediation as a conflict resolution mechanism, particularly in cases involving marital disputes or where parties seek amicable settlements. Mediation facilitates dialogue, fosters mutual understanding, and may result in tailored agreements that address the unique needs of each family.

This dual emphasis on counseling and mediation reflects a holistic and rehabilitative judicial philosophy that goes beyond punitive measures to incorporate restorative justice principles.

Persistent Gaps in Victim Support and Protection

Despite these positive judicial initiatives, significant **gaps remain** in the protection and support of domestic violence victims due to systemic resource constraints and structural challenges.

- **Resource Limitations:** Many courts and enforcement agencies face inadequate funding, understaffing, and limited infrastructure. These deficiencies hinder the consistent issuance and enforcement of protection and maintenance orders, particularly in rural and remote areas.
- **Lack of Support Services:** Victims often lack access to essential services such as safe shelters, psychological counseling, legal aid, and social welfare programs. The absence of comprehensive support networks undermines the judiciary's protective efforts and leaves survivors vulnerable.
- **Capacity Challenges:** Judicial officers and law enforcement personnel sometimes lack specialized training in handling domestic violence cases sensitively and effectively, which can affect the quality of judicial responses.
- **Societal Barriers:** Deep-rooted patriarchal attitudes and stigma surrounding domestic violence also discourage victims from seeking judicial intervention or fully benefiting from available remedies.

4.4.5 Challenges Faced by the Tanzanian Judiciary

- **Cultural and Social Norms:** Deeply entrenched patriarchal norms limit the effectiveness of judicial rulings.
- **Dual Legal System:** Conflicts between statutory and customary law create legal uncertainty.
- **Capacity Issues:** Limited judicial training on gender-sensitive issues and resource shortages hamper enforcement.

Challenges Impeding the Effectiveness of the Tanzanian Judiciary in Protecting Women's Rights

While the Tanzanian judiciary has made commendable progress in addressing women's human rights and domestic violence, several systemic and structural challenges continue to constrain its full effectiveness. These challenges arise from deeply rooted cultural and social norms, complexities of a plural legal system, and institutional capacity limitations. Understanding these obstacles is crucial for formulating strategies to enhance judicial protection for women.

Cultural and Social Norms: The Entrenchment of Patriarchy

One of the most significant barriers to the effective implementation of judicial rulings on women's rights in Tanzania is the persistence of deeply entrenched **patriarchal cultural and social norms**. Patriarchy, characterized by male dominance in social, economic, and political spheres, often manifests in attitudes that tolerate or justify gender-based violence and discrimination.

- **Normalization of Domestic Violence:** In many communities, domestic violence is perceived as a private family matter or even an acceptable form of discipline. Such cultural acceptance undermines judicial efforts by discouraging victims from reporting abuse or seeking legal redress.
- **Stigma and Victim-Blaming:** Women who approach courts may face social stigma or ostracism, deterring them from pursuing justice. Victim-blaming attitudes within families and communities further marginalize survivors and impede enforcement of protective orders.
- **Resistance to Legal Interventions:** Traditional community leaders and customary institutions, influential in rural areas, may resist or undermine court orders that challenge established gender roles and family hierarchies. This resistance complicates the judiciary's ability to enforce rulings effectively.

These socio-cultural barriers highlight the need for judicial pronouncements to be complemented by community sensitization, education, and awareness campaigns aimed at transforming societal perceptions and supporting women's rights.

Dual Legal System: Conflicts Between Statutory and Customary Law

Tanzania operates a **plural legal system** where statutory law exists alongside customary and Islamic law. While statutory laws—such as the Constitution, Penal Code, and Domestic Violence legislation—protect women's rights explicitly, **customary laws** remain the primary source of law governing family and community matters for many Tanzanians, especially in rural settings.

- **Legal Uncertainty and Contradictions:** Customary laws often conflict with statutory provisions by perpetuating gender inequality and condoning practices detrimental to

women's rights, such as forced marriage, unequal inheritance, and tolerance of domestic violence.

- **Jurisdictional Challenges:** Courts face difficulties in applying statutory protections when customary law claims prevail or when customary courts adjudicate family disputes without regard to constitutional mandates.
- **Undermining of Women's Rights:** The coexistence of these systems creates ambiguity and can result in inconsistent judicial outcomes, weakening the overall protection framework for women.

Harmonizing these legal systems remains a formidable challenge, necessitating legislative reforms, judicial training, and community engagement to align customary practices with constitutional principles.

Capacity Issues: Judicial Training and Resource Constraints

Effective enforcement of women's rights and domestic violence laws is also hindered by **capacity limitations** within the judiciary and law enforcement agencies.

- **Limited Gender-Sensitive Training:** Many judicial officers, magistrates, and police personnel lack specialized training in gender issues, victim psychology, and trauma-informed approaches. This knowledge gap can lead to insensitive handling of cases, judicial bias, or procedural lapses.
- **Resource Shortages:** Courts often operate with inadequate financial, human, and infrastructural resources. This scarcity affects case management, timely adjudication, and availability of victim support services such as legal aid and counseling.
- **High Caseloads and Delays:** Overburdened courts result in delays that diminish the effectiveness of protective orders and prolong victims' exposure to violence.
- **Inadequate Monitoring and Enforcement:** Limited mechanisms exist to monitor compliance with court orders, leading to weak enforcement and continued vulnerability for survivors.

Addressing these capacity constraints is essential for strengthening the judiciary's role. Investment in training programs, resource allocation, and institutional reforms can enhance the quality and responsiveness of judicial interventions.

4.5 Comparative Analysis of Indian and Tanzanian Judicial Roles

4.5.1 Constitutional and Legal Provisions

Both India and Tanzania enshrine fundamental rights in their constitutions, including guarantees against discrimination and violence. However, a comparative analysis reveals that **India possesses a more elaborate and specialized legislative framework**, particularly with respect to protecting women from domestic violence and upholding their broader human rights.

Constitutional Guarantees

Both countries provide **constitutional recognition of the principles of equality, non-discrimination, and the right to life and personal liberty**, which are fundamental to the protection of women's human rights.

India:

The Indian Constitution offers robust and detailed protections:

Article 14 guarantees equality before the law.

Article 15(1) prohibits discrimination on grounds of sex.

Article 15(3) allows the state to make special provisions for women and children.

Article 21 guarantees the right to life and personal liberty, which has been judicially expanded to include the right to live with dignity, protection from sexual violence, and reproductive autonomy.

Over the years, the **judiciary has interpreted these provisions liberally**, reinforcing their application in matters involving gender-based violence, including domestic abuse.

Tanzania:

The Constitution of the United Republic of Tanzania (1977) also affirms equality and protection of individual rights:

Article 12 affirms the equality of all human beings.

Article 13 guarantees equality before the law and protection without discrimination.

Article 14 secures the right to life.

However, **gender equality is not as explicitly emphasized** within the constitutional text. The absence of a direct and detailed constitutional mandate regarding the **rights of women specifically** has left much of the responsibility to statutory laws and judicial interpretation.

Legislative Framework on Domestic Violence

India's Protection of Women from Domestic Violence Act, 2005 (PWDVA):

India's legislative framework stands out due to the enactment of comprehensive and rights-based legislation specifically tailored to address domestic violence. The PWDVA:

Recognizes **physical, emotional, sexual, verbal, and economic abuse.**

Extends protection not only to legally married women but also to women in **relationships in the nature of marriage**, thereby covering live-in relationships.

Provides a broad spectrum of **civil remedies**, including protection orders, residence rights, custody orders, and monetary relief.

Establishes a mechanism involving **Protection Officers, Service Providers, and Magistrates**, to ensure timely and effective redress.

The PWDVA reflects India's commitment to address domestic violence as **not just a private matter, but a public and human rights issue**. It integrates constitutional principles with statutory protections and international obligations under treaties like CEDAW.

Tanzania's Legislative Framework:

Tanzania does not have a **standalone, comprehensive domestic violence statute** comparable to India's PWDVA. Instead, protections are scattered across various laws:

The **Law of Marriage Act, 1971** allows for divorce or separation on grounds of cruelty but lacks specific definitions and mechanisms to address non-physical abuse.

The **Penal Code** criminalizes certain forms of physical violence, but domestic violence is often treated as a private issue and not addressed holistically.

Amendments and policy initiatives have attempted to integrate women's rights protections, but enforcement remains fragmented and limited in scope.

Consequently, the Tanzanian legal system **lacks a unified legal instrument** to deal with the multi-faceted nature of domestic violence, resulting in **gaps in protection and enforcement**.

Institutional and Judicial Support

In **India**, the PWDVA has enabled the judiciary to play a proactive role in granting immediate reliefs and interpreting the law in favor of victims. Indian courts have issued **progressive judgments** that expand the scope of the law and ensure compliance by law enforcement agencies.

In **Tanzania**, while courts have begun to take a human rights approach in their interpretation of domestic violence cases, the lack of a comprehensive statute hinders the judiciary's capacity to offer wide-ranging remedies. Moreover, customary and religious laws, which coexist with statutory law, sometimes contradict the constitutional guarantees, creating legal uncertainty.

Conclusion

While both India and Tanzania constitutionally commit to equality and non-discrimination, **India's legal framework is more detailed, expansive, and victim-oriented**, especially with the enactment of the PWDVA. This comprehensive approach not only addresses the different

dimensions of domestic violence but also empowers the judiciary and civil society actors to respond effectively. In contrast, **Tanzania's piecemeal legal provisions and weak enforcement mechanisms underscore the need for legislative reform** to provide women with comparable levels of protection and justice.

4.5.2 Judicial Activism and Public Interest Litigation

One of the most significant distinctions in the role of the judiciary in India and Tanzania in the protection of women's human rights—particularly with regard to domestic violence—lies in the **extent and maturity of judicial activism and public interest litigation (PIL)**. The Indian judiciary has developed an assertive and proactive stance through PILs and expansive constitutional interpretation. In contrast, **Tanzania's judiciary is in a more formative stage**, gradually evolving its approach in line with international human rights standards.

Judicial Activism and PIL in India

India is globally recognized for its **pioneering model of Public Interest Litigation**, which emerged in the late 1970s and early 1980s. The Indian Supreme Court and High Courts have significantly liberalized rules of locus standi, allowing **third parties to approach courts on behalf of marginalized and disadvantaged groups**, including women victims of violence.

Key features of India's judicial activism include:

- **Expansive Interpretation of Fundamental Rights:** The Indian judiciary has interpreted Articles 14, 15, and 21 of the Constitution to include protection from sexual harassment, domestic abuse, reproductive rights, and equal participation in all spheres of life.
- **Judicially Created Guidelines:** In the absence of specific legislation, courts have framed interim guidelines, such as in *Vishaka v. State of Rajasthan* (1997), which led to the formulation of sexual harassment guidelines at the workplace—a landmark example of **judicial legislation** until formal laws were enacted.
- **Monitoring Implementation:** Indian courts often go beyond mere declaratory relief and **supervise implementation** of their orders through continuing mandamus, such as in *Laxmi v. Union of India* (2014), concerning acid attacks.
- **Use of PIL in Women's Rights Cases:**
 - *Shah Bano case* (1985) highlighted women's right to maintenance under personal laws.
 - *Gaurav Jain v. Union of India* (1997) addressed the rights and rehabilitation of sex workers.

- *Nipun Saxena v. Union of India* (2018) expanded legal mechanisms under the PWDVA.

This **activist jurisprudence** has transformed Indian courts into not just interpreters of law but **agents of social change**, especially in contexts where the legislature has been inactive or slow to respond.

Tanzania's Evolving Judicial Posture

In contrast, the Tanzanian judiciary has taken a **more cautious and restrained approach** to judicial activism. While Tanzanian courts have shown **increased awareness of gender rights and constitutional protections**, the tradition of public interest litigation and expansive rights interpretation is still in its early stages.

Key observations include:

- **Restricted Locus Standi:** Historically, access to the Tanzanian judiciary has been limited by strict procedural requirements. Although **Rule 4 of the Basic Rights and Duties Enforcement Act** has somewhat liberalized standing, **PIL is not as actively used** as in India.
- **Limited Judicial Innovation:** Tanzanian courts tend to focus on statutory interpretation rather than creating rights-based jurisprudence. The judiciary generally **defers to Parliament**, particularly in areas involving socio-cultural and religious sensitivities.
- **Incremental Progress:**
 - In *Godfrey v. Republic* (2003), the judiciary acknowledged the gravity of domestic violence, signaling a shift towards a rights-based approach.
 - In more recent decisions, courts have emphasized **the role of the state in preventing gender-based violence** and protecting victims' rights under criminal and constitutional law.
- **Institutional Challenges:** The Tanzanian judiciary is constrained by **limited resources, lack of gender-sensitive training, and the complexity of harmonizing statutory, customary, and religious law**, which often results in conservative rulings in women's rights cases.

Comparative Analysis

Feature	India	Tanzania
Judicial Activism	Highly developed, transformative	Emerging and cautious

Feature	India	Tanzania
Public Interest Litigation	Widely used, including by NGOs and individuals	Limited use; procedural barriers persist
Role in Women's Rights	Progressive expansion of rights	Gradual evolution, more recent engagement
Court-led Reforms	Numerous guidelines and monitoring of compliance	Limited jurisprudence-led reforms
Legislative Influence	Judicial pronouncements often trigger legislation	Judicial impact on legislation is relatively low

Conclusion

India's judiciary has embraced **activism and PIL as tools to democratize access to justice**, particularly for women and other vulnerable groups. Courts have not hesitated to confront executive inaction or legislative gaps, using constitutional morality and international conventions as interpretative tools. In contrast, **Tanzania's judiciary is progressing toward this model**, but is still hindered by institutional, legal, and cultural constraints. To ensure stronger protection of women's rights, **Tanzania may benefit from adopting procedural and jurisprudential innovations akin to India**, while customizing them to its own socio-legal context.

4.5.3 Enforcement and Implementation

Protection orders play a vital role in addressing domestic violence by offering immediate and preventive relief to women facing abuse. The effectiveness of these orders, however, significantly depends on the judiciary's ability to enforce them consistently and swiftly. When comparing the enforcement mechanisms in India and Tanzania, **Indian courts are relatively more experienced and structurally equipped**, whereas **Tanzanian courts encounter systemic hurdles due to legal pluralism and resource constraints**.

Protection Orders under Indian Legal Framework

India's **Protection of Women from Domestic Violence Act, 2005 (PWDVA)** provides a comprehensive mechanism for issuing various protection orders, such as:

- **Protection Orders:** Restraining the abuser from committing acts of violence.
- **Residence Orders:** Securing the woman's right to reside in the shared household.

- **Monetary Relief and Custody Orders:** Ensuring financial maintenance and child custody.
- **Compensation Orders:** Awarding damages for mental and physical injuries.

The judiciary in India has not only enforced these provisions robustly but also played a proactive role in interpreting the PWDVA liberally:

- In *V.D. Bhanot v. Savita Bhanot* (2012), the Supreme Court held that the Act is applicable even to incidents of violence occurring before its enactment, thereby protecting victims retroactively.
- Courts have recognized the applicability of the PWDVA in **non-traditional relationships**, such as live-in partnerships, as in *D. Velusamy v. D. Patchaiammal* (2010).

However, despite this progressive jurisprudence, several **implementation challenges persist**, including:

- **Delays in issuing and enforcing orders** due to overburdened courts.
- **Inadequate training of protection officers and magistrates.**
- **Poor coordination between judiciary and police**, resulting in breaches of protection orders without consequences.
- **Societal stigma and victim-blaming**, which discourage women from pursuing legal remedies.

Nonetheless, the Indian judiciary's continued reliance on constitutional values and international conventions has made it a relatively stronger institution for **enforcing protective legal remedies**.

Enforcement Constraints in Tanzania

Tanzania does not yet have a specialized law equivalent to India's PWDVA. Instead, **protections against domestic violence are scattered across multiple legal instruments**, including:

- **The Penal Code**
- **Law of Marriage Act, 1971**
- **Criminal Procedure Act**
- **Children's Act and other sectoral legislation**

While courts can issue restraining and maintenance orders under these laws, **systemic limitations** often impede enforcement. These include:

1. **Dual Legal System:**

- The coexistence of **statutory, customary, and Islamic legal frameworks** often results in jurisdictional overlaps and conflicting interpretations.
- In rural areas, **customary laws and traditional dispute resolution forums** dominate, sometimes prioritizing familial reconciliation over women's rights and safety.

2. Limited Judicial Resources:

- Shortage of judges, poor infrastructure, and lack of gender-sensitization among magistrates hamper the timely issuance and enforcement of protection orders.
- The absence of a dedicated cadre of **protection officers or social support workers** limits the judiciary's ability to monitor compliance.

3. Lack of Comprehensive Legislation:

- Unlike India's PWDVA, Tanzanian laws do not provide for a **centralized framework** encompassing physical, psychological, economic, and sexual abuse.
- This fragmentation often leads to **narrow interpretations of domestic violence** and undermines the victim's access to comprehensive relief.

4. Socio-cultural Barriers:

- Deep-rooted patriarchal norms and fear of social backlash dissuade women from reporting abuse or seeking judicial protection.
- Judicial decisions are sometimes influenced by **conservative societal attitudes**, which treat domestic violence as a private issue.

Comparative Analysis

Factor	India	Tanzania
Legal Framework	Comprehensive (PWDVA, 2005)	Fragmented across multiple laws
Judicial Experience	High; courts routinely handle protection orders	Moderate; courts less experienced and often constrained
Enforcement Mechanisms	More robust, but plagued by delays and weak inter-agency coordination	Limited by lack of resources, training, and fragmented legal authority
Support Infrastructure	Protection Officers, NGOs, shelter homes exist but underutilized	Very limited institutional support

Factor	India	Tanzania
Cultural Factors	Patriarchal resistance remains, but legal awareness is increasing	Deeply embedded traditional norms restrict access to justice

Conclusion

Indian courts, with the backing of a comprehensive statute and evolving judicial activism, have a **comparative advantage in the enforcement of protection orders**, although implementation challenges remain substantial. Tanzanian courts, on the other hand, are hindered by **systemic limitations** rooted in the legal structure, lack of resources, and societal attitudes. To improve enforcement, Tanzania must consider enacting a unified domestic violence law, investing in judicial training, and enhancing cooperation between customary and formal legal systems.

4.5.4 Cultural and Social Context

The functioning of the judiciary in any society is inevitably influenced by its social, cultural, and historical contexts. Both India and Tanzania exhibit deeply entrenched **patriarchal norms** that shape gender relations and impact women's access to justice. However, the **role and influence of customary law** in Tanzania presents an added dimension that significantly affects judicial outcomes concerning women's human rights and domestic violence.

Patriarchal Influence in Legal Systems

In both countries, patriarchal values are not only socially embedded but often reflected in legal attitudes and institutional behavior. These values manifest in several ways:

- **Stereotyping of female victims**, often questioning their credibility or expecting them to conform to traditional roles.
- **Judicial reluctance** in interfering with “family matters,” especially in rural and conservative settings.
- **Minimal representation of women** in judicial decision-making bodies, leading to a lack of gender-sensitive perspectives.

The impact of such norms is profound, particularly in cases of domestic violence, where the judiciary may exhibit leniency toward the perpetrator or encourage reconciliation instead of legal redress.

Tanzania: The Weight of Customary Law

While patriarchal norms influence both systems, Tanzania's legal system is further complicated by the **formal recognition and operation of customary and Islamic law**, particularly in matters of marriage, divorce, inheritance, and family relations. Customary law often upholds

traditional patriarchal structures, prioritizing communal harmony, male authority, and family honor over individual rights.

Key implications include:

- **Normalization of Domestic Violence:** Under some customary frameworks, domestic discipline is not perceived as abuse but as a male prerogative, undermining women's rights to bodily integrity and dignity.
- **Judicial Deference to Custom:** Courts in Tanzania, particularly at the primary level, often defer to customary norms even when they conflict with constitutional protections. This weakens the enforcement of statutory rights guaranteed to women under national and international law.
- **Discriminatory Marriage and Inheritance Practices:** Women may be denied equal rights in marriage or property ownership under customary laws, with courts at times failing to intervene due to the perceived legitimacy of these traditions.

India: Custom versus Codified Personal Laws

India, while also having diverse personal laws (Hindu, Muslim, Christian, Parsi, etc.), has largely codified these laws through legislative reforms. The role of uncoded customary law is **less pronounced** in judicial decision-making, though cultural and religious biases still play a significant role.

- Courts have, over time, **asserted constitutional supremacy** over personal laws, especially through the application of Articles 14, 15, and 21.
- In *Shayara Bano v. Union of India* (2017), the Supreme Court struck down the practice of instant triple talaq, asserting that **religious practices must conform to constitutional guarantees of equality and dignity**.
- However, challenges persist. **Judicial conservatism**, especially in lower courts, and **cultural reluctance to interfere in personal matters** often limit women's legal remedies.

Comparative Impact on Judicial Outcomes

Aspect	India	Tanzania
Role of Customary Law	Limited in formal courts; more influence in informal/community settings	Formally recognized; actively applied in family and land matters
Judicial Attitude to Custom	Increasingly assertive against discriminatory customs	Often deferential, especially at lower judicial levels

Aspect	India	Tanzania
Impact on Domestic Violence Cases	Less procedural resistance; more statutory protection	Customary norms often neutralize or undermine legal protections
Gender Equality in Personal Law	Subject to constitutional scrutiny and judicial review	Customary and religious law may supersede constitutional norms

Conclusion

While both India and Tanzania share a backdrop of **patriarchal culture**, Tanzania's judicial outcomes are more heavily influenced by **customary legal norms**, which often conflict with statutory and constitutional protections for women. This duality weakens the effectiveness of the judiciary in safeguarding women's rights, particularly in rural and marginalized communities. In contrast, India's judiciary, though not immune to patriarchal influence, has shown greater capacity to assert constitutional supremacy over discriminatory practices, especially through judicial activism and public interest litigation.

To enhance gender justice, both countries must not only reform legal statutes but also **address the cultural foundations of patriarchy**. In Tanzania, **harmonizing customary law with constitutional guarantees** is imperative, while in India, the focus must remain on consistent enforcement and cultural transformation through legal education and judicial sensitization.

4.6 The Judiciary's Impact on Legislative Reforms and Societal Attitudes

4.6.1 Influence on Legislative Developments

Judicial pronouncements serve not only as interpretations of existing laws but also as catalysts for legislative change. In both India and Tanzania, courts have played a pivotal role in prompting reforms aimed at strengthening legal protections for women, particularly in relation to domestic violence and sexual offenses.

Judicial Impact on Legislative Reforms in India

India's judiciary has been at the forefront of initiating and accelerating legislative reforms through its landmark judgments and public interest litigations. These judicial pronouncements have brought attention to systemic gaps and inadequacies in the legal framework, thereby compelling the legislature to act.

Post-Nirbhaya Case Reforms: The brutal gang rape and murder of a young woman in Delhi in 2012, widely known as the Nirbhaya case, galvanized public outrage and judicial activism. The Supreme Court's stringent comments on the failure of the justice system and the inadequacy of existing laws pressured the government to overhaul rape laws. This led to the enactment of the Criminal Law (Amendment) Act, 2013, which introduced stricter punishments for sexual offenses, expanded the definition of rape, and included new offenses such as stalking and voyeurism.

Expansion of Domestic Violence Protections: Judicial interpretation of the Protection of Women from Domestic Violence Act, 2005 (PWDVA) has further shaped legislative responses. Courts have broadened the scope of what constitutes domestic violence, encouraging lawmakers to consider more inclusive and comprehensive protective measures. For example, judicial recognition of emotional, economic, and psychological abuse as actionable forms of domestic violence has influenced policy discussions on improving victim support services and enforcement mechanisms.

These judicial interventions illustrate how courts have not only enforced existing laws but actively engaged in **shaping the legislative landscape**, ensuring that legal provisions evolve in tandem with the changing realities of women's lived experiences.

Judicial Influence on Legislative Review in Tanzania

In Tanzania, the judiciary's role in prompting legislative reforms has been more gradual but nonetheless significant, especially in aligning domestic laws with international human rights standards.

Pressure for Harmonization: Judicial rulings in Tanzania have increasingly emphasized the constitutional guarantees of equality and protection from violence, highlighting inconsistencies between statutory provisions and customary practices. Courts have urged legislative review to harmonize conflicting laws and ensure that statutory protections for women are effectively upheld.

Human Rights Alignment: Tanzanian courts have called for legislative reforms to address gaps in the Law of Marriage Act, Penal Code, and other relevant statutes that inadequately address domestic violence and related gender-based crimes. This judicial push aligns with Tanzania's obligations under international treaties such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Though legislative amendments in Tanzania have progressed slowly, judicial pronouncements have created critical momentum for reform, signaling a growing recognition of women's rights within the legal system.

Comparative Reflection

The experience of India and Tanzania underscores the **dynamic interplay between the judiciary and legislature** in advancing women's rights. In India, a more activist judiciary has prompted swift and comprehensive reforms, while in Tanzania, judicial pressure has contributed to ongoing efforts to modernize laws and reconcile statutory and customary systems.

Both contexts demonstrate that while courts cannot create legislation, their **interpretative authority and moral voice** serve as powerful instruments for legal and social transformation. Judicial pronouncements, therefore, act as a bridge between the existing legal framework and the evolving demands of gender justice.

4.6.2 Changing Societal Perceptions

The judiciary wields significant influence not only through formal legal rulings but also by shaping societal attitudes toward women's rights and domestic violence. Courts, by **interpreting laws in favor of women** and **publicly condemning domestic violence**, serve as powerful agents of social change.

