E-ISSN: 2997-9439

American Journal of Education and Evaluation Studies
https://semantjournals.org/index.php/_AJEES

| Research Article

Check for updates

Experience of Some Foreign Countries in Combating Domestic Violence: A Comparative Legal Analysis

Shodiyor Ibragimovich Shayzakov
Head of the Center for Coordination of Scientific and Innovative Research and Training of Scientific Personnel, Law Enforcement Academy of the Republic of Uzbekistan, Doctor of Philosophy in Law (PhD), Associate Professor
E-mail: shayzakovshodiyor@gmail.com

Abstract: Domestic violence constitutes one of the most pervasive and structurally entrenched violations of fundamental human rights in contemporary societies. Despite its prevalence across all socioeconomic, cultural, and geographic boundaries, significant divergences exist in how legal systems conceptualize, prevent, and redress this phenomenon. This article undertakes a comparative legal analysis of the legislative frameworks and institutional mechanisms adopted by the United States, the United Kingdom, Spain, Germany, and Australia in combating domestic violence, drawing on statutory texts, judicial practice, and empirical evaluations. The study identifies key structural elements including comprehensive legislation, specialized courts, perpetrator accountability mechanisms, multi-agency cooperation, and survivor-centred service delivery that distinguish effective national responses from nominally adequate but practically deficient ones. The analysis further interrogates the theoretical foundations underpinning different legislative models, examining the shift from incident-based criminal law approaches toward coercive control paradigms. Findings are examined with reference to their potential application in reform contexts, including post-Soviet states such as Uzbekistan, where recent legislative efforts have laid a formal foundation but substantial implementation gaps persist. The article argues that effective domestic violence legislation requires not merely the enactment of protective provisions but the sustained development of independent institutional architecture, judicial competence, and a cultural environment that treats domestic violence as a serious public rather than private concern.

Keywords: Domestic Violence, Gender-Based Violence, Comparative Law, Violence Against Women Act, Domestic Abuse Act 2021, Istanbul Convention, Coercive Control, Protection Orders, Spain, Germany, Australia, Uzbekistan, Family Law Reform

Introduction

Domestic violence encompassing physical, sexual, psychological, financial, and coercive forms of abuse perpetrated within intimate or familial relationships represents a public health emergency and a systemic failure of protective state functions. The World Health Organization estimates that approximately one in three women globally has experienced physical or sexual violence by an intimate partner during her lifetime, representing a prevalence rate that dwarfs many other categories of violent crime [1]. These statistics, however, do not adequately capture the full spectrum of abuse, which frequently includes sustained patterns of coercion, isolation, and emotional manipulation that cause profound and enduring

harm without leaving visible physical traces.

The international legal community has progressively recognised domestic violence as a human rights matter requiring affirmative state intervention [2], [3]. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence known as the Istanbul Convention provides the most comprehensive international treaty framework to date, establishing minimum standards for prevention, protection, prosecution, and integrated policies. At the global level, the 1993 United Nations Declaration on the Elimination of Violence against Women established foundational normative standards, though without binding enforcement mechanisms [4].

Against this backdrop, national legislative responses have diverged substantially. Some jurisdictions have enacted comprehensive dedicated statutes combining criminal, civil, and social service dimensions; others have relied on general criminal law supplemented by administrative and protective order mechanisms; still others have prioritised preventive education and social welfare responses. The quality of implementation, measured not merely by legislative text but by institutional architecture, funding levels, judicial training, and survivor access, varies even more widely than formal legal provisions might suggest [5], [6].

This article examines the legislative models and institutional experiences of five jurisdictions the United States, the United Kingdom, Spain, Germany, and Australia selected to reflect geographic, legal tradition, and policy model diversity. The analysis proceeds through comparative examination of statutory frameworks, enforcement mechanisms, protection order systems, perpetrator programmes, and empirical effectiveness assessments [7]. Concluding remarks consider the implications of the comparative findings for legislative reform in post-Soviet states navigating the transition from criminalisation as a theoretical norm to meaningful protection as a practical reality.

