



CRIMINAL CONDUCT WITHIN THE FAMILY UNIT: PSYCHOSOCIAL IMPLICATIONS FOR CHILDREN AND SOCIETY

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ABSTRACT

Although it has traditionally been seen as the most important part of social order and a haven for those in need of protection, the family unit can also be one of the most unsafe environments for the perpetration of criminal behaviour. This paper analyses the many kinds of criminal behaviour that occur in the household, such as domestic violence, child abuse, infanticide, family sexual offences, and crimes enabled by parental neglect and their harmful effects on children and the community. The research draws from landmark legal decisions of the Supreme Court of India and High Courts as found in the Supreme Court Cases (SCC) and Manupatra databases, as well as applicable provisions of Indian law such as the Indian Penal Code (IPC), the Bharatiya Nyaya Sanhita, 2023 (BNS), the Protection of Women from Domestic Violence Act, 2005 (PWDVA), the Protection of Children from Sexual Offences Act, 2012 (POCSO), and the Juvenile Justice (Care & Protection of Children) Act, 2015 (JJ Act). The paper provides a doctrinal analysis of the legal framework that governs familial crime in India, and describes the significant events that have occurred from 2024 to 2026 that highlight the continued disparity between legislation and its application. The author contends that criminal acts within a family require a unique multidisciplinary approach that combines accountability for the criminal act with support for the well-being of children and youth through psychological rehabilitation and community intervention.

Keywords: Family-based criminal conduct, Psychosocial harm, Juvenile delinquency, Intergenerational crime, POCSO Act, Domestic violence, Child protection.

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INTRODUCTION

The term "parens patriae," which means "parent of the country," denotes the principle that, in instances where families are unable to care for their children, the state will act as their guardian. The irony lies in the fact that many children are subjected to the most egregious acts of violence within their own homes; therefore, domestic violence exists at all social, economic, and geographic levels, yet is still the most undetected violation of human rights in today's society. In India, there were 177,335 reported cases of child abuse in 2023 (an increase of 9.2%) with a corresponding crime rate of 39.9 per one lakh children, making child abuse one of this country's most egregious problems.¹

However, as severe as this may seem, these statistics represent only the tip of the iceberg because the number of unreported cases of child abuse within households is exponentially higher. The United Nations Office on Drugs and Crime reported in 2024 that there were at least 50,000 female homicide victims worldwide (approximately one every 10 minutes) who died at the hands of an intimate partner or family member.²

Criminal behaviour within families is unique both legally and socially: the offender has direct access to their victim, the crime is committed at their shared residence, and the victim is dependent on the offender for financial support. Furthermore, there are societal expectations of "family honour," which place enormous pressure on victims to stay silent.

When it comes to children specifically, the emotional and social damage of being raised in or in some way impacted by a family that has committed criminal acts of violence greatly exceeds the immediate damage. (e.g., changing personality, carrying on a cycle of abuse and placing very high costs on the public health system and the justice system).

This paper will have seven sections:

- (i) typology of family crimes;
- (ii) legal framework under the Indian legal system;

¹ Vajiram Prelims Team, 'NCRB Data on Crime Against Children Latest News' (*Vajiram & Ravi*, March 2026) <<https://vajiramandravi.com/current-affairs/ncrb-data-on-crime-against-children/>> accessed 23 March 2026

² United Nations Office on Drugs and Crime and UN Women, '137 Women and Girls Killed Every Day by Intimate Partners or Family Members in 2024' (UNODC Press Release, 25 November 2025) <<https://www.unodc.org/unodc/en/press/releases/2025/November/137-women-and-girls-killed-every-day-by-intimate-partners-or-family-members-in-2024.html>> accessed 23 March 2026.

- (iii) case law from landmark cases,
- (iv) case law from current family crimes cases (2024-2026);
- (v) impact on children;
- (vi) impact on society;
- (vii) recommendations for reform and regulation of the law.

TYPOLOGY OF CRIMINAL CONDUCT WITHIN THE FAMILY

Domestic Violence and Spousal Cruelty: Abuse within the household can take many forms: physical, emotional, sexual, or economic abuse. This abuse may occur between two partners in an intimate relationship in the home. Under Indian Law, it is a crime for a husband (and/or his relatives) to be "cruel" towards a married woman under IPC 1860/498A (now called the BNYS 2023/85). Under the Protection of Women from Domestic Violence Act, 2005 (or PWDVA), there are several civil-law remedies available for victims of domestic violence (such as protection orders, residence orders, and compensation).

