
A Comparative Study of Domestic Violence in the Iranian Legal System and International Instruments: Proposals for Legal Reform

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Abstract .

Domestic violence is recognized as one of the most significant violations of human rights and a serious social problem affecting families and societies worldwide. Legal systems and international human rights instruments have increasingly sought to address this issue through preventive and protective mechanisms. This study aims to conduct a comparative analysis of domestic violence regulations within the Iranian legal system and relevant international legal instruments. The research adopts a descriptive–analytical and comparative approach, examining Iranian legal provisions alongside international standards such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Universal Declaration of Human Rights, and other international guidelines related to the protection of victims of domestic violence. The findings indicate that while certain aspects of Iranian law indirectly address domestic violence through criminal and civil provisions, there remain notable gaps in terms of comprehensive legal definitions, victim protection mechanisms, and preventive policies. In contrast, international instruments emphasize victim-centered approaches, state responsibility, and specialized protective measures. Based on the comparative analysis, this paper proposes several legal reform strategies aimed at strengthening protective mechanisms, clarifying legal definitions of domestic violence, and aligning domestic legislation with international human rights standards.

Keywords: Domestic Violence, Iranian Legal System, International Human Rights Instruments, Comparative Law, Legal Reform

1. Introduction

Domestic violence has emerged as one of the most pervasive social and legal challenges confronting modern societies. While historically perceived as a private family matter, contemporary legal thought recognizes domestic violence as a significant violation of human rights that requires effective state intervention. Over the past decades, international human rights instruments have increasingly emphasized the responsibility of governments to prevent violence, protect victims, and prosecute offenders through clear legal frameworks and dedicated protective mechanisms(1).

In Iran, despite the presence of general criminal and civil provisions that may indirectly address certain forms of domestic violence, the legal system lacks a unified and comprehensive law specifically defining and regulating domestic violence. This has resulted in practical gaps in victim protection, legal remedies, enforcement mechanisms, and preventive policies (2). In contrast, international legal documents such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provide more explicit standards for addressing domestic violence, focusing on human dignity, equality, and the establishment of specialized support systems (3).

Given these differences, a comparative analysis between the Iranian legal system and international human rights instruments is essential for identifying structural gaps, evaluating current approaches, and proposing effective strategies for legal reform. This study aims to explore the conceptual and legal dimensions of domestic violence, examine relevant laws and standards, and provide grounded recommendations to enhance the protection of victims and align domestic legislation with internationally recognized norms.

Concept and Forms of Domestic Violence

Domestic violence refers to any form of physical, psychological, sexual, or economic abuse occurring within the family or intimate relationships, regardless of marital status or gender. It encompasses a wide range of behaviors intended to exert control, dominance, or harm over another family member. The concept has evolved from a narrow focus on physical assault to a more comprehensive understanding that includes verbal threats, emotional neglect, financial control, and social isolation (4,5).

Scholars and international organizations such as the United Nations define domestic violence as “a pattern of behavior in any relationship that is used to gain or maintain power and control over an intimate partner.” This definition highlights the structural and power-based nature of violence rather than viewing it merely as individual misconduct (6).

Forms of domestic violence can generally be classified into four main categories:

Physical Violence: Includes hitting, slapping, choking, or any act intended to cause bodily harm.

Psychological or Emotional Violence: Encompasses humiliation, intimidation, threats, insults, and restricting social interactions. **Sexual Violence:** Refers to any non-consensual sexual act or behavior, including marital rape, sexual coercion, or harassment.

Economic Violence: Involves controlling or depriving someone of financial resources, employment, or property rights to assert dominance or dependence.

The multifaceted nature of domestic violence makes its legal definition complex. Many domestic laws, including Iran's, fail to explicitly define all these forms, focusing primarily on physical harm while neglecting psychological and economic dimensions. International human rights frameworks, however, advocate a holistic approach that recognizes all forms as interconnected violations of human dignity and equality..

Domestic Violence in the Iranian Legal System 1.1.1

The Iranian legal system does not contain a single, comprehensive statute dedicated specifically to domestic violence. Instead, the issue is addressed indirectly through a combination of criminal, civil, and family law provisions. While these scattered regulations offer partial protection, they do not establish a unified framework capable of effectively preventing violence or supporting victims(7) .

From a criminal law perspective, acts of physical violence such as assault, battery, and bodily injury are punishable under the Islamic Penal Code. Articles related to intentional or unintentional bodily harm, threats, insults, and harassment may apply in domestic settings. However, the Penal Code does not explicitly categorize domestic violence as a separate offense, nor does it provide enhanced penalties when the perpetrator is a family member. This lack of specific classification limits the legal system's ability to respond to the unique dynamics of abuse within intimate relationships.

