

**THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE IN INDIA  
IN CONTEXT OF COVID-19**

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**ABSTRACT**

*Violence is one of the most significant concerns affecting women's rights. It has been prevailing since years and it entails various forms including physical, mental and economic abuse. The impact of Covid-19 has resulted in the worsening of the situation. This paper examines existing scenario of women's conditions in India including the causes of domestic violence. It provides an overview of the Protection of Women from Domestic Violence Act and its main features and how it has evolved recently. It then examines the impact of Covid-19 on the situation of women, how it has affected domestic violence and the reasons behind it. It ends with suggestions on how the situation can be handled better.*

**Keywords:** *Domestic Violence, Protection of Women from Domestic Violence Act (2005), Covid-19, Lockdown, Socio-economic causes.*

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## INTRODUCTION

Domestic violence encompasses several forms of abuse. "Physical Abuse" is defined "as any act or conduct that causes bodily pain, harm or danger to life, limb, or health, or impairs the health or development of the aggrieved person". This includes assault, criminal intimidation, and criminal factors. The term "Sexual Abuse" refers to any sexual act that violates a woman's dignity in any way like humiliation, abuses, etc. even if happens within the context of a marital relationship. "Verbal and Emotional Abuse" include insult, mockery, name calling, and any other kind of humiliation, particularly in relation to not having a kid or a male child.<sup>1</sup>

On the one hand, the law has strict protections for women against all forms of abuse, yet domestic violence has been a part of Indian culture from time immemorial. Domestic violence is India's most unseen crime. It continues to languish behind the curtains of Indian households since forever. Within the ostensible safety of their homes, women are being slapped, their arms are twisted, and their hair pulled. While such conduct is first regarded as illegal, it suddenly transforms into acceptable behavior inside the family, which is then justified by not only the perpetrator but also by the victim themselves. According to the majority of women living in urban slums, it is acceptable for their husbands to beat them if she "disrespects" his family, neglects the home or the children.

It has been noticed that unhappiness with the dowry is the most typical reason for assault. Dowry demands cause women to suffer constantly in her own home. When requests are not met, it becomes even more violent. There are horrifying instances of young brides being physically mistreated or subjected to persistent harassment for failing to pay the dowry. Even in the most trivial household affairs, they have no voice. For disagreeing with their spouse or other family members, they are beaten. They are unable to decline or deny physical contact for any reason. They are punished for the smallest negligence of a kid, leaving the house without informing their spouse, or not cooking correctly or on time. Infertility has often resulted in their spouse and his relatives assaulting them. The desire for a male kid is also a leading cause of persistent harassment. During the course of the investigation, it became apparent that women feel tormented even when their suspicions about their husbands' extramarital affairs are justified.

The combination of alcoholism, financial hardship, illiteracy, and a big family has been one of the leading causes of domestic violence. Despite the fact that society views women as nothing more than a commodity to be purchased and used at will, certain gender-related facts were very strange. It is notable that women believe that, after marriage, they become their husband's duty. The socialization process in India has been such that women do not complain to their limited

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<sup>1</sup> The Protection of Women from Domestic Violence Act, 2005, § 3, No. 43, Acts of Parliament, 2005 (India)

autonomy. In addition, they agree and accept that once married, their husbands have the social and legal right to abuse their wives.

### **THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005**

Domestic violence against women is a pervasive phenomenon across diverse cultural, economic, age, and social strata in every nation. Women are the most marginalized and vulnerable members of society. They are the soft targets for a variety of illegal and repressive actions in numerous aspects of social life. Domestic Violence is a substantial issue for people whose lives are impacted by it, for the social, health, and criminal justice organizations that react to it, and for society as a whole, which must shoulder the costs. Domestic violence against women is regarded to be a condition that is encouraged and promoted by gender norms and attitudes that put women in a subservient position to males. Domestic Violence is associated with women's disadvantaged status in society, particularly in marriages. It is a substantial impediment to women empowerment.

The purpose of the DVA is to give effective protection to vulnerable and homeless victims and to defend the constitutionally protected rights of women. The legislation's name is quite provocative. In consideration of Articles 14, 15, and 21 of the Indian Constitution, the Domestic Violence Act was adopted.<sup>2</sup> Article 15(2) of the Indian Constitution states that the government may establish specific measures for women and children.<sup>3</sup> The purpose of the DVA is not to terminate the marriage, but rather to strengthen, preserve, and sustain the relationship.