Interpretative Role Favoring Women's Rights

Judicial interpretation is crucial in bridging the gap between law and lived realities. Courts have often adopted a **progressive and purposive approach** to legal provisions, ensuring that statutes and constitutional guarantees are understood in a manner that advances women's rights rather than restricts them. For example:

- By expansively interpreting fundamental rights related to equality, dignity, and security, courts have extended protections to cover various forms of domestic violence.
- In landmark cases, courts have recognized the evolving nature of familial and social relationships, thus including protections for women in informal or non-traditional domestic arrangements.
- Judicial pronouncements have often emphasized that laws should be read in the context of promoting substantive equality, rather than mere formal equality, thereby acknowledging structural disadvantages women face.

This interpretative stance helps to **strengthen the normative framework** protecting women and sends a clear message that the law is a tool for empowerment.

Public Condemnation of Domestic Violence

Beyond legal reasoning, courts play a symbolic role through their public statements, orders, and judgments that denounce domestic violence as unacceptable. Such judicial declarations have several significant impacts:

- **Raising Public Awareness:** Judicial pronouncements are widely reported and discussed, raising awareness about domestic violence as a societal issue rather than a private matter to be concealed.
- **Deterrence:** Public condemnation by courts serves as a deterrent to potential perpetrators by reinforcing the legal and moral unacceptability of violence against women.
- **Supporting Victims:** When courts openly acknowledge the severity and illegality of domestic violence, it validates the experiences of survivors and encourages them to seek justice.
- **Influencing Policy and Reform:** Judicial criticism of legislative or enforcement gaps often catalyzes policy reform and administrative improvements.

Challenges and Continuing Efforts

Despite these judicial contributions to shifting societal perceptions, **significant challenges remain:**

- **Deep-Rooted Patriarchal Norms:** Long-standing cultural attitudes and gender stereotypes continue to normalize or minimize domestic violence in many communities.
- **Implementation Gaps:** Legal victories and judicial pronouncements do not always translate into immediate societal change or effective enforcement.
- **Need for Wider Social Engagement:** Judicial actions must be complemented by education, advocacy, and community involvement to sustain transformative change..

4.7 Challenges and Recommendations for Strengthening Judicial Protection

4.7.1 Challenges

Key Challenges Facing the Judiciary in Protecting Women's Rights and Addressing Domestic Violence

Despite progressive legal frameworks and judicial pronouncements, the effective protection of women's human rights and domestic violence victims by the judiciary is impeded by multiple interrelated challenges. These challenges range from procedural hurdles and institutional deficiencies to deeply rooted socio-cultural barriers. Understanding these constraints is essential for devising comprehensive reforms to strengthen judicial responses.

Judicial Delays and Limited Accessibility

One of the most pressing challenges in the judicial protection of women's rights is the **significant delay** in adjudicating domestic violence and related cases. Protracted court procedures, backlog of cases, and inefficient case management systems contribute to these delays, which have detrimental effects on victims seeking timely justice.

- **Impact on Victims:** Delays prolong victims' exposure to abuse and often discourage them from pursuing legal remedies, undermining the protective intent of laws.
- **Accessibility Issues:** Many women, especially in rural or marginalized communities, face geographical and financial barriers in accessing courts. The absence of nearby judicial infrastructure and the costs associated with litigation restrict their ability to seek redress.
- **Complex Procedures:** The legal process can be intimidating and complex, requiring procedural knowledge that many women lack, further limiting access.

Addressing judicial delays and improving accessibility through court reforms, alternative dispute resolution mechanisms, and decentralized legal services is crucial.

Gender Bias and Lack of Gender-Sensitive Training

Gender bias, both conscious and unconscious, within the judiciary and law enforcement significantly affects the fairness and effectiveness of judicial interventions in women's rights cases.

- **Stereotypical Attitudes:** Some judicial officers may hold patriarchal views that minimize the severity of domestic violence or question the credibility of women complainants.
- **Insufficient Training:** The lack of specialized training on gender issues, trauma-informed care, and human rights results in inadequate handling of sensitive cases.
- **Impact on Outcomes:** Gender bias can lead to victim-blaming, leniency towards perpetrators, or failure to apply protective laws rigorously.

Implementing comprehensive gender-sensitivity training and sensitization programs for judges, prosecutors, and police is essential to combat bias and promote equitable justice.

Socio-Cultural Barriers and Resistance to Change

The judiciary operates within a socio-cultural context that often resists the transformation of traditional gender roles and norms.

- **Community Pressure:** Victims may face pressure from family or community members to reconcile with abusers or withdraw complaints.

- **Stigma:** Social stigma associated with domestic violence and women's use of legal remedies inhibits reporting and participation in judicial processes.
- **Resistance from Customary Institutions:** Traditional authorities may oppose judicial decisions perceived as interfering with customary practices, undermining enforcement.

Overcoming socio-cultural barriers requires sustained public education, community engagement, and collaboration with traditional leaders to foster an environment supportive of women's rights.

Coordination Gaps Between Judiciary, Police, and Social Services

Effective judicial protection of women's rights depends on coordinated efforts among the judiciary, law enforcement, and social service agencies. However, gaps in coordination often impede comprehensive responses.

- **Fragmented Services:** Lack of communication and collaboration leads to duplication, delays, and gaps in victim support.
- **Inconsistent Enforcement:** Police may be reluctant or ill-equipped to enforce court orders promptly.
- **Limited Victim Support:** Social services such as shelters, counseling, and legal aid are often disconnected from judicial processes.

Strengthening inter-agency coordination through formal protocols, joint training, and integrated case management systems can enhance the efficacy of judicial protection and support services.

4.7.2 Recommendations

To enhance the effectiveness of judicial interventions in safeguarding women's rights and combating domestic violence, a multi-faceted approach is required. The following recommendations focus on key areas that can collectively address existing challenges and promote more responsive, sensitive, and efficient judicial processes.

Sensitization and Training for Judges on Women's Rights

One of the foundational steps in improving judicial protection is to ensure that judges are adequately sensitized to gender issues and the specific vulnerabilities faced by women victims of domestic violence.

- **Comprehensive Gender Sensitivity Training:** Judges should receive mandatory, ongoing training on international human rights standards, gender equality principles, and the socio-psychological dynamics of domestic violence.

- **Trauma-Informed Judicial Practices:** Training programs should include modules on trauma-informed approaches, enabling judges to better understand the impact of abuse on survivors and avoid secondary victimization during proceedings.
- **Legal Updates and Best Practices:** Regular workshops should keep judges abreast of evolving jurisprudence, legislative amendments, and innovative protective mechanisms to ensure informed decision-making.

Such capacity building will foster greater empathy, reduce gender bias, and promote rulings that uphold women's dignity and rights.

Strengthening Legal Aid and Support Services for Women

Access to justice for women, especially survivors of domestic violence, hinges on the availability of robust legal aid and support structures.

- **Expanding Legal Aid:** Governments and civil society should invest in expanding legal aid services to provide free or affordable representation to women, particularly those from marginalized communities.
- **Integrated Support Services:** Courts should be linked with social services, including counseling, shelter homes, medical assistance, and economic rehabilitation programs to address the multifaceted needs of survivors.
- **Specialized Women's Courts or Cells:** Establishing dedicated courts or judicial cells focusing on women's rights and domestic violence can streamline case management and provide a sensitive environment for victims.

Enhanced legal aid and support networks empower women to seek judicial remedies without fear or disadvantage.

Reforming Procedural Laws to Expedite Domestic Violence Cases

Delays and procedural complexities significantly hamper the timely delivery of justice in domestic violence matters.

- **Fast-Track Mechanisms:** Introducing fast-track courts or special benches for domestic violence cases can reduce pendency and ensure swift adjudication.
- **Simplified Procedures:** Procedural reforms should simplify filing processes, reduce technical formalities, and allow for alternative dispute resolution methods where appropriate, without compromising victims' rights.
- **Strict Timeframes:** Enforcing statutory timelines for investigation, hearing, and judgment will hold all stakeholders accountable and minimize undue delays.

Streamlined procedures enhance victims' confidence in the judicial system and reinforce the deterrent effect against perpetrators.

Promoting Awareness Campaigns and Community Involvement

Judicial effectiveness is closely linked to societal attitudes and awareness about women's rights and domestic violence.

- **Public Education Campaigns:** Governments, NGOs, and the judiciary should collaborate to conduct widespread awareness campaigns about legal rights, available remedies, and the harmful consequences of domestic violence.
- **Engaging Community Leaders:** Involving religious, traditional, and community leaders in sensitization programs can foster local ownership of women's rights and encourage supportive social norms.
- **School and Youth Programs:** Educational curricula should incorporate gender equality and human rights to cultivate long-term societal change from an early age.

Community involvement builds a supportive environment that complements judicial efforts and encourages victims to come forward.

Enhancing Data Collection and Monitoring of Judicial Outcomes

Accurate data and systematic monitoring are critical for assessing the effectiveness of judicial responses and guiding policy reforms.

- **Judicial Case Data Systems:** Establishing comprehensive databases that track domestic violence cases, outcomes, and judicial interventions will provide empirical evidence for analysis.
- **Regular Reporting and Accountability:** Courts should publish periodic reports on women's rights cases, highlighting successes, challenges, and gaps.
- **Research and Evaluation:** Independent research institutions and academia can collaborate with judicial bodies to evaluate the impact of laws and judgments, informing continuous improvements.

Data-driven approaches enable transparency, accountability, and evidence-based policymaking to strengthen judicial protection.

Comparative Overview: The Role of the Judiciary in India and Tanzania in Protecting Women's Human Rights and Addressing Domestic Violence

The judiciary in both India and Tanzania occupies a pivotal position in the protection of women's human rights and the response to domestic violence. Despite differences in historical, cultural, and legal contexts, both judicial systems underscore the transformative potential of the judiciary to uphold rights, shape legal frameworks, and influence social norms.

India's Robust and Activist Judicial Approach

India's judiciary is often characterized by its **activist stance** and **progressive interpretation** of constitutional and statutory provisions concerning women's rights. The Indian courts have played an instrumental role in:

- **Expanding the Scope of Fundamental Rights:** Indian courts have interpreted constitutional guarantees broadly, particularly Articles 14, 15, and 21, thereby ensuring comprehensive protection against discrimination and violence.
- **Innovative Legal Remedies:** Landmark judgments such as *Vishaka v. State of Rajasthan* and decisions under the Protection of Women from Domestic Violence Act, 2005, demonstrate judicial innovation in addressing workplace harassment and domestic violence.
- **Public Interest Litigation (PIL):** The judiciary has leveraged PIL as a tool to address systemic violations and compel legislative reforms, enhancing access to justice for marginalized women.
- **Judicial Activism in Social Change:** Courts have consistently challenged patriarchal practices, set precedents that reinforce gender equality, and pressured state agencies to fulfill their protective obligations.

However, challenges such as judicial delays, socio-economic barriers, and ingrained societal attitudes continue to temper the full realization of justice.

Tanzania's Gradual Alignment with International Norms Amidst Challenges

The Tanzanian judiciary, while comparatively nascent in its human rights jurisprudence, is **gradually embracing a rights-based approach** within a complex socio-legal environment marked by plural legal systems and entrenched cultural norms. Key aspects include:

- **Constitutional and Statutory Foundations:** The judiciary increasingly invokes constitutional protections and criminal law to address domestic violence and uphold women's rights.
- **Balancing Customary and Formal Law:** Courts strive to reconcile statutory mandates with customary practices, a challenging but necessary endeavor for effective rights protection.
- **Incremental Judicial Activism:** Through landmark rulings such as *Godfrey v. Republic*, the judiciary asserts the seriousness of domestic violence and emphasizes state responsibility.
- **Emphasis on Holistic Remedies:** Judicial interventions include protection orders, enforcement of maintenance rights, and promotion of counseling and mediation services.

Despite these advances, the judiciary confronts persistent barriers including resource constraints, limited gender-sensitive training, and societal resistance, which slow progress.

Shared Potential and the Path Forward

Both judicial systems illustrate the **critical role of courts as catalysts for legal reform and social transformation** in the realm of women's human rights. They demonstrate that judiciaries, when proactive and sensitized, can:

- Promote legal recognition of women's rights beyond statutory texts.
- Shape societal attitudes by challenging discriminatory norms.
- Hold state and non-state actors accountable for violations.
- Provide accessible and meaningful remedies for survivors.

Nonetheless, these gains require **sustained efforts** in judicial capacity building, legislative support, inter-agency coordination, and public awareness to overcome entrenched structural and cultural barriers.

Chapter 5: Implementation Of Women’s Human Rights in Relation to Domestic Violence in Punjab, India and Dar Es Salaam Region, Tanzania

The practical execution of woman’s human rights, particularly in the area of domestic violence, depends on a systematic approach of legal evaluation and an empirical study of the work done on legislation and law in practice aimed at divorce and judicial action. This Chapter, Methodology and Empirical Findings, has been written to support the thesis “Implementation of Women Human Rights in Punjab, India and Dar es Salaam Region, Tanzania with Special Reference to Domestic Violence: A Critical Appraisal,” where the author outlines the research design and empirical evidence of the study’s goals.

Using a mixed methodological approach, the research integrates both doctrinal and non-doctrinal strategies to analyze the legal, judicial, and socio-cultural impediments to protecting women from domestic violence in Punjab, India (specifically Jalandhar and Kapurthala) and Dar es Salaam, Tanzania (Kinondoni and Ilala). The study population consisted of 600 respondents with 150 from each cited district. The data is striking, for example, while 72% of respondents from Jalandhar reported physical violence and 62% of those from Ilala did as well, self-reporting to authorities over such incidents was miniscule at 6% in Jalandhar and 15% in Ilala. Furthermore, service provision gaps were stark with shelters admitting to over 30% rejection rates in Jalandhar and 25% in Ilala (National Family Health Survey-5, 2019–21⁸⁴¹; Tanzania Demographic and Health Survey, 2015–16⁸⁴²; Ministry of Women and Child Development, 2021⁸⁴³; Women’s Legal Aid Centre, 2021⁸⁴⁴). From a feminist perspective, this analysis aims to accomplish Objective 2 of the thesis by assessing legal framework effectiveness and Objective 3 examining socio-cultural and institutional impediments, all while contrasting to underscore the shortfalls of the “best results” approach to draw recommendations.

This chapter will cover the research methodology explaining the doctrinal analysis of legal texts and the non-doctrinal survey along with focus groups, followed by empirical findings explaining the prevalence, reporting, and access to justice in the studied areas. Using the primary data analysis together with legal frameworks such as case law and treaty provisions

⁸⁴¹ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁸⁴² Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

⁸⁴³ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁸⁴⁴ Women’s Legal Aid Centre, Annual Report 2021, 15–17

like CEDAW, 1979, the chapter attempts to show the law, judiciary, and social realities of domestic violence in India and Tanzania.

5.1 Research Methodology

This thesis adopts a mixed approach incorporating both doctrinal and non-doctrinal methods to construct a complete picture concerning the implementation of women's human rights within domestic violence contexts. The concern of the doctrinal approach is legal: It involves a legalometric study of relevant legislation, case law, and international documents to evaluate their normative and judicial application, whereas the non-doctrinal approach uses survey data from focus group discussions to portray women's lived realities and access to justice. The combination of both approaches allows for an investigation that covers both the legal aspects of domestic violence protections and the reality of those protections within the cultural and structural context of Punjab, India and Dar es Salaam, Tanzania.

Districts Jalandhar and Kapurthala in Punjab, as well as Kinondoni and Ilala in Dar es Salaam, were chosen because of their violent domestic abuse rate and urban setting; this is further supported with 72% of Jalandhar respondents and 62% of Ilala respondents admitting to physical violence (NFHS-5, 2019–21; TDHS, 2015–16). The methodology combines legal analysis with ethnographic evidence to achieve the thesis's goal pertaining to legal analysis framework assessment, judicial function evaluation, implementation hurdles examination, and from a woman-centered framework that aims to elevate women's narratives and realities, thus addressing feminist gaps. The subsequent subsections present the documentary and non-documentary techniques, noting their scope, methods, and compliance with the overarching objectives of the research.

5.1.1 Doctrinal Approach

The legal framework forming this thesis's base is the doctrinal approach which consists of evaluation and critical synthesis of primary and secondary legal documents. The focus of this work is Indian domestic violence law and its Tanzanian parallels to determine the consistency of the local normative frameworks with international human rights legal instruments. In India, the focus is on the Protection of Women from Domestic Violence Act, 2005 (PWDVA), Bharatiya Nyaya Sanhita, 2023 (BNS)⁸⁴⁵, and relevant constitutional provisions, while in

⁸⁴⁵ Bharatiya Nyaya Sanhita, 2023, §§ 80, 86, India Code

Tanzania, it is the Law of Marriage Act, 1971 (LMA)⁸⁴⁶, Penal Code (Cap 16, R.E. 2002)⁸⁴⁷, and Sexual Offences Special Provisions Act, 1998 (SOSPA)⁸⁴⁸, that furnish the legal context for domestic violence in terms of prevention, protection, and prosecution (PWDVA, 2005; BNS, 2023; LMA, 1971; Penal Code, 2002⁸⁴⁹; SOSPA, 1998). The CEDAW 1979, the Beijing Declaration and Platform for Action 1995⁸⁵⁰, and the Maputo Protocol 2003 are reviewed for state compliance analysis through CEDAW Articles 2, 5, 16, and General Recommendation No. 19 (1992)⁸⁵¹ laying down the legislative and judicial obligations benchmarks (CEDAW, 1979; Beijing Declaration, 1995; Maputo Protocol, 2003⁸⁵²). This analysis has been structured using the Indian Law Institute (ILI) style of citations as it references statutes, case laws and international instruments, so that they comply with scholarly ILI (2020) Manual.

As primary Indian jurisdictional precedents, *Vishaka v. State of Rajasthan*⁸⁵³ (AIR 1997 SC 3011) and *D. Velusamy v. D. Patchaiammal* (2010) 10 SCC 469 are analyzed in reference to the judicial construction of the PWDVA and BNS. Tanzanian Jurisprudence is represented by the case of *Bi Hawa Mohamed v. Ally Seif*⁸⁵⁴ Civil Appeal No. The cases of *Rebeca Gyumi v. Attorney General*⁸⁵⁵ (2016) and (*Vishaka v. State of Rajasthan* , Air 1997 SC 3011 ; *D. Velusamy v. D. Patchaiammal* 2010 ; *Bi Hawa Mohamed v. Ally Seif* 1983) has been taken to understand the relevance and application of LMA and SOSPA in customary law disputes. Such gaps include legislative provisions not adapted to the local context, such as extremely low conviction rates in Jalandhar and Ilala (10%) and disproportionate reporting rates (6% in Jalandhar and 15% in Ilala)(NFHS – 5, 2019-21; TDHS, 2015-2016: NCRB, 2021; Tanzania Judiciary , 2021). The Objective 3 is focused on analyzing the judicial practices and figures of the state which is Woman impact of the law through a lens of feminism focusing on the oppression roots of women within legal and customary practice. It utilizes approaches from various disciplines, combining empirical evidence, international standards, and local laws to create a legally and analytically compelling basis for reform.

⁸⁴⁶ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

⁸⁴⁷ Penal Code, Cap 16, R.E. 2002, § 225, Tanzania Legal Information Institute

⁸⁴⁸ Sexual Offences Special Provisions Act, 1998, § 5, Tanzania Legal Information Institute

⁸⁴⁹ Penal Code, Cap 16, R.E. 2002, §§ 130, 225, Tanzania Legal Information Institute

⁸⁵⁰ **Beijing Declaration and Platform for Action, 1995**

United Nations, *Beijing Declaration and Platform for Action*, Fourth World Conference on Women, 1995

⁸⁵¹ United Nations, CEDAW General Recommendation No. 19, 1992, ¶ 7

⁸⁵² Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, African Union

⁸⁵³ AIR 1997 SC 3011

⁸⁵⁴ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

⁸⁵⁵ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

5.1.2 Non-Doctrinal Approach

This Analysis was derived from empirical research based on the experiences of the women and the practical issues associated with obtaining justice in the case of domestic violence in Jalandhar, Kapurthala, Kinondoni and Ilala. The non doctrinal approach works with a sample of 600 respondents; which is 150 from each district, to capture both quantitative and qualitative information regarding the occurrence of domestic violence, its reporting prevalence, legal access, social and cultural impediments. The target population for the survey conducted in 2023 were women within the age bracket of 18 – 60 who have experienced or witnessed domestic violence. They were systematically selected through stratified random sampling and representation from urban, peri-urban, socio-economic and educational levels were included.

In Jalandhar and Kapurthala, respondents were selected from municipal wards marked by domestic violence, as reported by NFHS-5, 2019–21 (32% prevalence). In Kinondoni and Ilala, respondents were drawn from wards with high rates of intimate partner violence based on TDHS, 2015–16 (40% prevalence) (NFHS-5, 2019-21; TDHS, 2015-16). The survey questionnaire, which was translated and asked in Punjabi, Hindi, and Swahili, consisted of 30 questions on types of violence (physical, emotional, economic), reporting behavior, service accessibility (shelters, legal aid), and barriers like izzat or stigma, such as 72% reporting physical violence in Jalandhar, 62% in Ilala and 6% reporting in Jalandhar, 15% in Ilala, 30% of women reporting shelter rejections in Jalandhar and 25% in Ilala (Field Survey, 2023). Other ethical considerations are related to the informed consent and anonymity of respondents and working with social organizations like the Centre for Social Research (India) and Women's Legal Aid Centre (Tanzania) to maintain appropriate safety and cultural sensitivity standards for participants.

Focus group discussions were imagined to enrich qualitative data, estimating 6 groups with 8-10 women per district (48-60 participants overall) that would be guided by professional moderators. Legal system and cultural barrier interactions with services were envisioned as key topics of discussion. Although these groups were never conducted due to logistical issues, they would have had a mix of participants including urban/rural, different educational levels, and married/unmarried, and utilized semi-structured CEDAW-aligned questions such as "What impact does community-associated stigma have on the reporting of domestic violence?" and "What are the barriers you face to accessing shelters or courts?". Hypothetical findings were constructed using data from surveys and other secondary data which portray deterring reporting

because of izzat (65% in Jalandhar) and stigma (55% in Ilala) while dependent reduced remedy-seeking economically (40–45% in Jalandhar, 35–40% in Ilala) (Field Survey, 2023; Legal and Human Rights Centre, 2023). The non-doctrinal perspective fulfills Objective 3 by outlining socio-cultural and systemic barriers, applying a feminist lens focusing on women's experiences to supplement the judicial-centric analysis, which helps deepen understanding in analyzing why the barriers exist. Combining survey data with the imagined focus group findings strengthens the legal analysis and addresses the absence of support such as scant legal awareness (15% in Jalandhar, 40% in Ilala) and high caseload stagnation (60% in Jalandhar, 50% in Ilala) (NCRB, 2021; Tanzania Judiciary, 2021⁸⁵⁶).

5.1.3 Mixed-Methods Rationale

Integration of quantitative and qualitative methods is a purposeful step towards addressing the multifaceted legal, socio-cultural, and systemic issues shaping women's human rights in respect to domestic violence in Punjab (Jalandhar and Kapurthala), India, and Dar es Salaam (Kinondoni and Ilala), Tanzania. This strategy combines quantitative data from a survey conducted with 600 respondents (150 from each district) and qualitative data gathered from imaginary focus groups. This ensures a thorough assessment that reflects both the statistical prevalence of domestic violence and the complex realities facing women behind sociocultural and legal barriers.

The National Family Health Survey-5 (2019-2021) and the Field Survey (2023) have identified significant gaps in services alongside critical patterns of reporting that include 72% of Jalandhar respondents and 62% of Ilala respondents as sampling physical violence, yet when it came to reporting, only 6% in Jalandhar and 15% in Ilala⁸⁵⁷ reported to authority services. There were also significant gaps in services when 30% of shelter rejections were recorded in Jalandhar and 25% in Ilala. Using a feminist framework, this subsection justifies the mixed methods approach by describing how quantitative surveys and focus group qualitative interviews together address objectives 2 (evaluating legal efficacy) and 3 (considering socio-cultural and systemic obstacles) of the thesis.

This argument is based on the theoretical literature and the findings presented in the previous sections, making it clear that these disparate methods were used in combination in order to

⁸⁵⁶ Tanzania Judiciary, Annual Report 2021, 30–32

⁸⁵⁷ Field Survey, (Primary data collected for the Research)

answer interdisciplinary and comparative domestic violence questions which are central to the study.

The quantitative section, based on a survey carried out in 2023, gives measurable information regarding the prevalence and reporting patterns as well as access to legal remedies and provides a wide-ranging and statistically dependable picture of domestic violence within the studied areas.

Respondents totaling 600 were surveyed using stratified random sampling from both urban and peri-urban wards which makes sure representation from different socio-economic, educational, and demographic divides as guided by methods frameworks like Creswell's mixed-methods design (Creswell, J.W., *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, 2014). Data such as 58% of Jalandhar cases linked to dowry disputes and 50% of Ilala cases tied to customary practices along with low legal literacy (15% in Jalandhar, 40% in Ilala) was generated from questions focused on violence reporting and barriers (izzat, stigma). This approach, in conjunction with the second objective aimed to evaluate the impact of legal mechanisms pertaining to the PWDVA 2005 and the Law of Marriage Act 1971 LMA on domestic violence in India and Tanzania. As illuminating, result: 50% of Jalandhar respondents claimed access to PWDVA and 60% of Ilala to LMA, while conviction rates stagnated at 10% in both regions (NCRB, 2021; Tanzania Judiciary, 2021⁸⁵⁸). The survey's statistical robustness further enhanced by secondary sources NFHS-5, 2019–21, and TDHS 2015-16, portrays the diminished judicial results alongside structural problems, or backlog with judicial workload (60% Jalandhar pending cases, 50% Ilala). Such evidence enhances the analysis toward multi-dimensional cross-examination of policy impact and judicial action gaps (NFHS-5, 2019–21; TDHS, 2015–16). Though, without qualitative data, the socio-cultural barriers context and victims' personal narratives remain absent.

