

**INTERNATIONAL JOURNAL OF LAW  
MANAGEMENT & HUMANITIES**  
**[ISSN 2581-5369]**

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**Volume 3 | Issue 4**

**2020**

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# COVID – 19 and Surge in Domestic Violence Cases

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## ABSTRACT

*Lockdown and quarantine became the most used words in the first half of 2020. The deadly virus from the virus called as coronavirus brought the entire world to surrender. The outbreak started in China and spread like wildfire across the world. The international community and several state governments declared lockdown as the only measure to tackle coronavirus during the initial days of its mass outbreak. As a result of which, various international and all national means of transport were banned and countries went into strict lockdown. While, one might wonder that economic loss and breakdown of the world's financial stability would be the only the major problems arising due to lockdown, it wasn't the case. It is true that coronavirus has pushed the world into almost a recession like period but the worst consequence of the lockdown emerged in the face of increased violence towards women. Safety of women forms the most basic tenant of human rights principles and one can only think about economics and developments when the basic foundations of our society is well rooted in gender sensitive values. However, the microorganism in the form of Coronavirus has showed us the ugly truth of the 20th century where women are the unsafe inside their own home. It is so ironical to breathe in a society where in one part of the world, a woman is leading her nation, and in another part of the world, an another women is facing the wrath of toxic masculinity and oppression. Women are locked inside their home with their abusers and they were left without an escape during the lockdown period.*

*This article attempts to analyse the relationship between coronavirus and the increased cases of domestic violence against women. The article highlights how several countries and Indian States are tackling this issue of domestic violence during lockdown. Finally, the article provides a gist of laws available in India for the protection of women against domestic violence and recommends changes in the realm of criminal law to make the laws more effective.*

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## I. INTRODUCTION

This year is unfortunate enough to have witnessed more than half of the world's population go into entire lockdown. The trouble began when Tedros Adhanom, the director general of World Health Organisation declared the outbreak of Coronavirus (COVID -19) as pandemic on 11<sup>th</sup> March. Social distancing is the only way to prevent the spread of a disease like Coronavirus has a R0 (R naught) of roughly 2 to 2.5, which means that an infected person can spread the diseases to two more persons on an average.<sup>2</sup> In absence of any vaccine for such a contagious disease, social distancing and lockdown was the only possible measures to reduce the rate of infection during the initial days of outbreak. But negative consequences of lockdown was bound to follow and it is historically established that women are most prone to all kinds of misfortune that the humankind has to ever endure.

However, the common believe which persists in the patriarchal society that we live in is that, the safest place for a women is inside her house. This is completely opposite to what several sociologists have found in their studies, which is, that number of cases of violence against women steeply increases during long vacations and holidays.<sup>3</sup> In fact, girls and women were even subjected to violence during the Ebola outbreak in African countries as per the reports of International Rescue Committee (IRC).<sup>4</sup> Similarly, it is not surprising to see an increase in the cases of domestic violence against women. People are forced to stay within the four walls of their home and women are unfortunately an easy target to torture. Cases of domestic Violence has increased so much that it can almost be termed as another pandemic. Women who are locked inside the home their abusers have to live in a constant state of fear. In low income countries, this situation gets even worse as people are also dealing with an economic crisis along with the pandemic. Economic instability coupled with anxiety and frustration due to the uncertainty about the future are the prime reasons attributed to the increased violence. However, there is absolutely nothing in this world which can actually justify the violence against the women. Today, Domestic Violence plagues the entire world. The gravity of the matter can be assessed from the fact that the António Guterres, Secretary General of United

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<sup>2</sup> Morgan McFall-Johnsen, Holly Secon, Scientists are racing to calculate a crucial measure of the coronavirus' spread. It suggests the virus may be far more contagious than the flu, Business Insider India, [https://www.businessinsider.in/science/news/scientists-are-racing-to-calculate-a-crucial-measure-of-the-coronavirus-spread-it-suggests-the-virus-may-be-far-more-contagious-than-the-flu/articleshow/74628868.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://www.businessinsider.in/science/news/scientists-are-racing-to-calculate-a-crucial-measure-of-the-coronavirus-spread-it-suggests-the-virus-may-be-far-more-contagious-than-the-flu/articleshow/74628868.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