In civil law, particularly within the Civil Code and the Family Protection Act, certain mechanisms exist that indirectly target domestic violence. For instance, a woman may request divorce on the grounds of "harmful treatment" (osr va haraj), or seek financial and custodial protections when harm is proven. Nevertheless, these remedies are largely reactive and require victims to demonstrate severe hardship, which may be difficult due to limited documentation, fear of retaliation, or social stigma (8).

Another challenge concerns the limited availability of protective measures, such as restraining orders or emergency shelters. Iranian law does not explicitly provide for temporary protection orders that are widely used in other jurisdictions to restrict the abuser's access to the victim. Although some social welfare programs and police units offer assistance, these mechanisms lack a strong legal foundation and remain insufficient to address the immediate risks faced by victims (9,10,11).

Overall, despite the presence of laws that may address aspects of domestic violence, the absence of explicit definitions, preventive policies, specialized protections, and victim-centered procedures indicates significant gaps. This highlights the need for a more cohesive legal framework aligned with international standards to ensure adequate protection and accountability.

Domestic Violence in International Legal Instruments 1.1.2

International human rights law has gradually recognized domestic violence as a violation of fundamental human rights, rather than merely a private or social concern. This recognition has evolved through a combination of binding conventions, declarations, and resolutions issued by global and regional organizations. The overarching principle is that states carry both a negative obligation to refrain from participation in violence and a positive obligation to prevent, protect, and prosecute such acts within their jurisdiction (12,13,14).

One of the earliest and most influential documents is the Universal Declaration of Human Rights (UDHR, 1948), which guarantees the right to life, liberty, security, and dignity for all individuals. Although it does not explicitly mention domestic violence, its principles form the foundational basis for interpreting violence against women as a violation of human rights (15).

The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) both reaffirm the duty of states to ensure equality and protection from physical and mental harm. These covenants provide a framework for governmental accountability and have been used by treaty bodies to address domestic violence as a breach of rights to security, family life, and non-discrimination (16,17).

More specifically, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) explicitly obligates states to eliminate discrimination through appropriate legislative measures. Although CEDAW does not use the term domestic violence directly, the Committee on the Elimination of Discrimination against Women, through General Recommendation No. 19 (1992) and No. 35 (2017), has definitively recognized gender-based violence, including domestic violence, as a form of discrimination that impairs women's enjoyment of rights and freedoms on an equal basis with men (18).

Additionally, instruments such as the Declaration on the Elimination of Violence against Women (1993) and the Istanbul Convention (2011) —adopted by the Council of Europe— further elaborate on preventive, protective, and prosecutorial obligations. They emphasize comprehensive measures like awareness campaigns, shelters, restraining orders, and integrated social services.

United Nations Special Rapporteurs and Human Rights Council resolutions have consistently stressed that domestic violence constitutes a violation of international human rights norms, including the right to life, equality, non-discrimination, and freedom from torture or cruel, inhuman, or degrading treatment. States are thus required to not only criminalize such conduct but also to provide victims with access to justice, compensation, and effective remedies.

Overall, international standards view domestic violence not as an isolated or private act but as a public concern and structural issue rooted in discrimination and inequality. These instruments advocate for a holistic, victim-centered, and human-rights-oriented legal response that many national systems, including Iran's, have yet to fully implement.

Comparative Analysis: Iranian Law and International Standards 1.1.3

A comparative examination of domestic violence regulation in the Iranian legal system and international human rights instruments reveals significant divergences in definitions, legal frameworks, protection mechanisms, and state obligations. Although certain general provisions within Iranian criminal and civil law may be applied to cases of domestic violence, the absence of a comprehensive and explicit legal framework distinguishes Iran from international standards, which adopt a holistic and victim-centered approach(19) .

1. Definition and Conceptualization

International instruments, particularly CEDAW General Recommendation No. 19 and the Istanbul Convention, provide broad and explicit definitions of domestic violence, covering physical, sexual, psychological, and economic abuse. These definitions emphasize structural inequality and gender-based discrimination.

In contrast, Iranian law lacks a statutory definition of domestic violence. Existing provisions are limited to general offenses such as assault, battery, or “ill-treatment” (*bad-raftār*), without conceptual recognition of domestic violence as a distinct legal phenomenon (20,21).

2. Criminalization and Legal Sanctions

International standards require states to criminalize various forms of domestic violence explicitly and ensure proportional, dissuasive penalties. They also call for aggravating factors when the perpetrator is a family member.

In Iran, domestic violence is not independently criminalized. Provisions of the Islamic Penal Code apply only if the conduct qualifies as a general offense; psychological and economic abuse often remain legally unaddressed. Moreover, certain exemptions, such as disciplinary authority of husbands (subject to interpretation), may undermine protection(22,23).

3. Preventive Measures

International frameworks emphasize prevention through education, risk assessment, community programs, and early intervention. States are required to adopt integrated strategies and national action plans.

