

## THE ASCEND IN DOMESTIC ABUSE AMIDST COVID-19: AN APPRAISAL OF POLICY RESPONSES IN THE LIGHT OF PREVAILING LEGISLATIVE FRAMEWORK

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### INTRODUCTION

COVID-19 hit humanistic perspective of life hard and brought with it multiple series of challenges in the form of health hazards and risks, mental trauma, psychological imbalances and plethora of concealed effects on the society. As the deadly virus spread over newer, remote and distant places, it erased physical spaces for vulnerable sections of the society including women, children and elderly, where in it looked nothing short of a task to cope with the new realities of life. A major setback witnessed in this pandemic situation is the rise of domestic abuse, which has made living conditions for women considerably worse.

In the backdrop of the present situation, increased concerns about domestic violence have been expressed in many countries, including China, France, Spain, Italy and the United Kingdom, since governments' restricted travel to prevent the spread of COVID-19.<sup>1</sup> Domestic Violence in itself includes various facets and nuances covering physical, psychological, sexual, mental and financial aspects of abuse. Lately, studies have revealed that, "Domestic violence, often referred

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"For many women and girls, the threat looms largest where they should be safest; in their own homes. We know lockdowns and quarantines are essential to suppressing COVID-19. But they can trap women with abusive partners."

– UN Secretary General António Guterres<sup>2</sup>

to as intimate partner violence, disproportionately affects women, with nearly one in three women victimized by physical or sexual violence through their lifetimes."<sup>3</sup>

The underlying causes and reasons cited with reference to recent surge in the domestic abuse cases amidst COVID-19 primarily consist of increased exposure to economic sufferings, mental trauma

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<sup>1</sup> Gautam Gulati, Brendan D. Kelly, Domestic violence against women and the COVID-19 pandemic: What is the role of psychiatry?, (Aug. 11, 2021, 4:30 PM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7264022/>.

<sup>2</sup> Department of Global Communications, UN supporting 'trapped' domestic violence victims during COVID-19 pandemic, (Aug. 11, 2021, 3:12 PM), <https://www.un.org/en/coronavirus/un-supporting-%E2%80%99trapped%E2%80%99-domestic-violence-victims-during-covid-19-pandemic>.

<sup>3</sup> Karen M. Devries et al., Intimate Partner Violence and Incident Depressive Symptoms and Suicide Attempts: A Systematic Review of Longitudinal Studies, (Aug. 11, 2021, 7:30 PM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3646718/>.

due to pandemic situation, improper contending approaches for instance alcohol misuse and a lack of access to usual support systems and escaping mechanisms due to strict quarantine norms and travel bans. It won't be an exaggeration to quote that lockdown measures pushed women counterpart of the society towards a multifaceted crisis, wherein the greater challenge on the part of women is to confronting perpetrators at home due to COVID induced restrictions.

The Research Paper will focus on assessing the contours of Domestic Abuse amidst COVID-19.

References in this regard have been taken from the recent statistics and studies of National Commission for Women, WHO and United Nations on the subject matter. The Paper will further highlight the responses introduced by respective governments across the globe to confront the situation in this regard. The paper will also explore the prevailing legislative framework on the topic of study and with bring forth the shortcomings in the policy responses. Finally, an attempt will be made at providing concrete solutions and suggestions to establish a Gender Equitable Post-COVID epoch.

### COVID-19 AND INCREASED DOMESTIC ABUSE - REASONS AND OUTCOMES:

During the COVID-19 Pandemic, staying at home has been regarded as the safest way to escape getting contracted to the deadly virus. But, it is worthwhile to mention that staying at home is not equivalent to keeping safe for a big chunk of female counterpart of the society, when there are perpetrators and abusers at home itself. A place where a female should feel most secured, she's confronted with terror, abuse and violence instead.

Domestic violence can be defined as, "intimate verbal, emotional, physical, or sexual abuse of one's partner."<sup>4</sup> The National Commission for Women has reported a rise of 94 percent in

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complaint cases where<sup>4</sup> women have been abused in their homes during lockdown.<sup>5</sup> According to

The Hindu, "In 2020, between March 25 and May 31, 1,477 complaints of domestic violence were made by women. This 68-day period recorded more complaints than those received between March and May in the previous 10 years. About 86% women who experienced violence never sought help, and 77% of the victims did not even mention the incident to anyone. Among the 14.3% of victims who sought help, only 7% reached out to relevant authorities the police, doctors, lawyers or social service organizations."<sup>6</sup> It is a noteworthy fact that as the lockdown period

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<sup>4</sup> 4 Kavita Alejo, Long-Term Physical and Mental Health Effects of Domestic Violence, 2 Themis: Research Journal of Justice Studies and Forensic Science 83 (2014).