<sup>3</sup> Amanda Taub, A New Covid-19 Crisis: Domestic Abuse Rises Worldwide, Chicago Tribune, <https://www.chicagotribune.com/coronavirus/sns-nyt-coronavirus-domestic-abuse-rises-worldwide-20200407-6kd46ga4hrfizoxmhz4dmijja-story.html>, (April 7, 2020)

<sup>4</sup> International Rescue Committee, Everything on her shoulders: rapid assessment on gender and violence against women and girls in the Ebola outbreak in Beni, <https://www.rescue.org/report/everything-her-shoulders-rapid-assessment-gender-and-violence-against-women-and-girls-ebola>

Nations had to appeal to all the nations to keep on priority the concerns regarding safety of women in this pandemic.<sup>5</sup>

## II. THE HIDDEN PANDEMIC ACROSS THE WORLD

There is no doubt that China is responsible for escalating the corona crisis, whether intentionally or unintentionally is yet to be proved. However, research scholars are already analysing the extent of China's liability under International Law.<sup>6</sup> The centre of the outbreak was the Hubei province of China and it becomes pertinent to study the situation of women in that area. China is deeply entrenched in patriarchal values, to the extent that even the objective of China's Anti Domestic Violence Act, 2005 is to promote family harmony and social stability. Therefore, it is no surprise that the cases of domestic violence has increased from 47 cases to 162 in the past one year, only in the Hubei province itself.<sup>7</sup> The activists in China have stated that 90% of the domestic violence cases are arising because of measure adopted due to COVID-19.<sup>8</sup> The situation is same in several European countries struggling with coronavirus. Women who are subjected to violence inside their home have no place to go due to lockdown. There is restriction on vehicular movements and even if a woman manages to escape, others are willing to provide her shelter due to fear of coronavirus infection. An organisation called Telefono Rosa which runs a hotline to provides help to the survivors of domestic violence registered a significant drop of 47.7% in domestic violence complaints in the first weeks of nationwide lockdown. This was certainly not because violence against women had stopped. But this just shows, how the voices of women were silenced because they were constantly surrounded by their abusers at home. The number of complaints started increasing between the months of march and April. However, the NGOs in Spain stated that they were only able to contact 28% of the victims as against 78% of them in the previous year.<sup>9</sup> In a report by the Italian police, more than 90% of violence against

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<sup>5</sup> UN News, UN chief calls for domestic violence 'ceasefire' amid 'horrifying global surge', <https://news.un.org/en/story/2020/04/1061052>, (April 6, 2020)

<sup>6</sup> Vanshaj Jain, Can China be brought before an international court over Covid pandemic? Yes, The Print, <https://theprint.in/opinion/can-china-be-brought-before-an-international-court-over-covid-pandemic-yes/398218/?fbclid=IwAR1yJdFkd3LEFRVMNwpc3gWa5tWEneSyCJ754s0GfDfhGvN0ooUPvj0t1TM>, (April 9, 2020)

<sup>7</sup> Sophie Mak, China's Hidden Epidemic: Domestic Violence, The Diplomat, <https://thediplomat.com/2020/04/chinas-hidden-epidemic-domestic-violence/>, (April 6, 2020)

<sup>8</sup> Zhang Wanqing, Domestic Violence Cases Surge During COVID-19 Epidemic, Sixth Tone, <https://www.sixthtone.com/news/1005253/domestic-violence-cases-surge-during-covid-19-epidemic>, (March 2, 2020)

<sup>9</sup> Virginia Pietromarchi, An ominous silence: Domestic violence charities fear for victims, Aljazeera, <https://www.aljazeera.com/indepth/features/ominous-silence-domestic-violence-charities-fear-victims-200416110917230.html>, (April 23, 2020)

women in 2019, was carried out inside their own houses.<sup>10</sup> Hence, one can only imagine how worse the situation would be during the lockdown period. The same trend was seen in France where initially during lockdown, a sharp drop in reporting of new cases was observed but later it was increased by a third and even higher percentage was recorded in the national capital, Paris.<sup>11</sup>