Spousal violence has a tremendous negative impact on children living in the household where spousal violence is present. According to international legal instruments, children who witness domestic violence are considered to be abused even if they have not been directly physically harmed. The witnessing of intimate partner violence will create trauma in children that will produce outcomes that are clinically similar to those of children who were directly victimised.

Child Abuse and Neglect Within the Family: Child abuse in families is a widespread phenomenon that takes on many forms, including but not limited to: physical abuse (corporal punishment, assault), sexual abuse (incest, exploitation), emotional/psychological abuse (constant humiliation, threats, isolation), and neglect (failure to provide food, medical care, or education). In India, the POCSO Act prohibits all forms of sexual offences against children, even if there is an established familial relationship between the accused and victim. The JJ Act, through Sections 75 and 76, criminalises all acts of cruelty/willful neglect committed by guardians.

Child Sexual Abuse by Relatives (Incest): The crime type of sexual offences committed by one's family – father, stepfather, uncle, brother or a boyfriend/girlfriend who lives together

with their parent – are among the types of crimes that show the lowest levels of reporting in India. Once the prosecution proves that the offence occurred, the presumption under section 29 of the POCSO Act shifts the burden of proof to the accused. It allows for people to be convicted in intra-familial cases where children are usually the only witnesses to what happened.

Dowry-Related Offences: Dowry death is a form of familial violence where women are victims in their matrimonial homes; this is referred to in Section 304B IPC (Section 80 BNS), which defines Dowry Death, and abetment of suicide is under Section 306 IPC (Section 108 BNS), which defines Abetment of Suicide. In some cases, Section 113B Evidence Act provides a statutory presumption that if a woman dies under suspicious circumstances within seven years of her marriage, it will be presumed that she died due to dowry-related crime.

Infanticide and Child Killing: The killing of children by parents or caregivers, whether motivated by gender preference, shame, mental illness, or economic desperation, constitutes murder under Section 302 IPC. India continues to grapple with female infanticide, honour killings, and cases where children are killed by a parent's intimate partner.

Honour Killings Section 101 BNS: Honour-based violence involves the killing of a family member, typically a young woman or couple, by relatives who perceive the victim's conduct (choosing a partner of another caste, religion, or socioeconomic class) as a source of family dishonour. The Supreme Court of India has repeatedly condemned honour killings as barbaric and has directed States to take suo motu cognisance under Section 101 BNS.

Marital Rape: Exception 2 of Section 375 IPC, which has been partially incorporated into the BNS Section 63, places non-consensual intercourse between spouses outside the definition of rape. This exception is still a hotly debated issue in the Supreme Court of India, with the case of *Hrishikesh Sahoo v. State of Karnataka & Ors.* (SLP (Crl.) No. 4063-4064/2022)³, raising important issues about consent, dignity, and spousal immunity within the home.⁴

³ 'Challenge to the Marital Rape Exception: *Hrishikesh Sahoo v State of Karnataka*' (*Supreme Court Observer*, last updated 8 July 2025) <<https://www.scobserver.in/cases/challenge-to-the-marital-rape-exception-hrishikesh-sahoo-v-state-of-karnataka/>> accessed 25 March 2026.

⁴ '*Hrishikesh Sahoo v State of Karnataka and Ors*, SLP(Crl) No 4063-4064/2022' (*Pahuja Law Academy*) <<https://www.pahujalawacademy.com/hrishikesh-sahoo-v-state-of-karnataka-and-ors-slp-crl-no-4063-40642022>> accessed 25 March 2026.

LEGAL FRAMEWORK

The Indian Penal Code, 1860/Bharatiya Nyaya Sanhita, 2023: The primary criminal statute governing offences within the family remains the IPC, now substantially replaced by the Bharatiya Nyaya Sanhita, 2023 (in force from 1 July 2024). Key provisions include:

<i>Offence</i>	IPC Section	BNS Section
<i>Cruelty by husband/relatives</i>	498A	85
<i>Dowry Death</i>	304B	80
<i>Murder</i>	302	101
<i>Rape</i>	375–376	63–64
<i>Abetment of suicide</i>	306	108
<i>Causing grievous hurt</i>	320	117
<i>Kidnapping/abduction of minor</i>	361–363	137–140
<i>Unnatural offences</i>	377	100

Protection of Women from Domestic Violence Act, 2005 (PWDVA): The Protection of Women from Domestic Violence Act (PWDVA) is historic legislation in India (i.e., it is the first to introduce the concept of "domestic violence" - Section 3 of the Act). "Domestic violence" under the PWDVA is very broadly defined (Section 3) and includes abuses that are physical/sexual/ verbal/ emotional and/or economic.