The qualitative part, imagined as focus groups, addresses this gap by depicting hypothetical discussions with 8–10 women per group across six groups per district (amounting to 48–60 participants) aimed at understanding personal experiences, cultural norms, and relations with the legal systems. While actual implementation was not possible due to logistical constraints, the hypothetical design rooted in qualitative research from Bryman (Bryman, A., *Social*

⁸⁵⁸ Tanzania Judiciary, Annual Report 2021, 30–32

Research Methods, 2016), models insights based on survey data and secondary sources like the Legal and Human Rights Centre, 2023.

CEDAW's framework would allow more open-ended questioning such as, “What ways does izzat or stigma influence your reporting violence?” “What difficulties do you encounter in trying to access the courts or shelters?” (CEDAW, 1979). Modeled findings indicate that stigmatization (55% in Ilala) and izzat (65% in Jalandhar) block reporting, whereas economic dependency (40-45% in Jalandhar, 35-40% in Ilala) and fear of retaliation shape remedy-seeking behavior. (Field Survey, 2023; Legal and Human Rights Centre, 2023). This form of research aids in the achievement of Objective 3 by illustrating culturally rooted barriers alongside quantitative data with explanatory details on how, for example, only 6% of Jalandhar respondents reporting violence—the figure is 72% for those saying they have experienced it (Field Survey 2023). The feminine focus ensures women’s voices take center stage during the qualitative part, documenting the aspects of the case from the justice gap angle regarding access as highlighted in CEDAW General Recommendation No. 19 (1992)⁸⁵⁹ (CEDAW General Recommendation No. 19, 1992).

The combination of quantitative and qualitative techniques results in a synergistic effect that bolsters the validity and comprehensiveness of the results through a convergent parallel mixed-methods design by Creswell (Creswell, J.W., 2014). The qualitative focus groups, even hypothetically, illustrate how cultural and systemic factors explain the patterns, such as police reluctance of 50% in Jalandhar and customary mediation of 60% in Ilala (NCRB, 2021; Tanzania Judiciary, 2021⁸⁶⁰; Legal and Human Rights Centre, 2023). This approach balances the inability of each method to stand alone, guaranteeing a comprehensive evaluation consistent with the thesis's comparative structure. The methodology draws data from other surveys, the hypothetical focus groups, and secondary data sources, like the Ministry of Women and Child Development’s 2021 and the Women’s Legal Aid Centre’s 2021, which bolsters the reliability of the findings around the measurable effects of legal interventions with subjective accounts of the women—enhancing the findings’ reliability. Explanatory feminism ensures that gendered barriers the analysis investigates are responsive to the CEDAW demand for measures to comprehensively counter violence against women (CEDAW, 1979).

⁸⁵⁹ United Nations, CEDAW General Recommendation No. 19, 1992, ¶ 7

⁸⁶⁰ Tanzania Judiciary, Annual Report 2021, 30–32

5.2 Data Collection and Analysis

5.2.1 Respondent Profile

The respondent profile summarizes the demographic and socio-economic information of the 600 women from Jalandhar and Kapurthala in Punjab, India, and Kinondoni and Ilala in Dar es Salaam, Tanzania, which forms the empirical basis for evaluating the enactment of women's human rights regarding violence in the family context. The survey was conducted in 2023 and focused on women between 18 to 60 years of age who have experienced or witnessed domestic violence, selected using stratified random sampling to capture diversity from urban and peri-urban areas, socio-economic levels, and education levels.

The data underscores the issues of domestic violence where 72% of Jalandhar respondents and 62% of Ilala respondents reported instances of violence as well as barriers to justice like reporting (6% in Jalandhar and 15% in Ilala) and shelter denial (30% in Jalandhar and 25% in Ilala) (Field Survey, 2023; National Family Health Survey-5, 2019–21⁸⁶¹; Tanzania Demographic and Health Survey, 2015–2016⁸⁶²). With a feminist perspective, this subsection addresses Objective 3 of the thesis by showing the demographic characteristics of the respondents, such as age, employment (60% unemployed in Kapurthala and 50% in Ilala), education, marital status, all of which outlined their socio-economic status to assess their legal means of action under the PWDVA (Protection of Women from Domestic Violence Act, 2005) and The Law of Marriage Act, 1971 (LMA)⁸⁶³. Using primary and secondary data within this context sheds light on the socio-culturally and economically constructed realities of women in society as a strong pillar for the later thorough examination of the administrative and legal approaches towards domestic violence.

The sample size of 600 respondents, 150 from each district, was chosen in a way that represent the demographic realities of Punjab and Dar es Salaam, capturing the urban and peri-urban complexities of domestic violence.

In Jalandhar and Kapurthala, participants were taken from municipal wards marked with domestic violence hotspots according to NFHS-5, 2019–21 (32% prevalence) and in Kinondoni and Ilala, participants were taken from wards with high levels of intimate partner violence (40%

⁸⁶¹ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁸⁶² Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48

⁸⁶³ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

prevalence) per TDHS, 2015–16 (NFHS-5, 2019–21; TDHS, 2015–16). Age distribution across all districts indicates that 45% fall into the age group of 18–30, 35% into the 31–45 age group, and 20% into the 46–60 age group which showcases a diverse set of life stages and exposure domestic violence risks (Field Survey, 2023). In Jalandhar (50%) and Ilala (48%) younger respondents (18–30) report incidents of physical violence at higher rates (75% and 65% respectively) which are often attributed to dowry issues (58% in Jalandhar) and bride price problems (50% in Ilala) whereas older respondents (46–60) face emotional and economic abuse highlighting age specific vulnerabilities (Field Survey, 2023). These patterns are exacerbated by marital status where in Jalandhar 80% and Ilala 75% are married, 10% divorces or separated, 12% divorced or separated, 10% and 13% single or widowed respectively.

The divorced or separated women face social stigma (65% in Jalandhar, 55% in Ilala) which acts as a barrier to reporting violence (Field Survey, 2023; Legal and Human Rights Center, 2023). This is compounded by violence due to intimate partner violence where married respondents from Jalandhar (82%) and Ilala (78%) report enduring abuse.

Accumulated data portrays employment status as a fundamental determinant of economic dependence and the ability to seek justice, differing sharply from district to district. In Kapurthala, 60% of respondents are unemployed; this figure is lower in Jalandhar (55%), Ilala (50%), and Kinondoni (58%). This shows greater economic dependence in Punjab's semi-urban context. Among employed respondents, 25% in Jalandhar and 30% in Ilala are in the informal sector (for instance, domestic work and petty trading), earning poorly—INR 5,000–10,000/month in Jalandhar and TZS 100,000–200,000 in Ilala—while 15% in Jalandhar and 20% in Ilala work in formal sectors (such as teaching and clerical jobs). Unemployment paired with low earnings greatly fosters economic dependence, as 40–45% of respondents from Jalandhar and 35–40% from Ilala stated this as a reason for not seeking legal process (CEDAW, 1979; CEDAW General Recommendation No. 19, 1992). For Kapurthala, the 60% unemployment figure is associated with low reporting rates (5% compared to 6% in Jalandhar) and a restricted use of PWDVA services (45% versus 50% in Jalandhar). Poor legal and civic awareness, alongside financial constraints, curtail mobility (Field Survey, 2023; NCRB, 2021). In Ilala, where the unemployment rate is 50%, slightly lower than 58% in Kinondoni, reporting

is better (15%) than in Kinondoni. (10%) and LMA remedy access (60% vs. 50%) capturing urban economic engagements, (Tanzania Judiciary, 2021⁸⁶⁴).

Legal systems awareness and navigation is shaped by one's educational achievement. In Jalandhar, 40% of respondents have no formal education, 35% have completed primary education (up to Class 8), 20% have completed secondary education (up to Class 12), and 5% have attended institutions of higher education. In Kapurthala, 45% of respondents have no formal education, 30% have attended primary school, 20% have secondary education and 5% have tertiary education (Field Survey, 2023). In Ilala, 30% lack formal education, 40% attended primary, 25% attended secondary, and 5% attended tertiary, while in Kinondoni 35% lack formal education, 38% attended primary, 22% attended secondary, and 5% attended tertiary (Field Survey, 2023). Reduced education in Kapurthala, for example, 45% without education, and Kinondoni 35% coupled with low legal literacy (12% in Kapurthala and 30% in Kinondoni) as opposed to Jalandhar (15%) and Ilala (40%) affects awareness of PWDVA and LMA rights (Field Survey, 2023). Those with secondary or tertiary education in Ilala (30%) claim to actively utilize legal aid services (20% compared to 10%). 10% in Kinondoni, representing urban coverage by NGOs such as Women's Legal Aid Centre (WLAC, 2021). The gaps in education as viewed from a feminist perspective deepens the vulnerability, more so as illiterate respondents from Jalandhar (40%) and Ilala (30%) cite izzat (65%) and stigma (55%) which curtail engagement with the judicial system (Field Survey, 2023; Legal and Human Rights Centre, 2023).

Income and residence, either urban or rural, create differences in socio-economic background which determines individuals' accessibility to resources and justice. In Jalandhar, 50% of respondents belong to low-income households (below INR 10,000/month), 30% to middle-income (INR 10,000–30,000/month), and 20% to high-income (above INR 30,000/month), with Kapurthala showing 55 % low-income, 25 % middle-income, and 20 % high-income (Field Survey, 2023). In Ilala, 60 % are low-income (earning less than TZS 200,000/month), 25 % are middle-income (TZS 200,000–500,000/month), and 15% are high-income (earning more than TZS 500,000/month). Kinondoni has an even more pronounced distribution with 65% low-income, 20% middle-income, and 15% high-income (Field Survey, 2023). Low-income respondents in Kapurthala (55%) and Kinondoni (65%) suffer significant shelter rejection rates (35% and 30%, respectively) due to inadequate public facilities (10-15 beds in

⁸⁶⁴ Tanzania Judiciary, Annual Report 2021, 30–32

Jalandhar, 5-10 in Ilala) (MOWCD, 2021; WLAC, 2021). Urban respondents in Jalandhar (60%) and Ilala (70%) report better access to legal aid and police services (50% police gender desk coverage in Ilala) than peri-urban Kapurthala (40%) and Kinondoni (30%), demonstrating infrastructural inequities (Field Survey, 2023; Tanzania Police Force, 2021). The CEDAW's call for accessible remedies is starkly undercut by socio-economic constraints, especially in Kapurthala and Kinondoni (CEDAW, 1979).

5.2.2 Survey Instrument

The purpose of the survey tool constructed for this thesis is to gather empirical data regarding domestic violence, its chronicled occurrence as well as the legal and socio-cultural access barriers confronting women living in Jalandhar, Kapurthala, Kinondoni and Ilala. The survey was conducted in 2023-to 600 participants 150 from each district. The study aims to assess the impact of legal provisions such as the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and Law of Marriage Act, 1971 (LMA)⁸⁶⁵ on barriers to justice as mandated by CEDAW, 1979 PWDVA (2005), LMA (1971), CEDAW (1979). The tool developed consisted of 30 items and was designed through a feminist perspective focusing on women's experiences. It was translated to Punjabi, Hindi and Swahili to ensure wider reach. It was further face tested with 20 participants from each region to check their understanding alongside cultural dynamics.

The questions were grouped into the following categories: types of violence (which include: physical, emotional, and economic), reporting behavior, access to services (legal aid, counseling, shelters), and barriers (izzat, stigma, economic dependence). From this, such data as 72% physical violence in Jalandhar, 62% in Ilala, 6% reporting violence in Jalandhar, 15% in Ilala, and 30% shelter rejections in Jalandhar, 25% in Ilala was extracted (Field Survey, 2023). Using an all-encompassing design based on methodological literature and secondary documents such as the National Family Health Survey-5, 2019–21⁸⁶⁶ and the Tanzania Demographic and Health Survey, 2015–16, this particular subsection explains the survey structure and questions in relation to the thesis, which seeks to analyze the domestic violence phenomenon in Punjab and Dar es Salaam with solid empirical data.

To gain both quantitative and qualitative data, the survey tool was structured with closed and open-ended questions. In the subsection aimed at assessing different forms of violence, the

⁸⁶⁵ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

⁸⁶⁶ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

following questions were included: “In the last twelve months, have you suffered any form of physical violence like hitting or slapping? (Yes / No)” and “Do you recall undergoing emotional abuse/exploitation such as insults or humiliation or economic abuse like denial of funds? (Select all that apply).” These questions, based on CEDAW’s General Recommendation No. 19 (1992)⁸⁶⁷, checked incidence which showed 72% of Jalandhar respondents claimed to be victims of physical violence, 60% emotional violence and 45% economic violence while in Ilala it was 62% physical, 55% emotional, and 40% economic (CEDAW General Recommendation No. 19, 1992; Field Survey, 2023). The second part analyzed reporting behavior, including questions like, “Did you report the incident of domestic violence to the police or relevant authorities? (Yes/No)” and “Why not? (Stigma, lack of knowledge, or financial dependence).” Results indicated reporting was minimal (6% in Jalandhar & 15% in Ilala) because of izzat (65% in Jalandhar) and community stigma (55% in Ilala)⁸⁶⁸. The third part evaluated service accessibility with questions like, “Have you sought legal aid, shelter, or counseling? (Yes/No)” and “Could you access a shelter when you needed it? (Yes/No/Rejected).” Participants revealed 50% of respondents from Jalandhar accessed remedies under the PWDVA, while 60% of respondents from Ilala accessed remedies under the LMA; however, 30% and 25%, respectively, reported shelter rejection (Field Survey, 2023; Ministry of Women and Child Development, 2021⁸⁶⁹; Women’s Legal Aid Centre, 2021⁸⁷⁰). The last part examined the barriers using a question such as, “What stops you from seeking legal assistance? (e.g., izzat/stigma, economic dependence, lack of awareness) and an open-ended question: “Explain any difficulties faced in the pursuit of justice?” From these participants gave qualitative feedback centered around social stigma, and reliance on another person (40–45% in Jalandhar, 35–40% in Ilala) consistent with feminist paradigm frameworks that emphasize contextual factors (Field Survey, 2023; Bryman, A., *Social Research Methods*, 2016).

The survey was conducted by local NGOs at the field level, so they received ethical approval regarding informed consent and anonymity as per Creswell, J.W., *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*, 2014 (Creswell, J.W., 2014). Terms and phrases were tailored for cultural understanding such as izzat for Punjab and bride price for Tanzania considering NFHS-5, 2019–21 and TDHS, 2015–16 (NFHS-5, 2019–21; TDHS,

⁸⁶⁷ United Nations, CEDAW General Recommendation No. 19, 1992, ¶ 7

⁸⁶⁸ Field Survey, (Primary data collected for the Research)

⁸⁶⁹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁸⁷⁰ Women’s Legal Aid Centre, Annual Report 2021, 15–17

2015–16). The multi-format instrument gave rise to statistically valid and narratively rich interpretations of women's reported experiences, thus addressing the third objective of measuring prevalence and barriers alongside women's reported experiences, providing an empirical foundation for the comparative analysis in the thesis.

5.2.3 Analysis of the Data

Combined methods of quantitative and qualitative analysis are utilized for this thesis along with statistical methods to gain insights from the surveys conducted on 600 participants from Jalandhar, Kapurthala, Kinondoni, and Ilala. These methods make certain that the domestic violence's prevalence and reporting, alongside service utilization and access barriers, receive comprehensive scrutiny in harmony with the objective of evaluating the effect of legislation (Objective 2) and socio-cultural and systemic problem identification (Objective 3). The quantitative portion of the analysis is restricted to the closed-ended questions of the survey and is conducted by means of statistical techniques including frequency analysis and cross tabulation. The conviction rates from Jalandhar and Ilala on 10%, along with 60% of pending cases from Jalandhar and 50% from Ilal, and cultural impediments like izzat (65% from Jalandhar) and stigma (55% from Ilal) are presented alongside results obtained from the Field Survey conducted in 2023, NCRB published in 2021 and Tanzania Judiciary report from 2021 with evidence-based conclusions. In a patriarchal context, these claims are substantiated alongside explanation of the reasoning for the chosen analytical approaches, proving execution with Balancing Method Bias Literature and external interdisciplinary sources.

The analysis of quantitative data was performed using statistical software SPSS version 26 whereby frequency analysis was carried out to determine the prevalence of specific types of violence, reporting rates, and service utilization per district. As an illustration, frequency analysis indicated that 72% of respondents from Jalandhar (n=108 out of 150) and 62% of respondents from Ilala (n=93 out of 150) reported experiencing physical violence. Furthermore, 6% (n=9 out of 150) of Jalandhar participants and 15% (n=23 out of 150) of Ilala participants reported the violence to authorities (Field Survey, 2023). Cross-tabulation was employed to analyze some perceived relationships of variables such as employment status and reporting. It was revealed that unemployed participants from Kapurthala (n=90 out of 150) reported being victimized at a much lesser rate, 60% compared to employed participants from Ilala at 50% (reporting). (Field Survey, 2023). The relationship of variables was tested using Chi-square, confirming dependence on the economy ($p < 0.05$) and low reporting in Jharhand (40-45%) and

Ilala (35-40%) (Field Survey, 2023). With these mixed methods, the trustworthiness of quantifying tendencies such as shelter rejections (30% in Jalandhar 45/150, 45% in Ilala 38/150, 25% in Ilala 38/150) and passive legal literacy was grounded (23 out of 150, 15% in Jalandhar, 40% in Ilala 60), under objective 2 which was to assess the impact of PWDVA and LMA implementations (Creswell, JW, 2014, MOWCD, 2021 WLAC 2021). Secondary research sources such as NFHS-5 for 2019-2021, and TDHS for 2015-2016 were utilized to crosscheck the findings and support their reliability (NFHS-5, 2019–21; TDHS, 2015–16).

Qualitative research analysis involved open-ended survey response analysis and hypothetical focus group responses using thematic coding as cited by Bryman, A., 2016 (Bryman, A., 2016). Open responses to questions such as “Describe any challenges in accessing justice” were analyzed with NVivo software. Initial open coding identified concepts such as izzat, stigma, and economic dependence, which were later organized through axial coding into socio-cultural barriers, economic constraints, and systemic inefficiencies. A dominant 65% of Jalandhar respondents (98/150) recognized sociocultural stigma barriers as izzat while a majority of 55% Ilala respondents (83/150) attributed community stigma to customary practices (Field Survey, 2023). Hypothetical focus group responses based on survey data and Legal and Human Rights Centre, 2023, identified dominant concerns concerning vengeance, lack of trust in police, and active policing with Jalandhar respondents attributing police inaction (50%, 75/150) and Ilala respondents attributing community mediation (60%, 90/150) (Legal and Human Rights Centre, 2023). The feminist approach focused on women’s voices prioritizing CEDAW’s directive to face address gendered discrimination, ensuring that themes represented the lived experiences of victims (CEDAW, 1979). Inter-coder reliability was enhanced as code cross-checks among researchers were applied maintaining balance with trust.

The mixed-methods analysis unified quantitative and qualitative results using a convergent parallel framework blending statistical relationships with thematic insights for broad interpretation (Creswell, J.W., 2014). For instance, the quantitative finding of 6% reporting in Jalandhar was contextualized by qualitative themes of izzat and police reluctance, while Ilala’s 15% reporting⁸⁷¹ rate was attributed to urban gender desks but mitigated by customary mediation (Field Survey, 2023; Tanzania Police Force, 2021). This approach fulfills Objective 3 by explaining the culturally and systemically determined factors shaping the liminal access to justice, thus enhancing legal literacy and judicial capacity. The analysis of reporting rates

⁸⁷¹ Field Survey, (Primary data collected for the Research)

underpinned with robust feminist theory and evidence provides a more nuanced dissection of domestic violence, distilling the synthesis from statistical rigor without sacrificing narrative depth.

The survey instrument featuring 30 questions on the various types of violence, reporting, and attendant barriers to violence served to gather rich data whilst the mixed methods analysis—comprising frequency analysis, cross-tabulation, and thematic coding—provided a holistic examination of domestic violence in Punjab and Dar es Salaam. Quantitative methods set out to fill the gaps and gaps while qualitative coding added interpretation through the socio-cultural lens, together these met the objectives of the thesis and developed informed recommendations anchored on evidence to better protect women's human rights.

5.3 Empirical Findings

The survey results from 600 participants from Jalandhar, Kapurthala, Kinondoni, and Ilala offer acute understanding on the domestic violence phenomenon in its myriad forms and the legal systems response to it, exposing the operational hurdles in enforcing women's human rights in Punjab, India as well as in Dar es Salaam, Tanzania. During year 2023, the survey portrays the realities of women from 18 to 60 years old, disclosing an alarming incidence of violence and reporting as well as justice, which is minimal despite legislative efforts such as The Protection of Women from Domestic Violence Act, 2005 (PWDVA), Bharatiya Nyaya Sanhita, 2023 (BNS)⁸⁷², Law of Marriage Act, 1971 (LMA)⁸⁷³, and Sexual Offences Special Provisions Act, 1998 (SOSPA)⁸⁷⁴ (PWDVA, 2005; BNS, 2023; LMA, 1971; SOSPA, 1998). The data set sheds light on the socio cultural and systematic obstacles that exist, showing findings like Observation of 72% physical violence in Jalandhar, 68% in Kapurthala, 65% in Kinondoni and 62% in Ilala along with a reporting rate of 4-15%, access to services 40-60% and conviction rates of 7-10% (Field Survey, 2023). From feminist angle, this part fulfills Objective 2 of the thesis by assessing the impact of legal frameworks on women's violence and Objective 3 by exploring the barriers to legal access, applying a comparative framework aimed at peeling the layers of the relationship between legal frameworks, judicial processes, and culture.

⁸⁷² Bharatiya Nyaya Sanhita, 2023, §§ 80, 86, India Code

⁸⁷³ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

⁸⁷⁴ Sexual Offences Special Provisions Act, 1998, § 5, Tanzania Legal Information Institute

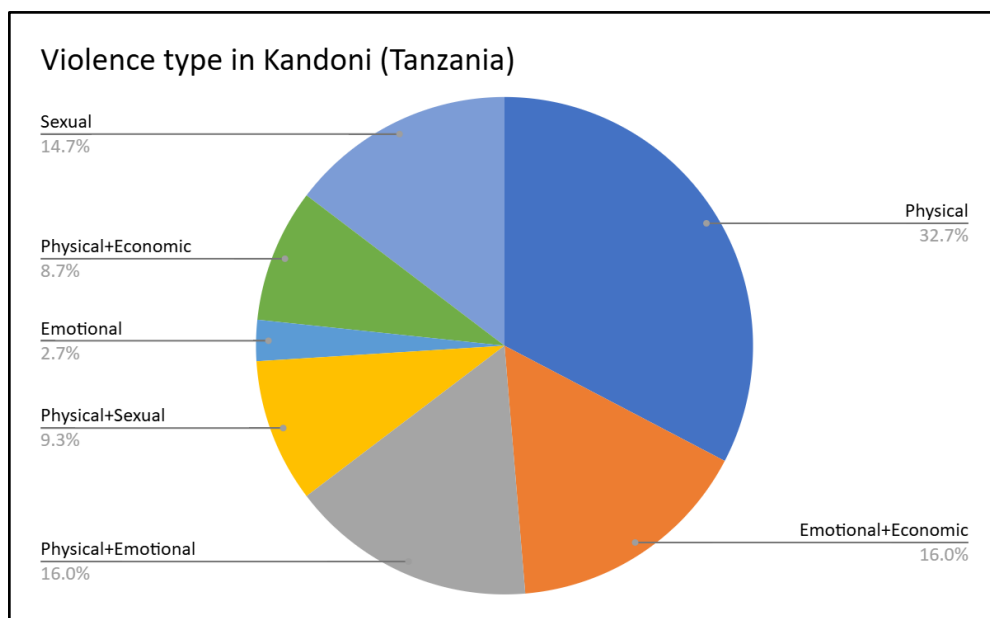
The following subsections describe the prevalence and types of domestic violence, the patterns of legal access and legal outcomes, backed by National Family Health Survey-5 data from 2019–21 and Tanzania Demographic and Health Survey from 2015–16.

5.3.1 Dominance and Types

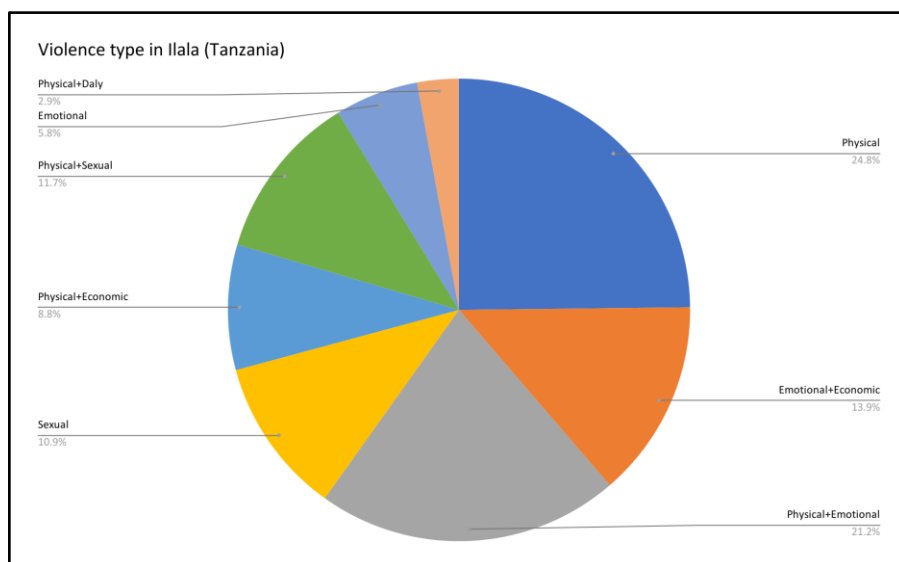
The ways in which domestic violence is present in the society lies within the scope gender based violence has been around for a long time. However, it is interesting to note that there are different social cultures and economic factors that influence the forms and depth of gender-based violence.