During the 2005 monsoon session, the Domestic Violence Bill, which had been languishing before the Lok Sabha for many years, was finally approved. Bill no. 116 of 2005, which is now formally titled The Protection of Women from Domestic Violence Act, 2005. It has several amendments that rectify severe deficiencies that existed in the original act along with judicial interpretation by the Supreme Court to extend the provision of this act to as many victims as possible.

### **FEATURES & ANALYSIS OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005**

Legally speaking, if a woman is provided moveable or immovable assets like jewels, shares, stocks, bonds, and other assets including her stridhan, she is allowed to utilize them. Therefore, withholding of any pecuniary resource that the aggrieved person is entitled to under law and custom, is a form of economic abuse and is as an offence according to DVA.

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<sup>2</sup> INDIA CONST. art. 14, 15, 16, cl. 2.

<sup>3</sup> INDIA CONST. art. 15, cl. 2.

Although the law is strict and obligatory regarding equal ownership of financial assets by women in reality, the situation is the exact opposite. She has no control over her in-laws' home or even the dowry that was provided by her parents. She is not entitled to any of her father's money, property, or other possessions. In fact, many women confessed that they had no say not just in her husband's salary but also in what she makes. The evidence shows how far the legislation can be implemented successfully even if she doesn't have any financial resources or assets in the regular run of events.

The law also allows for the appointment of Protection Officers in order to simplify and open up the court system. Many states have yet to make such appointments, and even if they have, many women from affluent and educated families are unaware of their existence. Moreover, because the protection officers serve as the first line of defense in cases of violence, they often act as a barrier to a woman attempting to file a lawsuit. Another crucial player in the legal system, the police have a complicated view of women in these kinds of situations.

In addition to the low frequency with which police employees file a complaint, the case lacks pertinent evidences, which diminishes its intensity. Even more worrisome is the fact that women who have filed complaints allege that the police dismiss their cases by accepting bribes or colluding with their husbands. The protection officers' clear lack of comprehension of domestic abuse as defined by the Protection from Domestic Violence Act has several ramifications. For instance, although evident physical violence may be recognized and addressed, mental and verbal abuse are often disregarded, and sexual violence inside marriage is entirely overlooked as a problem. Thus, the actual procedure stands in stark contrast to the statutory requirements.

Many of the act's requirements are unknown not just to those living in slums, but even to literate members of society. No sensitization curriculum is disseminated among police and judicial service personnel, particularly at the lower levels, in order to foster concern, raise awareness, and accelerate the justice delivery process. Numerous parts of this statute remain unknown to a substantial portion of the police force. Due to a lack of government training programs and a patriarchal worldview, they do not consider these actions to be unlawful. It would not be incorrect to state that despite the fact that the Act intends to give protection to women in every manner possible, the justice delivery process is proving to be a pipe dream due to lax implementation.

Another important clause made in the law is “Right to Reside in Shared Household”<sup>4</sup>

- “Every woman in a domestic relationship shall have the right to reside in shared household, whether or not she has any right, title or beneficial interest in the same.”

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<sup>4</sup> The Protection of Women from Domestic Violence Act, 2005, § 17, No. 43, Acts of Parliament, 2005 (India)

- “The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent in accordance with the procedure established by law.”

Although the section guarantees a woman's right to remain in her house even if there is a conflict there and her case is pending, the legislation fails to ensure its implementation. The law states that no one can compel a woman to leave her house, but in practice, after the case is filed, neither her in-laws nor the police and administration make any effective attempts in this regard. The law's provisions provide the idea that, if a complaint is filed, women may be eligible for monetary redress as provided. However, the facts strongly contradict the legislation. Initially requesting for financial aid is a difficult undertaking for women. And if an application is made, the mechanism for administering justice becomes much more arduous and time-consuming. There are several instances in which women who have endured domestic abuse and have had their claim for monetary redress dragged out for years. The law as a whole seems to collapse without any effective enforcement, ultimately increasing the victim's suffering. Such a delay in justice destroys the dreams of already-suffering women and erodes their will to fight the system.