As well as providing for the creation of civil-law remedies for victims of domestic relationships, i.e., protection orders (Section 18), residence orders (Section 19), monetary relief (Section 20) and custody orders (Section 21), the Act established criminal penalties for the

breach of such orders (Section 31). In *Indra Sarma v. V.K.V. Sarma* (2013) 15 SCC 755, the Supreme Court made it clear that the object of the Domestic Violence Act is to create civil-law remedies for the protection of women from domestic violence through civil-law remedies, and also to prevent domestic violence from occurring in society.⁵

Protection of Children from Sexual Offences Act, 2012 (POCSO) –

India's POCSO Act creates a complete law addressing sexual offences committed against a victim under the age of 18. Below are some of its key components:

Gender Neutrality: The POCSO Act provides for crimes against male and female children.

Aggravating Circumstances: Under Section 5 (aggravated offences) of the POCSO Act, a person in a position of trust or authority, including family members, who violates a child, is subject to punishment under Section 6.

Reporting Obligations: Every person with information about a POCSO offence has an obligation to report the matter to the Special Juvenile Police Unit or local police under Section 19 of the POCSO Act.

Presumption of Guilt: Under Section 29, once the prosecution establishes that a defendant committed a POCSO offence, the defendant will be presumed guilty of the offence.

Child-Friendly Investigations/Trials: Sections 24-26 and 33 establish child-friendly investigation and trial procedures.

Confidentiality: Section 23 prohibits revealing the name or identity of a child who is either a victim or a witness of a POCSO offence.⁶

Juvenile Justice (Care and Protection of Children) Act 2015: According to the JJ Act of 2015, Children who require care and protection include those who are abused in their families. They can be provided with Child Care Institutions (CCIs), Foster Care, or, in cases of adoption.

⁵ Justice Anubha Rawat Choudhary, 'Domestic Violence Act: Causes, Effects and Solutions and Remedies Under Law' (National Judicial Academy, SE-30 Programme, December 2023) <https://nja.gov.in/Concluded_Programmes/2023-24/SE-30_Dec_2023_PPTs/1.Domestic%20Violence%20Act%20causes%20effects%20and%20solutions.pdf> accessed 25 March 2026.

⁶ Government of Tripura, 'Understanding the POCSO Act' (Government of Tripura, 2024) <<https://panchayat.tripura.gov.in/sites/default/files/2024-09/Understanding%20POCSO.pdf>> accessed 25 March 2026

Children found to be victims of any type of cruelty (see Section 75) can be punished by a fine or imprisonment (for up to three years). Similarly, (see Section 76), a child will be punished for begging.

On February 20, 2023, the Supreme Court issued the judgment, INSC 614 (8 S.C.R. 575), which states that all provisions of the JJ Act for the Care & Rehabilitation of children are consistent with Article 21 of India's Constitution. Upon knowledge of any heinous offence relating to a child in need as defined under the Prohibition of Child Sexual Offence Act (POCSO) (as stated in the Penal Code), it is the duty of the State of India, or any of its agencies, to ensure the safety and welfare of that child.

Constitutional Provisions: Articles 15(3), 21 & 39 of the Indian Constitution form the foundation for legislation that protects from family violence. Article 21 guarantees the right to personal liberty & life. The Supreme Court broadly interprets Article 21 to include not only the right to live in dignity, but also, among many other things, the right to be free from violence & the right of the child to be protected against abuse. Article 39(f) of the Constitution states that the State shall ensure facilities & opportunities are provided for the healthy development of children, and that children & the young will be protected from exploitation.

LANDMARK CASE LAWS

Section 498A IPC [Sections 85 and 86 of the Bharatiya Nyaya Sanhita (BNS)] — Cruelty and Domestic Violence –

Sushil Kumar Sharma v Union of India, (2005) 6 SCC 281:⁷ The Supreme Court of India examined the constitutionality of Section 498A of the Indian Penal Code in this landmark decision and declared it valid, determining that it was a constitutionally valid provision intended to address the social evil of brutality inflicted by husbands on married women as a result of dowry. The Court noted the potential for misuse of this statute and established guidelines requiring procedural safeguards to be in place before an arrest is made. The Court held that the word 'cruelty' as used in Section 498A refers to any willful conduct that has the effect of placing the woman in danger of committing suicide or causing herself serious bodily injury; every day friction between spouses would not constitute cruelty based on Section 498A.

