

## **How effectively do the legal frameworks protect survivors of domestic violence in England and Wales compared to Egypt?**

Domestic violence against women is one of the most under reported crimes in the world and remains a growing concern. It is recognised as a grave violation of human rights, violating the right to equality, security, and freedom. The jurisdictions of England and Wales enforce laws to protect survivors very differently compared to Egypt. The common law system of England and Wales offers a certain extent of protection for survivors with the support of the European Convention of Human Rights and the Istanbul Convention while the civil law system of Egypt is greatly influenced by sharia law, leading to there being significant limitations and reservations in the implementation of human rights treaties such as the Convention on the Elimination of All Forms of Discrimination Against Women. Due to gender-based roles and cultural norms ingrained in society for decades, women are at a higher risk of facing domestic violence which is why 'domestic violence' despite being a broad term, most commonly refers to the husband or partner being the emotional or physical abuser. In England and Wales, it was estimated that 2.3 million people aged 16 and over experienced domestic abuse in the year of 2024.<sup>1</sup> In Egypt, around 77% of people reported experiencing spousal violence.<sup>2</sup>

### **The legal framework of England and Wales**

The common law system is based upon case law and statute meaning that there is no codified constitution to refer to for cases of domestic violence. However, the UK is a member of the European Convention on Human Rights which imposes a legal duty on all public

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<sup>1</sup> Office for National Statistics, 'Domestic Abuse in England and Wales Overview: November 2024' <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenlandandwalesoverview/november2024> [Accessed 04 May 2025]

<sup>2</sup> Mamdouh H.M. and others, 'Prevalence and Risk Factors for Spousal Violence among Women Attending Health Care Centres in Alexandria, Egypt' (2012) 18(11) Eastern Mediterranean Health Journal [https://applications.emro.who.int/emhj/v18/11/EMHJ\\_2012\\_18\\_11\\_1118\\_1126.pdf?ua=1](https://applications.emro.who.int/emhj/v18/11/EMHJ_2012_18_11_1118_1126.pdf?ua=1) [Accessed 04 May 2025]

bodies to act compatibly with the articles of the ECHR. Domestic violence is a breach of human rights, specifically under article 2 of the right to life and article 3 of the prohibition of torture and inhuman or degrading treatment. The legal framework of England and Wales implements the ECHR in domestic law through the Human Rights Act<sup>3</sup> which allows victims to challenge public bodies in the event of failure to protect their rights, this can also be seen in the case of *Commissioner of Police of the Metropolis v DSD*<sup>4</sup> where it was held that the police's failure to properly investigate the crimes of a rapist was a breach of the victim's rights under article 3 of the ECHR.

Additionally, the Domestic Abuse Act<sup>5</sup> provides more clarity through statute in regard to the definition and interpretation of the term of domestic violence, not only does it recognise physical and sexual abuse but also highlights emotional, economic, psychological abuse, and coercive behaviour. This Act introduces new civil protection injunctions to provide victims with long-term immediate protection and also prohibits offenders from cross-examining their victims in family court to prevent distress, it further requires the government to appoint a domestic abuse commissioner who would have power to hold statutory bodies responsible and accountable for failures in providing the best possible representation for victims.<sup>6</sup> The act is a big step towards improving the legal framework in order to protect survivors of domestic violence.

It is important to note that there is still no specific offence of domestic violence in the UK. The question that then arises is, what legislation and relevant statute is present to protect survivors of domestic violence? Under criminal law, offences of assault, battery, actual bodily harm, and grievous bodily harm are criminalised. These offences align with some things that people experience while being domestically abused, allowing the victim to claim for

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<sup>3</sup> Human Rights Act 1998

<sup>4</sup> *Commissioner of Police of the Metropolis v DSD and another* [2018] UKSC 11

<sup>5</sup> Domestic Abuse Act 2021

<sup>6</sup> The Law Society, 'Domestic Abuse Act 2021' (28 January 2025)

<https://www.lawsociety.org.uk/topics/family-and-children/domestic-abuse-act-2021#cross-examination-in-family-courts> [Accessed 04 May 2025]

prosecution of their abuser.<sup>7</sup> Furthermore, section 76 of the Serious Crime Act<sup>8</sup> puts forward legislation which criminalises coercive and controlling behaviour by a family member which acknowledges victims who may have faced emotional, economic, or psychological abuse. There is also legislation which criminalises sexual offences including marital rape in section 3 of the Sexual Offences Act<sup>9</sup>, this places importance on consent regardless of marital status. This was also incorporated into case law in *R v R*<sup>10</sup> where it was determined that it is possible for a man to rape his wife. Additionally, section 1 and 2 of the Protection from Harassment Act<sup>11</sup> defines harassment and stalking and provides both criminal and civil remedies for such offences. In addition to all this, there is also a domestic violence disclosure scheme also known as Clare's law which gives individuals who are aged 16 or older the right to ask the police about whether their partner has a previous history of domestic violence or abuse.<sup>12</sup>