<sup>5</sup> Shalu Nigam, Covid-19: India's Response to Domestic Violence Needs Rethinking, (Aug. 12, 2021, 9:12 AM), <https://dx.doi.org/10.2139/ssrn.3598999>.

<sup>6</sup> Vignesh Radhakrishnan et al., Data | Domestic violence complaints at a 10-year high during COVID-19 lockdown, (Aug. 12, 2021, 11:37 AM), <https://www.thehindu.com/data/data-domestic-violence-complaints-at-a-10-year-high-during-covid-19-lockdown/article31885001.ece>.

extended, the reported cases of Domestic Violence and Abuse were highest in number in comparison to other forms of crime against women such as Dowry Harassment, Cybercrimes, Violation of right to live with dignity, Rape/ attempt to rape and other forms of crime.<sup>7</sup>

From International perspective as well, there have been a significant rise in the number of complaints following lockdown in various nations across the globe. According to the Department of Global Communications, United Nations, “Helplines in Singapore and Cyprus registered a more than 30 per cent increase in calls; In Australia, 40 per cent of frontline workers in New South Wales reported more requests for help with violence; In France, domestic violence cases increased by 30 per cent since the lockdown on March 17; In Argentina, emergency calls for domestic violence increased by 25 per cent since the lockdown on March 20; In the United Kingdom, calls, emails and website visits to Respect, the national domestic violence charity, increased

97 per cent, 185 per cent and 581 per cent respectively.”<sup>8</sup>

There are numerous causes for domestic abuse ranging from social to emotional causes, including childhood upbringing and socialization, having seen abuse and violence among parents, psychological disorders with regard to anger management, past experiences of abuse, or merely fanaticizing sadism. While analyzing the underlying domestic situation during lockdown, since the perpetrator and victim live together for longer hours, their confrontation tends to increase resulting in the increased probability of violence. Moreover, the increased amount of frustration due to not being able to go out and live a normal life could also result in raised instances of domestic abuse. Lack of money and financial instability has shaken every nook and corner of the society, further raising the probability of men emitting out the anger on their wives. Finally, sense of insecurity and immaturity in marital bond could be another significant reason for the increase of domestic violence cases.

Increased instances of Domestic Violence not only brings specific social relationships into question, but also raises alarm with regards to prevalent forms of social equality, social structure and effective implementation of existing legal policy framework on the subject matter. It further brings to light some bigger questions of addressing patriarchy in the society and the shackles of orthodox outlook of society which expects women to fulfill all needs and wants of her male counterpart even at the cost of abuse and violence. Highlighting the possible outcomes and impact of the ongoing rise in the domestic violence cases amidst COVID-19 pandemic, Executive Director of UN Women Phumzile Mlambo Ngcuka noted, “Confinement is fostering strain created by security, health, and money worries. And it is increasing isolation for women

<sup>7</sup> Shemin Joy, Coronavirus Crisis: No lockdown for domestic violence, (Aug. 12, 2021, 4:02 PM), <https://www.deccanherald.com/specials/insight/coronavirus-crisis-no-lockdown-for-domestic-violence-829941.html>. <sup>8</sup>*Supra* note 1.

with violent partners separating them from people and resources that can best help them.”<sup>8</sup>Further, highlighting the global economic cost of the continued violence,

Phumzile observed, “The global cost of violence against women has been estimated at approximately \$1.5 trillion, a figure that can only be rising as violence increases now and continues in the aftermath of the pandemic.”<sup>10</sup>

## THE INTERNATIONAL RESPONSE TO INCREASED DOMESTIC ABUSE AMIDST COVID-19:

As the world witnessed a surge in number of cases of COVID-19 and consequently increased complaints and reported cases of domestic abuse, various nations across the globe as well as various International Agencies and Law Enforcement Bodies came up with a new set of responses and mechanisms in order to place the crime of domestic abuse under a scanner. These set of responses and mechanisms adopted by respective governments are enumerated as follows:

1. **UN Secretary General’s Call urging Governments to make Redressal of violence against women part of National Response Plans:** United Nations Secretary General Antonio Guterres urged all the governments to include redressal of violence against women as a part of National Response Plans of respective nations against COVID-19. While urging all the nations he said, “Peace is not just the absence of war. Many women under lockdown for COVID-19 face violence where they should be safest: in their own homes. Today I appeal for peace in homes around the world. I urge all governments to put women’s safety first as they respond to the pandemic.” It is worth noting that as many as 140 Governments across the globe supported his call.<sup>9</sup>
2. **Counseling Services:** Various independent as well as governmental agencies across different nations started the counseling services to the victims of domestic abuse. ‘United Nations Population Fund’ sponsored a number of projects undertaking such services through the medium of internet. It has been reported that, “In Ukraine, Tetyana Franchuk, a psychologist with a UNFPA supported mobile psychosocial team in Vyshneve, near Kyiv, has been providing services via Skype, Viber, Zoom and phone since the quarantine started.”<sup>10</sup> With more access to online services and internet mediums, the service workers can directly provide assistance to the victims of the abuse and can easily follow up such cases.

<sup>8</sup> Aditi Tandon, Trapped and Tortured, The Tribune, Aug. 2, 2021, at 10.

<sup>10</sup> *Ibid.*

<sup>9</sup> *Supra* note 1.

<sup>10</sup> *Ibid.*

3. **Pharmacies and Grocery Stores declared as Safe Spaces:** In a number of European Countries, pharmacies and grocery stores were declared as safe spaces, where in the victims of the abuse could inform and report about any such incidence of abuse or violence. Further, the victim could utter a code word “MASK 19”, which would help the counselor to identify that the said person is in need of urgent help against domestic abuse.<sup>11</sup>
4. **New Helplines put to Operation:** A number of nations across the globe put new help lines which could assist the victims of abuse to report the crime. According to ‘Refuge’, one of the prime domestic abuse Organization in UK, “Calls to the UK Domestic Violence

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Helpline increased by 25 per cent in the seven days following the announcement of tighter social distancing and lockdown measures by the government. During the same period, there was a 150 per cent increase in visits to the Refuge website.”<sup>12</sup>

5. **Hotel Reservations for Victims of Domestic Violence:** Some of the European nations also reserved hotels as emergency accommodation in case of reported case of domestic abuse. It is worthwhile to mention that France alone reserved as many as 20,000 hotel rooms for victims of domestic violence.<sup>13</sup>
6. **Other Measures:** Spanish Government came out with one of its kind mechanisms, where in women violators of lockdown were not fined. Similarly, in Canada, millions of dollars were set aside in order to support NGOs and shelters taking care of victims of domestic abuse. Further, in England, “Women’s Equality Party called for special police powers to evict perpetrators from homes for the duration of the lockdown, and for the authorities to waive court fee for the protection order.”<sup>16</sup>

## THE STEPS TAKEN AT NATIONAL LEVEL TO COMBAT DOMESTIC ABUSE AMIDST COVID-19:

The National Commission for Women, which works relentlessly towards addressing the aspect of crimes against women brought in a number of safeguards and mechanisms in order to take care of the rise in domestic violence amidst COVID-19. Apart from the steps taken by the Commission, it is worth noting that The Legal Services Authority, NGOs, Self-Help Groups and Independent Institutions have come forward in taking measures by which the instances of domestic abuse could be brought under a check. Some of the highlighting measures and mechanisms taken at the National level are discussed as under:

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<sup>11</sup> *Supra* note 9.

<sup>12</sup> Bradbury-Jones C, Isham L, The pandemic paradox: The consequences of COVID-19 on domestic violence, (Aug. 14, 2021, 3:36 PM), <https://europepmc.org/article/med/32281158>.

<sup>13</sup> *Supra* note 9.

<sup>16</sup> *Ibid.*

1. **Launch of National Commission for Women WhatsApp Helpline:** When the National Commission for Women witnessed an increased surge in number of complaints with regard to domestic abuse, “A dedicated WhatsApp number 72177135372 was launched on April 10, 2020 by NCW to ease reporting of domestic violence cases on emergency

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basis through chats, understanding the ordeal of those who may not be able to access the online portal or call for help in front of their abusers.”<sup>14</sup> A special team was constituted which was entrusted with the task of redressal of the complaints on fast track basis.