Iran lacks statutory preventive mechanisms specific to domestic violence. No national action plan or institutionalized prevention program is mandated by law.

4. Protection and Support Mechanisms

Under international standards, states must ensure immediate protection through restraining orders, emergency barring orders, shelters, hotlines, and specialized services.

In Iran, protection mechanisms are fragmented. Restraining orders are not systematically available. Although welfare organizations may offer limited support, there is no unified legal framework ensuring immediate and comprehensive protection (24,25).

5. State Obligations and Accountability

International human rights law imposes both negative and positive obligations. States must prevent, investigate, punish, and provide reparation. Failures may amount to international responsibility.

Iranian law does not fully reflect these duties; responsibility is dispersed across civil, criminal, and administrative domains without a coordinated approach. Accountability mechanisms for state inaction are limited.

Overall, the comparative analysis reveals that while Iranian law contains some general legal tools that may indirectly address domestic violence, it diverges substantially from international standards in terms of definition, comprehensiveness, protection, and state responsibility.

Proposals for Legal Reform 1.1.4

In light of the comparative analysis, meaningful reform of the Iranian legal system requires structural, legislative, and institutional changes aligned with international human rights standards. The following proposals are offered:

1. Adoption of a Comprehensive Domestic Violence Law

Iran should enact a specific and comprehensive statute defining domestic violence in line with international standards. The law should explicitly include physical, psychological, sexual, and economic violence and recognize domestic violence as a distinct legal category.

2. Explicit Criminalization of All Forms of Domestic Violence

Legislation should criminalize not only physical assault but also psychological abuse, coercive control, marital sexual violence, and economic deprivation. Aggravating circumstances should apply when violence occurs within family or intimate relationships.

3. Establishment of Immediate Protective Measures

The legal system should introduce enforceable protective mechanisms such as:

Emergency restraining orders

Immediate removal of the perpetrator from the shared residence

Confidential reporting channels

Specialized domestic violence courts or units

4. Victim-Centered Support Structures

The state should ensure:

Accessible shelters and safe houses

Free legal aid

Psychological counseling and rehabilitation services

Compensation mechanisms for victims

5. Preventive and Educational Policies

A national action plan should be adopted, incorporating:

Public awareness campaigns

Mandatory training for judges, police officers, and healthcare providers

Educational programs addressing gender equality and non-violent conflict resolution

6. Strengthening State Accountability

Clear standards of due diligence must be incorporated into domestic law to ensure state responsibility for failure to prevent, investigate, or prosecute domestic violence effectively.

Legal reform must balance cultural sensitivity with universal human rights principles, ensuring that protective mechanisms do not undermine legitimate family values while safeguarding individual dignity and security (26,27).

1.1.5 Policy and Legal Implications

The findings of this study carry important implications for legal policy and legislative reform in Iran. Addressing domestic violence effectively requires not only legislative change but also institutional coordination and policy commitment.

First, policymakers should recognize domestic violence as a public legal concern rather than a purely private family matter. This shift in perspective is fundamental for designing effective legal responses and ensuring that victims receive adequate protection and support.

Second, the Iranian legal system may benefit from a more integrated regulatory approach. Instead of relying on dispersed provisions across criminal, civil, and family law, a unified framework could enhance legal clarity, improve enforcement, and facilitate coordinated institutional responses.

Third, strengthening cooperation between legal institutions and social support systems is essential. Courts, law enforcement agencies, healthcare providers, and welfare organizations should operate within a coordinated framework to identify risks early and provide timely protection for victims.

Finally, policy initiatives should emphasize long-term prevention through public education, professional training, and awareness programs. Sustainable reduction of domestic violence requires cultural and social transformation alongside legal reform.

These policy implications highlight that effective responses to domestic violence depend on a comprehensive strategy combining legal regulation, institutional capacity, and social awareness.

2. Conclusion

Domestic violence represents a profound violation of human dignity and fundamental human rights. International law has developed a comprehensive framework recognizing domestic violence as a structural and discriminatory phenomenon that requires holistic state intervention.

The comparative analysis demonstrates that, while Iranian law contains scattered provisions applicable to instances of domestic violence, it lacks conceptual clarity, comprehensive regulation, preventive mechanisms, and integrated victim support systems. The absence of a specific legislative framework creates gaps in protection and limits effective enforcement.

Bridging this gap does not necessitate abandoning cultural or legal traditions; rather, it requires harmonizing domestic legislation with universally recognized human rights principles. Enacting a comprehensive domestic violence law, strengthening institutional accountability, and adopting preventive strategies would significantly enhance protection for victims while reinforcing the rule of law.

Ultimately, meaningful reform in this field is not merely a legislative necessity but a societal imperative aimed at safeguarding human dignity, equality, and justice within the family structure.

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