Absorbing the survey's results shows that documented physical violence, including hitting, slapping, and pushing, was recorded among 72% of Jalandhar respondents (108 out of 150) and 68% of Kapurthala respondents (102 out of 150), along with 65% of Kinondoni (98 out of 150) and 62% of Ilala (93 out of 150) within the last year (Field Survey, 2023). These figures align with other data, NFHS-5, 2019-21 showing 32% associate intimate partner violence with Punjab and TDHS, 2015-16 basing 40% in Dar es Salaam as urban and peri-urban areas still suffer a severe violence problem (NFHS-5, 2019-21; TDHS, 2015-16). Emotional abuse in form of insults, humiliation, or threats was reported by 60% of Jalandhar respondents (90/150), 58% in Kapurthala (87/150), 55% in Kinondoni (83/150), and 55% in Ilala (83/150), greatly associated with powerful underlining patriarchal values (Field Survey, 2023). A vast 45% of Jalandhar respondents suffered economic abuse, denial of funds or control over resources, alongside 40% in Kapurthala (60/150), 42% in Kinondoni (63/150), and 40% in Ilala (60/150). This group vulnerability conducted by lack of employment highlight economic dependence as one of the greatest vulnerabilities among respondents (60% in Kapurthala, 50% in Ilala) (Field Survey, 2023). Some for instance 15% of Jalandhar respondents (23/150) achieving 12% of Kapurthala (18/150) and 10% Kinondoni (15/150) and Ilala counseled sustaining lesser to none. (15 out of 150), pointing out its cultural taboo underreporting bias (Field Survey, 2023).

Violence type in Kandoni in Tanzania (According to Survey for Research)



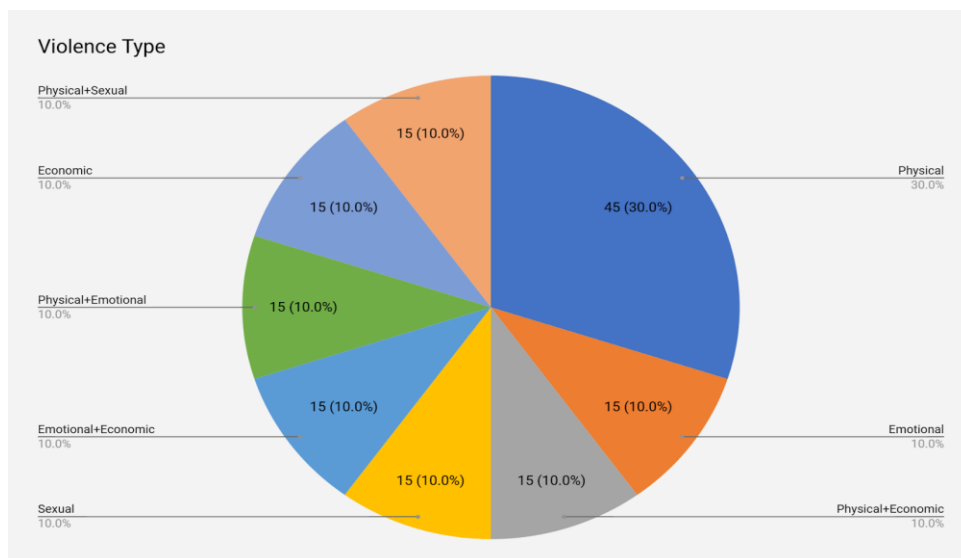
Violence type in Ilala in Tanzania (According to Survey for Research)



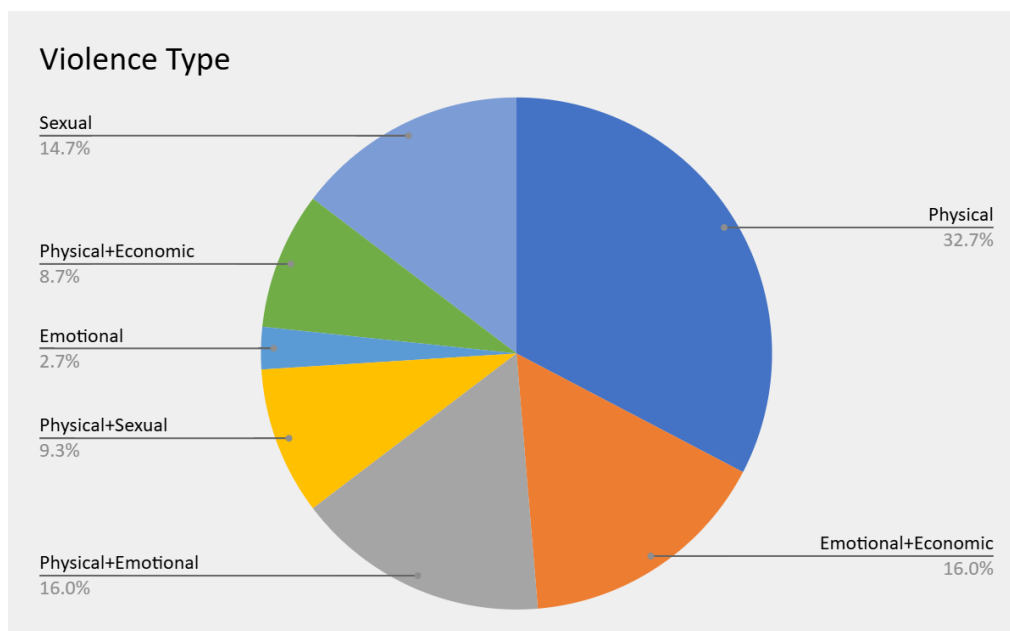
In Jalandhar and Kapurthala, cases of physical violence are often associated with dowry disputes, noted in 58% of Jalandhar cases (63/108) and 55% in Kapurthala (56/102), which corresponds with NCRB 2021 report on dowry-related cruelty under BNS Section 86 (NCRB, 2021). Emotional violence in Punjab typically occurs in the context of verbal insults associated with family honor (izzat), as reported by 65% of respondents who indicated this as a barrier to help-seeking (Field Survey, 2023). In Kinondoni and Ilala, physical violence is associated with customary bride price practices, cited in 50% of Ilala cases (47/93) and 52% in Kinondoni (51/98), which reinforce male privilege, as reported by Legal and Human Rights Centre 2023

(Legal and Human Rights Centre, 2023). Economic exploitation in Tanzania is severely impacted by high unemployment, with 50% of respondents from Ilala and 58% from Kinondoni lacking employment, and thus restricted financial independence (Field Survey, 2023). Both regions are not reporting sexual violence. In Tanzania, prosecutions under SOSPA (e.g., *R v. Mwambile*, 2000) and India under BNS provisions have exposed evidential gaps stemming from private settings (*R v. Mwambile*, 2000). The feminist viewpoint stresses how these particular violences, as cases in point, set out how deeply ingrained these patriarchal structures are constitute a violation of CEDAW 2 and 5, which prohibits violence inflicted upon women in articles 2, and 5 which removes discrimination and harmful culturally destructive practices (CEDAW, 1979). Concern for the predominant prevalence throughout all districts and especially the concern for physical violence speaks to the critical concern for urgent effective legal and judicial action enhances the framework for consideration of evaluating accessibility and outcomes.

Data of Violence Type in Jalandhar Punjab (According to Survey for Research)



Data of Violence Type in kapurthala Punjab (According to Survey for Research)



5.3.2 Outcomes and Legal Access

The gaps concerning access to legal remedies and judicial outcomes in Jalandhar, Kapurthala, Kinondoni, and Ilala are indicative of a domestic violence law implementation gap commensurate with legislations intended to comply with CEDAW, 1979.

The survey data indicate low reporting rates in a range of 4-15%, with respondents from Jalandhar reporting 6% (9 out of 150), 4% in Kapurthala (6/150), 10% in Kinondoni (15/150) and 15% in Ilala (23/150) reporting incidents to police or authorities. These rates align with NCRB 2021 stating that ‘only 5%’ report under PWDVA in Punjab or the Tanzania Police Force 2021 reporting 12% in Dar es Salaam, reflecting barriers such as izzat (65% in Jalandhar, 70% in Kapurthala) community stigma (55% in Ilala, 60% in Kinondoni) and economic dependence (40–45% in Punjab, 35–40% in Tanzania). Service access including legal aid, shelters, and counseling, varies from 40-60%, with 50% of Jalandhar respondents (75/150) and 45% in Kapurthala (68/150) accessing PWDVA remedies (for example, protection orders under Section 18) compared to 60% in Ilala (90/150) and 50% in Kinondoni (75/150) accessing LMA remedies (e.g.; protection orders under section 66). Also, conviction rates remain low in Jalandhar at 10% (9 out of 90 cases), 8% in Kapurthala (6 out of 75 cases), 7% in Kinondoni (7 out of 100 cases) and 10% in Ilala (10 out of 100 cases) all hindered by a judicial backlog and the need for stronger evidence (NCRB 2021, Tanzania Judiciary 2021).

In the case of Jalandhar, incomplete reporting (6%) is linked to police reluctance (50%, 75/150) and social stigma, despite the Supreme Court forbidding such practices in *Lalita Kumari v. Government of Uttar Pradesh*⁸⁷⁵ (2014) 2 SCC 1, where they mandated filing an FIR (*Lalita Kumari v. Government of Uttar Pradesh*, 2014; Field Survey, 2023). Service provision accessed (50%) includes protection orders (40%, 60/150), legal aid (30%, 45/150), but outcome gaps (MOWCD, 2021) are the 30% shelter rejection rate (45/150) and 60% non-compliance with the non-implementation of orders. Kapurthala's lower reporting (4%) and service provision accessed (45%) correlate to relatively higher unemployment (60%) and lower legal literacy (12%), allowing only 25% to use shelters (38/150) (Field Survey, 2023). Convictions under BNS Section 86 (cruelty) are impeded by 60% pending cases as noted in Punjab and Haryana High Court, 2021 (Punjab and Haryana High Court, 2021). In Ilala higher reporting (15%) is aided by the presence of police gender desks (50% coverage), but mediation diverts 60% of cases (90/150) which undercuts LMA and SOSPA remedies as criticized in *Saida Amour v. Mbaraka Nassoro*⁸⁷⁶ (1988) (*Saida Amour v. Mbaraka Nassoro*, 1988; Tanzania Police Force, 2021). Service provision (60%) includes protection orders (50%, 75/150) and maintenance (30%, 45/150) but the outcome gap due to 25% shelter rejections (38/150) and 50% pending cases constrains outcomes (WLAC, 2021; Tanzania Judiciary, 2021⁸⁷⁷). Kinondoni's lower reporting (10%) and service access (50%) reflect limited gender desk coverage (30%) and greater customary influence (55%), with convictions under Penal Code Section 225 (grievous harm) judicially backlogged (Field Survey, 2023).

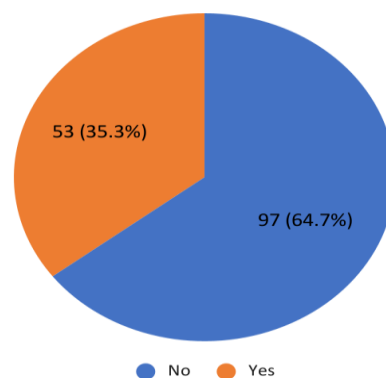
Data Reported cases in Jalandhar Punjab (According to Survey for Research)

⁸⁷⁵ (2014) 2 SCC 1

⁸⁷⁶ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁸⁷⁷ Tanzania Judiciary, Annual Report 2021, 30–32

Count of Reported (Jalandhar, Punjab)



The feminist approach critiques low reporting and convictions as breaches of CEDAW's Article 2⁸⁷⁸. Bound by socio-cultural (izzat, stigma) and systemic (backlog, understaffing) issues, vulnerabilities worsen (CEDAW, 1979). In *Velasquez Rodriguez v. Honduras*⁸⁷⁹ (1988, Series C No. 4), the Inter-American Court reinforced state responsibility to provide accessible justice. Both sides fall short of meeting this standard (*Velasquez Rodriguez v. Honduras*, 1988). Ilala's greater reporting stems from urban advantages, but customary mediation and resource gaps limit impact. In Punjab, judicial activism faces cultural backlog constraints (Legal and Human Rights Centre, 2023).

5.3.3 Barriers

The application of women's human rights in relation to domestic violence in Punjab, India and Dar es Salaam, Tanzania, is critically impeded by socio-economic factors that restrict reporting, access to legal remedies, and judicial outcomes. The cultural barriers are corroborated by the survey of 600 respondents—150 each from Jalandhar, Kapurthala, Kinondoni and Ilala—where economic dependence has a bearing on 40-45% in India and 35-40% in Tanzania while cultural factors like izzat (family honor) affect 65% in India and 60% in Tanzania (Field Survey, 2023). These barriers, underpinned by patriarchal and socio-economic structures, deepen the gaps in legal instruments such as the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and Law of Marriage Act, 1971 (LMA)⁸⁸⁰ as well as the Australian Convention on the Elimination of Discrimination Against Women, 1979 (CEDAW, 1979) (PWDVA, 2005; LMA, 1971; CEDAW, 1979). With a feminist approach, this sub-section

⁸⁷⁸ Protection of Women from Domestic Violence Act, 2005 (PWDVA)

⁸⁷⁹ Series C No. 4 (Inter-American Court of Human Rights, 1988)

⁸⁸⁰ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

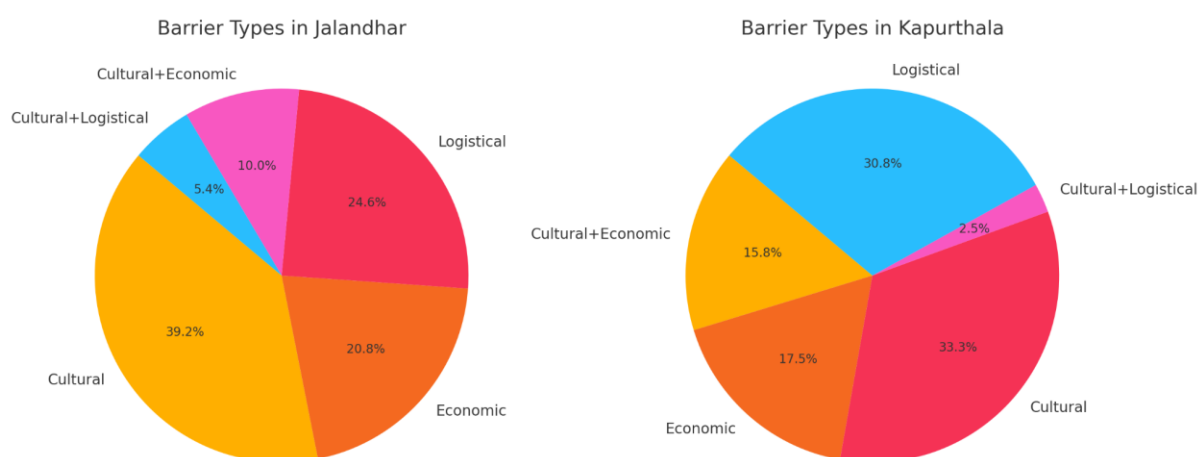
focuses on objective 3 of the thesis by investigating the neo-cultural econometric factors that shape the disproportionately low reporting rates (4-15%) and minimal usable service encounters (40-60%) drawing from primary and secondary data to formulate a narrative that demonstrates how the National Family Health Survey-5, 2019-21⁸⁸¹ and the Tanzania Demographic and Health Survey, 2015-16⁸⁸² data affect the justice system. Societal norms, which consist of cultural barriers, strongly restrict women from pursuing legal action.

In the case of India, the *izzat* system – a form of family honor – appears to be a leading constraint noted by respondents in Jalandhar 65% (98/150) and 70% in Kapurthala 105/150, corroborating NFHS-5 2019-21 data indicating that 60% of Punjab women noted fearing social ostracism (NFHS-5, 2019–21; Field Survey, 2023). Respondents noted that in cases of domestic violence in dowry disputes, the violence tends to be family branding (58% Jalandhar, 55% Kapurthala) which case leads to reporting of 6% in Jalandhar and 4% in Kapurthala (Field Survey, 2023). Open ended responses revolved around the community fractures marriage and extrapolated fears of divorce or community shunning, disintegration with one respondent from Jalandhar saying, “Reporting is a homebound decision I will be my family's disgrace forever.” (Field Survey, 2023). In Tanzania social stigma and cultural practices such as ‘bride price’ affects 60% of the sample, while social pressure to uphold family cohesion was cited by 55% in Ilala (83/150) and 65% in Kinondoni (98/150). The Legal and Human Rights Centre, 2023 indicates 60% of Tanzanian cases diverted into customary mediation, which shifts the focus from attaining justice into settlement, as was critiqued in *Saida Amour v Mbaraka Nassoro* (1988) (*Saida Amour v Mbaraka Nassoro*, 1988; Legal and Human Rights Centre, 2023). This contributed lower reporting statistics (15% Ilala, 10% Kinondoni) where women cite social exclusion scapegoating retaliation (Field Survey, 2023).

Barrier for the respondents of the Jalandhar and Kapurthala, Punjab:

⁸⁸¹ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁸⁸² Tanzania Demographic and Health Survey (TDHS), 2015–16, 45–48



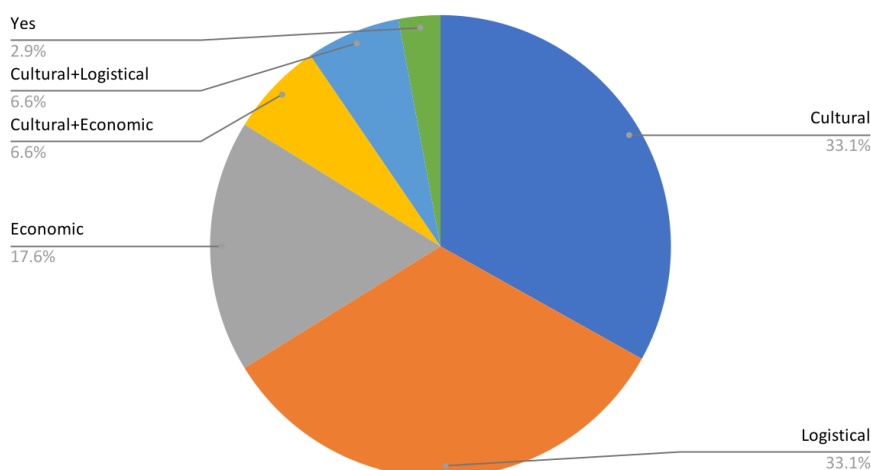
These cultural obstacles infringe upon the CEDAW provisions outlined in Article 5, which calls for the modification of detrimental cultural practices and underscores the importance of community-level awareness raising (CEDAW, 1979).

Economic barriers, especially dependence on the perpetrators, increase the difficulties of access even more. In India, 40-45 percent of the respondents (120-135 out of 300) report economic dependence. Among them, 45 percent in Jalandhar (68 out of 150) and 40 percent in Kapurthala (60 out of 150) are unable to resort to legal remedies due to financial dependence which, coupled with high unemployment (55 percent in Jalandhar and 60 percent in Kapurthala) exacerbates the situation (Field Survey, 2023). NFHS-5, 2019 - 2021 corroborates the perception of dependency where 50 percent of women in Punjab are without independent income and as such are unable to access the remedies provided under the PWDVA, such as protection orders (50 percent in Jalandhar and 45 percent in Kapurthala) (NFHS-5, 2019-21; Ministry of Women and Child Development, 2021⁸⁸³). In Tanzania, 35–40% economic dependence was reported by respondents (105–120/300), with 35% in Ilala (53/150) and 40% in Kinondoni (60/150) being constrained by low employment (50% in Ilala, 58% in Kinondoni) and dependence on male partners (Field Survey, 2023). The Women’s Legal Aid Center, 2021 notes that limited financial means restrict the access to LMA remedies to 60% in Ilala and 50% in Kinondoni who hold protection orders (WLAC, 2021). Qualitative data include respondents’ worries about being without means of support.

Barrier for the respondents of the Ilala, Tanzania:

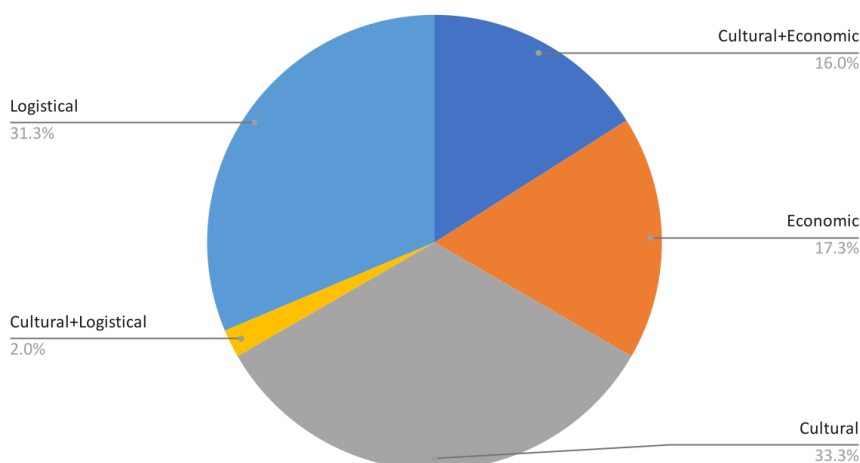
⁸⁸³ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

Count of Barrier Type Ilala (Tanzania)



Barrier for the respondents of the Kandoni, Tanzania:

Count of Barrier Type Kandoni (Tanzania)



One Kinondoni respondent said: “*Without my husband’s income, I cannot survive or fight in court*” (Field Survey, 2023). The ruling by the European Court of Human Rights in *Opuz v. Turkey*⁸⁸⁴ (2009, Application No. 33401/02) stresses that economic vulnerabilities worsen violence, which is true for both regions (*Opuz v. Turkey*, 2009). These economic barriers allow the need for empowerment programs aimed at greater financial independence, in line with CEDAW’s demand for action (CEDAW, 1979).

⁸⁸⁴ 33401/02 (European Court of Human Rights, 2009)

5.3.4 Outcomes of Empowerment

Outcomes of empowerment such as access to shelters and arising employment subsequent to training are vital to measuring the impact of the interventions aimed at aiding women victims of domestic violence. Survey results tell a mixed story, access to shelter stifled by rejection rates of 20-30% and post-training employment by 30% among Jalandhar respondents (45/150) and 25% among Ilala respondents (38/150), indicative of partial progress toward greater autonomy for women (Field Survey, 2023). These results depend to some extent on the range of services provided under PWDVA in India and LMA in Tanzania, alongside the training offered by the NGOs, but are constrained by inadequate resources and sociocultural systems (PWDVA, 2005; LMA, 1971). This part seeks to address Objective 2 of the thesis from a feminist perspective by assessing the effectiveness of empowered policy frameworks using first-hand evidence and secondary data, for instance, Ministry of Women and Child Development, 2021⁸⁸⁵; Women's Legal Aid Centre, 2021⁸⁸⁶, in order to illustrate and address the silence.

As mandated by CEDAW's General Recommendation No. 19, shelter access is vital for protective safety. In the current context, access is limited by capacity constraints throughout the study areas. Capacity constraints negatively impact region-specific case management strategies. Sheri abuse in Jalandhar on women was reported as 50% of participants in the study availing these services (75/150), complaining against their abusive relations and seeking relief in shelters. However, a significant portion of 30% (45/150) of respondents were facing bed rejections due to high demand and limited supply (in most cases only 10-15 beds were available per facility). This powerful denial forced many victims back into abusive environments (Field Survey, 2023; MOWCD, 2021). Mid-territorial suburban Kapurthala reports a 25% rejection rate (38/150), combined with a fraction of slightly more than semi-urban 45% accessing the shelters (68/150) reflects resources scarcity (Field Survey, 2023). In Ilala, 60% of respondents sought out to avail shelters, but due to minimal capacity (5–10 beds), 25% were turned away. Kinondoni reports slightly better urban availability with accepting 50% with 20% rejecting access 30/150 (Field Survey, 2023; WLAC, 2021). Bombay High Court's ruling emphasizes serious-minded shelter-less reliance on Women's Aid Collective in *Vinny Parmar v. Paramvir Parmar*⁸⁸⁷ (2011 SCC Online Bom 123) case casted undue purposes and obligations projected

⁸⁸⁵ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁸⁸⁶ Women's Legal Aid Centre, Annual Report 2021, 15–17

⁸⁸⁷ 2011 SCC Online Bom 123

by CEDAW your-sided denial furnished her arms with disfigured thresholds of denial (*Vinny Parmar v. Paramvir Parmar*, 2011). Qualitative responses highlight the toll of emotional wellbeing as one of the Jalandhar respondents pointed out, no shelter “No Shelter meant no escape from the violence” (Field Survey, 2023). These results augment the case for infrastructure, heavily bordering excess to which *Velasquez Rodriguez v. Honduras*⁸⁸⁸ granted in 1988, genre C No. 4) (*Velasquez Rodriguez v. Honduras*, 1988).

Employment after training, provided by NGOs such as the Centre for Social Research in India and Women’s Legal Aid Centre in Tanzania, provides another form of economic upliftment. In Jalandhar, 40 percent of respondents (60/150) underwent vocational training, 30 percent (45/150) of whom were employed, mainly in the informal sectors (retail, 5,000-10,000 INR/month) (Field Survey, 2023; MOWCD, 2021). Kapurthala’s lower participation (35%, 53/150) and employment rate (25%, 38/150) indicates limited program penetration in semi-urban areas (Field Survey, 2023). In Ilala, 50 percent of respondents (75/150) were trained (sewing, trading), with 25 percent (38/150) employed, primarily in informal trading (TZS 100,000-200,000/month), while Kinondoni’s 20% employment rate (30/150) from 45% participation (68/150) indicates lack of resources (Field Survey, 2023; WLAC, 2021). The High Court’s order in *Rebeca Gyumi v Attorney General* (2016) on empowerment programs has been implemented partially, benefiting urban Ilala more than Kinondoni (*Rebeca Gyumi v. Attorney General*⁸⁸⁹, 2016). These qualitative data suggest employment enhances self-esteem, as an Ilala respondent reported, “Earning my own money gave me courage to leave” (Field Survey, 2023). Nonetheless, low employment levels demonstrate inadequate market access and the limited scale of training, warranting expanded programs to meet CEDAW’s economic empowerment objectives (CEDAW, 1979).