The preventing and Combatting Violence Against Women and Domestic Violence Act<sup>13</sup> is another example of how the UK domesticated the Istanbul Convention complying with international human rights laws. The UK is also committed to the UN Convention on the Elimination of All forms of Discrimination Against Women<sup>14</sup> which imposes further obligations to take proper measures to tackle domestic violence and protect victims. This shows how important international human rights law is and how it is ratified and domesticated in the UK to ensure the best possible response for domestic violence cases.

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<sup>7</sup> Baker McKenzie, '*Fighting Domestic Violence: United Kingdom*' <https://resourcehub.bakermckenzie.com/en/resources/fighting-domestic-violence/europe/united-kingdom/topics/1legal-provisions#:~:text=Sexual%20Offences%20Act%202003> [Accessed 05 May 2025]

<sup>8</sup> Serious Crime Act 2015, s 76

<sup>9</sup> Sexual Offences Act 2003, s 3

<sup>10</sup> *R v R* [1992] 1 AC 599

<sup>11</sup> Protection from Harassment Act 1997, s 1,2

<sup>12</sup> <https://clares-law.com/what-is-clares-law/> [Accessed 05 May 2025]

<sup>13</sup> Preventing and Combating Violence Against Women and Domestic Violence Act 2017

<sup>14</sup> United Nations Treaty Collection, 'Convention on the Elimination of All Forms of Discrimination Against Women: Declarations and Reservations'

## The legal framework of Egypt:

Egypt's legal system is based on civil law and is influenced by sharia law. The highest authority of decisions is the Court of Cassation. The court consistently states that any physical harm sustained by a wife should be punishable under the law however, the government does not keep accurate records of the level of domestic violence against women which makes it very difficult to assess the rates of prosecution. This is due to the fact that many Egyptian women are accustomed to violence as this is considered a societal norm rooted from very conservative interpretations of sharia law.<sup>15</sup> It is reported in EuroMed Rights that domestic violence is largely tolerated by authorities by applying Article 17 and Article 60 of the Egyptian Penal Code.<sup>16</sup> Article 17 can be used to reduce sentencing in cases of rape under leniency for "honour crimes" and Article 60 states that the penal code does not apply to an act committed in "good faith". These acts of good faith have been used to justify domestic violence as they are described as circumstances in which the beating is not severe, the beating is not directed at the face, and the beating is not aimed at vulnerable areas.<sup>17</sup>

Egypt is also committed to CEDAW<sup>18</sup> however, upon ratification, Egypt had reservations to Article 2 which is the core obligation to eliminate discrimination and to Article 16 which is regarding equality in marriage and family life, stating that it will only comply with these obligations if it does not counter the Islamic sharia law. These reservations create limited protection for victims as those articles are the whole point to be able to counter issues of domestic violence. The discriminatory Egyptian personal status law and prejudiced attitudes

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<sup>15</sup> Human Rights Watch, 'Egypt: Divorced from Justice – Women's Unequal Access to Divorce' (2004) <https://www.hrw.org/reports/2004/egypt1204/2.htm> [Accessed 06 May 2025]

<sup>16</sup> EuroMed Rights, 'Violence Against Women in Egypt: Legislation and Gaps' (2018) <https://euromedrights.org/wp-content/uploads/2018/11/201811-Gender-VAW-EGYPT-Factsheet-EN-PDF-MSH.pdf#:~:text=Domestic%20violence%20against%20women%20is,as%20%E2%80%9Cthe%20husband%E2%80%99s%20right%20to> [Accessed 06 May 2025]

<sup>17</sup> Human Rights Watch, 'Egypt: Divorced from Justice – Women's Unequal Access to Divorce' (2004) <https://www.hrw.org/reports/2004/egypt1204/2.htm> [Accessed 06 May 2025]

<sup>18</sup> United Nations Treaty Collection, 'Convention on the Elimination of All Forms of Discrimination Against Women: Declarations and Reservations'

of authorities and the public in general due to societal norms creates many obstacles for women to prove that they have suffered domestic abuse and the inadequate criminal laws which do not criminalise domestic violence and marital rape leads to many victims to suffer in silence.<sup>19</sup> Non-physical forms of domestic abuse such as psychological abuse and economic control are not even addressed. Furthermore, the Egypt 2023 Human Rights Report speaks about how police often declined to pursue criminal charges as domestic violence is treated as a matter for private family resolution which shows that even the authorities do not take such a grave violation of human rights seriously at all.<sup>20</sup>