Similarly, India was under strict lockdown for more than 70 days and our country is no exception to the patriarchal societies of the world. According to the World Economic Forum's Global Gender Gap Index 2019-2020 India stands at 112<sup>th</sup> rank out of 153 nations.<sup>12</sup> This clearly shows how much India is lagging behind in terms of Gender Equality. In such a scenario, cases of domestic violence is bound to increase during lockdown due to coronavirus. In a recent report release by National Services Legal Authority, the cases of domestic violence during lockdown has substantially increased in India.<sup>13</sup> Surprisingly, Uttarakhand which has the minimum number of corona cases tops the list for having the most domestic violence cases in the state. Uttarakhand is followed by Haryana and Delhi, whereas, Maharashtra which is badly ailing from thousands of coronavirus infections in the states has relatively less number of domestic violence complaints. Almost each state in the country has seen rise in the number of domestic violence cases. Women are left to suffer because divorcing or leaving the husband is still a taboo in India. A girl's family would rather accept a dead daughter than a divorced one. Married women are constantly told to adjust and compromise to save themselves from the embarrassment. The matter becomes way worse when the county goes into lockdown and the women have to spend 24x7 with their abusers. But, enough about the problems, its high time that we start focusing on how to deal with such situations where women are staying with their abusers.

### **III. TACKLING THE HIDDEN PANDEMIC**

While it is true that evils exists in every society, it is also true that there are ways to fight them off. Several nations across the world have retaliated to the increased cases of domestic violence in different ways. For instance, the Institute for equality in Spain has launched a campaign called Mask 19 where the victim of domestic violence can just walk upto a

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<sup>10</sup>Questo NON è AMORE, [https://www.poliziadistato.it/statics/12/brochure\\_questononeamore\\_2019.pdf](https://www.poliziadistato.it/statics/12/brochure_questononeamore_2019.pdf)

<sup>11</sup> Natalie Higgins, Coronavirus: When home gets violent under lockdown in Europe, BBC News, <https://www.bbc.com/news/world-europe-52216966>, (April 13, 2020)

<sup>12</sup> Sayan Ghosh, Data | Where does India stand in the Global Gender Gap Index?, The Hindu, <https://www.thehindu.com/data/data-where-does-india-stand-in-the-global-gender-gap-index/article30494545.ece>, (Jan 06, 2020)

<sup>13</sup> Domestic violence cases in India on the rise during lockdown, says report, <https://timesofindia.indiatimes.com/life-style/relationships/love-sex/domestic-violence-cases-in-india-on-the-rise-during-lockdown-says-report/articleshow/75801752.cms>, may 18

pharmacy and ask for a mark-19 which is like a code word for distress call. The Pharmacists are directed to report the police about the women who asked for help. French government has ordered that it would provide hotel rooms at subsidised rates to victims of domestic violence. Italy has launched a mobile application for women to report violence without even having to actually call the police.<sup>14</sup> In another bold move by the prosecutors in Italy, the perpetrators are ordered to leave the house in cases of domestic violence. A novel approach was adopted by Gendes, which is an organisation in Mexico city to talk to males using a new hotline to help them understand why violence is not the right option to release their frustration.<sup>15</sup> The UK police have appointed a few delivery guys to look out for any sign of physical abuse. Canada government announced \$50 million worth of package to support shelters for survivors of domestic violence.

