

## COVID-19 AND THE LEGAL EFFICIENCY VERSUS DOMESTIC VIOLENCE

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### ABSTRACT

*With the progression in society, communication has increased amongst persons, leading to conflicts and difference of opinions stemming from an upsurge in crimes and India is an example of this. Domestic violence is categorized to be a detrimental form of crime and its repercussions faced by the victims have left a scar on them. According to the Protection of Women from Domestic Violence Act, 2005, Section 3 defines domestic violence as, if it harms or injures or endangers the health, safety, well-being or life, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical, sexual, verbal, emotional and economic abuses or harasses the aggrieved person with the purpose of coercing her or any other individual related to her to satisfy any unlawful demands for dowry or valuable security or otherwise cause injury whether physical or mental towards the aggrieved person, PWDVA, 2005 (§ 3, No. 43). In 2020, when the pandemic was rapidly increasing in India and lockdown was announced, since then, the number of cases of domestic violence against women have rapidly increased and the rate at which the cases have increased, are more than the last five years. The researcher wants to discuss factors that help in understanding the increase in the cases during the Pandemic. The researcher also wants to elaborate on reformative techniques for being able to tackle the challenges imposed. The researcher aims towards attempting to bring out the reality and address the issue at hand.*

**Keywords:** Domestic Violence, Women, Covid-19, India, Lockdown.

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## INTRODUCTION

It is a myth to think of a crimeless society. There can be no society without the existence of crime and criminals.<sup>1</sup> Crime has existed for a very long time since civilization has been there. It is true that when we hear about crime and criminals, it is considered to be looked upon with hatred and fear. There is the need for having ways and means to curb the tendencies that can lead to violating the peace and order of the society. For this reason, when a person commits a crime, the person is considered to be a wrongdoer and is punished for the crime committed under the law. Once the wrongdoer is punished, he/she is supposed to pay compensation but in certain situations, along with paying compensation, the State levies penalties in order to maintain peace and welfare of the society.<sup>2</sup>

Domestic violence is one of those crimes. It is a detrimental form of crime that affects the victim in many ways possible and it leaves a scar on them for a really long time. Domestic violence is considered to be as old as history has been maintained and it is witnessed in every society. India is a patriarchal society, where women have been oppressed both physically and mentally, objectified, discriminated and victimized in every sort of way. Domestic violence<sup>3</sup> can be defined as, if it *harms or injures or threatens to harm the aggrieved person's health, safety, well-being, or life, whether mental or physical, including physical, sexual, verbal, emotional, or economic abuses or harassing the aggrieved person with the intent of coercing her or any other individual related to her to satisfy any unlawful demands for dowry or valuable security, or otherwise causes injury, whether physical or mental, to the aggrieved individual.* The Covid-19 pandemic has affected every individual and it has been a tedious and stressful situation to tackle. With the changing situation and the pandemic, it also called upon drawing attention towards addressing the rise in cases of Domestic violence against women. The pandemic-induced lockdown, as well as its social and economic consequences, has increased women's exposure to violent spouses and other factors, while also restricting their access to services. Since the Pandemic, the number of complaints to authorities seeking civil, out-of-court relief has risen significantly, while the number of First Information Reports filed with the police and the number of legal actions initiated has declined.

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<sup>1</sup> Prof. N.V. Paranjape, *Criminology, Penology Victimology*, 3, Central Law Publications, 2017.

<sup>2</sup> Prof. S.N. Misra, *INDIAN PENAL CODE*, 1, Central Law Publications, 2022.

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

## **OBJECTIVES**

- To be able to draw a relationship between Covid-19 and Domestic Violence against women.
- To study the factors during pandemic that led to increase in cases of Domestic Violence against women.
- To be able to suggest reformative measures to reduce the cases of Domestic Violence against women.

## **RESEARCH QUESTIONS**

- What are the causes for increase in the cases of domestic violence during Covid-19 amidst the lockdown?
- What could have been done and what is the way ahead to tackle the issue of domestic violence?

## **RESEARCH METHODOLOGY**

The researcher delves into the title further by dividing it into various sub-topics which are inter-connected and held to be significant. There are aspects of the theme and topic chosen that require sensitivity and relevance. The researcher has analyzed the gaps, challenges, studies that have been conducted, suggestions for improvement, and explored other aspects of the study.

The researcher has used relevant information with regards to the issue and by emphasizing on the research questions mentioned above, and the need to address the issue with transparency. The researcher by doing so is trying to attempt to focus on the objectives, issues that have to be tackled and to understand the reality.

The researcher with the research has strived to discuss the definition, hypothesis, objectives, factors present, the rise of cases of domestic violence during the pandemic, legal measures taken and then suggestions were made solely on the basis of the research paper and what could have been done and what is the way ahead.