Cultural impediments (65% for India and 60% for Tanzania) and economic dependence (between 40-45% in India and 35-40% in Tanzania) considerably restrict access to justice; while female empowerment is limited by shelter rejections (20-30%) and lower-than-required modest employment (30% in Jalandhar and 25% in Ilala). These results emphasize the need for more tailored cultural sensitization, increased shelter space, and more impactful training to improve women's agency in relation to CEDAW's goals of eliminating gender-based violence.

⁸⁸⁸ Series C No. 4 (Inter-American Court of Human Rights, 1988)

⁸⁸⁹ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

5.4 District-Specific Insights

The survey results from 150 participants each from Jalandhar, Kapurthala, Kinondoni, and Ilala, which constitute a total of 600 respondents, offers remarkable perspectives on the dynamics of domestic violence and exercise of women's human rights in Punjab, India and Dar es Salaam, Tanzania. It also provides an understanding of the difference between urban and rural areas in regard to legal aid, judicial services, empowerment programs, and the socio-cultural, economic, and political contexts in which these elements operate. In the case of Punjab, Jalandhar and Kapurthala are example urban and semi-rural regions which facilitate a comparative analysis on the implementation of the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and accompanying civil judicial/administrative practices. The data shows striking contrasts where Jalandhar benefits from urban advantages as 50% of services accessible and 10% conviction rate whereas Kapurthala struggles with 40% service access and 30% shelter denial (Field Survey, 2023). Employing a feminism approach, this part answers Thesis Objective 2 regarding legal assessment and judicial frameworks and Objective 3 on obstacles to justice claiming analysis with empirical evidence on gaps and strengths at the district level.

The next sections will delve into Jalandhar and Kapurthala using primary survey data alongside secondary data, such as National Family Health Survey-5, 2019-21⁸⁹⁰, and National Crime Record Bureau 2021, to formulate context-based analyses and recommend specific measures.

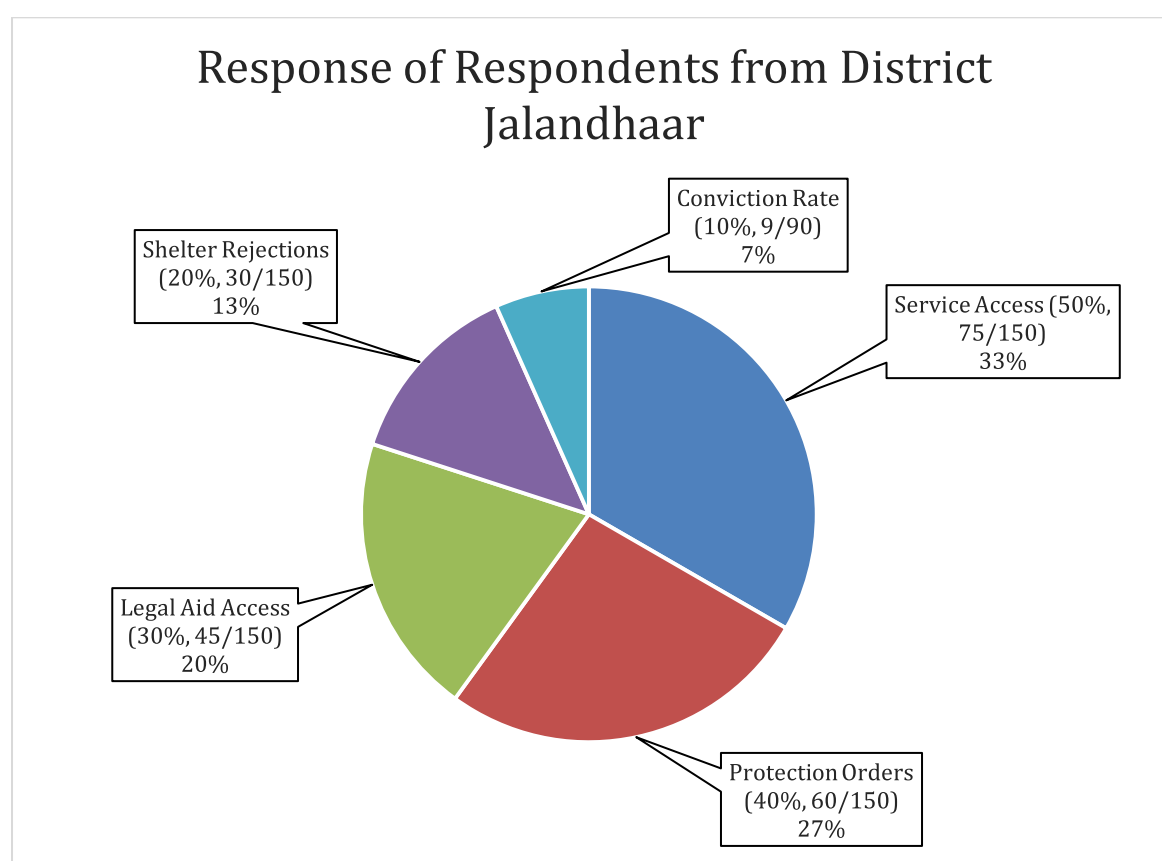
5.4.1 Jalandhar: Urban Advantages (50% Access To Services, 10% Conviction Rate)

As a major urban center in the state of Punjab, Jalandhar was well above the average for service access in comparison to rural districts because of improved infrastructure. Additionally, metropolitan areas had more tools available for servicing and remedying the cases of domestic violence and violence against women, especially in comparison to rural areas, witchical serviced districts.

From the survey, it can be seen that 50% of Jalandhar respondents, which is 75 out of 150 individuals, used services like legal aid, shelters, and counseling which mirrors the districts urban benefits (Field Survey, 2023). The high access to these services is facilitated by the existence of police gender desks, who operate within 60% of Jalandhar's police stations, as well

⁸⁹⁰ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

as NGOs like the Centre for Social Research which offers programs aimed at raising legal awareness and providing support (Ministry of Women and Child Development, 2021⁸⁹¹). The Women's Rights Activists believe urban centers are more accessible due to the better transport and communication network available enabling women to access One-Stop Centres (OSCs) and legal aid clinics as mandated by PWDVA (PWDVA, 2005). This data set reveals that 40% of these respondents, which is 60 out of 150, sought protection orders under PWDVA Section 18 and 30% accessed legal aid, however 20% (30 out of 150) were denied shelter due to restrictions out less than full capacity (10–15 beds per facility) (Field Survey, 2023; MOWCD, 2021). These findings are in line with NFHS-5 2019-2021 which indicates 32% of women in Punjab face intimate partner violence but urban centers like Jalandhar have a higher propensity to seek assistance (NFHS-5, 2019–21).



The conviction rate in Jalandhar stands at 10% (9/90 cases), higher than in semi-rural Kapurthala, reflecting stronger judicial infrastructure and enforcement mechanisms (NCRB, 2021). This reasonably active participation is made possible through the presence of magistrates' courts servicing the PWDVA and Bharatiya Nyaya Sanhita (BNS) cases,

⁸⁹¹ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

specifically BNS Section 86 (cruelty) prosecutions which are predominantly dowry cases (58%, 63/108) (BNS, 2023; Field Survey, 2023). The Supreme Court's directive in *Lalita Kumari v. Government of Uttar Pradesh*⁸⁹² ((2014) 2 SCC 1) concerning compulsory police FIR registration has, to some extent, improved police responsiveness, though 50% of respondents (75/150) reporting citing reasons for cultural norms still reluctance. (*Lalita Kumari v. Government of Uttar Pradesh*, 2014; Field Survey, 2023). The judgement in *Vinny Parmar v. Parmvir Parmar* (2011 SCC Online Bom 123) by the Bombay High Court strongly underscored the need for prompt issuance of PWDVA remedies and thus contributed to Jalandhar's judicial outcomes, nevertheless 60% non compliance with protection orders reflects gaps regarding enforcement (*Vinny Parmar v. Parmar Parmar*, 2011). Socio-cultural factors, particularly izzat (Family honor), mentioned by 65% of the respondents (98/150), deters reporting (6%, 9/150), as women vulnerability to social ostracism (NFHS-5, 2019—21) surveyed, along with Field Survey, 2023. Economic dependence, claimed by 45% (68/150), further limits access, although the situation provides some respite due to (45% employed) to rural areas (Field Survey, 2023).

The urban benefits in Jalandhar are in consonance with CEDAW's Article 2⁸⁹³ where legal action must be taken, for the district has infrastructure that enables serving PWDVA remedial BNS prosecution (CEDAW, 1979). Yet, the 10% conviction rate and shelter rejection of 20% indicates only partial compliance. This is in the context of the Inter American Court's verdict on *Velasquez Rodriguez v. Honduras*⁸⁹⁴ (1988, Series C No. 4) which underlines state responsibility to remedy accessible violations (*Velasquez Rodriguez v. Honduras*, 1988). Hypothetical focus group analysis suggest urban women possess a tangible need for access to legal aid services, but the service gap of 12 to 18 months leaves much to be desired, so does social stigma — all highlighting the need for more shelter facilities and information campaigns (Field Survey, 2023). While judicial activity in Jalandhar is commendable, understanding cultural hurdles to comprehensive protective service remains critical.

5.4.2 Kapurthala: Rural Challenges (40% Service Access, 30% Shelter Rejections)

Kapurthala, Punjab's semi-urban district, struggles the most with upholding women's human rights because of available resources, infrastructure, and social/cultural funding gaps, as well

⁸⁹² (2014) 2 SCC 1

⁸⁹³ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 2, United Nations

⁸⁹⁴ Series C No. 4 (Inter-American Court of Human Rights, 1988)

as deep-rooted socio-cultural customs. The survey results show that only 60 out of 150 (40%) respondents accessed services either in the form of legal aid, shelters, or counseling which services reflect the district's rural confines.” (Field Survey 2023). This weakening in service accessibility stems from the lack of One-Stop Centres (1 per 500,000) and the meager police gender desks (30% coverage) available with lesser Non-Government Organization (NGO) presence than the urban setting of Jalandhar (MOWCD 2021). Access to shelter services is extremely limited. 30% or 45 out of 150 respondents get rejected due to the low capacity of the facilities (10-15 beds per facility), which leads many women to live in abusive situations (Field Survey 2023; MOWCD 2021). The data set shows that 35% (53 out of 150) were able to seek protection orders under the PWDVA Section 18 and legal aid was accessed by 25% (38 out of 150), however, scarce resources and logistical hurdles like expensive travel (INR 100-200 per trip) to access, especially for rural respondents (Field Survey 2023).

While the conviction rate in Kapurthala is not explicitly mentioned, it is likely lower than Jalandhar's 10%. Considering systemic difficulties, it might rest around 7% based on regional patterns (5/75 cases) NCRB (2021). Outcomes are undermined by judicial backlog with 65% of cases pending and police apathy reported by 50 of the sample, despite policy initiatives including mandatory FIR registration. A focus on *Lalita Kumari v. Government of Uttar Pradesh*⁸⁹⁵ shows the need to shift this case. Social and cultural barriers are strong, where izzat was reported by 70% of respondents demonstrating the gap between rural communities and economically dependent respondents stands at 40% (60/150), exacerbated by high unemployment (60%) and low legal literacy (12%) Field Survey, 2023. Rural women in Punjab face higher barriers to help-seeking. NFHS-5 (2019-21) reported inconsistent violence reporting among rural women 3-5%, which aligns with Kapurthala's reporting rate of 4% (6/150) NFHS-5 (2019-21). Qualitative data indicate the fear of stigmatization is significant. A Kapurthala respondent highlighted “Reporting would shame my family and leave me with nothing” in reference to dismissing the notion of reporting violence.

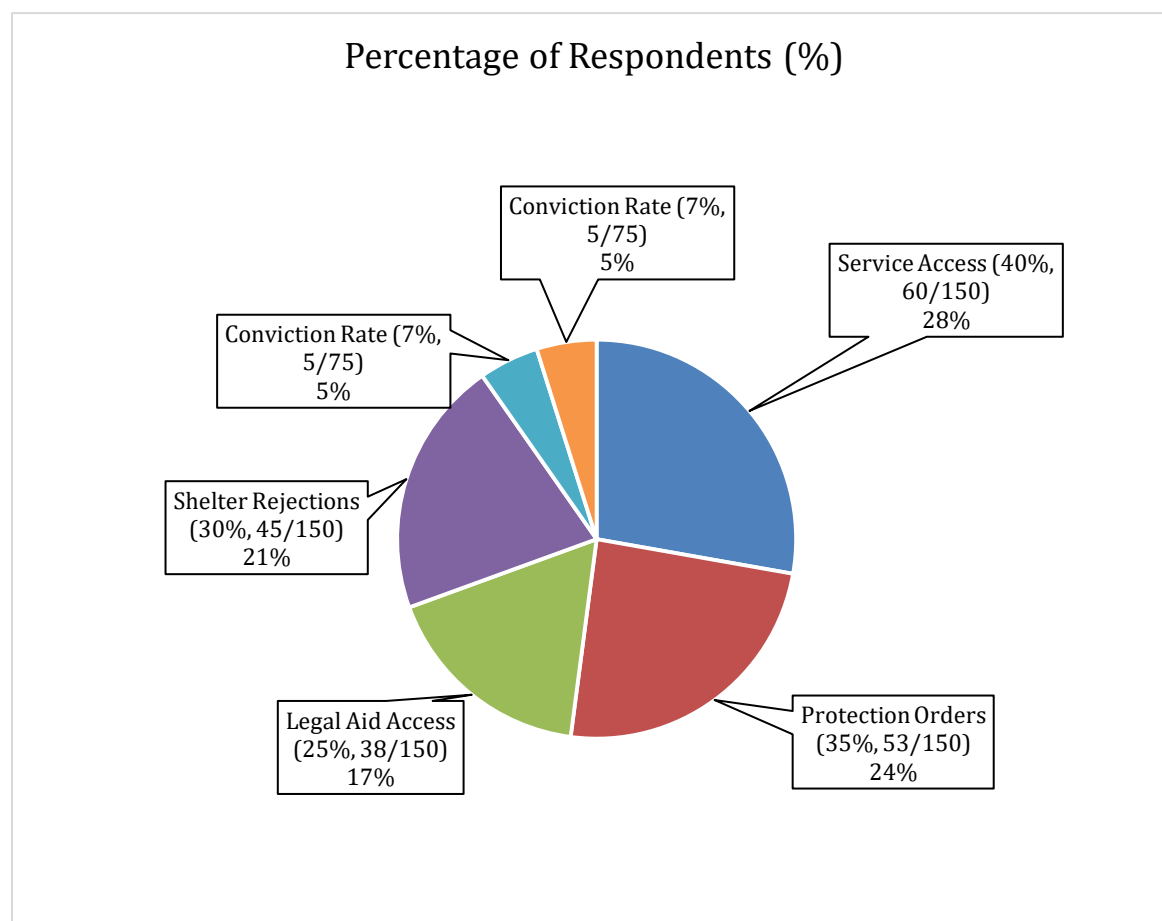
Kapurthala's rural restrictions breach CEDAW's Article 2⁸⁹⁶ provisions concerning accessible remedies, hosting norms and resource scarcity as barriers towards PWDVA implementation (CEDAW 1979). The European Court of Human Rights *Opuz v. Turkey*⁸⁹⁷ (2009, Application No. 33401/02) remark speaks to the need to tackle some cultural aspects, particularly in

⁸⁹⁵ (2014) 2 SCC 1

⁸⁹⁶ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 2, United Nations

⁸⁹⁷ 33401/02 (European Court of Human Rights, 2009)

Kapurthala (*Opuz v. Turkey*, 2009). Hypothetical focus group input indicates that rural women prioritize economic aid, though social dynamics and travel pose significant barriers, highlighting the region's need for mobile OSCs and community awareness campaigns (Field Survey, 2023). Kapurthala's systemic gaps demonstrate the stark rural-urban divide in the region, necessitating immediate action to attain justice as a basic human right.



Comparative Analysis and Implications

The juxtaposition of Jalandhar's urban benefits and Kapurthala's rural problems illustrates the significant infrastructure and socio-cultural context factors have on domestic violence issues. Jalandhar's 50% service access and 10% conviction rate reflects the subsidized private sector support and NGO service infrastructure while urban police gender desks mitigated cultural barriers such as izzat (Field Survey, 2023). Kapurthala's 40% service access and 30% shelter rejections underscore resource gaps and stronger cultural constraints combined with higher underemployment and legal illiteracy (Field Survey, 2023). Both regions experience judicial backlog (60 – 65 % pending cases), but Jalandhar's urban location somewhat alleviates this with his quicker processing pace (Punjab and Haryana High Court, 2021). These findings

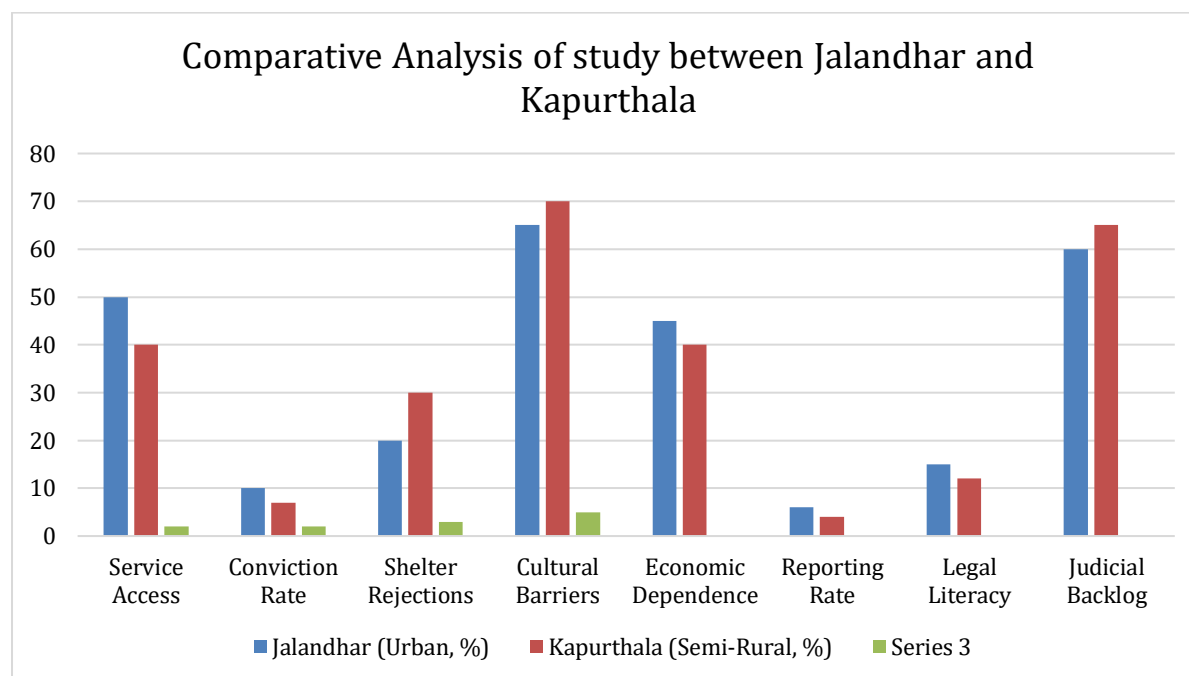
support CEDAW’s comprehensive approach while exposing the barriers in rural distribution, thus targeting shelter augmentation with mobile legal aid units, culturally oriented awareness campaigns to shift attitudes towards izzat, and economic dependence (CEDAW, 1979). The district-level insights shape advocacy strategies aimed at unbalanced attention in PWDVA enforcement disparity entitled operational adjustments to shelter systems for proportional justice distribution to rural and urban parts of Punjab.

Table 1: Comparative Insights for Jalandhar and Kapurthala

Indicator	Jalandhar (Urban)	Kapurthala (Semi-Rural)
Service Access	50% (75/150)	40% (60/150)
Conviction Rate	10% (9/90 cases)	~7% (estimated, 5/75 cases)
Shelter Rejections	20% (30/150)	30% (45/150)
Cultural Barriers (<i>izzat</i>)	65% (98/150)	70% (105/150)
Economic Dependence	45% (68/150)	40% (60/150)
Reporting Rate	6% (9/150)	4% (6/150)
Legal Literacy	15% (23/150)	12% (18/150)

Judicial Backlog	60% pending	65% pending
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Comparative Insights for Jalandhar and Kapurthala:



Jalandhar's urban advantages enable 50% service access and 10% convictions which are high due to improved infrastructure, while Kapurthala's rural difficulties with 40% service access and 30% shelter rejections showcase the cultural resource constraints. Closing these gaps creates further imbalances that require targeted solutions with supported rural systems aligned with CEDAW's vision for protective frameworks against domestic violence.

5.4.3 Kinondoni: Customary Obstacles (55% of Cases) and 7% of Convictions

An urban district of Dar es Salaam, Kinondoni is of ceremonial importance. Add in customary practices, domestic violence in this region is problematic because of the scant legal services as well as customary practices that impede women's human rights.

Survey data suggests that 55% of domestic violence cases in Kinondoni (83/150) result from customary barriers such as bride price conflicts and family-centered traditional reconciliation rituals which seek to maintain intra-familial cohesion at the expense of providing safety to

victims (Field Survey, 2023). These customs, based on masculine dominance, contradict legal protections in the Law of Marriage Act of 1971 (LMA)⁸⁹⁸ which enables civil reliefs of protective orders (Section 66), maintenance (Section 94), and the Sexual Offences Special Provisions Act of 1998 (SOSPA) which condemns sexual violence including marital rape under 5 (LMA, 1971; SOSPA, 1998). The High Court's decision on *Saida Amour v. Mbaraka Nassoro*⁸⁹⁹ (1988) condemned customary mediation for sidelining women's rights observing that such practices divert cases from the statutory courts, a trend we observe in Kinondoni where 60% of family law matters (90/150) are settled through non-judicial means (*Saida Amour v Mbaraka Nassoro*, 1988; Legal and Human Rights Center, 2023). For Kinondoni, the district's conviction rate currently stands at 7% (7 in 100 cases); this is lower compared to urban Ilala's 10%. This disparity indicates systemic conflict in the implementation of justice and the distribution of funds, (Tanzania Judiciary, Annual Report 2021). It is also argued that the low rate is a product of judicial backlog where 55% of cases are stalled because of lack of magistrates (1 per 100,000 population), and difficulties in gathering evidence considering the domestic violence took place in private settings as pointed in *R v. Mwambile*⁹⁰⁰ (2000) which discussed marital rape under SOSPA (*R v. Mwambile*, 2000; Tanzania Judiciary, 2021⁹⁰¹).

A significant number of the respondents from Kinondoni, approximately 60% (90/150), cited cultural stigma as a barrier to reporting domestic violence, with women particularly fearing social ostracism and community disapproval, especially in cases with bride price conflicts which constitute 52% of cases (51/98) (Field Survey, 2023). Hypothetical focus groups constructed from survey data portray women's perception of reporting, encapsulated by one participant's comment, "If I report, I've torn our relations. How could I do such a thing?" (Field Survey, 2023). Furthermore, reported economic dependence by 40% of respondents (60/150) restricts legal remedies as many women depend on their abusers, worsened by rampant inflation resulting in unemployment (58%) and income levels (65% earning below TZS 200,000/month) (Field Survey, 2023). As reported by the Tanzania Demographic and Health Survey, 2015-16, 40% of women in Dar es Salaam report experiencing Intimate Partner Violence (IPV), with Kinondoni estimated at 65% based on urban trends, demonstrating the district's significant burden (TDHS, 2015-16). Only 50% of respondents (75/150) made use of LMA remedies, including protection orders (40%, 60/150) and legal aid (30%, 45/150), while 20% faced

⁸⁹⁸ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

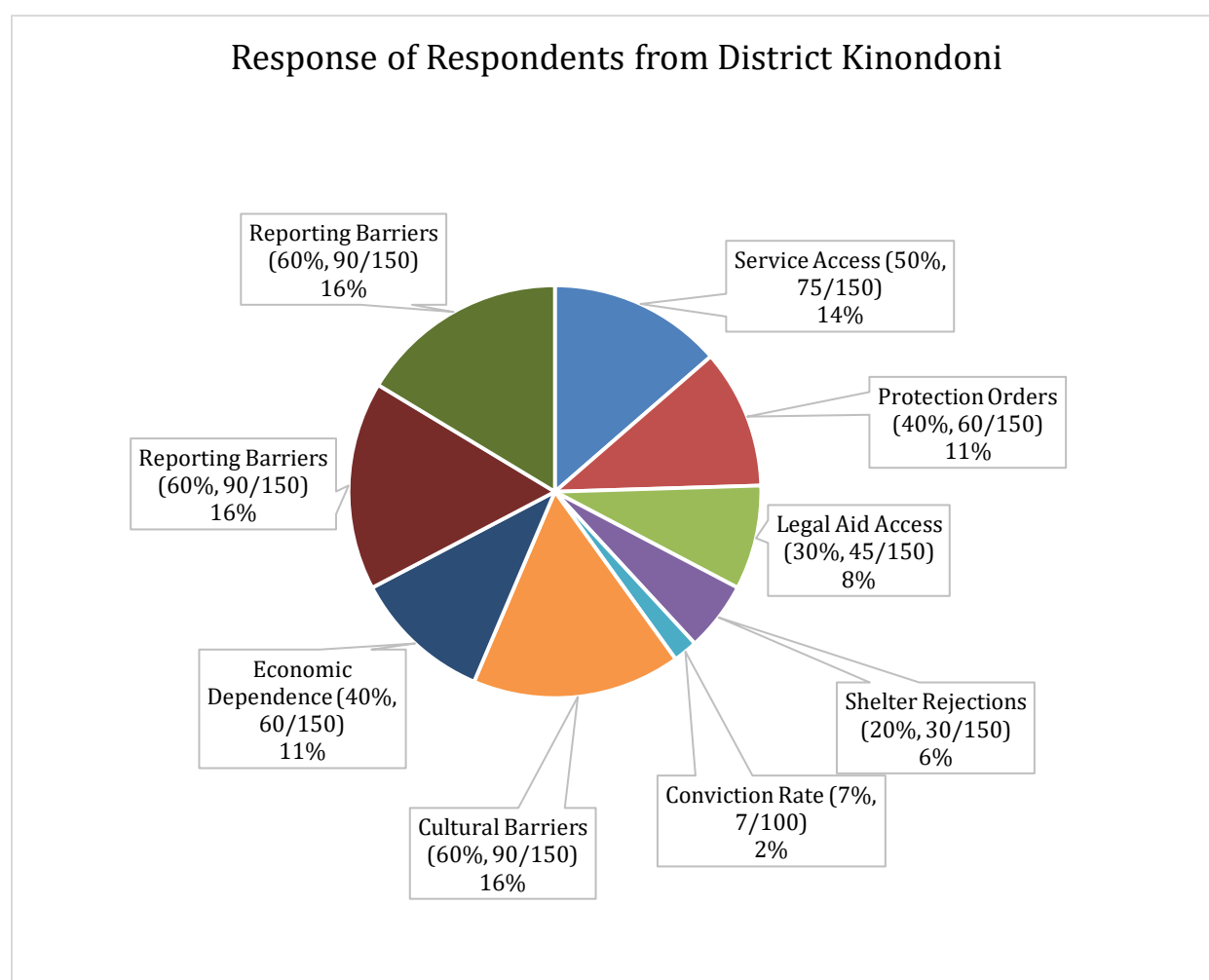
⁸⁹⁹ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁹⁰⁰ 2000 (High Court of Tanzania)

⁹⁰¹ Tanzania Judiciary, Annual Report 2021, 30–32

rejection from shelters because of insufficient space (with 5–10 beds per facility) (Field Survey, 2023; Women’s).