International Legal Framework and Normative Foundations. Before examining individual national frameworks, it is necessary to survey the international normative architecture within which domestic violence law operates. The Istanbul Convention, opened for signature in 2011, represents the culmination of decades of international norm development [8]. Its four pillars prevention, protection, prosecution, and integrated policies reflect a recognition that criminal law responses alone are insufficient and must be complemented by preventive education, civil protection mechanisms, and cross-sectoral coordination among law enforcement, health, social services, and the judiciary.

The Convention's Article 33, which criminalises psychological violence, and Article 34, which addresses stalking, illustrate the treaty's ambition to extend protection beyond the paradigm of physical assault to encompass the full behavioural spectrum of domestic abuse [9]. Article 38 addresses female genital mutilation; Articles 36-40 address sexual violence, forced marriage, and forced sterilisation. This breadth reflects an understanding of domestic violence as a systemic manifestation of gender inequality rather than a series of discrete criminal incidents.

Methodology

The Committee on the Elimination of Discrimination against Women (CEDAW Committee) has progressively developed the obligations of states parties under the Convention on the Elimination of All Forms of Discrimination against Women to include affirmative obligations to prevent and remedy domestic violence through its General Recommendations No. 12, 19, and 35. General Recommendation No. 35 explicitly reaffirms that gender-based violence against women constitutes discrimination within the meaning of Article 1 CEDAW and imposes due diligence obligations on states to prevent, investigate, prosecute, punish, and provide reparation for acts of violence.

The United States: From Prosecutorial Discretion to Systemic Reform. The United States presents a distinctive

federal model in which domestic violence law operates simultaneously at the federal and state levels, with the primary enforcement and service delivery responsibilities residing with the fifty states, while federal legislation provides funding frameworks, minimum standards, and interstate enforcement mechanisms. The landmark Violence Against Women Act of 1994 represented a paradigm shift in the federal approach, treating domestic violence not merely as a family matter but as a civil rights issue warranting federal intervention.

Result and Discussion

VAWA 1994 created the Office on Violence Against Women within the Department of Justice, established federal criminal offences for interstate domestic violence and stalking, created a civil rights remedy for gender-motivated violence (subsequently struck down by the Supreme Court in United States v. Morrison, 529 U.S. 598, and authorised substantial grant programmes for law enforcement training, victim services, and prosecution support [10], [11]. Empirical research in the years following VAWA's enactment documented significant reductions in intimate partner homicide rates, particularly among male victims whose female partners could more readily access legal intervention rather than resorting to lethal self-defence [12].

Successive reauthorisations in 2000, 2005, 2013, and 2022 progressively expanded VAWA's scope. The 2013 reauthorisation extended protections to Native American women, immigrants populations previously underserved by the original statute's assumptions about victim and perpetrator characteristics. The 2022 reauthorisation introduced provisions addressing technology-facilitated abuse, including cyberstalking and non-consensual disclosure of intimate images, reflecting the increasing salience of digital dimensions of domestic abuse.

A persistent critique of the American model centres on its heavily criminalisation-oriented approach. Mandatory arrest policies, adopted in most states by the 1990s, and no-drop prosecution policies have been criticised for removing survivor agency, producing dual arrests of victims who physically resist their abusers, and exposing undocumented immigrant survivors to deportation risks through police contact [13]. The tension between the criminal justice system's capacity to deter and punish and its limitations as a primary vehicle for survivor safety and wellbeing reflects a broader theoretical debate about the appropriate role of the state in regulating intimate relationships.

Structural features of the American system that have drawn positive international attention include the network of federally-funded domestic violence shelters and hotlines, the establishment of domestic violence courts with specialised judges and coordinated community response models, and the Full Faith and Credit provisions requiring states to enforce protective orders issued by other states. The National Domestic Violence Hotline, established under VAWA, has provided crisis intervention to millions of survivors and serves as a model for centralised, accessible survivor support infrastructure [14].