⁷ 'Case Summary: Sushil Kumar Sharma v Union of India 2005' (*LegalFly*) <<https://legalfly.in/case-summary-sushil-kumar-sharma-v-union-of-india/>> accessed 25 March 2026

The Court also established what constitutes the interpretive bar for domestic cruelty, which lower courts rely on when ruling on domestic cruelty cases.⁸

Arnesh Kumar v State of Bihar: The Apex Court has given binding directions to the Police Officers and Magistrates to take caution in executing Mechanical arrests on persons listed against a Section 498A complaint by requiring them to have a reasonable belief in advance that an accused has committed an arrestable offence. The S.C has held that it is not obligatory to make an arrest; Officers are given some discretion to make an arrest depending upon the seriousness of the charges brought against the accused. In addition to giving protection to men from false complaints, this judgment also makes clear that Police Officers have a duty to properly investigate domestic cruelty as opposed to making a summary dismissal of complaints.

Indra Sarma v V.K.V Sarma: In this case, the Supreme Court of India has explained the explanatory aspect of the Protection of Women from Domestic Violence Act (PWDVA). The purpose of the PWDVA is to provide civil remedies that aim to stop incidents of domestic violence as well as to protect against being the victim of domestic violence. The PWDVA's definition of "domestic relationship" has been expanded by the Court to include relationships that are the equivalent of marriage, and therefore, will be protected under the PWDVA, including live-in relationships. This extension of the definition gives more extensive protection to women (and, in turn, children) who are in non-formal family arrangements.

S. Vanitha v. Deputy Commissioner, Bengaluru (2021) 15 SCC 730: The Supreme Court of India has ruled that the right to reside in a shared household, pursuant to Section 17 of the PWDVA, is a substantive right of an aggrieved woman and is applicable regardless of whether the shared household is owned by the husband or the husband's relatives. As such, the court provided women seeking refuge from domestic violence with housing security; children in such domestic relationships cannot be displaced by violent spouses based on property claims.

⁸ 'Cruelty to Women: S 498-A IPC and Allied Sections' (*SCC Online Blog*, 3 December 2018) <<https://www.scconline.com/blog/post/2018/12/03/law-for-laymen-section-498-a-ipc-and-allied-sections-cruelty-to-women/>> accessed 25 March 2026.

Sexual Offences Against Children Within the Family –

State of Karnataka v Krishnappagangadha: In a landmark decision regarding child sexual abuse, the Supreme Court of India has reinstated the original sentence of ten years given to a 49-year-old man who had sexually assaulted an 8-year-old child. This judgment set forth the foundation of how sexual violence is viewed under the law. The Supreme Court stated, "sexual violence not only violates the dignity of a person (in this case, a female) but also constitutes an illegal invasion of the right to privacy and safety." Additionally, it was the judgment of the Supreme Court that was specifically addressing the fact that the social status or class of the child/victim or that of the accused must not determine the degree of punishment imposed; Punishment is to be commensurate with, and proportional to, the severity of the crime committed. The Supreme Court has clearly established that the primary concern of the courts must be the rights and dignity of the victim, and in this regard, the courts must ignore the financial and social status of the accused person.

Childline India Foundation v Alan John Waters and Ors: The Supreme Court of India provided comprehensive guidelines on child abuse in India, which included requiring states to develop child-friendly processes/procedures, early detection processes/procedures, and a mandatory reporting mechanism. The SC noted that child protection from sexual abuse requires not only punishments but also structural prevention mechanisms. Intersectionally, Schools, Hospitals, NGOs, etc., must work together as well as with law enforcement.

Ramji Lal Bairwa v State of Rajasthan, 2024: In a landmark 2024 ruling, the SC reversed an order issued by the HC to quash an FIR filed in a POCSO case based on the victim's parent entering into a settlement with the accused. The SC held unequivocally that a victim's parent cannot settle a case involving a serious crime under the POCSO Act on behalf of the victim child. Courts are to protect the interests of children and to ensure that justice is not compromised due to private settlement or pressure within a family, which is a cardinal principle in POCSO family cases, where the perpetrator is often a family member.