Unlike England and Wales, there are no orders of protection available for survivors of domestic violence in Egypt however, the Egyptian Women Council has established a centre for rehabilitation for victims of abuse where they have the option to stay with their children to be protected from their abusers.<sup>21</sup> In addition to that, women face difficulties in leaving abusive marriages. Despite the fact that Egypt introduced a form of divorce where the women does not need to prove harm, it requires them to give up their financial rights which may bound a woman in an abusive marriage especially if she does not have any personal source of income.<sup>22</sup>

Despite a lot of advocacies for stronger laws on violence against women, as of yet no specific laws have been passed or changed. The domestication of international commitments like CEDAW remains with huge gaps that still undermines the rights of survivors of domestic violence.

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<sup>19</sup> Amnesty International USA, '*Circles of Hell: Domestic, Public and State Violence against Women in Egypt*' (2015) <https://www.amnestyusa.org/reports/circles-of-hell-domestic-public-and-state-violence-against-women-in-egypt/#:~:text=Many%20problems%20stem%20from%20prejudiced,their%20spouses%20have%20harmed%20them> [Accessed 06 May 2025]

<sup>20</sup> US Department of State, *Egypt 2023 Human Rights Report* (2024)

<sup>21</sup> Baker McKenzie, '*Fighting Domestic Violence: Egypt*' <https://resourcehub.bakermckenzie.com/en/resources/fighting-domestic-violence/middle-east-and-north-africa/egypt/topics/4-protection-for-domestic-violence-victims-and-relief-granted#:~:text=Under%20criminal%20procedures> [Accessed 07 May 2025]

<sup>22</sup> Human Rights Watch, '*Egypt: Divorced from Justice – Women's Unequal Access to Divorce*' (2004) <https://www.hrw.org/reports/2004/egypt1204/2.htm> [Accessed 07 May 2025]

## **Comparison of the legal frameworks**

Comparing the legal frameworks of both jurisdictions show how great of a difference there is in the effectiveness of the law in protecting survivors of domestic violence. The main difference is the presence of legislation specific to domestic violence. England and Wales specifically acknowledge that domestic violence is a crime through the Domestic Abuse Act 2021 while Egypt has no specific law to target this issue nor do they perceive it as a criminal offence rather, authorities deem it as a private matter.

### How is the term 'domestic violence' defined?

In England and Wales, the Domestic Abuse Act 2021 outlines that abuse can be physical or sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, economic abuse, psychological abuse, or emotional abuse.<sup>23</sup> This highlights all the patterns of abuse which may not be physical as well, acknowledging the seriousness of the matter being a grave violation of human rights.

In Egypt, there is no definition of domestic violence. There is only acknowledgement of crimes like assault only when proof of injury or harm is provided by the victim however, even assault is not properly criminalised as abusers can use Article 60 of the Penal Code, 'acts of good faith' to justify their actions. Non-physical forms of abuse are not recognised in the legal frameworks of Egypt.

### Criminalisation of marital rape:

Marital rape is one of the main forms of domestic violence experienced by women.

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<sup>23</sup> Office for National Statistics, 'Domestic abuse and the criminal justice system, England and Wales: November 2024'  
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabuseandthecriminaljusticesystemenglandandwales/november2024#:~:text=> [Accessed 08 May 2025]

In England and Wales, the case of *R v R* [1991] and the Sexual Offences Act 2003 recognise the importance of consent, including in a marriage. Rape is criminalised and the same laws apply in a marriage as well.

In Egypt, marital rape is not criminalised as it is believed that a marriage automatically implies consent. Even such reports would be dismissed by authorities as a private matter. The question that then arises is, to what extent must a woman be domestically abused for authorities to take her seriously? And how will such broad and unspecific legal frameworks protect her? These questions illustrate the seriousness of the matter, the lack of help given to survivors, and the lack of compliance with international human rights committees like CEDAW.

#### What kind of protection is available for survivors from their abusers?

In England and Wales, the Domestic Abuse Act 2021 introduced two new civil protection injunctions, a domestic abuse protection notice (DAPN) which is for immediate protection after an incident and a domestic abuse protection order (DAPO) which is a long-term protection order for victims.<sup>24</sup> DAPNs prevent the abuser from contacting the person and restrict them from coming within a specified distance of a premises in which the person is. DAPOs can include different conditions that provide long-term protection and can be changed by the court.