2. **Mahila Thana supported by National Commission for Women:** Yet another significant measure adopted by the National Commission for Women was extending support to activation of ‘Mahila Thana’, where in local helpline numbers were issued, utilizing which women could report their grievances on immediate basis. It is worth mentioning that, “The Special Cell for Women was made functional in Madhya Pradesh, Bihar, Odisha, Punjab, Tamil Nadu, Assam and Meghalaya for the ease of filing of cases and extending help to women instantly at the wake of lockdown. The Special Cell also responded to other needs of women like counseling, providing assistance for medical aid and shelter homes for women facing violence.”<sup>15</sup>
3. **Counseling Services by Anganwadi Workers and ASHA Workers:** At localized and rural levels, Anganwadi Workers, ASHA (Accredited Social Health Activist) Workers and other frontline workers took the daunting task of reaching out to women in grievance and provided assistance to them in the form of counseling against domestic violence and abuse. The Chairperson of National Commission for Women also acknowledged the same fact.<sup>16</sup>
4. **Steps taken by Legal Services Authority:** Delhi State Legal Services Authority in particular launched helpline number 1516 and 9667992802, which could be reached out either on WhatsApp or SMS, in order to seek assistance with regard to reporting domestic violence and relief for that matter. Furthermore, one of the unique mechanisms developed by the Delhi State Legal Services Authority in Delhi was to getting connected to Pharmacists, Mother Dairy Booths, and Chemists in the national capital for information on victims of domestic abuse.<sup>17</sup>

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<sup>14</sup> National Commission for Women, Rashtra Mahila, (Aug. 16, 2021, 10:07 AM), <http://ncw.nic.in/newsletters/apr2020>.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Supra* note 5 at 5.

<sup>17</sup> *Supra* note 9.



5. **Steps undertaken for Stress Management:** With an effort to reach out to women in distress amidst COVID-19, National Commission for Women released a '5 minute video' on 'Psychological Wellbeing Strategy' in consultation with Psychiatrists from 'Post Graduate Institute of Medical Education & Research Chandigarh', on dealing with mental stress and wellbeing amid the lockdown period, which advises women on various strategies to overcome anxiety, stress etc.<sup>18</sup>

## THE LEGISLATIVE FRAMEWORK CONCERNING DOMESTIC VIOLENCE:

One in three ever-partnered women worldwide has experienced physical and/or sexual violence by an intimate partner.<sup>19</sup> While narrating the subject matter of women being victims of domestic violence and abuse during lockdown, it becomes pertinent to develop an understanding of the legislative regime and framework with regard to domestic violence. Section 498A of the Indian Penal Code, 1860 defines and provides penalty for 'Husband or relative of husband of a woman subjecting her to cruelty'. It reads, "Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."<sup>20</sup> The section was added to Indian Penal Code vide Amendment Act 46 of 1983 with the prime objective of protecting married women from being victim of cruelty inflicted by the husband or his relatives. It is important to note in this regard that the expression 'cruelty' as defined in the section includes inflicting both physical as well as mental harm to the body or health of the woman.

Apart from Indian Penal Code, the legislative framework on domestic violence includes a comprehensive legislation in the form of 'The Protection of Women from Domestic Violence Act, 2005'. The Act was brought in year 2005 with the prime object of 'providing for more effective protection of the rights of women guaranteed under the Constitution who become victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto'. As defined in Section 3 of the Act, Domestic Violence means<sup>21</sup>:

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"Any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it:

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other

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<sup>18</sup> *Supra* note 17.

<sup>19</sup> P. Patra et al., *Intimate partner violence: Wounds are deeper*, 60 Indian Journal of Psychiatry, 499 (2018).

<sup>20</sup> Indian Penal Code, 1860, (Aug. 18, 2021, 12:27 PM), <https://www.indiacode.nic.in/bitstream/123456789/4219/1/THE-INDIAN-PENAL-CODE-1860.pdf>.

<sup>21</sup> *The Protection of Women from Domestic Violence Act, 2005*, (Aug. 18, 2021, 4:14 PM), <http://chdlsa.gov.in/rightmenu/act/pdf/domviolence.pdf>.

person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.”

Thus, it could be well assessed that DVA, 2005 extends the extent of domestic violence to physical, mental, emotional, sexual as well as verbal grounds or form of abuse. In the recent judgment of Supreme Court in *Lalita Toppo v. State of Jharkhand and Anr.*<sup>22</sup>, it was observed that “an estranged wife or live in partner can claim maintenance under the provisions of the Protection of Women from Domestic Violence Act, 2005 despite not being legally wedded to the defendant”, thus further extending the ambit and scope of the act to live-in relationship as well.

The Act provides for reliefs and remedies to the victim in the form of provisions for counseling, assistance of welfare expert, protection orders, right to shared household, residence orders, monetary reliefs, custody orders and compensation orders etc.<sup>23</sup> The act further provides for penalty in case of breach of the protection orders by respondent, duly pronounced by respective court of law.