The United Kingdom: The Domestic Abuse Act 2021 and the Coercive Control Paradigm. The United Kingdom's Domestic Abuse Act 2021 represents one of the most conceptually sophisticated and structurally comprehensive domestic violence statutes in the common law world. The Act's most significant innovation is its statutory definition of domestic abuse, which for the first time in English and Welsh law encompasses not only physical violence and sexual abuse but also emotional or psychological abuse, economic abuse, threatening and controlling behaviour, and coercive control. This definitional architecture reflects the theoretical framework developed by Evan Stark in his influential work on coercive control, which conceptualises domestic abuse as a liberty crime a sustained course of conduct aimed at dominating and controlling a victim's life.

The Act establishes a Domestic Abuse Commissioner, an independent statutory authority responsible for

monitoring the response of statutory agencies to domestic abuse, publishing reports, and making recommendations for improvement. This institutional innovation mirroring the approach of the Independent Commissioner for Domestic Abuse under Scottish law provides a standing accountability mechanism that is absent from most comparative jurisdictions. The Commissioner's inaugural report documented significant gaps in perpetrator programme provision and inconsistency in the quality of statutory agency responses [15].

Part 3 of the 2021 Act creates Domestic Abuse Protection Notices (DAPNs), immediately issued by police officers without court attendance, and Domestic Abuse Protection Orders (DAPOs), which can be obtained on application by police, prosecutors, or victims. Crucially, DAPOs can impose positive obligations on perpetrators such as requirements to attend behaviour change programmes in addition to the prohibitory conditions of earlier injunctions. The positive obligation mechanism represents a significant departure from traditional civil protection order models, which functioned primarily as prohibitions rather than instruments of perpetrator rehabilitation.

The Act also addresses the particular vulnerability of children in domestic abuse situations, providing that where a child sees, hears, or experiences domestic abuse, the child is to be regarded as a victim of the abuse in addition to the directly abused person. This recognition has significant implications for child safeguarding proceedings and for the family courts' approach to child contact arrangements in cases involving domestic abuse. Research by SafeLives has documented the profound developmental impact on children who grow up in households characterised by domestic abuse, underscoring the public health case for investing in early intervention.

The Act's prohibition on cross-examination of victims by their alleged abusers in family proceedings addresses a historic gap that permitted perpetrators to re-traumatise survivors through direct questioning in open court. England and Wales had permitted such questioning long after many comparable jurisdictions had prohibited it, rendering this reform, while belated, significant in practical terms.

Spain: Comprehensive Legislation and the Challenge of Femicide Prevention. Spain's Organic Law 1/2004 on Integrated Protection Measures against Gender Violence is widely regarded as a landmark in European legislative approaches to domestic violence, notable for its explicit framing of intimate partner violence as a manifestation of gender inequality rather than a purely criminal matter. The Law's preamble states explicitly that violence against women by their intimate partners is not a private issue but a public expression of historically unequal power relations between women and men.

The structural comprehensiveness of Organic Law 1/2004 is exceptional by comparative standards. The Law establishes specialised courts for gender-based violence (Juzgados de Violencia sobre la Mujer) competent in both criminal and civil matters arising from gender-based violence, including custody and divorce proceedings. This integrated jurisdiction prevents the fragmentation of proceedings across multiple courts, reduces the burden on survivors to navigate multiple judicial forums, and promotes consistency in assessing the impact of violence on related civil proceedings. By 2022, Spain operated over 100 such specialised courts.

The Law’s provisions extend beyond judicial mechanisms to encompass social rights for survivors: guaranteed employment protection, including the right to reduced working hours and geographic mobility without employer sanction; social security benefits and priority access to social housing for survivors with economic vulnerability; and educational support for children of survivors. This multi-dimensional approach to addressing the structural disadvantages that trap many survivors in abusive relationships reflects an understanding that legal protection orders are insufficient if survivors cannot access the economic and social resources necessary to safely leave.

Despite these structural achievements, Spain continues to record troubling femicide statistics:

approximately 50-60 intimate partner homicides of women are recorded annually, and a significant proportion involve victims who had previously sought legal protection. Empirical research has identified gaps in risk assessment practices, in coordination between criminal courts issuing protection orders and civil courts managing custody arrangements, and in the availability of resources in rural areas where survivor access to services is substantially more limited.