In Egypt, there are no specific civil protection orders available to victims of domestic abuse, abusers are simply made to sign a declaration that prohibits them from committing any further acts, in the case that they do recommit, they are then sentenced by the public

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<sup>24</sup> The Law Society, 'Domestic Abuse Act 2021' (28 January 2025) <https://www.lawsociety.org.uk/topics/family-and-children/domestic-abuse-act-2021#cross-examination-in-family-courts> [Accessed 08 May 2025]

prosecutor.<sup>25</sup> This means that even if abusers are not prosecuted, survivors are still not ensured safety measures in law to receive any form of protection.

#### Influence of cultural norms and religion:

In England and Wales, there is no religious law that affects the implementation of human rights commitments. Initially, there was no specific law regarding domestic violence however as society evolves, there has been more recognition of equal women's rights and acknowledgement of domestic abuse being a serious crime.

In Egypt, the legal system is greatly influenced by Islamic Sharia law which is used to justify the husband having a right to 'discipline' his wife, this is even incorporated in the Egyptian penal code. The Quranic verse that has been incorporated in sharia law states that "Men are the caretakers of women, as men have been provisioned by Allah over women and tasked with supporting them financially. And righteous women are devoutly obedient and, when alone, protective of what Allah has entrusted them with. And if you sense ill-conduct from your women, advise them first, if they persist, do not share their beds, but if they still persist, then discipline them gently. But if they change their ways, do not be unjust to them. Surely Allah is Most High, All-Great."<sup>26</sup> However, the word 'striking' is often translated wrongly as 'beating' when in reality, the actual Arabic word indicates separation, a last resort before marriage. Many people still have differing views about the interpretation of that verse, however it is further emphasised in the Quran that it is not permissible for a man to deliberately harm his wife physically or emotionally, it is stated that "Do not harm them in order to make it difficult for them."<sup>27</sup> Islam forbids harm and cruelty however there has been

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<sup>25</sup> Baker McKenzie, 'Fighting Domestic Violence: Egypt'

<https://resourcehub.bakermckenzie.com/en/resources/fighting-domestic-violence/middle-east-and-north-africa/egypt/topics/4-protection-for-domestic-violence-victims-and-relief-granted#:~:text=Under%20criminal%20procedures> [Accessed 08 May 2025]

<sup>26</sup> The Quran, Surah An-Nisa 4:34

<sup>27</sup> The Quran, Surah Al-Talaq 65:6



little to no change in the conservative attitudes of Egyptian officials regarding domestic violence.

### **Critical evaluation**

It is clear that survivors of domestic violence receive more protection in England and Wales as compared to Egypt. Despite there still being many criticisms of the legal framework in England and Wales, the laws have significantly improved in order to protect the safety of survivors. Abusive patterns other than physical abuse are recognised and criminalised and there are also civil remedies which allow survivors to obtain injunctions for protection from their abusers. Unfortunately, despite the improvements, not all survivors are able to get justice or safety. This is mainly due to the fact that domestic violence is one of the most under reported crimes. Out of the many incidents brought to court, only a few of those cases result in convictions, it has been reported that the conviction rate decreased from 76.4% in 2023 to 75.8% in 2024.<sup>28</sup> As seen in the case of *Commissioner of Police of the Metropolis v DSD*<sup>29</sup> the UK courts ensure that anyone including authorities are held accountable for breaching human rights, showing how well the Articles of ECHR are domesticated and implemented in England and Wales. This shows that even though there are still many issues surrounding domestic violence, the legal frameworks show a commitment to improve justice and safety for survivors.

In comparison, the legal frameworks in Egypt are very limited and are not as strong or effective in protecting survivors of domestic violence. There is no legal definition for the term domestic violence let alone any remedies or protection orders for survivors. This leaves victims to suffer in silence and endure the abuse especially since it is very difficult for Egyptian women to get a divorce considering that many are not financially independent

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<sup>28</sup> Office for National Statistics, 'Domestic abuse and the criminal justice system, England and Wales: November 2024'

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabuseandthecriminaljusticesystemenglandandwales/november2024#:~:text=> [Accessed 10 May 2025]

<sup>29</sup> *Commissioner of Police of the Metropolis v DSD and another* [2018] UKSC 11

enough to afford necessities such as housing and food for themselves or their children.