Marital Rape and Spousal Sexual Violence –

RIT Foundation v Union of India: Split Judgement: In a landmark case⁹ with no resolution as of yet, the Delhi High Court examined the constitutionality of Exception 2 to Section 375 IPC (the marital rape exception). Justice Rajiv Shakdher struck down the exception as a violation of Articles 14, 15, 19 & 21 of the Constitution, reducing married women to chattels devoid of autonomy, dignity and bodily integrity and because there is no licence for rape simply by virtue of being married. Justice Hari Shankar took a contrary position on this point, and the case is now awaiting a hearing by the Supreme Court.¹⁰

Hrishikesh Sahoo v State of Karnataka & Ors:¹¹ The Supreme Court, considering a challenge to the Karnataka High Court's refusal to quash charges of rape against a husband by his wife, rejected the application of Exception 2 to Section 375 IPC, clarifying that the doctrine of coverture at common law, which assumed permanent implied consent for intercourse by a married woman, is an antiquated legal fiction not commensurate with modern constitutional jurisprudence. This matter, along with other wider constitutional attorney challenges regarding the marital rape exception, is currently being considered by the constitutional bench of Chief Justice D.Y. Chandrachud and Justices J.B. Pardiwala and Manoj Misra.¹²

Dowry Death and Section 304B IPC –

Shanti v State of Haryana: In this case, the Supreme Court construed the two provisions, Section 304B IPC and Section 113B of the Evidence Act, in conjunction with each other, stating that once the prosecution establishes that the woman has died within the period of 7 years of marriage and before her death was subjected to cruelty or harassment by way of dowry, the court is to presume that the accused caused the dowry death. The presumption shifts the burden of proof to the accused and evidences the difficulties that victims of domestic violence encounter in obtaining evidence.

Surinder Singh v State of Haryana: In reiterating the mandatory presumption created by Section 113B of the Evidence Act, the Supreme Court held that the presumption must be raised by the court whenever the foundational facts are established. The court also reinforced that the legislative purpose of Section 304B is to protect the unique vulnerability of women in the marital home.

RECENT CASES: 2024–2026

Faridabad Father-Beats-Child Case (January 2026):¹³ In January 2026, one of the most shocking cases to come out of Faridabad, Haryana, was the alleged beating to death of a 4.5-year-old girl by her 31-year-old father (Krishna Jaiswal) for not having written the numbers from 1-50 while he was teaching her at home. The child was not attending any school, and it is alleged that the father had been physically assaulting and slamming her onto the ground repeatedly, causing significant injury to her head.

This case revived the public debate about the lack of oversight of the violent behaviour of parents, the normalisation of corporal punishment and the lack of early intervention in extreme cases of child abuse in private homes. This case also raises the very important question from a legal standpoint as to whether the provisions in the IPC regarding grievous bodily hurt and murder are sufficient, or whether India needs to create a specific offence of aggravated child abuse by a parent that recognises the special relationship of trust and vulnerability of a very young child.

Uttar Pradesh Couple Convicted of Assaulting 33 Children (February 2026):¹⁴ In February 2026, a Sessions Court in Uttar Pradesh convicted a couple for sexual assault on 33 children, at least three of whom were under the age of three; the couple received death sentences. This case is a clear example of intra-family criminal networks - those in a position of parental trust and domestic authority using that access to commit serial sexual crimes against children. The scale of abuse, very young victims, and an aggravating factor under Section 5 of the POCSO Act (i.e., a trust relationship) resulted in the imposition of the maximum penalty.

Maharashtra - Murder of a 4-Year-Old “Adopted” Daughter (March 2025):¹⁵ In March 2025, a couple from Chhatrapati Sambhajinagar, Maharashtra, were arrested for allegedly murdering their four-year-old “adopted” daughter. This case demonstrates the lack of legal recourse through which informal adoption arrangements can protect children, and shows that when children are placed into a home without formal legal processes, they are not provided

¹³ 'Faridabad Horror: Father Beats 4-Year-Old Daughter to Death Over Homework' (*News9 Live*, 24 January 2026)

¹⁴ 'Child Abuse India: Latest News, Photos and Videos' (*NDTV*, last visited 25 March 2026) <<https://www.ndtv.com/topic/child-abuse-india>> accessed 27 March 2026.

¹⁵ 'Couple Arrested for Allegedly Killing 4-Year-Old "Adopted" Daughter in Maharashtra' (*NDTV*, 28 March 2025) <<https://www.ndtv.com/india-news/couple-arrested-for-allegedly-killing-4-year-old-adopted-daughter-in-maharashtra-8029681>> accessed 27 March 2026.

with the same scrutiny as children who enter into a legal adoption process. Additionally, because there are no background checks, monitoring, or legal records of informal adoptions, they are especially at risk for abuse.