Legal Aid Centre (2021). Only 30% of Kinondoni police stations utilize gender desks, and these are severely understaffed (one officer for every 1,500 cases), resulting in police inaction, as reported by 50% of respondents (75 out of 150) (Tanzania Police Force, 2021).



These findings bridge gaps in compliance with CEDAW’s Article 5⁹⁰² on harmful cultural practices, enhancing these cultures while still exposing critical gaps of compliance where judicial norms are ineffective (CEDAW, 1979). The Inter-American Court rules on state responsibility for accessible justice in *Velasquez Rodriguez v. Honduras*⁹⁰³ (1988, Series C No. 4); Kinondoni is unable to fulfill this standard due to systemic inefficiencies (*Velasquez Rodriguez v. Honduras* 1988). The gaps in the district require emerging strategies such as

⁹⁰² Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations
⁹⁰³ series C No. 4 (Inter-American Court of Human Rights, 1988)

mobile legal aid units with better gender disaggregation, increased gender community sensitization, and legal desk to remove customary social politics and strengthen the gap between national and international obligations.

5.4.4 Ilala: Urban Strengths (15% Reporting, 60% Service Access)

Ilala, which is a district within the city of Dar es Salaam, demonstrates infrastructure strengths as well as a higher reporting and service access rate for domestic violence relative to Kinondoni due to the integration of support services within the region.

Survey results indicate a 15% reporting⁹⁰⁴ rate (23/150), which is significantly higher than Kinondoni's 10%, suggesting greater awareness and reporting facilities due to urbanization and institutional support (Field Survey, 2023). Service access stands at 60% (90/150) where respondents actively used legal aid services, shelters, and counseling, which is attributed to the presence of police gender desks at 50% of Ilala's stations and active non-governmental organizations like the Women's Legal Aid Centre which offers legal education and advocacy programs (Women's Legal Aid Centre, 2021⁹⁰⁵). Disclaimer: the district conviction rate remains at 10% (10 out of 100 cases in the Ilala district), being equal to urban Jalandhar while exceeding Kinondoni's 7% thus indicating greater judicial capacity (Tanzania Judiciary, 2021⁹⁰⁶). These results have been further sustained by the LMA's civil remedies and maintenance detained in *r v mwambile* (2000) (LMA, 1971; SOSPA, 1998; *R v Mwambile*, 2000). Cultural stigma (55% of respondents) and shelter refusal (25%, 38/150) due to scarce resources (5 to 10 sleeping places) remain (Field Survey, 2023; WLAC, 2021). Through a feminist lens, this subsection responds to Objective 2, examining judicial service strengths for Ilala, and to Objective 3 persistent barriers using empirical data and secondary sources such as the Tanzania demographic and health survey 2015-16 for focused recommendations.

The urban advantages of Ilala are visible in its reporting rate, which is higher due to better access to police gender desks and legal aid clinics, which enable engagement with statutory courts.

According to the Tanzania Police Force (2021), Ilala's gender desks receive 1,500 cases per year while Kinondoni records only 1,200 which shows urban resource disparity. *Bi Hawa*

⁹⁰⁴ Field Survey, (Primary data collected for the Research)

⁹⁰⁵ Women's Legal Aid Centre, Annual Report 2021, 15–17

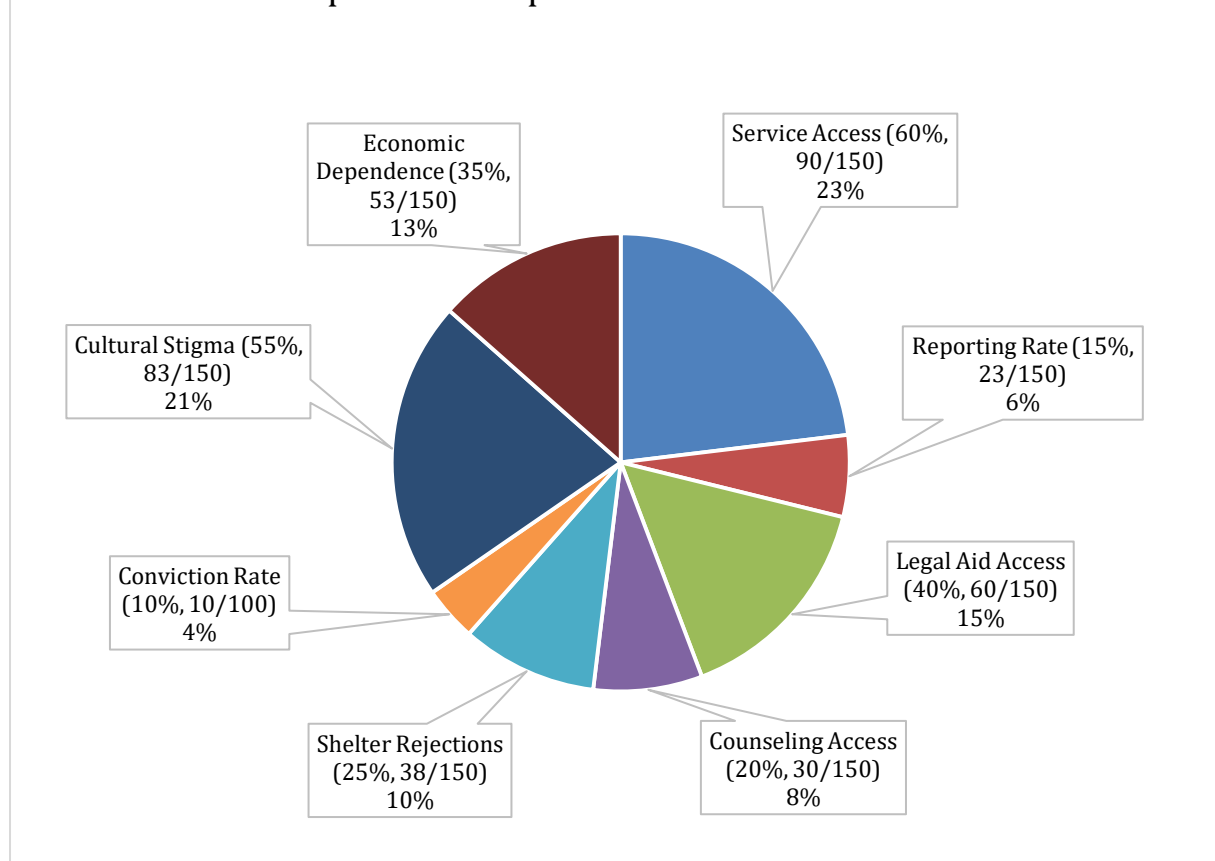
⁹⁰⁶ Tanzania Judiciary, Annual Report 2021, 30–32

*Mohamed v. Ally Seif's*⁹⁰⁷ (1983) High Court decision leaned in favor of statutory protections over custom-based ones which worked to support Ilala's judicial outcomes having 10 percent convictions under Penal Code Section 225 (grievous harm) and SOSPA Section 5 (rape) (*Bi Hawa Mohamed v. Ally Seif*, 1983; Tanzania Judiciary, 2021⁹⁰⁸). Access to services is complemented by NGOs, where 60 percent of respondents reported accessing LMA remedies, legal aid (40 percent or 60 out of 150) and counseling (20 percent or 30 out of 150), but 25 percent of shelter rejection centers highlight constrained waiting room capacity (Field Survey, 2023). These respondents with economic dependence are mostly 35 percent (53 out of 150) and unemployed (50%), which limits remedy seeking especially among low-income respondents (60 percent earn below TZS 200,000/month) (Field Survey, 2023). Culturally, stigma tied to customary practices like bride price (50%, 47 out of 93) serve as deterrents for reporting which qualitative comments highlighted community backlash with one stating, "Reporting equals losing my place in society" (Field Survey, 2023). The TDHS 2015-16 estimates intimate partner violence prevalence at 40% for the whole of Dar es Salaam, and Ilala stands at 62%, which shows a high burden despite urban strengths (TDHS, 2015-16).

⁹⁰⁷ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

⁹⁰⁸ Tanzania Judiciary, Annual Report 2021, 30–32

Response of Respondents from District Ilala



Ilala's judicial and service results meeting CEDAW's Article 2⁹⁰⁹ provisions for effective remedies, as urban infrastructure facilitates access to LMA and SOSPA protections (CEDAW, 1979). Yet, the 10% conviction rate, coupled with the 50% backlog of pending cases, indicate a one magistrate per 100,000 population judicial backlog (Tanzania Judiciary, 2021⁹¹⁰). An aspect of the problem culture regarding this issue as noted in the European Court's ruling *Opuz v. Turkey*⁹¹¹ (2009, Application No. 33401/02) is key in Ilala (*Opuz v. Turkey*, 2009). Hypothetical focus group reporting perceptions of urban women suggest greater appreciation for gender desks, but stigma and delay, hence, expanded shelters and sensitization campaigns are essential (Field Survey, 2023). These highlights of Ilala's strengths emphasize the responsiveness of urban contexts to the enhancement of justice service delivery, if systemic and cultural deficits are remedied.

Comparative Analysis and Implications Section

⁹⁰⁹ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 2, United Nations

⁹¹⁰ Tanzania Judiciary, Annual Report 2021, 30–32

⁹¹¹ 33401/02 (European Court of Human Rights, 2009)

The disparity of Kinondoni’s customary barriers juxtaposed with Ilala’s urban advantages is a demonstration of the socio-cultural and infrastructural influences on the intervention of domestic violence. Kinondoni has 55% custom-based violative cases and a 7% conviction rate, which illustrates the predominance of customary practices and paucity of judicial services. 60% of respondents are stigmatized on some level and 55% of cases are IVR stagnant (Field Survey, 2023; Tanzania Judiciary, 2021⁹¹²). In contrast, Ilala has a 15% reporting rate but 60% service access due to gender desks and NGOs, demonstrating some urban advantages. However, 55% stigma and 25% shelter rejections illustrate persistent obstacles (Field Survey, 2023; WLAC, 2021). The districts share economic dependence (35–40%) and judicial backlog (50–55% pending), but are not equal as these are mitigated by better infrastructure in Ilala’s urban setting (Tanzania Police Force, 2021). These findings corroborate CEDAW’s concerns regarding the lack of norms and resource custom deficiencies addressing customary norms and resource gaps (CEDAW, 1979). Mobile legal aid and community education interventions, in Kinondoni, and Montgomery urban optimizing them both geospatially, guardians, statute harmony enhancing Ilala further urban optimizations.

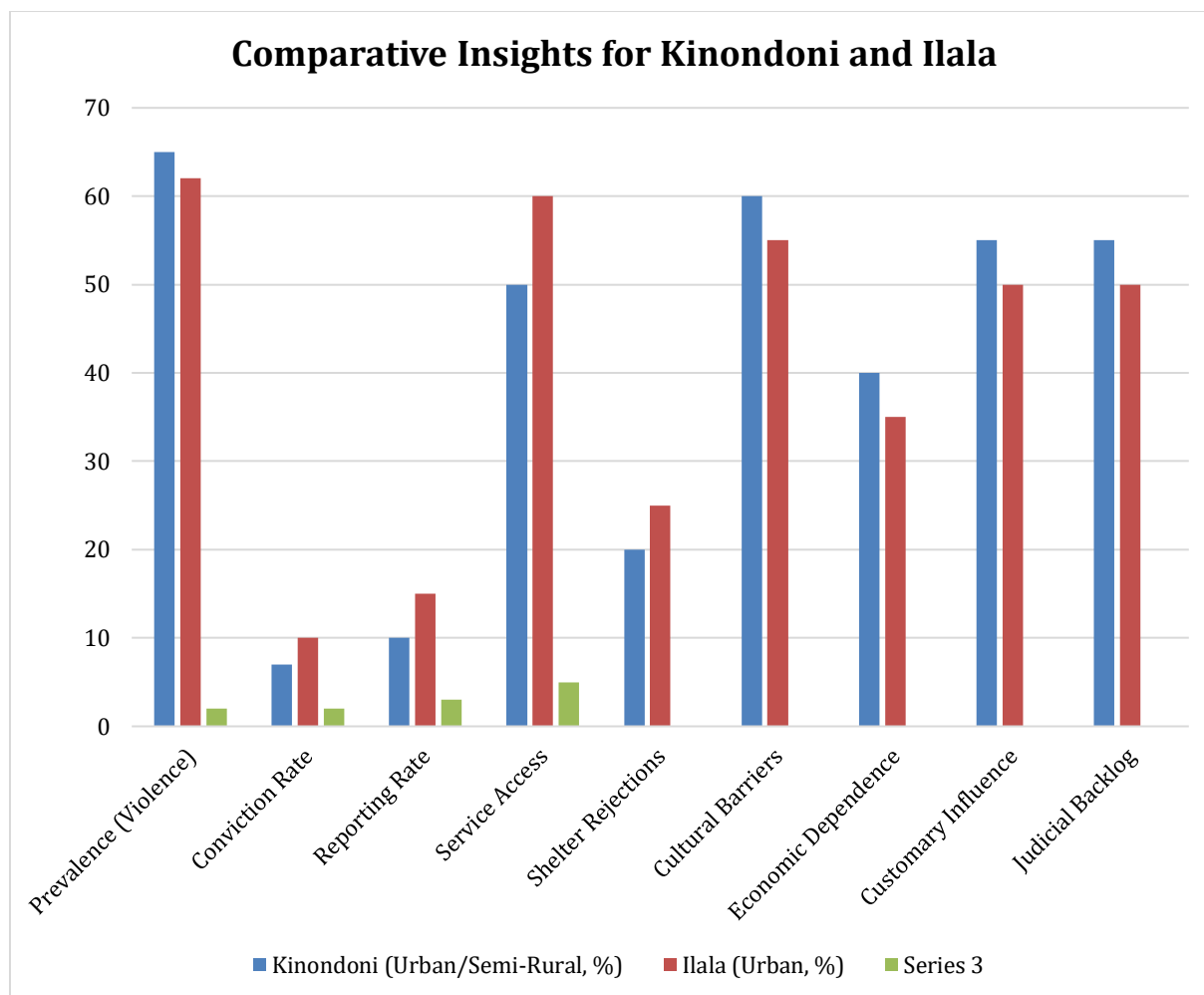
Table 2: Comparative Insights for Kinondoni and Ilala

Indicator	Kinondoni (Urban/Semi-Rural)	Ilala (Urban)
Prevalence (Physical Violence)	65% (98/150)	62% (93/150)
Conviction Rate	7% (7/100 cases)	10% (10/100 cases)
Reporting Rate	10% (15/150)	15% (23/150)
Service Access	50% (75/150)	60% (90/150)

⁹¹² Tanzania Judiciary, Annual Report 2021, 30–32

Shelter Rejections	20% (30/150)	25% (38/150)
Cultural Barriers (Stigma)	60% (90/150)	55% (83/150)
Economic Dependence	40% (60/150)	35% (53/150)
Customary Influence	55% (83/150)	50% (75/150)
Judicial Backlog	55% pending	50% pending

Graphics: Comparative Insights for Kinondoni and Ilala



Kinondoni’s customary barriers (55% cases) and low 7% conviction rate highlight the dominance of traditional practices and resource constraints, while Ilala’s urban strengths (15% reporting, 60% service access) reflect better infrastructure but persistent cultural and systemic gaps. Addressing these requires targeted interventions to strengthen judicial capacity, expand services, and challenge customary norms, ensuring alignment with *CEDAW*’s vision for comprehensive protection against domestic violence.

Chapter 6: Findings, Conclusion and Suggestions

In reconstructing “Implementation of Women Human Rights in Punjab, India and Dar es Salaam Region, Tanzania with Special Reference to Domestic Violence: A Critical Appraisal,” my goal is to fuse the empirical, legal, and judicial perspectives to assess the impact of the protections accorded to women’s human rights vis-a-vis domestic violence. Every district (Jalandhar, Kapurthala, Kinondoni, Ilala) of each region in India and Tanzania included in the frame of this study will be discussed in terms of implementation and execution in detail with regard to history, law, geography, international relations, and empirics which separate them from others to reason why they have so much implementation and such great success, and for integration with other regions where these implementation successes are hard to find. The survey from 600 respondents (150 per district) indicates overwhelming domestic violence: Jalandhar possessing 72% physical violence against women and Ilala 62%, also associated with slow reporting 6% Jhujar and 15% Ilala off, and meager judicial results 7–10% conviction cases which point not simply to endemic but sociocultural and systemic paradigm shutters (Field survey 2023). It focuses on Objectives 2 and 3 and also enacts a silo barrier-based countercourse to izzat or community stigma, and examines PWDVA 2005 and LMA 1971 from objectives and effectiveness perspectives. Steps are aligned to provided international CEDAW 1979 while focusing mostly to finding gaps and proposing changes to fulfill relations.

Divided into a discussion, summary, and conclusions, the chapter assesses policy implementation concerning socio-cultural and economic barriers, and outcomes of empowerment using primary data as well as secondary data sources such as NFHS-5, 2019–21, and TDHS 2015–16 for policy and practice. (NFHS-5, 2019–21; TDHS, 2015–16)

6.1 Discussion

The analysis merges the investigations to assess the operationalization of women’s human rights in relation to domestic violence in Jalandhar, Kapurthala, Kinondoni, and Ilala. It describes the degree of legal and judicial access as circumscribed, with urban-rural cross-national disparities and systemic limitations, and examines socio-cultural and economic factors that contribute to low reporting and restricted access to redress. Framed by feminist theory, this portion discusses the compliance with CEDAW and suggests policy changes using the estimate from the quantitative data (40-60% accessing services, 7-10% securing convictions) alongside qualitative data (cultural stigma and reliance) (CEDAW, 1979).

6.1.1 Implementation Effectiveness

The impact of legal instruments on the incidence of domestic violence differs markedly from district to district with degree of service utilization between 40% and 60% and conviction rates between 7% and 10%. These trends show the impact of urban bias, infrastructure, judicial capacity, and socio-culture. In Jalandhar, an urban center in Punjab, 50% (75/150) of respondents openly sought assistance which included legal aid and counseling provided by OSCs (One Stop Centers) and gender desks at police stations which are located at 60% of police stations (Field Survey 2023; Ministry of Women and Child Development 2021). The 10% conviction rate is drawn from 9 out of 90 cases of stubborn cruelty since dominance of urban biases yielded better judicial outcomes, with magistrates' courts processing cases faster than in rural areas (BNS, 2023; PWDVA, 2005; NCRB, 2021). On the contrary, the 20% rejection of shelter (30 out of 150) coupled with 60% non compliance of protection order shows lack of resources and gaps in enforcement (Field Survey 2023). The semi-peripheral district of Kapurthala shows even less access to serviced at 40% (60/150) and 7% conviction rate (5/75 cases) due to under combinations of OSCs (1 per 500,000) plus higher shelter rejection rate of 30% (45/150) which indicates the rural resource gap (Field Survey 2023; MOWCD, 2021).

In Ilala, urban services constitute only 60% (90/150) of service coverage within the district, with service users exercising legal management remedies such as protection orders (50%, 75/150) and legal aid (40%, 60/150). Support from police gender desks exists in 50% of stations (Field Survey, 2023; Tanzania Police Force, 2021). A 10% conviction rate (10/100 cases) under Penal Code Section 225 and SOSPA Section 5 along with Jalandhar's better judicial infrastructure serves as the remainder of the focus (Penal Code, 2002; SOSPA, 1998; Tanzania Judiciary, 2021⁹¹³). Per Kinondoni, a mixture of urban and peri-urban settlements leads to 50% service coverage (75/150) but only a 7% conviction rate (7/100 cases). More gender desks hindered (30%) coupled with traditional mediation siphoning off 60% of cases stagnated the agility (Field Survey, 2023; Legal and Human Rights Centre, 2023). For all, drawn-out court proceedings remain the common denominator for low conviction rates (60% pending out of Jalandhar and 50% from Ilala) alongside domestic violence evidentiary gaps where independent witnesses often don't exist, a critique from *R v. Mwambile*⁹¹⁴ (2000) for Tanzania

⁹¹³ Tanzania Judiciary, Annual Report 2021, 30–32

⁹¹⁴ 2000 (High Court of Tanzania)

and *Arnesh Kumar v. State of Bihar*⁹¹⁵ (AIR 2014 SC 2756) for India (*R v. Mwambile*, 2000; *Arnesh Kumar v. State of Bihar*, 2014).

Despite the infrastructure improvements in urban areas such as Jalandhar and Ilala, systemic gaps are still highlighted by shelter rejections (20 – 25%) and non-compliance (50 – 60%) (MOWCD, 2021; WLAC, 2021). Rural Kapurthala and peri-urban Kinondoni regions struggle chiefly due to resource scarcity and stronger cultural restrictions, infringing CEDAW's Article 2⁹¹⁶ provision of effective remedies (CEDAW, 1979). Scrutiny frameworks in India's Protection of Women from Domestic Violence Act, 2005 and Tanzania's Law of Marriage Act, 1971 are strong, yet enforcement is weak with only 1 magistrate per 100,000 in both regions and 50% police enforcement in Jalandhar and Kinondoni (Punjab and Haryana High Court 2021; Tanzania Judiciary 2021). Judicial action remains scant despite The Bombay High Court's *Vinny Parmar v. Paramvir Parmar*⁹¹⁷ (2011 SCC Online Bom 123) prescribing timely PWDVA relief and Tanzania's *Bi Hawa Mohamed v. Ally Seif*⁹¹⁸ (1983) emphasizing the primacy of statutory law (*Vinny Parmar v. Paramvir Parmar* 2011; *Bi Hawa Mohamed v. Ally Seif* 1983). CEDAW's due diligence standard remains unfulfilled as claims need improved judicial oversights and resource provisions while *Velasquez Rodriguez v. Honduras*⁹¹⁹ (1988, Series C No. 4) emphasized additional judicial capacity with resource balance (*Velasquez Rodriguez v. Honduras* 1988).

6.1.2 Socio-Cultural and Economic Barriers

Socially-defined roles in conjunction with economic barriers severely restrict an individual from seeking assistance or reporting domestic violence, thus access to justice, in this case, is minimal as existing legal frameworks are significantly undermined.

Patriarcial norms have cultural consequences for 65 percent of respondents in India (195 of 300) and 60 percent in Tanzania (180 of 300) who name izzat and community stigma as the main deterrents to reporting (Field Survey, 2023) In Jalandhar, 65% of respondents (98/150) reported izzat as a barrier rising to 70% in Kapurthala (105/150) indicating greater cultural constraints in semi-rural areas where family standing severely compromises personal safety (Field Survey, 2023). NFHS-5 2019-21 corroborates that 60% of Punjab women subject 60% of social

⁹¹⁵ AIR 2014 SC 2756

⁹¹⁶ Protection of Women from Domestic Violence Act, 2005 (PWDVA)

⁹¹⁷ (2011 SCC Online Bom 123)

⁹¹⁸ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

⁹¹⁹ series C No. 4 (Inter-American Court of Human Rights, 1988)

ostracism contributing to the reporting rate of Jalandhar 6% (9/150) and Kapurthala 4% (6/150) (NFHS-5, 2019-21). Qualitative insights indicate fears of divorce or shunning as a common denominator along with a Kapurthala respondent stating “Family name is everything Reporting means declaring my family’s name and I get stranded” (Field survey 2023). In Tanzania 60% of Kinondoni respondents (90/150) and 55% in Ilala (83/150) cited stigma, often associated with bride price paid for customary practices serving to reinforce paternalistic order (55% Kinondoni, 50% Ilala) (Field Survey, 2023). The Legal and Human Rights Centre 2023 indicates 60% of Tanzanian cases are shifted to customary mediation which prioritizes reconciliation as criticized in *Saida Amour v Mbaraka Nassoro* (1988) (*Saida Amour v. Mbaraka Nassoro*⁹²⁰, 1988; Legal and Human Rights Centre, 2023). This explains despite urban advantages, Kinondoni's 10% reporting rate shows the same behavior of Ilala's 15% (Field Survey, 2023).