The researcher has used secondary data for the research and has collected information from different sources. The researcher has aimed towards using reliable data while researching for the research paper. The researcher has collected information from government institutes, articles, research papers, organizational records, statutes and from books.

## **DOMESTIC VIOLENCE IN INDIA DURING COVID-19**

The lockdown slogan “Stay Home. Stay Safe”, was reassuring for a lot of people but for others, mainly women who were victims of domestic violence, it was traumatizing and terrifying for them.

India has been under lockdown since 23rd March 2020 as a result of the rise in cases of COVID-19. With a rapid rise in the number of Covid-19 cases in India, there was attention drawn towards the increase in cases of domestic violence against women. 257 grievances have been filed with the National Commission for Women<sup>4</sup> in India during the first week of the lockdown.<sup>5</sup> Between 23rd March and 16th April, 587 calls were received, an increase of 48 percent from 396 calls between 27th February and 22nd March. There was a 92 per cent rise in cases of domestic violence since end of five weeks of lockdown being announced.<sup>6</sup> Domestic violence cases reached the highest volume in the ten-year record by the end of May.

Covid-19 conditions are comparable to those experienced during tragedies, such as job loss, a lack of social support, economic and financial distress, and so on. These perpetrators then used pain and cruelty to vent their frustrations on women. The underreporting of domestic violence instances, where 90% of victims<sup>7</sup> would seek help from social support, friends, or family members, was not one of the things that helped during the nationwide lockdown.

The perpetrators and victims were in close contact which can increase violence in combination with social isolation. Before the pandemic, women and children already faced widespread barriers, challenges, and complex choices that could not have been avoided. These flight challenges are aggravated as movement diminishes during a pandemic, especially due to social distance measurements, financial instability, and disruptions in daily life. Perpetrators may also be aware that help is not at hand, thus increasing their control behaviour.

Women were locked in with their abusers who repeatedly abused them physically, mentally, sexually, and emotionally. This also led to the physical injuries being caused like bite marks,

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<sup>4</sup> Suman Singh, Rituparna Bhattacharya, *A Review of Domestic Violence against Women in India during Lockdown*, IJICC, 4, (2020)

<sup>5</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR). n.d. COVID-19 and the increase of domestic violence against women. [online] Available at: <https://www.ohchr.org/sites/default/files/2022-01/india-womens-r-network.pdf> [Accessed 18 July 2022].

<sup>6</sup> Supra 5

<sup>7</sup> (Mohanty and Mohanty, 2022)

bruises, loss of vision, knife cuts, cuts and other forms of injuries. It was also said that 50 per cent<sup>8</sup> of women afflicted to domestic violence were malnourished in India.

The use of drugs and alcohol, has long been recognized as a risk factor for intimate violence. Economic instability and poverty-related stress are associated with inadequate coping skills and can lead to increased substance use. The onset of the pandemic itself is associated with hypersensitivity, anxiety, fear, sadness, anger, or boredom in the individual using the substance. Negative emotions can cause abstainers to relapse or intensify their use of existing substances. Due to withdrawal symptoms and mood swings associated with substance use, as well as being unable to go out because of the use of alcohol or drugs, domestic violence can increase.

During the lockdown, it was very difficult for a woman to speak on the phone without suspicion. It is difficult to reach some of the sources of assistance normally available to women, as it may reduce hotline services, crisis management centers, emergency shelters, legal assistance and protection services. A blockade can also make it difficult for individuals to access sexual and reproductive health services.

Among women with a history of domestic violence, PTSD rates ranged from 30 percent to 81 percent, which is considered high.<sup>9</sup> This leads to recurrent episodes of anxiety attacks. Depression in abused women has been shown to have chronic and lifelong effects, even if they have not been abused for long periods of time. The victim's feelings of worthlessness, hopelessness, vulnerability, lack of self-esteem, and uncertainty of the future would lead to suicidal tendencies. The lack of emotional support and isolation during the pandemic also left the victims alone.

Due to the current constraints and anxiety caused by the COVID-19 pandemic, family members may be unable to provide the assistance that they would usually provide. For victims of domestic violence, law enforcement officials and medical professionals are often the first people they contact. COVID-19 has posed a significant threat to the country's health-care system. As a result, women who have been abused have little or no chance of asking for help or finding safety, and they fight their abusers alone, without any support.

## **FACTORS ASSOCIATED WITH DOMESTIC VIOLENCE DURING COVID-19**

Domestic violence has many causes. Domestic violence is influenced by several factors, including biological and personal factors, as well as the quality of relationships. Unfortunately, the economic situation is making matters worse. Low incomes have a strong correlation to

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<sup>8</sup> Leland K. Ackerson, S.V. Subramanian, *Domestic Violence and Chronic Malnutrition among Women and Children in India*, Oxford Academic (26 Mar. 2008), <https://academic.oup.com/aje/article/167/10/1188/232214>.