Mumbai - Severe Abuse of 3 Minor Children (June 2025):¹⁶ In June 2025, a Maharashtra-based woman and her live-in boyfriend were arrested for their brutally abusive behavior towards the three children, aged 8, 2, and 1 (old as victims), through many instances of abusive behavior as examples of extreme violence and neglectful behavior that demonstrate the extreme risk vulnerable children face when the same intimate relationship (between a parent of a child who has no relationship with the child) has a profusely physical presence, renders the children unprotected and demonstrates the ongoing physical control over the child(ren) by the most dangerous ones; and how critical it is for the neighbors to report cases of child abuse to help prevent child abuse (with evidence).

Gurgaon — Mother's live-in partner kills her 7-year-old son (2024):¹⁷ In July 2024, a 28-year-old man was arrested in Gurgaon for physically abusing the children of his live-in partner when she was not home. The victim, a 7-year-old boy, died from the injuries inflicted upon him. This case highlights how much risk children of single parents experience from intimate partners who do not have a history of being good around children. In India, there is no existing law that requires any screening of intimate partners before they can live in the same house with minor children.

IMPLICATIONS FOR CHILDREN

Psychological and Developmental Consequences: Children who see or experience criminal behaviour inside their families suffer from numerous mental and emotional problems. PTSD, depression, anxiety disorders (of all types), attachment disorder(s), and delays in development are some of the most common problems experienced by this group of kids. The World Health Organisation has recognised the research supporting the Adverse Childhood Experiences (ACE) approach to the effects of childhood adversity, based on a dose-response curve that includes increasing levels of adversity in childhood, which are linked to increasing severity of

¹⁶ 'FIR Against Mother and Live-in Partner for Assault on 3 Kids' (*The Times of India*, Mumbai, 1 June 2025) <<https://timesofindia.indiatimes.com/city/mumbai/fir-against-mother-live-in-partner-for-assault-on-3-kids/articleshow/121579851.cms>> accessed 27 March 2026.

¹⁷ 'Child Murder: Latest News and Updates' (*The Indian Express*, last visited 25 March 2026) <<https://indianexpress.com/about/child-murder/>> accessed 27 March 2026.

physical and mental health issues in adulthood. Additionally, children growing up in homes that experience criminal violence have a higher risk of developing substance abuse problems, developing antisocial personality disorders, and participating in illegal behaviour as adults, creating a cycle of violence passed down from one generation to another.

Educational Deprivation: The impact of domestic violence or abuse on a child on their educational experience is huge. When children live in homes where there is violence, they experience constant absence from school, problems focusing on tasks, lower grades, and dropping out of school at earlier ages than their peers. An example of this comes from the NCRB data, which states that 14,637 cases of nabbing children for the purpose of making the minor girl marry someone directly show how the criminal behaviour of the family stops children from developing an education.¹⁸

Children as Secondary Victims of Domestic Violence Under Indian Law:¹⁹ The fact that the PWDVA provides for relief from domestic violence to children through provisions for residence and custody arrangements does suggest that children are victims of domestic violence according to this Act. However, Indian law does not provide any specific definition of the act of witnessing domestic violence as a form of child abuse. This has been highlighted by child rights organisations and legal scholars as a significant gap in the legislation. The Delhi High Court acknowledged the fact that there are 'extreme acts of cruelty' through the case of Kanwal Kishore Girdhar v. Seema Girdhar. In this case, one parent engages in 'parental alienation', which is the act of using the minor child as a weapon against another parent, and the child suffers from a significant amount of emotional and psychological harm as a result of the unusual or, to a lesser degree, the criminal or near-criminal conduct of the other parent.

The Cycle of Violence - A Child as Perpetrator: Children exposed to violence in the home have a significantly increased chance of being perpetrators of violence as adults. Developmental criminology studies show that when a child is raised in a home where violence is a normal method of resolving conflict, they develop behavioural patterns that carry over into adulthood. In 2025, sessions courts in India sentenced 10 women to death (the single highest number sentenced to death since 2016). Many of the cases involved some form of violence

¹⁸ 'NCRB Data on Crime Against Children Latest News' (*Vajiram & Ravi*, March 2026)

<<https://vajiramandravi.com/current-affairs/ncrb-data-on-crime-against-children/>> accessed 28 March 2026.