## **IMPACT OF COVID-19 ON DOMESTIC VIOLENCE**

The belief that "domestic violence increases anytime families spend more time together, for instance around the Christmas and summer holidays," was proved during the pandemic. Nations were forced to put social distancing norms to avoid the spread of the virus further. The numbers show that there was an increase in domestic violence. The lack of financial security and a lack of contact with people outside the home have led to violence even in families with no previous record of abuse. According to studies, high levels of stress among couples increases the likelihood of violence by 3.5 times. Another factor contributing to domestic violence is a change in responsibility. People with abusive partners are exposed to more chances for abusers to torment them when their duties shift.

While there may be more causes for the increase in domestic violence due to Covid-19, it is evident that domestic violence leads to economic and societal issues. Prior to Covid-19, victims of social crises had could seek aid from family and friends, shelters, and even legal help against abuse is not easy to access. At the time of lockdown, these alternatives become less accessible given that victims cannot leave the house. The violence and misery they endure gets worse. Second, marital violence will have major effects on children. There is a loss of childcare which leads to further stress which also affects the well-being of the children. Including their nutrition, education, and overall development. In addition, greater parental violence and poor interactions caused by the lockdown may have psychological effects on children. With lockdown in effect

sufferers may lose their social connections and the ability to communicate with social counterparts. The support of people at work is essential in assisting victims of domestic violence. The work-from-home or remote working policy is affecting people's social circles, and, most importantly, cutting victims off from in-person support teams and making it difficult for victims to survive abuse. These difficulties are especially increased for the socio-economically disadvantaged parts of the society, such as women belonging to the weaker social strata, and immigrants, who had difficulty accessing help even before the pandemic. Consequently, post-pandemic, the difficulties for these groups may intensify, and we may witness a world in which social inequities accelerate across various streams.

One of the distinctive characteristics of this situation is that economic difficulties are both causes and effects. It may be suspected, for instance, that the relationship between economic distress and domestic violence is caused due to mental illness. Despite the fact that establishing a causal link is difficult, it has been observed that the economic difficulties, and violence move simultaneously, although influenced by various other factors. Nonetheless, based on the observed rise in cases of domestic violence in the worst affected areas and the economic turmoil those regions are experiencing under the present situation, it can be concluded that the economic toll taken by the covid-19 crisis on people's mental health has resulted in an increase in domestic violence.

## **THE PSYCHOLOGICAL RAMIFICATIONS POST ABUSE**

The victims' plight, being trapped with their abusers, and the environment of uncertainty have all contributed to a rise in reports of domestic violence over the past few months, proving that lockdown has severe consequences. Victims experience a wide variety of forms of physical and mental violence. The mental anguish these victims experience is rarely acknowledged or even predicted, despite the fact that it is often as severe as the physical pain they feel.

Since economic and psychological stress disrupted people's natural and social habitats, and then they were sealed in, many of them felt helpless and defenseless.<sup>5</sup> Abusers now resort to mental and physical abuse as a means of making up for their previous inability to control the situation. Bite marks, scrapes, bruising, blindness, hearing loss, stab wounds, and potentially fatal STDs are just some of the physical traumas that have been documented among the victims. Nearly half of the women who reported being abused in a domestic violence research were found to be underweight.<sup>6</sup>

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<sup>5</sup> Shelly M. Wagers, *Domestic violence growing in wake of corona virus outbreak*, THE CONVERSATION, (Apr.08, 2020, 10:11 PM), <https://theconversation.com/domestic-violence-growing-in-wake-of-coronavirus-outbreak-135598>.

<sup>6</sup> Leland K. Ackerson and S.V. Subramanian, *Domestic Violence and Chronic malnutrition among women and children*, <https://academic.oup.com/aje/article/167/10/1188/232214>.

Women are also subjected to psychological abuse, such as insulting, belittling, and insults, threats of abandonment, threatening to harm a loved one, and general infidelity on the part of the husband. Abuse has more profound and unmet psychological repercussions. People who have been victims of domestic violence are often diagnosed with depression and PTSD. It has been found that abused women tend to stay depressed for the rest of their lives, even after the abuse has stopped.

The prevalence of PTSD among women with a history of domestic abuse ranges from 30% to 81%, which is much higher than the prevalence of PTSD among all women.<sup>7</sup> The victims suffer from anxiety attacks on a regular basis. According to research, sexually assaulted women have been subjected to more severe physical abuse than battered women. In terms of psychiatric illnesses, there is no significant distinction between victims of marital and stranger rape.<sup>8</sup> A lack of self-esteem and fear of more abuse contribute to the victims' emotions of worthlessness and hopelessness, which in turn lead to suicidal ideation. Victims may experience a sense of isolation and loneliness if they do not have access to social and emotional support.