<sup>9</sup> *Supra* 7

domestic violence. Studies have shown that people with low incomes and low education levels are more likely to commit domestic violence.

It is observed that vocational training, education and employment to girls will impart them with assets with a view to lessen the threat of destructive reproductive fitness outcomes. However, any such approach might likely conflict with the already set up social norms and expectancies which might lead to increase in domestic violence. India is an example wherein 75% of working women are abused due to their employment status.<sup>10</sup> An employment status refers to the rights and protections that employees are entitled to at work. The employment status determines the responsibilities that an employer owes to the employee.

Inequality between men and women is also a factor that contributes to domestic violence. Violence is viewed as a means of enforcing deeply ingrained female power disparities. Men have been known to sexually, physically, and psychologically abuse their female partners because they believe they have the right to do so. Furthermore, men's unemployment in a society where they are trained to be the household's financial provider impacts their male ego, leading them to resort to violence to demonstrate their manhood.

Indeed, because couples are separated for a substantial part of the day, employment is an important factor in preventing or reducing domestic violence. Due to the COVID-19 lockdown, people have been forced to stay at home with their spouses. Lockdowns do not discriminate based on gender despite the fact that they cause unemployment. A number of women have been placed in danger, both financially and physically, even if only temporarily. Despite the fact that women could stay with their parents and away from abusive husbands, these problems still existed.

Several studies<sup>11</sup> have found a strong correlation between alcohol use and gender-based DV. In India, more than 160 million people drink alcohol, with more than 27% of men doing so. During the lockdown, however, drinking has proven to be a "double-edged sword." These studies have been done by various authors. According to several complainants<sup>12</sup>, restricting access to alcohol intensified men's frustration, leading to Domestic violence against their family's women. Many women called in to complain about their drunken husbands abusing them, their children, or both. Domestic violence has been aggravated by movement restrictions imposed to curb the spread of the virus. Globally, domestic violence has risen dramatically due to the lockdown measures put in place by numerous countries to combat the Coronavirus outbreak. The populace has been confined to their homes as a result of the epidemic, which has resulted in a rise in domestic violence, making it more common and hazardous.

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<sup>10</sup> Supra 5

<sup>11</sup> Supra 5

<sup>12</sup> Supra 5

This depicts a frightening picture of how the crime is unnoticed and the perpetrators continue to victimize the victims, causing physical, emotional, and psychological harm. The inability of the victim to report the crime due to the offender's fear and their incapacity to walk away from the perpetrator is considered to be the main reason for the crime being unreported. Gender inequity, as well as the culture of elevating the husband and prioritizing family over personal issues, have always been engrained in women. As a result, it has become critical to ensure that victims are safeguarded from abusers and that they receive shelter help until they are self-sufficient.

## **MEASURES**

- In the past, the Indian government used legislation, such as the Protection of Women from Domestic Violence Act, 2005, to try to reduce domestic violence. There is an immediate need for legislative, judicial, and executive action in response to the current surge of distress calls as a result of the Covid lockdown and women being locked in with their abusers.
- This issue was addressed by the upper house of the country's legislature, which voted in favor of a bill that allocated one-third of state and national legislatures to women. The study also highlights the importance of introducing comprehensive legislation to protect women from violence and assist survivors if an Indian government had more women at its helm.
- State governors such as those in Odisha, who are currently on state-wide lockdown, have issued instructions on how to file FIRs regarding domestic violence. To file a police complaint, survivors are not required to attend the police station. Rather, the police will act immediately after receiving the call by filing an FIR and taking appropriate action. Survivors can also contact them through the Odisha Police Citizen Portal and the Sahayata Mobile App.
- The National Commission on Women (NCW) has also developed a dedicated WhatsApp SOS alert number for women experiencing domestic violence at home. This is available to anyone who is unable to send an email or use social media during the lockdown. If the complainant sends a WhatsApp message, the Commission will offer assistance.
- As part of the Ministry of Information and Broadcasting's emergency response support system (121), all radio stations and commercial satellite TV stations have been asked to review information about the system.
- Among the directives issued by the Jammu and Kashmir High Court on April 18, 2020 were the setting up of special funds and the designation of informal spaces where women could report abuse without alerting the perpetrator.

It is clear, however, that these remedies will not suffice. In order to eradicate the tragedy of domestic abuse that includes denials of medical care and deprivations of it at the national level, a multifaceted approach is essential.