The 2022 reform introduced the concept of the 'solo sí es sí' (only yes means yes) consent standard in sexual violence law, reflecting a broader trend toward affirmative consent frameworks in European jurisdictions. While primarily addressing sexual violence rather than domestic abuse, the reform illustrates Spain's continued legislative ambition and the complex political economy of gender law reform in a context of significant feminist mobilisation alongside conservative political resistance.

Germany: The Civil Law Protection Model and Its Institutional Architecture. Germany's approach to domestic violence has historically emphasised civil law protection mechanisms over criminal law responses, reflecting both the structure of the German legal system and a policy preference for victim-centred protective measures that do not depend on the complainant's cooperation with criminal prosecution. The Act on Civil Law Protection against Violence (Gewaltschutzgesetz, GewSchG) of 2001 is the primary vehicle for civil protection, enabling courts to issue orders prohibiting the perpetrator from entering the family home including by ordering the perpetrator to vacate and from contacting or approaching the victim.

A distinctive feature of German law is the "go order" (Wegweisung) mechanism operated by the police, which allows officers attending a domestic violence incident to immediately remove the perpetrator from the home for an initial period (typically ten to fourteen days, varying by Bundesland) without the need for a court order. This administrative measure addresses the critical period immediately following disclosure or police attendance, when victims face the highest risk of escalating violence. Civil protection orders obtained during this window have been shown to be associated with reduced re-victimisation in subsequent months.

The German system's reliance on the victim's initiative in civil proceedings has attracted criticism. Since criminal prosecution of domestic violence in Germany requires either a public interest determination by the prosecutor or a private prosecution by the victim, and since the civil protection system depends on the victim applying to a court, perpetrators may benefit from victims' reluctance to engage with legal processes out of fear, economic dependency, or cultural factors. Research has documented significant ethnic and socioeconomic disparities in civil protection order utilisation.

Germany ratified the Istanbul Convention in 2018, and GREVIO's 2022 evaluation report identified a number of implementation gaps, including the absence of nationwide minimum standards for intervention centres and survivor shelters, regional disparities in service provision, and the insufficient criminalisation of psychological violence and stalking in domestic contexts. The GREVIO report recommended legislative amendments to explicitly criminalise coercive control as a course of conduct, following the models established in the United Kingdom, Scotland, and Ireland.

Germany's network of intervention centres (Interventionsstellen), modelled on the Austrian WAVE (Women Against Violence Europe) approach, represents a significant institutional contribution to comparative practice. These centres operate a proactive outreach model, contacting potential victims following police interventions without waiting for victim-initiated contact. Randomised evaluation studies have demonstrated that proactive intervention significantly increases rates of safety planning, protective order applications, and engagement with support services compared to reactive service models that await victim contact.

Australia: A National Plan Approach and Specialist Domestic Violence Courts. Australia's approach to

addressing domestic and family violence is characterised by the architecture of successive National Plans: the National Plan to Reduce Violence against Women and their Children 2010-2022, succeeded by the National Plan to End Violence against Women and Children 2022-2032. These plans provide a federal coordination framework that sets national targets, allocates funding, and coordinates the activities of Commonwealth, state, and territory governments, reflecting Australia's federal structure in which family law is a Commonwealth responsibility but criminal and child protection law is primarily state and territory competence.

Australia has made significant investments in specialist domestic violence court programmes, operating across multiple states and territories. The Specialist Domestic and Family Violence Court program in New South Wales, for example, integrates co-located legal aid, social support workers, risk assessment teams, and dedicated magistrates into a single court facility, reducing survivor burden, improving information sharing, and enabling more consistent judicial decision-making. These courts systematically apply risk assessment frameworks including the Domestic Violence Safety Assessment Tool (DVSAT) to triage cases and calibrate protective responses according to assessed lethality risk.