### **THE SHORTCOMINGS IN RESPONSES AND CREATING A GENDER EQUITABLE POST COVID EPOCH:**

At its very outset, there are very less number of criminal acts against women which actually get reported to the law and order institutions or bodies. The Justice Administration system and

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governance of the country needs a multifaceted approach to correct this concealment of crime, taking place behind the four walls of the home. Particularly, in a situation like ongoing pandemic, the possible chances of domestic abuse and violence getting reported even becomes more bleak and thin. Therefore, even the presence of counseling cells or help lines will be of no use until and unless institutional and societal lapses are corrected.

With regards to governmental response towards massive rise in the domestic abuse complaints amidst COVID-19, it is a noteworthy fact that, “No advisory is being issued at the national level as yet by the state to declare domestic violence as an emergency or to announce domestic violence services or health services as essential during the lockdown.”<sup>24</sup> Furthermore, when the whole nation was fighting the deadly virus and tackling various societal and financial setbacks, “the state took to ease lockdown, despite of increase in incidences of domestic violence, it was decided to open

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<sup>22</sup> (2018) SC 2301.

<sup>23</sup> *Supra* note 24.

<sup>24</sup> *Supra* note 5 at 6.



alcohol shops after 40 days of lockdown in all, red, orange and green zones.”<sup>25</sup> It is a well known fact that consumption of alcohol is one of the prime reasons of domestic violence and abuse across various areas, but still the approach of government focusing on the economy and the GDP over human quality indexes such as less violence, gender equality, social justice or happiness highlights the lopsided priorities, callousness and disastrous development model.<sup>29</sup>

At International Level, The Convention on the Elimination of all Forms of Discrimination Against Women, 1979 aims at elimination of all forms of discrimination against women and provides for equality of women in all spheres. The Constitution of India prohibits discrimination on the grounds of gender. Furthermore, the Constitution of India vide Article 15 provides for positive affirmation in the favor of women and children in order to safeguard interests and concerns of women and children. Finally, Article 21 guarantees right to live a dignified life.

As previously highlighted, with regards to domestic violence and abuse, apart from the institutional lapses and lack of proper and effective legislative framework securing just and humane conditions of life for women, some of the bigger questions and concerns in this regard

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are rooted in the patriarchal mindset of the society and the lack of giving the female counterpart of the society their due respect, dignity and equality. In the backdrop of the Constitutional impediments, it becomes extremely important that post COVID-19, the society mend its ways and develop such mindset wherein constitutional ideals are respected and age old traditional norms rooted in patriarchal system get shunned. The primary reasons underlying such mindset are empowering women in social, economic as well as political sphere, where in their due rights and dignity get ensured and restored to them. Without giving due importance to the rights of women and bringing them to equal footing in every sphere of life, the society cannot progress and the nation cannot bring out the best potential use of its human resource.

## CONCLUSION AND SUGGESTIONS:

There is no denying the fact that COVID-19 brought every aspect of life to a major halt, be it social, physical, economic, cultural, political etc. The forced stay at home and restrictions on moving out made homes a hotspot for commission of crimes, which otherwise are regarded as the safest place on the planet. More exposed matrimonial relations gave birth to alarming rise in the domestic violence cases across the globe. The reasons for this alarming rise are institutional, legal, social as well economic. The female counterpart of the society became victims of the domestic perpetrators in this regard, which lead to disastrous outcomes in the form of physical as well as mental trauma, abuse, distress etc. Various International agencies as well as governmental institutions took serious steps and brought a number of mechanisms in order to put the domestic abuse or violence under a scanner. At national level, the role of National Commission for Women

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<sup>25</sup> The Times of India, Liquor shops open after 40 days in lockdown, social distancing rules taken for a ride, (Aug. 19, 2021, 11:17 AM), <https://timesofindia.indiatimes.com/india/liquor-shops-open-after-40-days-social-distancing-rules-taken-for-a-ride/articleshow/75533865.cms> <sup>29</sup>Supra note 5.

and Legal Services Authority is worth appreciation. But, in the same regard, alarming rise in the domestic abuse cases has put the governmental agencies, legal institutions and overall societal structure in a questionable scenario.

As Dr.B.R. Ambedkar observed, “I measure the progress of a community by the degree of progress which women have achieved”, it becomes extremely important that women are given opportunities of leading a dignified life, be in domestic sphere, employment sphere, educational sphere etc. Considering the diversity in the Indian Society, bringing a multi-dimensional and multi-faceted approach and mechanism at national as well as at localized levels could possibly tackle the instances of domestic abuse taking place behind the four walls of the homes. It is in this regard that Constitutional ideals be adapted to its maximum potential in order to create a Gender Equitable society and epoch post COVID-19, which will be in the interests of society and nation as a whole.