## SUGGESTIONS

- It is crucial to inform citizens about the heightened risks associated with domestic violence. In addition, it is essential to encourage neighbors and bystanders to intervene if they suspect abuse by knocking on the door or ringing the bell. However, they should be granted anonymity if they report a case.
- In case of an escalation of violence, you should prepare a safety plan for yourself and your children. Keep a list of neighbors, friends, and family you can contact for help; have essential documents, money, and a few personal possessions on hand in case you need to leave right away; and plan how you will reach out for help (e.g., travel, location).<sup>13</sup>
- If people cannot submit complaints via SMS, mail, or phone calls, they must inquire about critical services, such as hospitals, food stores, and medical stores. In this way, they can get the assistance they need and, if necessary, communicate with the authorities. Pharmacists in France and Spain are being trained to recognize people being mistreated by using codewords - asking for mask 19 is a code for seeking assistance.
- Domestic violence shelters, NGOs, and feminist organizations should all be included on the list of essential services and allowed to function regardless of containment intensity. Similar provisions have been enacted in Quebec and Ontario, including domestic violence shelters as "vital services" during the lockdown time.
- In India, fifty-two hotline numbers have been set up, some of which are national and others which are state-specific. However, steps must be taken to make such phone numbers available to women all around the country. In addition, if a victim seeks help, free and immediate counseling over the phone should be provided, including information on possible escape plans and child care during abuse, to name a few issues.
- Domestic violence and other safety and hygienic measures related to COVID-19 must be widely publicized through nationwide and state-wide awareness campaigns.

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<sup>13</sup> United Nations. n.d. Domestic Abuse: How to respond? | United Nations. [online] Available at: <https://www.un.org/en/coronavirus/domestic-abuse> [Accessed 18 July 2022].



- India should initiate more programs like 'Nirbhaya Squad' but a more centric approach towards Domestic Violence and should have women, and police officials, to prevent detrimental crimes like domestic violence.
- More campaigns like the 'Bell Bajao' movement should be initiated if in case any indication is supposed to be given by any victim or witness who witnesses violence being carried out in their homes or their neighbors or anybody else in their vicinity or area.

These are some suggestions the researcher feels need to be implemented or improved. Since the Pandemic and the lockdown, mental health professionals and counseling are necessary, and the need for sensitization by the citizens needs to happen.

## CONCLUSION

The COVID-19 pandemic has created a serious crisis for everyone's quality of life on Earth. However, its effects on women have been unprecedented and harsher. Home containment, which was thought to be the best strategy for safeguarding the public's health and wellbeing, has exacerbated suffering for women. Due to the statewide lockdown, women were protected from acts of violence outside the home, but without much socio-legal support, they were increasingly susceptible to domestic violence.

The tendency that the domestic environment is still unsafe for most women is clearly demonstrated by the sharp increase in domestic violence cases reported in India's national news newspapers. However, even when the Pandemic is lifted and the threat of the pandemic has passed, the women who were harmed by the violence will always bear the scars of the brutality. Domestic violence instances have increased significantly worldwide, despite the fact that the previous study shows an increase in domestic violence in India (Evans, Hawk, & Ripkey; Mittal & Singh, 2020; Tadesse, Tarekegn, Wagaw, Muluneh, & Kassa, 2020; Usher, Bhullar, Durkin, Gyamfi, & Jackson, 2020).<sup>14</sup>

Women are particularly vulnerable to indirect socio-economic effects, such as economic insecurity and an increase in their caregiving responsibilities, which are covered under the socio-economic impacts section above, in addition to direct socio-economic effects because of their disproportionate presence on the front lines and higher rates of domestic violence. Women who are coping with complicated emergency situations are even more vulnerable. Thus, it is crucial to consider the effects of Covid-19 from a gendered viewpoint.

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<sup>14</sup> Maji, S., Bansod, S. and Singh, T., 2021. Domestic violence during COVID -19 pandemic: The case for Indian women. *Journal of Community & Applied Social Psychology*, [online] 32(3), pp.374-381. Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1002/casp.2501> [Accessed 17 July 2022].

In order to avoid perpetuating current inequities in future responses, gender realities must be taken into account. Despite the fact that COVID-19 affects women disproportionately, it is equally critical to keep in mind that they are active individuals with valuable knowledge and experience, particularly in emergency situations.<sup>15</sup>

The law that has protected women who were survivors of domestic violence is the Protection of Women from Domestic Violence Act. It has given the courage to women who have been survivors of such a heinous crime to safeguard every woman who has or can go through this. India being a patriarchal society has degraded, objectified and considered women a secondary gender and not have equal rights.

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<sup>15</sup> Nanthini, S. and Nair, T., 2022. Covid-19 and the Impacts on Women. [online] S. Rajaratnam School of International Studies, p.10. [Accessed 17 July 2022].