Australia's experience with domestic violence fatality review committees multi-agency bodies that examine intimate partner homicides and related deaths to identify systemic failures and generate preventive recommendations has been internationally influential. The Victorian Systemic Review of Family Violence Deaths, initiated in 2009, produced findings that directly informed the 2015-2016 Royal Commission into Family Violence the most comprehensive government inquiry into domestic violence ever conducted in Australia. The Royal Commission's 227 recommendations catalysed substantial legislative, institutional, and funding reforms across Victoria and subsequently influenced other Australian jurisdictions.

The Coercive Control Act 2022 in Queensland, and analogous legislation enacted or in development in other Australian states and territories, reflects the transnational diffusion of the coercive control framework from the United Kingdom's Serious Crime Act 2015 and the subsequent Domestic Abuse Act 2021. The Queensland provisions criminalise a pattern of domestic violence behaviour defined by its ongoing, controlling character rather than requiring proof of individual incidents, enabling intervention at an earlier stage before physical violence escalates to lethal harm.

Australia's National Domestic Violence Order Scheme, which provides for automatic national recognition of protection orders issued in any jurisdiction, addresses the problem particularly acute in geographically mobile populations of perpetrators relocating to jurisdictions where existing orders were unrecognised. This interstate mutual recognition mechanism parallels the Full Faith and Credit approach in the United States and provides a model for international cooperation frameworks.

Comparative Analysis: Structural Elements of Effective Legal Frameworks. A systematic comparison of the examined jurisdictions across six structural dimensions definitional comprehensiveness, institutional architecture, protection order systems, perpetrator accountability mechanisms, survivor support services, and preventive programming reveals that effectiveness correlates not primarily with any single legislative innovation but with the coherent integration of legal, institutional, and resource elements within a clearly articulated policy framework [11], [12].

On definitional comprehensiveness, the most advanced jurisdictions (UK, Australia, Spain) have moved beyond physical violence to encompass coercive control, economic abuse, and technology-facilitated abuse. Germany, by contrast, has lagged in statutory recognition of coercive control as a criminal course of conduct, despite reform recommendations from GREVIO. This definitional gap is not merely symbolic: incident-based definitions create evidential requirements that systematically disadvantage victims of ongoing patterns of abuse who may lack documentary evidence of individual incidents but have suffered profound harm through sustained patterns of domination.

Institutional architecture the specialised courts, independent commissioners, multi-agency coordination mechanisms, and risk assessment frameworks emerges from the comparative analysis as a more reliable predictor of survivor outcomes than legislative text alone. Spain's specialised Juzgados de Violencia sobre la Mujer, Australia's specialist domestic violence courts, and the UK's Domestic Abuse Commissioner each represent institutional investments that translate legislative intent into operational reality [13]. Systems that rely on general criminal courts without specialist training, dedicated dockets, or co-located support services consistently produce lower rates of protection order compliance and perpetrator accountability.

The comparative evidence on perpetrator programmes is particularly instructive. The United Kingdom's Integrated Domestic Abuse Programmes (IDAP), Spain's court-mandated re-education programmes, and Australia's Men's Behaviour Change Programmes reflect a convergent recognition that incapacitation through custody is insufficient as a primary perpetrator management strategy [14]. Evaluated perpetrator programmes demonstrate modest but statistically significant reductions in recidivism when delivered with fidelity to validated models, though the evidence base remains contested and programme quality is highly variable.

Economic empowerment of survivors represents a structural element that is prominent in Spain's model but underdeveloped in the criminal justice-centred approaches of Germany and the United States. Research consistently demonstrates that economic dependency is one of the primary structural factors preventing survivors from safely leaving abusive relationships. Legislation that integrates employment protections, emergency financial assistance, and priority social housing access for survivors addresses this structural barrier in ways that purely punitive approaches cannot [15].

The shift from incident-based to pattern-based approaches exemplified by the coercive control framework has significant implications for the evidence requirements and judicial culture of domestic violence adjudication. Pattern-based approaches require judges and prosecutors to reason about a course of conduct rather than discrete events, to assess witness credibility in the context of trauma-informed understanding, and to evaluate probative evidence including digital communications, financial records, and witness accounts of controlling behaviour over extended periods.