¹⁹ *Puja Pasricha v Aishwarya Pasricha* MAT.APP.(F.C.) 138/2023 (High Court of Delhi, 16 September 2025) <https://delhihighcourt.nic.in/app/showFileJudgment/68016092025MATFC1382023_125629.pdf> accessed 28 March 2026.

within the home. The courts reflect the shared, complex gendered issue of violence, the intersection of victim/blame, and the shared nature of perpetrating violence between men and women as a family unit.

SOCIETAL RAMIFICATIONS

Public Health and Economic Cost: Domestic violence can have a profound impact on public health systems. Victims of domestic violence may need emergency services, long-term psychiatric care, and legal services, all of which are costs borne by the state. Children removed from abusive families will need access to child welfare programs, the costs of institutional care for children remanded to the Department of Human Services, as well as special needs education, and all of these costs will far exceed what early intervention/prevention programs would cost the State.

Institutional Erosion - Family and State: The increasing incidence of family crime diminishes public confidence in both the family and state institutions. Children trust their families to protect them and provide a foundation for healthy development. When the state fails to investigate or prosecute family crimes, whether due to the norms of family privacy or matrimonial settlement, it conveys to some family members that they will not receive the protection they need, and it signals to perpetrators that they can carry out acts of violence against family members with impunity.

Gender and Caste Issues in India:²⁰ The victims of family crimes are largely lower-caste women. According to the National Crime Records Bureau (NCRB) data from 2023, most people who were raped under the Indian Penal Code (IPC) and Protection of Children from Sexual Offences (POCSO) provisions were girls. Honour killings and dowry deaths appear to be clustered in particular caste and socio-economic communities. Therefore, the way in which the criminal justice system deals with family violence is necessarily tied up with the larger structures of gender, caste, and class inequality. The Supreme Court has made a number of observations regarding this issue; the most important being in the State of Karnataka v. Krishnappa case, when the Court held that not only should the victim's or accused's social

²⁰ *State of Karnataka v Krishnappa* (2000) 4 SCC 75 (SC) <https://jajharkhand.in/wp/wp-content/judicial_updates_files/07_Criminal_Law/50_sentencing/The_State_Of_Karnataka_vs_Krishnappa_on_30_March_2000.PDF> accessed 29 March 2026.

position have no impact on the level of punishment, but that the law must be equally applicable to all offenders, no matter their sex, race, or class.²¹

The Dark Figure and Under-Reporting: The major barrier to addressing family violence is the structural problem of under-reporting. Many victims, especially women and children, have a dependent financial relationship with their abuser; fear of being harmed; social stigma associated with reporting; a cultural expectation to keep the family unit intact; and mistrust towards the police. As noted in *Ramji Lal Bairwa v. State of Rajasthan* (2024) case, the Supreme Court addressed one of the ways this is manifested in society when it found that many families who have children who have been sexually abused or have experienced domestic violence will “settle” their cases by “agreeing to not proceed with the prosecution” and ordered that courts have a duty to be an advocate for the child victim against family pressure and social disapproval.²²

CRITICAL ANALYSIS AND GAPS IN THE LAW

The Marital Rape Gap: The continuation of Exemption 2 of Sec 375 IPC (now partially included in Section 63 of BNS) is the most blatant institutionalisation of violence and therefore the most serious problem with Indian family laws. When husbands cannot be charged with rape, this creates a space for men to violate the bodies of their wives in the home. The Supreme Court has a constitutional obligation to answer the pending question thus.²³

Lack of a Statutory Mechanism to Ensure Child Abuse is Reported: While Sec 19 of the POCSO Act mandates the reporting of sexual assault on children, there is presently no statutory mechanism for requiring the reporting of all forms of child abuse (physical, emotional or neglect) as is in many parts of the US and Australia. When there are signs of possible child abuse, teachers, doctors and social workers are under no statutory obligation to report the abuse unless it is sexual in nature.

²¹ 'NCRB Data on Crime Against Children Latest News' (*Vajiram & Ravi*, March 2026)

<<https://vajiramandravi.com/current-affairs/ncrb-data-on-crime-against-children/>> accessed 29 March 2026.

²² 'POCSO Act: All India Annual Digest 2024' (*Live Law*, 26 February 2025) <<https://www.livelaw.in/top-stories/all-india-annual-pocso-digest-2024-284977>> accessed 29 March 2026.

²³ 'Legalization of Marital Rape in India: Post Supreme Court Split Verdict and the Legislative Road Ahead' (SSRN Working Paper, 14 July 2025) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5350663> accessed 29 March 2026.

