

**DOMESTIC VIOLENCE AND JUDICIAL APPROACH WITH SPECIAL
REFERENCE TO COVID-19: A SOCIO-LEGAL STUDY**

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“Trauma may happen to you, but it can never define you¹”

ABSTRACT

Domestic violence is a worldwide problem that transcends national borders, as well as socioeconomic, cultural, racial, and class destinations. This problem is not only geographically widespread, but it also has a widespread in all sectors including recognized practices. It is generally predominant among women in India and has been associated with poor mental and physical wellbeing. By and large, domestic violence at home is very notable and generally most frequent towards women in India. It is perceived as a situation supported and reinforced by sexual orientation standards and values that place women in a subordinate position comparable to men. Domestic abuse is widespread, deeply ingrained, and has major consequences for women's health and well-being. It's morally indefensible to keep it going. It's cost to individuals, to health systems and to society is gigantic. This study reviles the presence of domestic violence in Indian women. This paper is an attempt to analyze the various causes and judicial approach towards domestic violence in India. During the COVID-19 pandemic, the current study looked into incidents of domestic abuse among Indian women. The paper is concluded by giving suggestions.

Key words: - Domestic violence, abuse, Judicial Approach, covid-19

INTRODUCTION

¹ Melinda Longtin

Domestic violence is a current social topic that has captivated the public's attention. Domestic violence refers to violence perpetrated by an intimate partner in any setting and in any form. Violence against women establishes any act of gender-based violence that likely to results in, physical, sexual or psychological harm or suffering to women. There is no universally accepted definition of violence against women. Some human rights activists prefer a broad-based definition that includes “structural violence” such as poverty, and unequal access to health and education. Others have argued for a more limited definition in order not to lose the actual descriptive power of the term.

Protection of Women from Domestic Violence Act, 2005 defines “domestic violence” as any act, omission or commission or conduct which causes harm, injures or endangers the health, safety, life, limb or well-being, whether physical, sexual, verbal, emotional, and financial abuse against a woman by her partner or family members² and also includes unlawful dowry demands. The United Nations Declaration on the Elimination of Violence against Women, 1993 defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”. This definition refers to the gender-based roots of violence, recognizing that “violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.” It expands the definition of violence to include both physical and psychological harm to women, as well as acts committed in both private and public spaces. The definition is further expanded in some academic quarters to mean Physical abuse such as slapping, beating, arm twisting, stabbing, strangling, burning, choking, kicking, threats with an object or weapon, and murder.

Domestic violence is a public health issue that has negative consequences for women's physical and emotional health. India bears a disproportionate share of the worldwide cost of domestic violence. According to the National Family Health Survey 2015-16, 31.1 percent of ever-married Indian women aged 15 to 49 years experienced marital abuse, with nearly 4 percent experiencing violence during any pregnancy.³ According to the National Crime Records

² Sec 3 of the Protection of Women from Domestic Violence Act, 2005

³ International Institute for Population Sciences (IIPS) and ICF, 2017

Bureau's⁴ latest data, Women are the victims of domestic abuse. In India, the most common forms of violence against women were "Domestic Violence". In 2018, about 90,000 cases of crimes against women were reported. Almost one-third of these were due to cruelty by the husband or his relatives.⁵

Domestic violence has been defined by Amnesty International as the most violent attacks on a woman. Domestic violence includes assault, sexual abuse of female household children, dowry-related violence, marital rape, female genital mutilation, and other customary practices that are harmful to any member of the family.⁶

CAUSES OF DOMESTIC VIOLENCE

In India, there has been a lot of research on domestic violence. Domestic violence has also been linked to women's education, employment status, caste, and religion, firstborn child's sex, husband's alcohol consumption, dowry, asthma, abortion, justification for wife beating.

According to the findings of the above-mentioned study, violence against women increases during and after disasters. Rao, studied the prevalence of intimate partner violence (IPV) and discovered that between 2005 and 2015, IPV against women increased by 48 percent, demonstrating how demographically sensitive variables became risk factors.

DOMESTIC VIOLENCE DURING THE PANDEMIC

On 22nd March 2020, the Prime Minister of India declared a nationwide lockdown to break the spread of COVID-19. India declared COVID-19 a "National disaster" under the Disaster Management Act, 2005. Women were especially vulnerable to domestic violence as a result of

⁴ NCRB stands for National Crime Records Bureau

⁵ Outlook. (2020, Jan 9). Domestic violence tops crime against women in 2018. Retrieved on July 7, 2021, from [www.outlookindia.com: https://www.outlookindia.com/newscroll/domestic-violence-tops-crime-against-women-in-2018-ncrb/1704114](https://www.outlookindia.com/newscroll/domestic-violence-tops-crime-against-women-in-2018-ncrb/1704114).

