

Dreaded Path of Women and Domestic Violation in Critical Situation of Covid Pandemic an Identified Scenario

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Abstract: In general consideration and fundamentally home may be considered a safe and secured place for some, it is not all the time safest place for everyone. In totality the fact is, with deadly virus like what we are experiencing Covid-19 which laid lockdown in place and discussion for the current issues, there has been a huge surge in cases of domestic violence. All over the nation and world, victims of domestic violence are more stack to vulnerable and at risk to a frighteningly new degree of violence that has emerged. Here in India the situation is the same, the National Commission for Women i.e. what we called in short form NCW has raised an urgent alert about the increasing number of domestic violence cases since the national lockdown began in march 2020. Domestic violence involves a pattern of psychological, physical, sexual, financial and emotional abuse. Acts of assault, threats, humiliation, and intimidation are also considered acts of violence. The terminology 'lockdown' sounds itself is quite panicking term and gives a sense of being trapped in the closet door. This compounded with stress and other choking effects may lead to the perpetrator projecting frustration onto the victim to a higher degree. Teen age girls too have increased vulnerability to domestic violence during this time. Increased anxiety, job insecurity, financial worry, and other such emotions of parents can be predictor of abuse in realistic.

In addition to the above situation violation of human rights, victims of domestic violence can face several physical and mental health difficulties such as risk of chronic disease, depression, sexual disorders, PTSD (post-traumatic stress disorder) and substance abuse. Running from social support systems is one of the reasons for an increased risk of domestic violence during these times. As a result, there are fewer options to find safety or help for victims. Normally, the victim could flee a violent situation by staying elsewhere, but that option is not available right

now. The Protection of Women from Domestic Violence Act was directed by the Parliament of India to protect women from domestic violence. It came into existence on 26th October, 2006. This notable Act for the first time provided a definition of “Domestic Violence” in Indian law. This definition is broad and inclusive and included within its ambit not only physical violence, but also other forms of violence such as emotional/verbal, sexual, and economic abuse. It is a civil law meant primarily for protection orders and not conditionally meant to be enforced as law of criminal.

The Protection of Women from various Domestic Violence Act is therefore a commendable legislation. It comprehensively dictates and recognizes wider forms of violence against women. Prior to this Act all other instances of domestic violence within the household had to be dealt with under the offences that the respective acts of violence constituted under the IPC without any regard to the gender of the victim. This posed a problem where the victims happened to women who were dependent on the assailant.

This Act is therefore, referred to be bold from prior legislations and gave a very extensive definition to the term “domestic violence”. The definition also encourages for claims for compensation arising out of domestic violence and includes maintenance similar to that provided for under Section 125 of the Code of Criminal Procedure (CrpC). Lastly, the Act also identifies emotional abuse as a type of domestic violence and includes insults on account of the victim’s not having any children or male children. This paper identifies various elements involving the grave reality and how society reacts in this situation and women reciprocation of this journey. A small effort is being made to see through the mirror of hard facts.

Keywords: Women, Domestic, Violation Act, Covid, Pandemic, Human Rights, Criminal Procedure.

Introduction: Conventionally and historically India has a patriarchal set up wherein it became an acceptable norm to abuse women. The reasons for the crime against women are many but if we see from the feminist standpoint and issues, we can clearly see the occurrence of domestic violence begins from the patriarchal set up, the stereotyping of gender roles, either real or it should be perceived, in society.

As I have pointed out in abstract, the Protection of Women from Domestic Violence Act is therefore a commendable legislation. It genuinely recognizes wider forms of violence against women. Prior to this Act all other instances of domestic violence within the household had to be dealt with under the offences that the respective acts of violence constituted under the IPC without any regard to the gender of the victim. This posed a problem where the victims happened to be children or women who were dependent on the assailant.

Another serious issue with respect to domestic abuse or family violence is an increasing risk of domestic violence-related homicide. Last but not the least in addition to adult victims of family violence there are children and pets who reside in 60 % or more of households where domestic violence is perpetrated are at great risk of suffering from physical and or emotional distress which is highly intensive in nature.

Methodological Issues Discussed in this paper:

The Global Trend and Covid-19: The issue which are concern of domestic violence is not restricted to India only. It is spread all over the world as a follow up to the lockdown mandate. The women who live with domestic violence have no escape from their abusers during quarantine. The problem has risen alarmingly and steeped across jurisdictions that are countries like Brazil to Germany, Italy to China. Now, with families in lockdown worldwide, hotlines are pooled with lighting up with abuse reports, leaving on governments to address the crisis. Policies are being formulated across the globe, since no jurisdiction governed by rule of law could ever predict a complete lockdown in the present manner.