The Live-in partner vacuum:²⁴ As evidenced by the Mumbai and Gurgaon Case Studies of 2024-2025, children who live with a single parent could be vulnerable to the risk posed by his/her live-in partner due to the absence of any legal relationship to that parent or child under Indian law. Presently, Indian law does not permit background checks, mandatory reporting of any abusive incidents, or additional punishments to non-parental caregivers for causing harm to a minor child in the home.²⁵

Rehabilitation Infrastructure: Under the J.J. (Juvenile Justice) Act of 2016, the care and rehabilitation of child victims is protected by an excellent set of laws. Much to our dismay, however, the actual conditions in Child Care Institutions (CCIs) throughout India are appalling; i.e. overcrowded CCIs with inadequate staffing levels, little or no trauma-informed care, and allegations of abuse occurring within CCIs themselves. Childcare reform through legislation that does not provide for adequate physical infrastructure, financial resources, training, etc., will be counterproductive to the intended purpose of reform.

RECOMMENDATIONS

The Criminalisation of Marital Rape: The Supreme Court should issue a complete ruling to invalidate Exception 2 of Section 375 of the Indian Penal Code/Section 63 of the Indian Evidence Act, as it violates Articles 14, 19, and 21 and should follow the reasoning outlined by Justice Shakti Chaudhary in *RIT Foundation v. Union of India* (2022).²⁶

The Enactment of a Comprehensive Child Protection Act: The Indian government should enact a comprehensive law that makes all types of child abuse, rather than just sexual abuse, illegal and has mandatory reporting requirements for teachers, medical professionals, and social service workers based on best practices from around the world.

The Introduction of Aggravated Family Offence Provisions: The Indian government should amend existing laws regulating the family to include explicitly named aggravated offences that are similar to aggravated offences under the Protection of Children from Sexual Offences Act

²⁴ Murder: Latest News and Updates' (*The Indian Express*, last visited 25 March 2026) <<https://indianexpress.com/about/child-murder/>> accessed 29 March 2026.

²⁵ 'FIR Against Mother and Live-in Partner for Assault on 3 Kids' (*The Times of India*, Mumbai, 1 June 2025) <<https://timesofindia.indiatimes.com/city/mumbai/fir-against-mother-live-in-partner-for-assault-on-3-kids/articleshow/121579851.cms>> accessed 29 March 2026

²⁶ 'When Marriage is Tyranny: Justice Shakti Chaudhary's Judgment Reads Down the Marital Rape Exception as a Constitutional Imperative' (*Sabrang India*) <<https://sabrangindia.in/when-marriage-is-tyranny-justice-shaktis-judgment-reads-down-the-marital-rape-exception-as-a-constitutional-imperative/>> accessed 30 March 2026.

when acts of criminal violence are committed against minors by their parent, guardian, or cohabitant and increase the minimum penalties for these aggravated family offence provisions.

All Cases of Domestic Violence Involving Minor Children to Mandate Psychosocial Assessments: All domestic violence (DV) cases involving minor children should require a psychosocial assessment related to the extent of the psychological impact on any minor children, and that report needs to be submitted to the court in conjunction with the criminal case against the perpetrator. Child witnesses will be afforded court-appointed support persons, similar to Protection of Children from Sexual Offences Act (POCSO) victims, per Section 40 of the POCSO Act. There is a significant increase in observing children at gram panchayats (local governing authority/council) through Childline (1098) services and anonymous reporting portals that allow neighbours to report suspected child abuse without fear of revenge.

CONCLUSION

Criminal behaviour within families is not just a personal crime between two people, but is also an attack on the basic social structures. When there is violence in the home, the child raised in that home is both a victim now and a possible perpetrator of the same violence in the future. The existing laws protecting children, such as the Protection of Women from Domestic Violence Act (PWDVA), Child Protection Act (POCSO Act), the Juvenile Justice Act (JJ Act) and the Bernice Neuman Statute (BNS), are good but incomplete steps towards helping children obtain their rights and protecting them from violence. The cases of Krishnappa vs. Ramji Lal Bairwa illustrate that the courts, as an extension of the legislative and executive branches (the government), are becoming more aware of the rights of children who have been victims of violence and are no longer allowing the resolution of cases to be settled out of court or through social pressure or settlement. However, there is a huge gap between the existing laws and their application. In 2023, there was a 9.2% increase in the number of children who were physically or sexually abused; marital rape continues to go unpunished; emotional abuse and neglect are still not considered crimes; and the lack of resources for rehabilitation for children who have been the victims of violence are all examples of India's unfinished agenda with family criminal law.