⁶ Amnesty International. (2015). Women, violence and health. Retrieved on July 7, 2021, from [www.amnesty.org: https://www.amnesty.org/download/Documents/80000/act770012005en.pdf](https://www.amnesty.org/download/Documents/80000/act770012005en.pdf)

the pandemic's extended lockdown. Inside their homes, women were combating a shadow pandemic.⁷

According to statistics issued by the National Commission for Women (NCW) India in early April 2020, after the statewide lockdown was implemented in March 2020, there was a 100 percent rise in complaints connected to violence against women. NCW has announced Mental Health Helplines for anyone who have witnessed any sort of domestic violence. Domestic abuse reports have increased in Tamil Nadu, according to the police. During the lockdown, they got about 25 calls per day and recorded at least 40 similar incidents. Similarly, the Bangalore Police Department recorded an increase in complaints from 10 to 25 per day.

Domestic violence grew globally during COVID-19. Domestic violence has increased as a result of the restrictions enforced to stop the virus from spreading. During COVID-19. In several states around the country, the government reported a 60 percent rise in emergency calls connected to violence against women by their intimate relationships.⁸

During the COVID-19 pandemic, many women suffered some type of domestic violence. These women were also cut off from their support networks during the COVID-19 outbreak and subsequent lockdown, indicating a lack of supporting policies and resources. The study can only be considered the first step towards a more profound understanding of domestic violence during COVID-19.

JUDICIAL APPROACH

In, *All India Council of Human Rights, Liberties and Social Justice Vs union of India*⁹, a petition was filed by the All-India Council of Human Rights, Liberties and Social Justice (AICHLS), relating to the safety of women, particularly during the lockdown period and the statistics indicated that total 1,462 complaints were received in the month of January where, out of which 270 were cases of domestic violence. In February, there were 302 reported cases

⁷ UN Women. (2020, April 6). UN Women. Retrieved on July, 10, 2021, from [www.unwomen.org: https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic](https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic)

⁸ Xue, J., Chen, J., Chen, C., Hu, R., & Zhu, T. (2020). The hidden pandemic of family violence during COVID-19: Unsupervised learning of tweets. *Journal of Medical Internet Research*, Retrieved on July 9, 2021, from www.jmir.org: <https://www.jmir.org/2020/11/e24361/>

⁹ 24th April, 2020

of domestic violence. In March, out of 1323 complaints, 302 were cases relating to domestic violence.

Delhi High court gave direction to the authorities include: the Ministry of Women and Child Development; Ministry of Health and Family Welfare; Government of NCT of Delhi; National Commission for Women; Delhi Commission for Women; the Ministry of Information and Broadcasting of India to appoint “Protection Officers” under Domestic Violence Act, 2005 keeping in mind the changing needs of the circumstances”.

Similarly, in *Re: Court on Its Own Motion Vs Union Territories of Jammu & Kashmir and Ladakh through Secretaries, Social Welfare Department*¹⁰, the Jammu and Kashmir High Court has taken suo moto cognizance of the increase in the domestic violence cases against women amidst the ongoing nationwide Lockdown. The court referred to the latest data released by the National Commission for Women which indicated during the lockdown there are almost 257 complaints were received by the Investigation Cell, which is only relating to crime against women. Therefore, the High Court issued the following interim directions: -

- Creation of dedicated funding to address issues of violence against women during pandemic in Jammu and Kashmir and Ladakh
- Increased availability of call-in services to facilitate the victims who are suffered from Domestic Violence
- To establish proper mechanism for seeking relief and redressal against the issues of domestic violence.
- Increasing awareness campaigns on all aspects of the issues.

CONCLUSION

Although the coronavirus that caused the COVID-19 pandemic does not discriminate between genders in its clinical effects, gender may have a role in the pandemic's socio-psychological effects. The COVID-19 pandemic has wreaked havoc on the lives and livelihoods of the whole world's population. However, its impact on women has been unparalleled and even worse.

¹⁰ Order dated 16th April, 2020

Women have suffered more as a result of home containment, which was once thought to be the most effective technique of protecting the public's health and well-being. While the nationwide lockdown protected women from out-of-home assault, they were increasingly exposed to violence within their homes without much socio-legal support. The sharp increase in domestic violence cases published in India's leading news newspapers is a strong indication that the domestic space remains dangerous for the majority of women. While the threat of a pandemic has passed and the lockdown has been lifted, the wounds of the violence will remain for the women who have been harmed. The findings of this study warrant not only strict and effective legal provisions to assist these women, but also scholars' and mental health professionals' attention to study and design effective interventions in order to educate and prepare a gender-egalitarian society capable of shattering the existing power hierarchy based on gender. Governments, law enforcement agencies, non-governmental groups, and the general public must all work together to establish conditions that make reaching out for aid simple.

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