Similarly, Indian states are also trying to fight the curse of Domestic violence in several ways. The District Magistrate of Kangra in Shimla, has appointed the chief development projects officers (CDPOs) to attend distress calls of domestic violence victims according to powers provided to him under section 34 of the Disaster Management Act, 2005.<sup>16</sup> Raipur police is dealing with such cases by launching a campaign called “Chuppitod”. As a part of this campaign, the police are visiting and checking up on women who were victims of domestic violence in the past three years. Similar steps in the name of “phone up programme” has been initiated by the Orissa Government. Delhi Commission of Women has set up a helpline number 181 to help the victims of domestic violence during lockdown. However, the women of India clearly need more than just helpline numbers. In India only 1/3<sup>rd</sup> of women have access to Internet and even less than 50% of women own a personal mobile phone. The women in rural areas get so used to violence that they start accepting it as a part of life. Most of those women and girls are not even aware of the fact that the trauma they are being subjected to amounts to ‘abuse’. So, at first there is an urgent need to spread awareness about the basic elements of domestic violence amongst women. These women should know about their basic right to seek protection under the laws of India. The next section will deal with the Indian Laws with regards to Domestic Violence.

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<sup>14</sup> Yuliya Talmazan et al, European countries develop new ways to tackle domestic violence during coronavirus lockdowns, NBC News Now, <https://www.nbcnews.com/news/world/european-countries-develop-new-ways-tackle-domestic-violence-during-coronavirus-n1174301>, April 3

<sup>15</sup> Megan Janetsky, Violence against women up amid Latin America COVID-19 lockdowns, Aljazeera, <https://www.aljazeera.com/indepth/features/violence-women-surges-latam-coronavirus-quarantines-200420020748668.html>, (April 20, 2020)

<sup>16</sup> Anand Bodh, Covid-19 lockdown: Domestic violence cases shoot up in Himachal Pradesh, TOI, [http://timesofindia.indiatimes.com/articleshow/75139001.cms?utm\\_source=contentofinterest&utm\\_medium=txt&utm\\_campaign=cppst](http://timesofindia.indiatimes.com/articleshow/75139001.cms?utm_source=contentofinterest&utm_medium=txt&utm_campaign=cppst), (Apr 14, 2020)

#### IV. DOMESTIC VIOLENCE AND LAWS IN INDIA

There are primarily three laws, namely the Domestic Violence Act, 2005; the Dowry Prohibition Act, 1961 and the section 498A of the Indian Penal Code, which lays down safeguards for victims of domestic violence.

The Domestic Violence Act, 2005 is the legislation to protect the women from violence at home. Section 3 of the act defines Domestic Violence Act and its ambit is wide enough to cover any physical, sexual, verbal, emotional and economic abuse. The act is progressive enough to be applicable to all women irrespective of their relationship with the abuser. A victim of domestic abuse can even file the case against a female abuser under this Act. However, this was not the case prior to 2016 and the law changed only after the judgement by Supreme Court in the case of *Heeral P. Harsora and Ors. v. Kusum N. Harsora and Ors.* where it was held that both male and female can be considered as respondents under section 2(q) of the Act. One of the most important provisions is that under section 19 of the that magistrate can order the abuser to evicted from the house even if he/she has a legal or equitable interest in the shared household. Furthermore the State Government can also appoint a Protection Officer to aid the victim in receiving legal help under the Legal Authorities Act 1987.

Domestic violence in India is often related to matters of dowry and this is where the Dowry Prohibition Act 1961 comes into picture. The Act provides for a penalty to anyone who engages in giving, receiving or abetting dowry. Furthermore, there is a separate provision for death of a married women related to dowry demands under section 304B of IPC. If a women was subjected to cruelty on account to dowry demand matters then as per section 113B of the Evidence Act, the natural presumption that follows is of dowry death. Hence, the evidence Act and the Indian Penal code aids the Dowry Prohibition Act in fulfilling its objective.

Section 498 A of IPC deals with cruelty to Women. It was introduced in 1983 with the intention of protecting married women from instances of domestic violence.<sup>17</sup> The concept of cruelty is wide enough to cover mental and physical abuse but it varies according to the economic status of the parties.<sup>18</sup> The seriousness of this offence can be understood from the fact that is a cognizable and non-bailable offence. The Court in the case of *U. Suvetha v. State* laid down the three elements of this section, which are : (a) the woman must be married;

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<sup>17</sup>Tejaswi pandit, Cruelty to Women [S. 498-A IPC and allied sections], SSC Online, <https://www.scconline.com/blog/post/2018/12/03/law-for-laymen-section-498-a-ipc-and-allied-sections-cruelty-to-women/#:~:text=Section%20498%2DA%3A%20Husband%20or,also%20be%20liable%20to%20fine.>

<sup>18</sup>Gananath Pattnaik v. State of Orissa, (2002) 2 SCC 619.