Due to the pandemic, several women have lost their careers and sources of income. This has resulted in the loss of some of these women's autonomy. Multiple studies cite "economic dependence" of women on their husbands as the primary reason why women remain in violent relationships. As a result of their lack of autonomy, women have come to accept being manipulated by their abusers. As a result of being stuck with their abusers, women have little to no possibility of receiving assistance or finding refuge, and they must resist their abusers while being cut off from all support.

## **EXISTING SCENARIO IN INDIA**

During the early phase of Covid-19, The National Commission for Women (NCW) spread awareness through various forms of media to encourage women who have experienced to report any form of assault that they might be suffering. In addition to reviewing complaints submitted through standard channels, the NCW introduced a WhatsApp line for reporting domestic abuse cases on April 10, 2020. The increased reporting options by NCW were useful in the reporting of these instances, particularly those from women who have been experiencing domestic violence for a long time. NCW responds to reports by communicating with victims, law enforcement, and other authorities to provide required help.

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<sup>7</sup> Mindy B. Mechanic and Terri L. Weaver and Patricia A. Resick, *Mental Health Consequences of Intimate Partner Abuse: A Multidimensional Assessment of Four Different Forms of Abuse*, NCBI (2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2967430/#R31>.

<sup>8</sup> Jennifer A. Bennice and others, *The Relative Effects of Intimate Partner Physical and Sexual Violence on Post-Traumatic Stress Disorder Symptomatology*, NCBI (2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2981038/#R16>.

“Police and Public Order” are State topics according to the Schedule VII of the Indian Constitution. The primary responsibility for maintaining law and order, protecting the lives and property of citizens, and preventing domestic abuse against women therefore lies with the State and Union Territory Administrations. Despite this, the Central Government has taken various measures in the previous six months to ensure the protection of women and accorded the matter as a high priority. The Government has ensured that their “Emergency Response Support System (112)”, “Universalization of Women Help Line (WHL)”, and “One Stop Centres (OSCs)”, along with various authorities under women-centric laws remain available to safeguard women. To this end, the government has also implemented initiatives to educate the relevant officials of states and territories.

It was reported that in 2021, the NCW observed a significant rise in complaints regarding harassment and domestic abuse. It was stated that “in the second year of the epidemic, the commission received 30,865 complaints, of which 72.5% (22,379) fell into three categories: securing their right to live with dignity (36%), protection from domestic abuse (21.6%), and harassment of married women, especially for dowry (15%). 51.3 percent of all complaints across 24 categories are from Uttar Pradesh, followed by Delhi (10.8) and Maharashtra (4.4 percent). Compared to the previous year, the overall number of complaints received in 2020 increased by more than 30 percent, from 23,722 to 30,865. In 2020, approximately 70% of all complaints fell into the three categories that have garnered the most complaints this year”.<sup>9</sup>

## **INDIA’S RESPONSE TO THE INCREASE IN THE INCIDENTS OF DOMESTIC VIOLENCE DURING COVID-19**

The first lockdown was accompanied by a sharp increase in complaints filed with the National Commission on Women (NCW). In India, the number of domestic abuse cases doubled during the first week of March and the beginning of April compared to the previous year.<sup>10</sup> While most countries had implemented several safety precautions in anticipation of an increase in domestic abuse cases, the NCW did not release a dedicated WhatsApp helpline number until April 10. Numerous more helpline numbers by other central and state governments followed. In the initial lockdown period beginning on March 25, 2020, the Courts restricted their operations to video-conferencing only for the handling of urgent and essential cases. Protection of Women

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<sup>9</sup> Ambika Pandit, *Domestic violence complaints to NCW rose 26% last year*, THE TIMES OF INDIA, (Jan. 17, 2022), <https://timesofindia.indiatimes.com/india/domestic-violence-plaints-to-ncw-rose-26-last-year/articleshow/88939556.cms>

<sup>10</sup> Jagriti Chandra, *National Commission For Women Records A Rise In Complaints Since The Start Of Lockdown*, THE HINDU (Apr. 03, 2020), <https://www.thehindu.com/news/national/nationalcommission-for-women-records-a-rise-in-complaints-since-the-start-of-lockdown/article31241492.ece>



from Domestic Violence Act 2005, which is the main law that deals with domestic violence, is a civil law. So, the Court did not entertain matters filed under this statute.