Societal and cultural restraints, lack of information, and fear of being impoverished with no support systems make it difficult for many women to get a divorce leaving them no option but to endure the violence.<sup>30</sup> In 2021, it was reported that the rate of domestic violence is up to 86% by the national council for women in Egypt.<sup>31</sup> Furthermore, the gaps and loopholes present in Egyptian law protect the abusers more than the actual victims, for example the ‘acts of good faith’ clause in Article 60 of the penal code and the ignorance surrounding marital rape. The law in Egypt only succeeds in protecting survivors if they have proof of severe harm and their reservations of Article 2 and 16 of CEDAW further show the lack of compliance with international human rights law, overall failing to recognise domestic violence as a serious issue and failing to protect survivors.

However, it is important to note that even if changes were made to laws regarding domestic violence such as criminalising psychological abuse, economic control, coercion, and marital rape, significant issues of enforcement would still remain. This is not only because of the Egyptian population being accustomed to treating domestic abuse as a private matter but also due to the fact that Egyptian authorities usually dismiss such claims or do not even take them seriously in the first place. If change is to be brought about, it must be done so properly, education and awareness of domestic violence should be public and available for everyone, authorities should be trained in order to change dismissive attitudes towards such grave human rights violations, and women should be given support and protection in the case of divorce or separation.

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<sup>30</sup> Human Rights Watch, ‘*Egypt: Divorced from Justice – Condemning Women to a Life of Violence*’ (2004) <https://www.hrw.org/reports/2004/egypt1204/6.htm#:~:text=Egyptian%20women%E2%80%99s%20unequal%20access%20to,abuse%20the%20more%20practical%20choice> [Accessed 10 May 2025]

<sup>31</sup> Wilson Center, ‘*The Renewed Fight to Prevent Domestic Violence in Egypt*’ (2023) <https://www.wilsoncenter.org/article/renewed-fight-prevent-domestic-violence-egypt#:~:text=Observatory%20of%20Crimes%20of%20Violence,By%202021%2C%20Egypt> [Accessed 10 May 2025]

The comparison of both legal frameworks highlights the importance of not only enacting laws and reforming laws but also the importance of proper enforcement and implementation. While the laws in England and Wales are strong, there is still need for improvement, in the handling of cases with more sensitivity and care as to not re-traumatise survivors while going through proceedings in court. On the other hand, strengthening protection for survivors in Egypt may require significant change going against societal norms by promoting a positive change in attitudes regarding disciplining a wife. This is difficult however, the increase in activists for women's rights and for protection against domestic violence are slowly but surely prompting further discussions about such matters, encouraging the government to recognise and form judicial committees to bring about change.<sup>32</sup>

## **Conclusion**

In England and Wales, despite ongoing challenges, the legal frameworks offer survivors many routes to get justice and many protection measures while in Egypt the legal frameworks leave many survivors with any remedies or justice. It is clearly seen that domestic violence is treated as a serious concern in England and Wales, the Domestic Abuse Act 2021 provides legislation in order to place protective and supportive measures for survivors. However, domestic violence is not taken seriously in Egypt, as it is still viewed as a private matter rather than a criminal matter. Furthermore, Sharia Law greatly influences how Egypt enforces their laws which greatly sets the state back from fully implementing human rights laws. This however is not due to sharia law in itself but rather due to conservative interpretations of sharia law, proven by Quranic verses which specifically state not to deliberately harm a wife.

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<sup>32</sup> Wilson Center, '*The Renewed Fight to Prevent Domestic Violence in Egypt*' (2023) <https://www.wilsoncenter.org/article/renewed-fight-prevent-domestic-violence-egypt#:~:text=Observatory%20of%20Crimes%20of%20Violence,By%202021%2C%20Egypt> [Accessed 10 May 2025]

The legal frameworks of England and Wales are not perfect in any way however, the acknowledgement of issues of domestic violence and constant reform of laws surrounding the issue show that strong efforts and being made to protect survivors. In comparison, the legal frameworks of Egypt have indicated no proper acknowledgement or changes in order to protect survivors. The laws remain the same and offer no safe way out for women who are suffering abuse, women are still unable to get justice due to valid fear of being dismissed and if taken to court, claims of 'acts of good faith' would allow the abuser to walk free ultimately putting them in even more danger than before attempts to seek justice.

In conclusion, to enable further protection for survivors of domestic violence, along with changes and improvements in legislation, society and authorities must also be committed in upholding human rights for all and ensuring that survivors get justice. The legal frameworks of England and Wales have overall substantially improved protection available and accessible for survivors however, Egypt's legal frameworks remain ineffective and signify a need for reform in order to protect survivors of domestic violence.

**[3267 words]**

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