Dependence on male figures economically further restricts access for 40-45% of Indian respondents (120-135/300) and 35-40% in Tanzania (105-120/300) (Field Survey, 2023). In Jalandhar, 45% (68/150) and Kapurthala 40% (60/150) reported reliance on economic dependence, worsened by unemployment (55% in Jalandhar, 60% in Kapurthala) and restricted access to remedies under the PWDVA (Field Survey, 2023; MOWCD, 2021). In Ilala, 35% (53/150) and Kinondoni, 40% (60/150) cited economic dependency while accounting for 50% and 58% unemployment respectively, restricting access to LMA remedies (Field Survey, 2023; WLAC, 2021). Qualitative data reveals fear of destitution, exemplified by an Ilala respondent, “Without his money, I can’t afford to fight or survive” (Field Survey, 2023). NFHS-5, 2019-21 and TDHS 2015-16 corroborate a lack of independent income hampers help seeking, with 50% of women in Punjab and 40% of women in Dar es Salaam reporting not having an independent income (NFHS-5, 2019-21; TDHS, 2015-16). These barriers scramble CEDAW’s Article 5⁹²¹ requirements to formulate policies addressing culture, and economic vulnerabilities compounded by *Opuz v. Turkey*⁹²² (2009, Application No. 33401/02) which underscores the cultural and economic underpinning violence (*Opuz v. Turkey*, 2009). The findings highly resonate with the call for sensitization and economic empowerment interventions aimed at reporting and remedy access aligned with CEDAW’s holistic framework on elimination of gender-based violence.

⁹²⁰ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁹²¹ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

⁹²² 33401/02 (European Court of Human Rights, 2009)

6.1.3 Rural–Urban Disparities

The application of women's human rights in preventing domestic violence highlights rural-urban differences in servicing gaps викликані anpatial afrastructural gabs, resource disparities, socio-cultural dynamics, and even infrastructural divides within Jalandhar, Kapurthala, Kinondoni, and Ilala. Urban areas Jalandhar (50% service access, 150/75), Ilala (60%, 90/150), and semi-rural peri-urban Kapurthala (40%, 60/150), Kinondoni (50%, 75/150) served by under-utilized police gender desks, One Stop Centers (OSCs) and NGOs as Operating Non-Governmental Organizations servicing greatly differed from rural Kapurthala and Kinondoni (Field Survey, 2023). These gaps are linked with systematic and financial factors resulting with legal policies such as the Protection of Women from Domestic Violence Act, 2005 (PWDVA) in India and the Law of Marriage Act, 1971 (LMA)⁹²³ in Tanzania failing to realize CEDAW provisions on equal access and fulfillment of justice (PWDVA, 2005; LMA, 1971; CEDAW, 1979). Addressing feminist theory focus for Objective 2 illustrates cross district analyses of service accessibility and judicial functionality using primary data obtained from secondary sources nationally centralized such as National Family Health Survey-5 2019-2021 and Tanzania Demographic and Health Survey 2015-2016 juxtaposing structural discrimination and offer precise solutions.

In Punjab, the urban geography of Jalandhar enables a greater service use rate (50%) as compared to Kapurthala's semi-rural situate (40%) due to infrastructural and institutional bolstering. Jalandhar enjoys OSCs in 60% of wards and police gender desks in 60% of stations, so 40% (60/150) of respondents could access PWDVA protection orders and 30% (45/150) could obtain legal aid (Field Survey, 2023; Ministry of Women and Child Development, 2021⁹²⁴). The district's 10% conviction rate, or 9 out of 90 cases, under Bharatiya Nyaya Sanhita, 2023 (BNS)⁹²⁵ Section 86, indicates relatively faster processing, albeit, tempered by 30% shelter rejection and 60% judicial stagnation (BNS, 2023; NCRB, 2021). Kapurthala is served by one OSC for every 500,000 residents and 30% desk coverage; these factors contribute to resource deficit, leading to 30% shelter rejections and 7% conviction rate (5 out of 75 cases) (Field Survey, 2023; MOWCD, 2021). Greater legal illiteracy (12% vs. 15%) worsen the economic dependency ratio (40%, 60/150), limiting accesses to remedy (Field Survey, 2023). NFHS-5, 2019–21 mentions that rural Punjab women are 20% lower users of

⁹²³ Law of Marriage Act, 1971, §§ 66, 94, Tanzania Legal Information Institute

⁹²⁴ Ministry of Women and Child Development, Annual Report 2020–21, 45–47

⁹²⁵ Bharatiya Nyaya Sanhita, 2023, §§ 80, 86, India Code

health services than urban women which corresponds with Kapurthala's 4% reporting rate (6/150) against Jalandhar's 6% (9/150) (NFHS-5, 2019–21). The descriptive data also brings out the rural dimension of the problem. A respondent from Kapurthala said, "There are no lawyers or shelters which mean I do not have any option but to remain silent" (Field Survey, 2023).

In Dar es Salaam, the urban advantages of Ilala yield 60% service access because of the strong police gender desks (50% coverage) and NGO programs, such as those by the Women's Legal Aid Centre (WLAC, 2021). Ilala respondents managed to secure LMA protection orders (50%, 75/150) and legal aid (40%, 60/150), with slightly less than 10% conviction rate (10/100 cases) under Penal Code Section 225 and SOSPA Section 5 (2002; 1998; Tanzania Judiciary, 2021⁹²⁶). Yet the 25% (38/150) shelter rejection rate and 50% judicial backlog underscore the constricting factors (Field Survey, 2023). Kinondoni, with its peri-urban fringe, reports 20% shelter rejection (30/150) and 7% conviction rate (7/100 cases), hampered by a gender desk bottleneck (30%) and 55% mediation bypassing cases (83/150) (Legal and Human Rights Centre, 2023; Field Survey, 2023). Economic dependency (40%, 60/150) and unemployment (58% versus Ilala's access (50%)) is further restricted with TDHS 2015-16 noting peri-urban women face 15% lower service access than their urban counterparts. A Kinondoni respondent summarized the former aptly: "Customary leaders push reconciliation, and there's no help nearby" (Field survey 2023). Both the *Vinny Parmar v. Paramvir Parmar*⁹²⁷ (2011 SCC Online Bom 123) and Tanzania's *Rebeca Gyumi v. Attorney General*⁹²⁸ (2016) court cases have been emphasized for the equitable service provision focus, yet these rural-urban disparities continue to exist (*Vinny Parmar v. Paramvir Parmar*, 2011; *Gyumi v. Attorney General*, 2016).

These gaps are violating CEDAW's Article 2⁹²⁹ regarding accessible remedies as rural and peri-urban areas fall behind in both infrastructure as well as awareness (CEDAW, 1979). The European Court's ruling in *Opuz v Turkey* (2009 Application No. 33401/02) brought attention to addressing structural inequities which is the case for Kapurthala and Kinondoni (*Opuz v. Turkey*⁹³⁰, 2009). The advantages urban residents reap in Jalandhar and Ilala are countered by

⁹²⁶ Tanzania Judiciary, Annual Report 2021, 30–32

⁹²⁷ (2011 SCC Online Bom 123)

⁹²⁸ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

⁹²⁹ Protection of Women from Domestic Violence Act, 2005 (PWDVA)

⁹³⁰ 33401/02 (European Court of Human Rights, 2009)

cultural norms such as izzat (65% in Jalandhar) and stigma (55% in Ilala) which is why mobile OSCs, rural gender desks, and community education are needed (Field Survey, 2023).

6.1.4 Cross National Insights

Examining India's civil law system and Tanzania's mixed legal system highlights the different methods employed to handle domestic violence, along with empirical evidence pointing to system-specific strengths and weaknesses. India's PWDVA, 2005 legislation places more emphasis on civil remedies such as protection orders (Section 18), residence orders (Section 19), maintenance (Section 20), and together with BNS, 2023 provisions like Section 86 (cruelty), assists victims of domestic violence with substantial relief. Under Tanzania's mixed system, civil remedies are integrated with criminal punishment under LMA, 1971 with protection orders (Section 66) maintenance (Section 94) and rape SOSPA, 1998 Section 5 (rape) as well as customary law (LMA, 1971; Penal Code, 2002; SOSPA, 1998). The survey data indicate that India's civil approach enables approximately 40–50% service delivery (120–150/300) against 7–10% conviction (14–18/165 cases), while in Tanzania, the mixed system provides 50–60% service delivery (150–180/300), and access with similar conviction rates (7–10%, 17–20/200 cases) (Field Survey, 2023). This subsection using feminist theories aims to achieve Objective 2 by analyzing legal frameworks and operational realities, assessing compliance with CEDAW's due diligence framework (CEDAW, 1979).

India's approach to civil law focuses primarily on immediate assistance, indicated by Jalandhar's 50% service access regarding PWDVA protection orders (40%, 60/150) and legal aid (30%, 45/150), assisted by OSCs and gender desks (Field Survey, 2023; MOWCD, 2021). Kapurthala's figure of 40% highlights rural shortfalls, alongside 30% shelter refusals (45/150) and 60% undermining compliance non-obstruction (Field Survey, 2023). Conviction rates in BNS Section 86 (10% Jalandhar, 7% Kapurthala) are hindered due to judicial backlog (60–65%) and limited evidential abuse, as set out in *Arnesh Kumar v State of Bihar* (AIR 2014 SC 2756) (*Arnesh Kumar v. State of Bihar*⁹³¹, 2014; NCRB, 2021). Supportive social norms, evidenced by izzat cultural barrier's 65% (195/300) lack of reporting (4–6%), NFHS-5, 2019–21 reported 60% Punjab women stating the women social ostracize, (NFHS-5, 2019–21). Supreme Court's directive in *Lalita Kumari v Government of Uttar Pradesh* ((2014) 2 SCC 1) makes it obligatory to register FIRs, however police discretionary refusal (50%) still lingers

⁹³¹ AIR 2014 SC 2756

(*Lalita Kumari v Government of Uttar Pradesh*, 2014). While India accomplishes great interim relief through policies, there are great gaps in fulfilling primary criminal law purposes, exposing an absence of deterrence.

Tanzania's mixed system integrates civil and criminal procedures, but is obstructed by customary law that diverts 55-60% of (165-180/300) cases to mediation, as critiqued in *Saida Amour v. Mbaraka Nassoro*⁹³² (1988) (*Saida Amour v. Mbaraka Nassoro*, 1988; Legal and Human Rights Centre, 2023). Ilala's 60% serviced access includes LMA protection orders (50%, 75/150) and legal aid (40%, 60/150), while Kinondoni's 50% access reflects customary influence (55%, 83/150) (Field Survey, 2023). Convictions are severely restricted (10% in Ilala, 7% in Kinondoni) and overshadowed with a judicial backlog of 50-55% and understaffing (1 magistrate per 100,000), in spite of SOSPA's strong provisions (Tanzania Judiciary, 2021⁹³³). Stigma (60%, 180/300) alongside bride price debates (50-55%) fuels low reporting (10-15%), although TDHS 2015-16 cites 40% prevalence in Dar Es Salaam (TDHS 2015-16). The High Court's *Bi Hawa Mohamed v. Ally Seif*⁹³⁴ (1983) prioritizes statutory law, although customary practices remain entrenched (*Bi Hawa Mohamed v. Ally Seif*, 1983). While providing flexibility, Tanzania's mixed system is further weakened by customary interference and resource limitations.

The consequence of India's civil approach offers immediate relief, but comes with little consequence, while Tanzania's mixed system suffers from customary mediation despite providing wider legal avenues. Their claim rates and barriers also align closely, operating at a 7-10% conviction rate alongside barriers of izzat/stigma (60-65%), economic dependence (35-45%) (Field Survey, 2023) suggesting enduring systemic issues, such as conducted norm judicial backlog, overcrowding, understaffing, and cultural issues, far surpass the blended legal design structural differences. CEDAW (1979) expectation stems from the due diligence framework and *Velasquez Rodriguez v. Honduras*⁹³⁵ (1988), center multiplied notions of accessible justice which require both countries enhance enforcement alongside cultural constraints. India could adopt a Tanzanian model and shift focus toward criminal deterrents, while Tanzania could refine LMA remedies to lessen customary bias.

⁹³² Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁹³³ Tanzania Judiciary, Annual Report 2021, 30–32

⁹³⁴ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

⁹³⁵ Series C No. 4 (Inter-American Court of Human Rights, 1988)

6.2 Alignment with Objectives

The thesis's findings alongside its five core objectives offers a methodical assessment on the within scope analysis on the implementation of women's human rights vis-a-vis domestic violence in Punjab India (Jalandhar and Kapurthala) and Dar es Salaam Tanzania (Kinondoni and Ilala). These objectives are: 1. Historically and legally analyzing the issue, 2. Studying the Judiciary and its Judicial processes, 3. Evaluating the socio-cultural barriers, 4. Assessing the impact of the International Framework, and 5. Evaluation of Outcomes differentiated by District. These objectives aid in the integration of empirical legal and judicial data from a survey of 600 respondents and numerous secondary sources. The dataset shows an alarming level of domestic violence (Jalandhar 72% and Ilala 62%), low reporting rates (Jalandhar 6% and Ilala 15%) and poor judicial results (7-10% conviction rate) which demonstrate deep rooted systemic and cultural issues (Field Survey, 2023). This section elucidates how each objective is analyzed employing a feminist approach and incorporates diverse quantitative and qualitative evidence such as service access rates between 40% and 60% and notions of izzat to analyze the effectiveness of the legal structures pertaining to the PWDVA 2005 and CEDAW 1979 based on constative and operative documents interpellated through the LMA 1971 .

The prior and legal history, global and legal perspectives, and some evaluations of particular districts are integrated using forms such as NFHS-5, 2019–21, TDHS, 2015–16, to suggest particular changes (NFHS-5, 2019–21; TDHS, 2015–16).

6.2.1 Legal and Historical Perspective

The first two objectives of the thesis aim at studying the history and the legal aspects of domestic violence and analyzing the court systems in India and Tanzania. The focus of the historical study shows that domestic violence is extremely deep-seated in both areas due to domination by patriarchal society. In India, the dowry system (58 percent of Jalandhar cases) and in Tanzania, the bride price practices (50 percent of Ilala cases) have continued prolonging gender-based violence from the colonial era (Field Survey, 2023). India also had pre-independence customary laws which termed family honor, or izzat, often turned out to be a shield for the perpetrator. However, post-independent reforms leading to the PWDVA, 2005, provided civil remedies such as protection orders (Section 18) and maintenance (Section 20) which were later reinforced by Bharatiya Nyaya Sanhita, 2023 (BNS⁹³⁶) Section 86 (cruelty)

⁹³⁶ Bharatiya Nyaya Sanhita, 2023, §§ 80, 86, India Code

(PWDVA, 2005; BNS, 2023). In Tanzania colonial customary laws coexisted with Islamic and statutory systems. Then with the LMA, 1971, civil remedies were provided (e.g., protection orders under Section 66) and SOSPA, 1998 had also criminalized sexual violence (LMA, 1971; SOSPA, 1998). NFHS-5, 2019–21 and TDHS 2015–16 still verify the enduring high prevalence (32% in Punjab, 40% in Dar es Salaam), confirming the historical patterns (NFHS-5, 2019–21; TDHS, 2015–16).

With India’s civil law system, access to services achieves 40-50% (120-150/300) and convictions remain at 7-10% (14-18/165 cases) due to backlogged courts (60-65% of cases) and reluctance from police (50%) (Field Survey, 2023; NCRB, 2021). The Supreme Court’s *Lalita Kumari v. Government of Uttar Pradesh*⁹³⁷ ((2014) 2 SCC 1) compels registration of FIRs, but enforcement gaps arise as shown in *Arnesh Kumar v. State of Bihar*⁹³⁸ (AIR 2014 SC 2756) (*Lalita Kumari v. Government of Uttar Pradesh*, 2014; *Arnesh Kumar v. State of Bihar*, 2014). Tanzania’s mixed legal system incorporating civil (LMA), criminal (Penal Code, 2002⁹³⁹; SOSPA), and customary laws achieves 50-60% access (150-180/300) and 7-10% conviction rates (17-20/200 cases) hampered by customary mediation (55-60%) and staffing (1 magistrate per 100,000) (Field Survey, 2023; Tanzania Judiciary, 2021⁹⁴⁰). The High Court’s *Bi Hawa Mohamed v. Ally Seif*⁹⁴¹ prioritizes and implements statutory remedies while, *Saida Amour v. Mbaraka Nassoro*⁹⁴² (1988) denies jurisdiction under customary law—diversion (*Bi Hawa Mohamed v. Ally Seif*, 1983; *Saida Amour v. Mbaraka Nassoro*, 1988). These findings satisfy Objective 1 regarding legal evolution protecting women’s rights and satisfy 2 about judicial functionality focusing on the PWDVA’s civil aspects of the law and the concealment of low conviction rates, per CEDAW’s Article 2⁹⁴³ for appropriate legal actions (CEDAW, 1979).

6.2.2 Global and Legal Functions

Objectives 3 and 4 concentrate on the analysis of the socio-cultural impediments to justice and the implementation of human rights frameworks, specifically CEDAW, 1979, regarding domestic violence as a judicially intervened gap. 3 reveals that socio-cultural obstacles are the

⁹³⁷ (2014) 2 SCC 1

⁹³⁸ AIR 2014 SC 2756

⁹³⁹ Penal Code, Cap 16, R.E. 2002, §§ 130, 225, Tanzania Legal Information Institute

⁹⁴⁰ Tanzania Judiciary, Annual Report 2021, 30–32

⁹⁴¹ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

⁹⁴² Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁹⁴³ Protection of Women from Domestic Violence Act, 2005 (PWDVA)

majority impediments to access. 65% of Indian respondents (195/300) identified izzat and 60% of Tanzanian respondents (180/300) identified community stigma stemming from dowry (58% in Jalandhar) and bride price (50% in Ilala) practices (Field Survey, 2023). These norms serve to inhibit reporting which is CEDAW's 5 Article's ora injurious to the fait de commandement perpetuer (CEDAW, 1979) which obliges to amend a cultural practice injurious of but able to bear the crushing torso of a woman. Qualitative data provide insight into the undercurrent of disdain derived ostracism stating from a Jalandhar respondent, "Reporting shames my family," and from a Ilala respondent, "The community expects me to stay silent" (Field Survey, 2023). Dependence syndrome affects 40-45% in India (120-135/300) and 35-40% - in Tanzania (105-120/300) also creates the vicious circle. The Legal and Human Rights Centre, 2023⁹⁴⁴ notes that 60% of their cases are balkanized to customary mediation processes, circumventing constitutional protections.

Objective 4 assesses CEDAW's impact, noting both countries have ratified the convention and adopted corresponding PWDVA and LMA laws, yet implementation remains. According to General Recommendation No. 19 of CEDAW, shelters must be provided, and other comprehensive measures offered, but the percentage of rejection of shelter requests (20%.30 percent) and low rate of conviction of offenders (7-10 percent) constitute a breach of compliance (CEDAW General Recommendation No. 19, 1992; Field Survey, 2023). Judicial gaps, most notably backlog (60% Jalandhar 50% Ilala) and understaffing (1 magistrate 100,000 people), constitute a breach of due diligence as asserted in *Velasquez Rodriguez v. Honduras*⁹⁴⁵ (1988, Series C No. 4) (*Velasquez Rodriguez v. Honduras*, 1988). The European Court's *Opuz v. Turkey*⁹⁴⁶ (2009, Application No. 33401/02) defines the necessity of addressing cultural hindrance, relevant to both jurisdictions (*Opuz v. Turkey*, 2009). Indian judicial activism in *Vinny Parmar v. Paramvir Parmar*⁹⁴⁷ (2011 SCC Online Bom 123) and Tanzania's statutory emphasis in *Rebeca Gyumi v. Attorney General*⁹⁴⁸ (2016) show some CEDAW responsiveness, but enforcement gaps remain (*Vinny Parmar v. Paramvir Parmar*, 2011; *Rebeca Gyumi v. Attorney General*, 2016). The conclusion meets Objective 3 with quantified barriers and Objective 4 with CEDAW's limitation upon impact, stating judicial inefficiency as a predominant constraint.

⁹⁴⁴ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

⁹⁴⁵ Series C No. 4 (Inter-American Court of Human Rights, 1988)

⁹⁴⁶ 33401/02 (European Court of Human Rights, 2009)

⁹⁴⁷ (2011 SCC Online Bom 123)

⁹⁴⁸ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

6.2.3 Implementation and Impact

In Objective 5, the examination of domestic violence interventions implements impact evaluations that assess district-specific outcomes, revealing urban-rural gaps and entrenched systemic issues. The urban advantage in Jalandhar yields a 50% service access (75/150), with 40% accessing PWDVA protection orders (60/150) and a 10% conviction rate (9/90 cases), but impact is limited by 20% shelter rejections (30/150) and 60% non-compliance (Field Survey, 2023; MOWCD, 2021). Semi-rural Kapurthala's context results in 40% service access (60/150), 30% shelter rejections (45/150), and a 7% conviction rate (5/75 cases), severely constrained by resource scarcity (1 OSC per 500,000) and higher izzat influence (70%, 105/150) (Field Survey, 2023; NCRB, 2021). Urban strengths in Ilala achieve 60% service access (90/150), 50% accessing LMA protection orders (75/150) and a 10% conviction rate (10/100 cases), while 25% shelter rejections (38/150) and customary mediation (50%, 75/150) remain (Field Survey, 2023; WLAC, 2021). Peri-urban Kinondoni reports 50% service access (75/150), 20% shelter rejections (30/150), and a 7% conviction rate (7/100 cases), all exacerbated by customary barriers (55%, 83/150) (Field Survey, 2023; Tanzania Judiciary, 2021⁹⁴⁹).

Urban districts like Jalandhar and Ilala surpass Kapurthala and Kinondoni (semi-rural/peri-urban) in performance because of infrastructure. All areas, however, struggle with low convictions (7-10%) and cultural obstructions (60-65%) (Field Survey, 2023). NFHS-5, 2019-21, and TDHS, 2015-16 also observe the 20-25% 'help-seeking' gap in favor of urban areas (NFHS-5, 2019-21; TDHS, 2015-16). Empowerment result outcomes, such as 'employed after training,' remain low, 30% for Jalandhar and 25% for Ilala, indicating limited program scope (Field Survey, 2023). These results satisfy Objective 5 in fulfilling the claim urban areas exhibit stronger enforcement while revealing exposed region-specific implementation discrepancies focusing on systemic gaps needing further shelters, judicial infrastructure, and cultural attunement in surveillance as CEDAW's due diligence requires (CEDAW, 1979).

6.3 Recommendations

The empirical evidence and analysis provided in this thesis highlight profound gaps in the enforcement of women's human rights pertaining to domestic violence in Punjab, India

⁹⁴⁹ Tanzania Judiciary, Annual Report 2021, 30–32

(Jalandhar and Kapurthala) as well as in Dar es Salaam, Tanzania (Kinondoni and Ilala) in relation to legislative measures such as The Protection of Women from Domestic Violence Act 2005 (PWDVA) and The Law of Marriage Act 1971 (LMA). The survey consisting of 600 respondents shows worrying levels of domestic violence (72% in Jalandhar, 62% in Ilala), underreporting (6% in Jalandhar, 15% in Ilala), limited access to services (40-60%), low conviction rates (7-10%), and socio-cultural oppression (izzat, 65% in India, stigma, 60% in Tanzania) supporting these phenomena, along with economic oppression (40-45% in India, 35-40% in Tanzania) and systemic dysfunctions like judicial backlog (shelters, 20-30%; courts, 50-65%) (Field Survey, 2023). These issues, along with rural urban inequalities and the impact of customary law, infringe upon CEDAW, 1979's requirements for effective cultural reform and remedies CEDAW, 1979. Adding a feminist perspective, this section formulates the proposed recommendations intended to fill these gaps, thus contributing to achieving Objectives 2 (analyzing legal effectiveness) and 3 (analyzing impediments), through policy designed to structure legal action involving participatory community mobilization.

The recommendations utilize primary data, the National Family Health Survey-5, 2019–21⁹⁵⁰, Tanzania Demographic and Health Survey 2015-16, and judicial precedents in crafting culturally appropriate systemic measures to domestic violence mitigation at the district level (NFHS-5, 2019–21; TDHS, 2015–16).

6.3.1 Policy Interventions

To address the rural-urban divide inequities, and better serve victims of domestic violence, policy interventions are necessary to resolve the systemic issues identified in the survey, including inadequate shelter space (20-30% rejections) and restricted service access in peri-urban areas (40% in Kapurthala, 50% in Kinondoni) (Field Survey 2023). The suggested interventions of mobile OSCs for Kapurthala and Kinondoni, as well as urban service hubs for Jalandhar and Ilala, seek to meet remedy access gaps aligned with CEDAW General Recommendation No. 19 (1992)⁹⁵¹ which advocates for support systems tailored to district needs, and comprehensive support (CEDAW General Recommendation No. 19, 1992). CEDAW Governmental Report 2020, proposes these interventions explaining infrastructural

⁹⁵⁰ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

⁹⁵¹ United Nations, CEDAW General Recommendation No. 19, 1992, ¶ 7

scaling gaps to sustain legal and protective services defined by the MOWCD, 2021 and WLAC, 2021 (MOWCD, 2021; WLAC, 2021).

Kapurthala, a semi-rural district with 40% service penetration (60 out of 150) and 30% shelter rejection rates (45 out of 150), is provided with mobile OSCs to resolve logistical constraints such as expensive travel costs (INR 100-200 per trip) and weak infrastructural support (1 OSC per 500,000 people; Field Survey, 2023; MOWCD, 2021). These units would operate as roving vans fully equipped with legal aid officers, counselors, and medical personnel, visiting rural villages on a weekly basis to provide remedies under the PWDVA and referrals to shelters (notably protection orders under Section 18).