The Ministry of Information and Broadcasting requested that all radio stations and commercial satellite television channels evaluate information regarding the Emergency Response Support System (121) working for the safety of women and women in precarious situations.

The High Court of Kashmir took suo motu cognizance in the case *Court on Its Own Motion v Union Territories of Jammu & Kashmir and Ladakh*<sup>11</sup>, regarding the increase in domestic violence cases in the state. In its verdict the court recommended various measures, such as the availability of call-in service to provide anonymous reporting of violence, and to establish a fund to dedicate to providing remedial and preventive measures to curb violence against women and girls in Jammu and Kashmir. It stated that shelters should be made accessible and open. It introduced “informal safe zones” for women. Safe zones are places where domestic violence or harassment can be reported without alerting the perpetrators. These include locations such as local pharmacies and convenience stores. In addition, online legal and counselling help for girls and women was recommended to be increased.<sup>12</sup>

Theoretically, these procedures appear feasible, but their practical implementations are still lacking. It was observed that women from disadvantaged neighborhoods had fewer opportunities to reach out. In addition, the women's advocacy organizations pointed out that the NCW only received complaints by email and WhatsApp (and no longer by post). Few segments of the enormous demographic segment of women have access to and are literate in the usage of these technologies. The NCW president further observed that the commission (NCW) received the majority of complaints not by mail but by post. The government did not address the disadvantages of lockdown when implementing tight laws to ensure an effective lockdown; as a result, there are no specific exemption provisions for victims of domestic violence.

## **SUGGESTIONS**

The legislation regarding women's rights needs to be enforced effectively. Mere words do not ensure women their rights and therefore proper execution mechanisms need to be established by the governments at the grassroot levels. As can be observed from certain aforementioned instances, it is clear that those implementing the provisions are themselves unwilling to comply due to pre-existing personal beliefs. There is a need to improve the legal and institutional framework.

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<sup>11</sup> Court on Its Own Motion v. Union Territories of Jammu & Kashmir and Ladakh, WP (C) PIL No. 14/2020

<sup>12</sup> Nomfundo Ramalekana and Aradhana Cherupara Vadekkethil and Meghan Campbell, *Increase Of Domestic Violence*, OX. H. R. HUB (2020), <https://ohrh.law.ox.ac.uk/wordpress/wp-content/uploads/2020/06/OxHRHSubmission-to-UNSR-on-Violence.pdf>.

Awareness needs to be spread regarding women's rights. Even today women are brought up surrounded by the belief that domestic violence is a common and normal occurrence and needs to be accepted. Such beliefs need to be eradicated in order to bring change in society at large. Instead of convincing women to be compliant to such behavior they should be educated, made self-reliant and independent.

Lobbying of NGOs as a means to counsel and assist victims of violence is an effective method to reach the grassroot levels of society and spread awareness as well as provide assistance. Considering the appalling execution of the provisions established by law, NGOs provide a recourse to women to demand for their rights and receive much needed support in such situations.

## **CONCLUSION**

All types of violence have a negative effect on society. Brutality against women may be confined to their homes, where they succumb to the violence they suffer. The Domestic Violence Act contains stringent restrictions to tighten the noose around perpetrators of such abuse and encourages the victim to expose the wrongdoing, as well as assist and rescue them. It provides inspiration and a glimmer of hope to struggling women. But for that law enforcement authorities, the courts, and corrections/probation agencies need to implement the existing law. Collaboration between the legal mechanisms and NGOs should be encouraged to combat the phenomenon of domestic violence.

Domestic violence is increasingly seen as a public health issue of pandemic proportions throughout the globe, and it has only gotten worse during the Covid-19 pandemic. Several public, private, and government institutions are observed exerting enormous efforts to combat it in India. Despite such rigorous rules enacted under a law with a dynamic emphasis on gender, women of all ages face assault. Complexity makes addressing violence inside the threshold of their homes and in public settings a formidable task. The task has become even more difficult during the pandemic since women cannot approach outside help and stuck in the place of their plight. Similar to the issue existing before the pandemic, implementation is key to redressing the issue of domestic violence and must therefore be ensured.