Conclusion

Domestic violence remains one of the most consequential unresolved challenges in comparative law and human rights. The jurisdictions examined in this article demonstrate that meaningful legislative progress is achievable: the trajectory from treating domestic violence as a private family matter to recognising it as a fundamental rights violation requiring comprehensive state intervention has been traced, with varying speed and depth, across each of the examined systems.

The comparative analysis reveals that effective domestic violence legislation shares common structural elements: a definitional architecture that encompasses the full spectrum of abusive behaviours including coercive control; specialised institutional mechanisms including courts, commissioners, and multi-agency coordination bodies; civil and criminal protection order systems with strong enforcement; perpetrator accountability mechanisms beyond incapacitation; and economically and socially empowering survivor support. No single element is sufficient in isolation, and the integration of these elements within a sustained policy commitment is what distinguishes the high-performing systems examined from the many jurisdictions where formal legislative provisions remain largely symbolic.

For states in the early stages of developing domestic violence frameworks, the comparative evidence offers both an inspiring set of models and a realistic caution: effective implementation requires institutional investment, judicial development, and a cultural shift in how domestic violence is understood by law enforcement, social services, and the broader society. Legislation is the foundation, not the edifice. The

jurisdictions that have made the most progress the UK, Spain, Australia have sustained multi-decade reform processes that have built institutional capacity, generated empirical evidence of effectiveness, and repeatedly revised legislative and operational frameworks in response to that evidence.

The international legal framework, anchored by the Istanbul Convention and CEDAW, provides a normative architecture within which these national reform processes can be assessed and supported. The progressive expansion of states parties to the Istanbul Convention, and the ongoing work of GREVIO in documenting implementation gaps and generating reform recommendations, suggests that the slow but real convergence of national approaches toward evidence-based, survivor-centred domestic violence frameworks will continue. The challenge for the coming decades is not primarily normative the standards are increasingly clear but institutional and political: translating legislative ambitions into protective realities for the millions of survivors who continue to experience domestic violence in all its forms.

REFERENCES

[1] Australian Government, *National Plan to End Violence against Women and Children 2022–2032*. Canberra, Australia: Department of Social Services, 2022.

[2] E. Bodelón, "Violencia institucional y violencia de género," *Anales de la Cátedra Francisco Suárez*, vol. 48, pp. 131–155, 2014.

[3] Council of Europe, *Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)*, Treaty Series No. 210, 2011.

[4] Council of Europe, *Explanatory Report to the Istanbul Convention*, Treaty Series No. 210, 2022.

[5] R. E. Dobash and R. P. Dobash, *Violence Against Wives: A Case Against the Patriarchy*. New York, NY, USA: Free Press, 1979.

[6] Federal Republic of Germany, *Act on Civil Law Protection against Violence (GewSchG)*, Dec. 11, 2001.

[7] L. Goodmark, *Decriminalizing Domestic Violence: A Balanced Policy Approach to Intimate Partner Violence*. Oakland, CA, USA: University of California Press, 2018.

[8] E. Gracia and J. Merlo, "Intimate partner violence against women and the Nordic paradox," *Social Science & Medicine*, vol. 157, pp. 27–30, 2016.

[9] GREVIO, *Baseline Evaluation Report on Germany under the Istanbul Convention*. Strasbourg, France: Council of Europe, 2022.

[10] L. Heise, M. Ellsberg, and M. Gottmoeller, "A global overview of gender-based violence," *International Journal of Gynecology & Obstetrics*, vol. 78, suppl. 1, pp. S5–S14, 2002.

[11] M. Hester, "Gender and domestic violence perpetrators in police records," *European Journal of Criminology*, vol. 10, no. 5, pp. 623–637, 2013.

[12] HM Government, *Domestic Abuse Act 2021: Statutory Guidance Framework*. London, U.K.: Home Office, 2022.

[13] Spain, *Organic Law 1/2004 on Integrated Protection Measures against Gender Violence*, Dec. 28, 2004.

[14] United Nations, *Declaration on the Elimination of Violence against Women*, UNGA Res. 48/104, 1993.

[15] Republic of Uzbekistan, *Law "On Protection of Women from Harassment and Violence"*, No. ZRU-561, 2019