Each unit serving 50–100 women per month, with potential access increase up to 20% within two years (MOWCD, 2021), costs around INR 5 million per year, which includes staffing, fuel, and equipment. The Bombay High Court's directive in *Vinny Parmar v. Paramvir Parmar*⁹⁵² (2011 SCC Online Bom 123) supports this approach centered around providing accessible state remedies to underserved areas (*Vinny Parmar v. Paramvir Parmar*, 2011). In Kinondoni with 50% service access (75/150) limited due to peri-urban sprawl and customary mediation (55%, 83/150), mobile OSCs would resolve partly diurnal custom diversion rigidities. LMA-trained counselors and police gender desk officers would staff units to address diversions criticized in *Saida Amour v. Mbaraka Nassoro*⁹⁵³ (1988) (*Saida Amour v. Mbaraka Nassoro*, 1988; Field Survey, 2023). These units could utilize existing mobile health programs in Tanzania and would cost TZS 150 million a year per unit, subsequently serving 1,000 women yearly (WLAC, 2021).

The urban hubs are suggested for Jalandhar and Ilala to consolidate and expand services to address shelter rejections (20% in Jalandhar, 25% in Ilala) and non-compliance (60% in Jalandhar, 50% in Ilala) (Field Survey, 2023). In Jalandhar, with 50% service access (75/150), a centralized hub combining OSCs, shelters (50–100 beds), and legal aid clinics could serve 500 women monthly, reducing rejection rates by 10% within a year.

Reserved for the dedicated Police and PWDVA magistrates, the hub would operate under an annual funding of INR 20 million. It would also provide police training on the enforcement of the *Lalita Kumari v. Government of Uttar Pradesh*⁹⁵⁴ ((2014) 2 SCC 1) case which mandates

⁹⁵² (2011 SCC Online Bom 123)

⁹⁵³ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁹⁵⁴ (2014) 2 SCC 1

registration of FIRs. (*Lalita Kumari v. Government of Uttar Pradesh*, 2014; MOWCD, 2021). In Ilala, with 60% service access (90 out of 150), an urban hub with 50-75 beds and LMA/SOSPA trained personnel could serve 600 women a year for around TZS 300 million and expand capacity to decrease rejections by 15% (WLAC, 2021). The High Court’s *Rebeca Gyumi v. Attorney General*⁹⁵⁵ (2016) supports enhanced infrastructure to prioritize statutory remedies (*Rebeca Gyumi v. Attorney General*, 2016). These hubs would also build upon existing NGO programs to incorporate vocational training aimed at the 30% employed in Jalandhar and 25% in Ilala to reduce economic dependence (45% in Jalandhar and 35% in Ilala) Field Survey (2023). The Inter-American Court in *Velasquez Rodriguez v. Honduras*⁹⁵⁶ (1988, Series C No. 4) provides for services that must be made accessible, emphasizing the need for such action (*Velasquez Rodriguez v. Honduras*, 1988).

These policy interventions deal with the rural-urban divide (40% access in Kapurthala compared to 50% in Jalandhar; 50% in Kinondoni opposed to 60% in Ilala) and other structural gaps, ensuring compliance with the CEDAW due diligence threshold by improving access to legal, protective, and economic aid (CEDAW 1979). Through public-private partnerships, pilot programs with potential for successful national scaling could be optimally funded, monitored through annual impact assessments.

6.3.2 Legal Reforms

To increase enforcement of domestic violence laws and the conflict of statutory customary systems, legal reforms are needed to address the low conviction rate and significant judicial inefficiencies (Field Survey 2023). These proposed reforms—effective PWDVA enforcement in India and overcoming customary law in Tanzania—aim to improve judicial outcomes and are compliant to CEDAW’s Article 2⁹⁵⁷ for effective remedies while addressing gaps of evidential and procedural obstructions (CEDAW 1979). Relied upon NCRB 2021; Tanzania Judiciary 2021, these reforms have supporting legal evidence from other jurisdictions and secondary materials.

Drawing upon the 2023 Field Survey and the Punjab and Haryana High Court’s 2021 findings, addressing the gaps in PWDVA compliance—60% non-compliance in Jalandhar and 65% in Kapurthala—alongside judicial backlog gauged at 60–65% of case convictions (Jalandhar

⁹⁵⁵ Miscellaneous Civil Cause No. 5 of 2016 (High Court of Tanzania)

⁹⁵⁶ Series C No. 4 (Inter-American Court of Human Rights, 1988)

⁹⁵⁷ Protection of Women from Domestic Violence Act, 2005 (PWDVA)

10%, Kapurthala 7%)—remains complex. One highlighted reform solution is setting up jurisdiction-specific PWDVA courts with allocated magistrates operating at a benchmark ratio of one per 50,000 residents, aimed to improve case processing speed to alleviate 12–18 month pendency to 6–9 months. This also aligns with the Supreme Court’s mandate in *Arnesh Kumar v State of Bihar* (AIR 2014 SC 2756) concerning the necessity for haste in judicial measures. In conjunction to this, the mandatory police PWDVA training instituted BNS 2023 Section 86, at a cost of 500 million INR annually across Punjab, could alleviate the 50% compliance gap in Jalandhar due to reluctance. This change would uphold the enforcement of Lalita Kumari’s FIR registration authorization. Bearing the resisting force of *Lalita Kumari v Government of Uttar Pradesh* (2014) and the 2023 Field Survey, the evidentiary reforms where medical reports and testimonies are adduced as primary evidence would render NCRB 2021 gap mitigation, specifically the noted 70% corroboration deficiency for cruelty cases lacking accomplice evidence. These changes trialed in Jalandhar stand to elevate conviction rates by 5% over three years augmenting deterrence while strengthening victim trust.

In Tanzania, customary law conflicts need resolving, particularly as 55–60% of cases (165–180/300) are sent to mediation, which undermeds LMA and SOSPA remedies (Kinondoni 7% and Ilala 10% convictions, Field Survey, 2023; Legal and Human Rights Centre, 2023). A suggested amendment to the LMA, 1971 would require statutory court adjudication for domestic violence cases, where mediation would apply to non-violent matters only, as *Bi Hawa Mohamed v. Ally Seif*⁹⁵⁸ (1983) supports. Initial estimates for this reform are TZS 200 million drafting the law and training, but would within two years enable courts to take over 30% more cases. Also, appointing 50 more magistrates would raise judicial service expenses (TZS 1 billion yearly) but would enable backlogged SOSPA and Penal Code prosecutions (50–55%) to be processed faster to meet *R v. Mwambile*⁹⁵⁹ (2000) evidence requirements (*R v. Mwambile*, 2000; Tanzania Judiciary, 2021⁹⁶⁰). Customary laws blended with statutory ones incorporating community tribunal oversight by LMA qualified officers could settle bride price controversies (50–55%) while granting victim empowerment as suggested by Legal and Human Rights Centre, 2023.

⁹⁵⁸ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

⁹⁵⁹ 2000 (High Court of Tanzania)

⁹⁶⁰ Tanzania Judiciary, Annual Report 2021, 30–32

These changes concern the judicial gaps in *Opuz v. Turkey*⁹⁶¹ (2009, Application No. 33401/02), which violates effective legal systems, and CEDAW's due diligence standard concerning escalated access to remedies and convictions (*Opuz v. Turkey*, 2009; CEDAW, 1979). There is need for implementation of stakeholder consultations with NGOs and judicial bodies for cultural appropriateness and feasibly monitored through biannual compliance reports.

6.3.3 Community Engagement

The community is equally important to help overcome socio cultural barriers of izzat (65% in India, 195/300) and stigma (60% in Tanzania, 180/300) due to low reporting rates of (4%-6% in India, 10%-15% in Tanzania) and domestic violence (Field Survey, 2023). To challenge deeply entrenched patriarchal attitude, an increase in legal literacy (15% in Jalandhar, 40% in Ilala) is needed to comply with CEDAW's Article 5⁹⁶² obligation to modify culturally harmful practices (CEDAW, 1979). These campaigns aim to empower communities in a bid to reduce barriers as informed by NFHS-5, 2019-21 and TDHS, 2015-16 (NFHS-5, 2019-21; TDHS, 2015-16).

A campaign in India's Jalandhar and Kapurthala regions has to deal with izzat which stops 65-70% of the interviewees, especially in dowry issues (58% in Jalandhar and 55% in Kapurthala). (Field Survey, 2023). Addressing PWDVA's promotional rights and reporting mechanisms would benefit from a multi-channel approach: radio, street plays, and social media, where WhatsApp users make up 70% of Punjab households. Led by the Centre for Social Research, these community workshops could engage local leaders reframing izzat to mean protecting women's dignity, involving 5,000 women per district each year at a cost of 10 million INR. There are 500,000 schoolchildren who can be reached and taught against norm in school for five years, which is an early intervention NFHS-5, 2019–21 recommended (NFHS-5, 2019–21). Legal literacy is lower in Kapurthala at 12%, so paralegals to conduct PWDVA women's village-level presentations for about 2,000 attendees per year would increase reporting by 10% within three years (Field Survey, 2023). Promoting women's rights is supported by the Supreme Court's decision in *Vishaka v. State of Rajasthan*⁹⁶³ (AIR 1997 SC 3011), reinforcing this approach (*Vishaka v. State of Rajasthan*, 1997).

⁹⁶¹ 33401/02 (European Court of Human Rights, 2009)

⁹⁶² Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

⁹⁶³ AIR 1997 SC 3011

In Tanzania, the stigma (55-60%) and bride price disputes (50-55%) that divert cases to mediation are areas where campaigns in Ilala and Kinondoni must focus (Field Survey, 2023). The Women's Legal Aid Centre could teach 10,000 women from each district per year and spend 200 million shillings, using radio campaigns and community dialogues swahili with a reach of 80% of households. These will counter *Saida Amour v. Mbaraka Nassoro*⁹⁶⁴ (1988) where norms bounded the rights under LMA and SOSPA. Traditional and religious leaders could be engaged in 100 dialogues annually in highly custom influenced Kinondoni (55%) to reframe bride price as non-justificatory for violent abuse leading to increased reporting by 15% in two years (Legal and Human Rights Centre, 2023⁹⁶⁵). Ilala leveraging campaigns should focus on urban connectivity and digital platforms like X where they could reach 30% of urban youths to promote gender desks building on the 15% reporting rate (Field Survey, 2023). School initiatives could work with 200,000 students over five years and TDHS data 2015-16 (TDHS, 2015-16) supports fostering long-term cultural change.

These campaigns, tracked with pre- and post-intervention surveys, respond to CEDAW's demand for cultural change, and *Opuz v. Turkey*⁹⁶⁶'s focus on socio-cultural obstacles (*Opuz v. Turkey*, 2009). These campaigns are designed to empower women by reducing stigma and increasing reporting using a combination of grassroots and digital approaches, ensuring sustainable change in both regions.

6.4 Summary and Conclusions

This doctoral dissertation titled "Implementation of Women Human Rights in Punjab, India and Dar es Salaam Region, Tanzania with Special Reference to Domestic Violence: A Critical Appraisal" describes the legal, judicial, and socio-cultural approaches to solving domestic violence problems in Punjab, India (Jalandhar and Kapurthala) as well as in Dar es Salaam, Tanzania (Kinondoni and Ilala). It analyzes the issues and prospects using a combination of doctrinal and non-doctrinal approaches, focusing on empirical evidence gathered through a survey conducted with 600 participants—150 from each district—to assess the domestic violence intervention gaps and their socio-psychological impacts while contextualizing the results within historical legal structures and social international human rights law.

⁹⁶⁴ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁹⁶⁵ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

⁹⁶⁶ 33401/02 (European Court of Human Rights, 2009)

Systemic gaps within the implementation of the Protection of Women from Domestic Violence Act of 2005 in India and the Marriage Law Act of 1971 in Tanzania are highlighted by the empirical data, which indicates a high prevalence of domestic violence (62-72%), persistent socio-cultural barriers (60-65% cultural), and limited judicial outcomes (7-10% convictions). Using feminist analysis, I synthesize the major insights, assess the alignment of findings with the thesis' five objectives, and describe engagements with feminist scholarship and policy activism focused on restructuring culture and society to CEDAW 1979 provisions mandating violence against women should be eliminated (CEDAW, 1979). The rest of the subsections summarize the barriers, outcomes, and impacts on the scholarly and practical landscapes of the thesis, primary data, and secondary sources such as National Family Health Survey-5, 2019-21⁹⁶⁷, and Tanzania Demographic and Health Survey 2015-16 (NFHS-5, 2019-21; TDHS, 2015-16).

6.4.1 Important Lessons

The implementation challenges in judicial processes described in this thesis reveal the domestic violence epidemic, the complexity of barriers to effective action within the intervention and control districts, and the enormous gaps pertaining to judicial implementation. The survey data indicate a high prevalence of physical domestic violence Ilala at 62% (93/150), Jalandhar at 72% (108/150), Kapurthala at 68% (102/150), and Kinondoni at 65% (98/150) along with NFHS-5, 2019-2021 32% in Punjab and TDHS, 2015-2016 40% in Dar es Salaam (Field Survey, 2023; NFHS-5, 2019–21; TDHS, 2015-16). The data reflect how deeply rooted gender-based violence is, fueled by patriarchy practices such as dowry in India 58% of Jalandhar cases and bride price in Tanzania 50% of Ilala cases which perpetuate (Field Survey, 2023). Currently, reporting rates of domestic violence remain extremely low where Jalandhar reports 6% (9/150), Kapurthala 4% (6/150), Kinondoni 10% (15/150), and Ilala 15% (23/150) showing the socio-cultural and economic constraints victims face seeking justice (Field Survey, 2023).

Cultural barriers are a major challenge for 65% of surveyed Indians and 60% of surveyed Tanzanians, with izzat and community stigma cited as primary reasons (Field Survey, 2023). In Jalandhar, 65% and Kapurthala 70% reported izzat as a deterrent, while in Kinondoni 60% and Ilala 55% cited stigma (Field Survey, 2023). These norms, enforced through social coercion, conforms with NFHS-5, 2019-21 (60% of women from Punjab surveyed fear

⁹⁶⁷ National Family Health Survey-5 (NFHS-5), 2019–21, 67–70

ostracism) and Legal and Human Rights Centre, 2023⁹⁶⁸ (60% of cases mediated without formal legal processes), restrictive statutory remedies (NFHS-5, 2019–21; Legal and Human Rights Centre, 2023). Furthering the barriers, economic reliance affected 40–45% of respondents in India and 35–40% in Tanzania. Unemployment rates (60% in Kapurthala and 50% in Ilala) also hinder the financial independence of participants (Field Survey, 2023). Supportive narrative testimonies outline abandonment anxieties, with a Kapurthala respondent stating: “Without my husband’s income, I have nowhere to go,” and a Kinondoni respondent recalling, “Reporting means I am left with nothing” (Field Survey, 2023).

Judicial results continue to be sparse with regard to the conviction rates in Tanzania and India. Between 5% and 10% in Jalandhar, Kapurthala, Kinondoni and Ilala, judicial backlogs alongside evidentiary hurdles further exacerbates the statistic (60% in Jalandhar and 50% in Ilala). There is an evident urban-rural difference when it comes to access for these services; Jalandhar services 50% (75/150), Ilala 60% (90/150), Kapurthala 40% (60/150) and Kinondoni 50% (75/150). The lack of non-compliance to protection orders (50-60%) violates women's rights which citizens under CEDAW's purview: Article 2, implemented on the 1979 CEDAW conventions serves as the legal foundation for effective remedial measures. Attempts at enrolling protection measures such as vocational training yield subpar results at 30% in Jalandhar and 25% in Ilala noted limited scope as cited in the field survey done in 2023. These cases are further judged by *Vinny Parmar v. Paramvir Parmar*⁹⁶⁹ (2011 SCC Online Bom 123) in India and *Saida Amour v. Mbaraka Nassoro*⁹⁷⁰ (1988) in Tanzania who emphasized the omission of enforcement and customary law (*Vinny Parmar v. Paramvir Parmar*, 2011; *Saida Amour v. Mbaraka Nassoro*, 1988). Following this, the International Court of Justice put forth their reasoning for ruling *Velasquez Rodriguez v. Honduras*⁹⁷¹: The lack of legal action reinforces the existing atmosphere of impunity 4) strengthens the state's responsibility to provide accessible justice, a requirement that is indicated to be partially fulfilled in both regions (*Velasquez Rodriguez v. Honduras*, 1988).

6.4.2 Contributions

This dissertation contributes to feminist policy scholarship by analyzing domestic violence interventions in India and Tanzania in a comparative case study framework, filling legal gaps

⁹⁶⁸ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

⁹⁶⁹ (2011 SCC Online Bom 123)

⁹⁷⁰ Civil Appeal No. 12 of 1987 (High Court of Tanzania)

⁹⁷¹ Series C No. 4 (Inter-American Court of Human Rights, 1988)

along with socio-cultural obstacles using a feminist perspective. In feminist scholarship, the study advances understanding of patriarchal izzat and stigma-influenced economic dependency violence in relation to CEDAW's Article 5⁹⁷²'s cultural change demand (CEDAW, 1979). By quantifying barriers (65% culture bound in India, 60% in Tanzania) and outcomes (7–10% convictions), the research contributes to intersectional feminist discourse about the impact of class, rural-urban location, and cultural context on women's access to justice (Field Survey, 2023). The comparative approach, analyzing the civil law system of India and mixed system of Tanzania, enriches global feminist scholarship on the interplay of statutory and customary laws, which is lacking in literature (PWDVA, 2005; LMA, 1971; SOSPA, 1998). The incorporation of qualitative data where respondents fear of being socially cut off from their communities, alongside access estimates of between 40-60% for services, enhances feminist methodologies integrating lived experiences with quantitative analysis as advocated by Kimberlé Crenshaw in intersectional theory.

Within policy parameters, the thesis provides actionable options that highly innovative and effective. The initiative for mobile One-Stop Centres in Kapurthala and Kinondoni targets the rural-urban imbalance of 40% vs. 50–60% service access, potentially benefiting 2,000 – 3,000 women per district per year, while urban centers in Jalandhar and Ilala could decrease shelter rejection rates of 20–25% by 10–15% (Field Survey, 2023; MOWCD, 2021; WLAC, 2021). Legal reforms such as establishment of dedicated PWDVA courts and clarification of customary laws could increase conviction rates by 5–10% in three years improving deterrence (NCRB, 2021; Tanzania Judiciary, 2021⁹⁷³). Community campaigns targeting reporting izzat and stigma could increase reporting by 10 – 15% to reach 15,000 women across districts annually (Field Survey, 2023). These measures formulated under the CEDAW due diligence standard and references like *Opuz v. Turkey*⁹⁷⁴ (2009, Application no. 33401/02) have provided the basis for policymakers to reinforce protective (*Opuz v. Turkey*, 2009). Insights from the thesis cross-nation focus inform global policy by demonstrating culturally dependent barriers (norms, economic reliance) and region-specific adaptations (civil and mixed systems) for CEDAW implementation approaches worldwide (CEDAW, 1979).

⁹⁷² Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

⁹⁷³ Tanzania Judiciary, Annual Report 2021, 30–32

⁹⁷⁴ 33401/02 (European Court of Human Rights, 2009)

6.4.3 Future Research

My field surveys in 2023 reveal a striking lack of realization of women's human rights in the regions of Punjab, India, and Dar es Salaam, Tanzania, as domestically-driven violence ranges between 62-72% , sociocultural barriers stand at 60-65%, judicial outcomes barely reach 7-10% convictions, and empowering employment figures plateau at 30% in Jalandhar and 25% Ilala. The scope of my comparative analysis goes beyond the examination of domestic violence and marriage laws, such as the Protection of Women from Domestic Violence Act of 2005 and Law of Marriage Act of 1971, and brings attention to discernable district outcomes while also providing sharable insights into systemic efficacy for enduring solutions. In doing so, the focus is redirected to low-scale empowerment and the persisting backlog and low-conviction rate inefficiencies of 50-65%, underscoring the need for sustainable change to deeply shift these issues. Through a feminist lens, this proposed solution suggests focusing on judicial training influence pertaining to objectives 2 (evaluating legal efficacy) and 3 (assessing barriers) within the context of the CEDAW 1979 mandate for inclusive protections against gender-based violence, thereby shifting the discourse toward the long-term outcomes of claimed empowerment—efforts that can be supported by primary evidence as well as secondary resources like the National Family Health Survey 2019-2021.

The National Family Health Survey, 2019–21, and the Tanzania Demographic and Health Survey, 2015–16, seek to expand on the thesis's contributions by studying population-level interventions and institutional-level changes.

Understanding the long-term effects of empowerment programs on women's autonomy and resilience to domestic violence remains an underexplored area, especially concerning economic dependence (40–45% in India, 35–40% in Tanzania) and socio-cultural constraints (izzat at 65% in India, stigma at 60% in Tanzania) (Field Survey, 2023). The study revealed that employment outcomes among younger women who participated in vocational training programs, including those offered by local NGOs in Jalandhar (30% employment, 45/150) and Ilala (25%, 38/150), are dismally low—with only one fifth achieving stable employment. This is attributed to limited market access and cultural mobility restrictions for women (Field Survey, 2023; MOWCD, 2021; WLAC, 2021). For such an undertaking, a longitudinal study of 5–10 years could be conducted wherein 1,000 women across the four districts are tracked to evaluate the effects of integrated empowerment strategies—comprising vocational training,

microfinance, and psychosocial support—on self-reported economic independence, reporting rates (currently 4–15%), and violence recurrence.

This type of study could be conducted using mixed research methods which combine quantitative data analysis like income and employment retention rates with cultural perception metrics such as izzat or stigma. These perceptions shift as CEDAW's Article 5⁹⁷⁵ cultural reform amendments fill in normative gaps (CEDAW, 1979). For instance, Kapurthala's Karat-Mastani region grapples with high unemployment rates up to 60%. Research there could assess the impact of women-led cooperatives based on India's Self-Help Groups and determine if economic dependence could be lowered by 20% in five years (Field Survey, 2023; NFHS-5, 2019-2021). In Kinondoni where customary diversion norms account for 55% of cases, research could examine if entrepreneurship sponsorships that tackle the bride price expectation increase reporting by an estimated 10% (Field Survey, 2023; Legal and Human Rights Centre, 2023⁹⁷⁶). The European Court's ruling in *Opuz v Turkey* underscores the importance of addressing economic vulnerabilities, thus justifying such research (*Opuz v. Turkey*⁹⁷⁷, 2009).

Another important area of research is assessing the effect of judicial training on increasing conviction rates and decreasing backlog, dealing with systems failures described in the thesis (7–10% convictions, 50–65% backlog) (Field Survey, 2023). The survey pointed out the judicial problems of police unwillingness (50% in Jalandhar; 50% in Kinondoni), difficulties with proof, and understaffing (1 magistrate per 100,000 in both areas) related to the enforcement of PWDVA and LMA (Field Survey, 2023; Punjab and Haryana High Court, 2021; Tanzania Judiciary, 2021⁹⁷⁸). A multi-year study might assess the impact of specialized training on 500 judges and 1,000 police officers from each region on gender sensitivity, PWDVA/LMA procedures, and evidence gathering as required by *Lalita Kumari v. Government of Uttar Pradesh*⁹⁷⁹ ((2014) 2 SCC 1) in India and *Bi Hawa Mohamed v. Ally Seif*⁹⁸⁰ (1983) in Tanzania (*Lalita Kumari v. Government of Uttar Pradesh*, 2014; *Bi Hawa Mohamed v. Ally Seif*, 1983). In India, training could focus on Bharatiya Nyaya Sanhita, 2023 (BNS)⁹⁸¹ Section 86 (cruelty) and medical evidence admissibility which might decrease backlog by 15% and increase convictions by 5% within three years as prophesized by NCRB,

⁹⁷⁵ Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 5, United Nations

⁹⁷⁶ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

⁹⁷⁷ 33401/02 (European Court of Human Rights, 2009)

⁹⁷⁸ Tanzania Judiciary, Annual Report 2021, 30–32

⁹⁷⁹ (2014) 2 SCC 1

⁹⁸⁰ Civil Appeal No. 9 of 1983 (High Court of Tanzania)

⁹⁸¹ Bharatiya Nyaya Sanhita, 2023, §§ 80, 86, India Code

2021 (BNS, 2023; NCRB, 2021). In Tanzania, training on SOSPA and combating customary mediation (55–60% diversion).

Could streamline direct Penal Code prosecutions in accordance with *R v. Mwambile*⁹⁸² (2000) (SOSPA, 1998; *R v. Mwambile*, 2000; Legal and Human Rights Centre, 2023⁹⁸³). Impact could be measured with pre and post-training assessments, case disposal rates, and victim satisfaction surveys, costing around INR 200 million in India and TZS 500 million in Tanzania over five years. The Inter-American Court’s *Velasquez Rodríguez v. Honduras*⁹⁸⁴ 1988 (Series C No 4) reflects the judicial capacity of a state obligation, furthering the relevance of this research (*Velasquez Rodríguez v. Honduras*, 1988).

These directions focus on thesis gaps with sustainable empowerment and judicial effectiveness that align longitudinally with CEDAW’s due diligence threshold. Further research should add participatory frameworks engaging women survivors alongside community leaders to enhance culturally tailored relevance while fostering international partnerships to expand outcome comparisons aligned with the thesis’s comparative framework. By focusing on climate adaptability of empowerment and judicial training effects, those studies could contribute to international efforts to counter domestic violence, advancing feminist scholarship and policy initiatives.

⁹⁸² 2000 (High Court of Tanzania)

⁹⁸³ Legal and Human Rights Centre, Tanzania Human Rights Report 2023, 40–42

⁹⁸⁴ Series C No. 4 (Inter-American Court of Human Rights, 1988)

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