(b) she must be subjected to cruelty; (c) The perpetrator should be her husband or his relatives.<sup>19</sup> The Court in the case of *Unnikrishnan v. State of Kerala* held that a woman in a live in relationship cannot seek protection under section 498A of IPC.<sup>20</sup>

Clearly, there are enough laws in India to protect the women from instances of Domestic Violence but unfortunately all of them have proved to be not very effective. Women in India continue to suffer inside their own house which was supposed to be the safest place for her. In the present times, when the entire world was under lockdown, there is no end to the ordeal of a women who was locked inside the house with her abuser.

Most of the countries across the nation have transformed their criminal laws as gender sensitive laws by incorporating the understandings of battered women. However, India lags far behind in this area. The mental state of battered women who attack their abusers can be understood through a psychological tool called Battered Woman Syndrome ('BWS'). This is the right time to incorporate BWS as a defence within the statutory framework of the Indian Penal Code. The first time Indian Courts recognised the Battered Women Syndrome was in the case of *Manju Lakra* wherein the High Court of Gauhati reduced the sentence of women on account of her battered status.<sup>21</sup> Two other cases where the courts have recognised BWS are in *Amutha v. State*<sup>22</sup> and *State v. Hari Prashad*<sup>23</sup>. Therefore various scholars have also argued that the Indian Legal system needs to give recognition to the emotional and mental aspect of domestic violence by establishing the defence of battered women syndrome in the criminal law.<sup>24</sup> India needs to formulate a specific defence to deal with the cases of battered women. The main logic behind proposing such a defence is that the abusers will be deterred from inflicting violence on women after knowing that the victim can legally attack him and that she has a recourse in law to work in her defence.<sup>25</sup> This way even women would feel empowered to fight back their abusers with full force. However, it cannot be denied that there can be possible misuse of this provision but putting the burden of proof on women to establish her defence will somewhat mitigate the risk of its misuse. Such a defence is the need of the hour for women stuck inside their houses during lockdown.

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<sup>19</sup> *U. Suvetha v. State*, (2009) 6 SCC 757

<sup>20</sup> *Unnikrishnan v. State of Kerala, Bail Appl. No. 5328 of 2018*

<sup>21</sup> *Manju Lakra v. State of Assam*, (2013) SCC OnLine Gau 207

<sup>22</sup> *Amutha v. State*, 2014 (2) MWN (Cr) 605

<sup>23</sup> *State v. Hari Prashad*, (2016) 228 DLT 1(DB).

<sup>24</sup> Dr. Shalu Nigam, *Battered Women Syndrome: Applying this Legal Doctrine in the Indian Context*, <https://dx.doi.org/10.2139/ssrn.2819322>, (August 6, 2016)

<sup>25</sup> Aishwarya Deb, *Battered Woman Syndrome: Prospect Of Situating It Within Criminal Law In India*, SSRN.



## **V. CONCLUSION**

The only way to tackle the hidden pandemic of Domestic Violence is by continuous efforts of government, international community, UN agencies and civil society organisation. There is an urgent need to prioritise the safety of women. All the governments in their national response plans to COVID -19 should make sure to allocate financial package to deal with domestic violence. Governments should introduce Online Counselling and trauma therapy for survivors of domestic abuse. Special support in all forms should be provided to women who suffered from domestic abuse while working as the frontline health and social workers. There is be a greater emphasis on raising awareness of judiciary and law enforcement agencies about increase in cases of domestic abuse. Women and organisations working for women's rights should have enough say in the policy making process. However the main problem is the gender stereotypes and toxic masculinity accentuated due to measures adopted to tackle COVID -19. The governmental agencies should work to challenge these issues proactively and at the same time, educate men and women on healthy ways to cope with stress. The most important thing to do is to treat each case of domestic violence with upmost sensitivity and empathy.

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