The Domestic Trend and Covid-19: The condition of women has deteriorated variably further during this pandemic and become an important issue to be address. The Governments in most part of the world took recourse to one measure to contain the spread of corona virus. Little did they perceive that this would surge the family violence and risk the lives of women and children. The vital question, therefore, arises whether we can adopt serious punishment or penal sanctions on perpetrators of domestic violence during lockdown? A detailed study by **Ms. Radha Iyengar** at Harvard University reveals that punitive action in cases of domestic violence have worsened

the situation and actually increased intimate partner homicides. She has placed reliance on the FBI Reports from 1976 to 2003 as her study details of the issues.

So given the situation if we analyse further the vicious cycle of domestic violence, once the tension gets high any trigger can set off the 'abuse'. Besides this unlike other western countries, we do not have the potential logistics to move victims to safe homes or order the aggressor to move out of their homes.

Remedial Measures brought to the table for discussion:

Remedies Available in Indian Laws for The Victims of Domestic Violence: In 1983, domestic violence was recognized as a specific criminal offence by the introduction of Section 498-A into the Indian Penal Code. This section deals with cruelty by a husband or his family towards a married woman. A punishment of up to 3 years and fine has been prescribed. The expression 'cruelty' has been defined in wide terms so as to include inflicting physical or mental harm to the body or health of the woman and indulging in acts of harassment with a view to coerce her or her relations to meet any unlawful demand for property or valuable security. Harassment for dowry falls within the sweep of latter limb of the section i.e. Section 304/B. Creating a situation driving a woman to commit suicide is also one of the ingredients of 'cruelty' dealt under Section 306. Section 498A reads as follows:

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.

The Code of Criminal Procedure, 1973 provides for legal provisions regarding relief to the wives and children. The provisions of maintenance of the Code of Criminal Procedure are applicable to persons belonging to all religions and have no relationship with the personal laws of the parties. Therefore, according to Section 125(1) of the Code, the following persons are entitled to claim maintenance under certain circumstances:

(1) If any person having sufficient means neglects or refuses to maintain.

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time Direct. Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means. Provided further that the Magistrate may, during the pendency of the proceeding may order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother and the application for the same shall be disposed of within sixty days from the date of the service of notice of the application to such person.

(2) Any such allowance for the maintenance or interim maintenance and expenses for proceeding shall be payable from the date of the order.

(3) If any person so ordered fails without sufficient cause to comply with the order, the Magistrate may, for every breach of the order, issued a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, to imprisonment for a term which may extend to one month or until payment if sooner made:

(4) No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, from her husband if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

Analytical address of some cases and facts:

A Hindustan Times analysis of cases recorded across the country reveals two important aspects of the issue. One, some states have reported a decline in the number of domestic violence complaints, others have reported a spike in the calls being received by helplines. This indicates that the incidence of domestic violence during the lockdown depends upon the ability of victims to make complaints while they share domestic spaces with perpetrators. In some states like Rajasthan, Madhya Pradesh and Telangana, the number of complaints received by state-run helplines has decreased. In Ghaziabad, which forms part of the National Capital Region, instances of domestic violence during the first phase of lockdown saw a decline of about 50% as compared to the pre-lockdown period in March, according to the data compiled by 18 police stations in urban and rural areas of the city. “There used to be around 400 complaints related to Domestic Violence every day from all parts of the state till last month and now, the number has come down to around 150-200,” Inspector General of Police (Women Safety) Telangana, Swati Lakra said in statement issued by public interest.

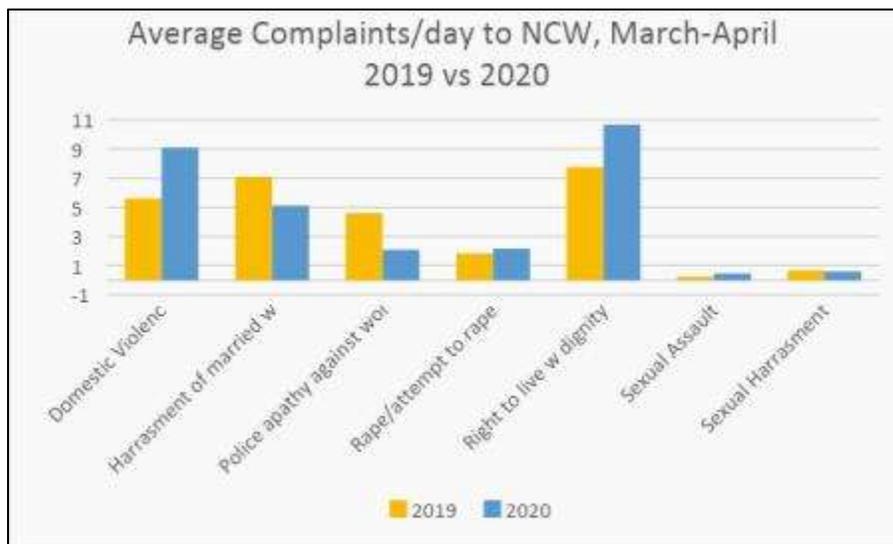
However, in some other states the number of calls on domestic violence have, in fact, increased. The Punjab State Commission for Women (PSCW) has received at least 30 complaints everyday related to domestic violence since March 22. According to Manisha Gulati, chairperson of PSCW, prior to the lockdown, only a third of the calls they received pertained to domestic violence incidents. Even private helplines, such as that maintained by Mumbai-based Tata Institute of Social Sciences’ iCall, has seen a spike in calls. “We are getting phone calls from Ghaziabad, Noida, Mumbai, Hyderabad and many other cities Everyday there are at least three calls,” coordinator Ruchi Sinha said.

The second aspect to this issue is that while there are several helplines and shelter homes available for women to call or live in both state-run, and those maintained by non-governmental organizations the help that they can provide has been curtailed due to the lockdown. Women cannot travel to police stations, and social workers cannot reach them or arrange for their travel; the police are overburdened with Covid-19 duties, and visiting homes to investigate domestic disputes is often not considered a priority. What’s more, domestic violence cases are filed in

lower courts as these are civil disputes and at present, courts are only open for emergency hearings, such as bail pleas.

The National Commission for Women (NCW) has received 250 domestic violence complaints between March 25 and April 22. “These were the numbers that could reach us. I am afraid the actual numbers would be higher. We’re trying to follow up on more cases. State bodies have also been asked to stay more alert,” said chairperson Rekha Sharma. Across India, only the direst cases seem to be getting addressed.

Last week, Kerala State Women Commission member Shahid Kamal got a call from Chennai pleading for help. The caller told her that his sister, a resident of Idukki district in Kerala, and her daughter were hiding in a forest after the woman’s husband ejected them from their home. The caller said that the jungle had several wild animals. Kamal immediately alerted the Idukki police, and the matter was investigated. The husband was taken into custody. “In some cases a little counselling and advice will do. But cases like this need serious intervention. It is fact during lockdown, domestic violence cases have increased. But if you ask me, data will be [lesser],” she said.



Author’s calculations based on data from the National Commission of Women website, accessed April 20.

Another counsellor said that parole granted to prisoners and under-trials — done in order to ease the pressure on overcrowded jails during the Covid-19 epidemic that requires strict social distancing to prevent the spread of the virus — has meant that several perpetrators of violence have returned home. In Kottayam, a family had approached the prisons department against the release of one of their male members from the jail on this account. The prisoner was released, but warned not to stay with his family.

In Malda district of West Bengal last week, 26-year-old Sona Mondol was allegedly strangled by her husband of five years. In another incident in the district, another woman was allegedly killed by her husband for protesting against his extra-marital affair. Both men have been booked. “There is hardly anything we can do at this moment. We have helped the victims to connect with the local police station, lawyers and local NGOs,” said Debaprasad Roychoudhury, an official of Association of Protection of Democratic Rights, a NGO running in the state.

Rituparna Borah, co-founder Delhi-based Queer Nazariya, a resource group for lesbian, bisexual women and transmen, said that the number of distress calls that they have received has increased, but unlike before where they could offer assistance in person — whether counselling or arranging for the queer person to leave their home if they needed to — the only help that they can offer at present is counselling over the telephone.

The courts have taken cognizance of this issue. On April 18, the Jammu & Kashmir high court passed an order taking suo moto cognizance of domestic violence cases during the lockdown, and offered a slew of directions including creating a special fund and designating informal safe spaces for women like grocery stores and pharmacies, where they could report domestic violence/abuse without alerting the perpetrators. The Karnataka high court too asked the state government about the helplines, and action taken on domestic violence complaints. The state responded to the court on April 25 stating that helplines, counsellors, shelter homes and protection officers were working “round the clock” to help victims of violence.

The Delhi high court recently directed the state and Centre to take measures to protect women from domestic violence, following a petition filed by an NGO. The Centre, Delhi government and the national and state commissions of women submitted status reports on the action taken

against domestic violence, including spreading awareness about helpline numbers, shelter or one-stop homes as well as appointment of protection officers, which the court reviewed on April 25.

The Delhi government told the court that on April 12, it put in place a protocol to tackle cases of domestic violence during the lockdown: once a survivor reaches out to the helpline (181), the tele caller will take down her complaint and then forward her case to a counsellor who is required to establish a phone communication with her on account of the lockdown. Several artists including the board member Richa Chadha, Kalki Koechlin, Amyra Dastur, Mallika Dua, Pulkit Samrat, Adil Hussain amongst others took to spreading the message of peace and gender parity while people are stuck in their houses.

In Concluding Remarks: The conditions of lockdown magnify and simulate to think existing abusive behaviours: isolation from friends, family and employment; the opportunity for constant surveillance of a partner; restrictions on access to the outside world; and limitations on food. There is no escape or respite for victims and their children outside of the home. The findings of this original study can be applied to the current coronavirus pandemic and the daily updates that tell us domestic violence rates around the world are increasing. It is important to note that media reports are not the same as prevalence. While other crimes are falling during this pandemic, domestic abuse is not, and the lack of other news generally and the increase in murders make it a more newsworthy issue.