

WHAT CAN BE WORSE THAN THIS COVID-19 PANDEMIC? DOMESTIC VIOLENCE!

ABSTRACT

The Covid-19 pandemic is an ongoing global pandemic of coronavirus disease 2019. The outbreak was first identified in Wuhan, China in December 2019. The first case of Covid-19 in India, which originated from China, was reported on 30th January 2020. As the number of Covid-19 positive cases increased in India, the government announced lockdown for maintaining social distancing and restricted travel as this step is mandatory to control this pandemic. Because of this pandemic, many issues have arisen; one of the issues is domestic violence which is being set out in the present article.

Many countries announced lockdown before India and had experienced a dramatic increase in the cases of domestic violence. Still, our government did not plan anything for this issue before announcing lockdown. Therefore, the object of this article is not only to make aware of the victims the remedies of domestic violence but also warn the abusers, what penal provisions can be charged against them. In this article, the author firstly explains what is domestic violence and its type in very brief, followed by stating reasons for increase in such domestic violence during the lockdown. Secondly, the paper discusses the laws in India with regard to domestic violence and finally concludes the article by suggesting measure to control domestic violence in the light of pandemic.

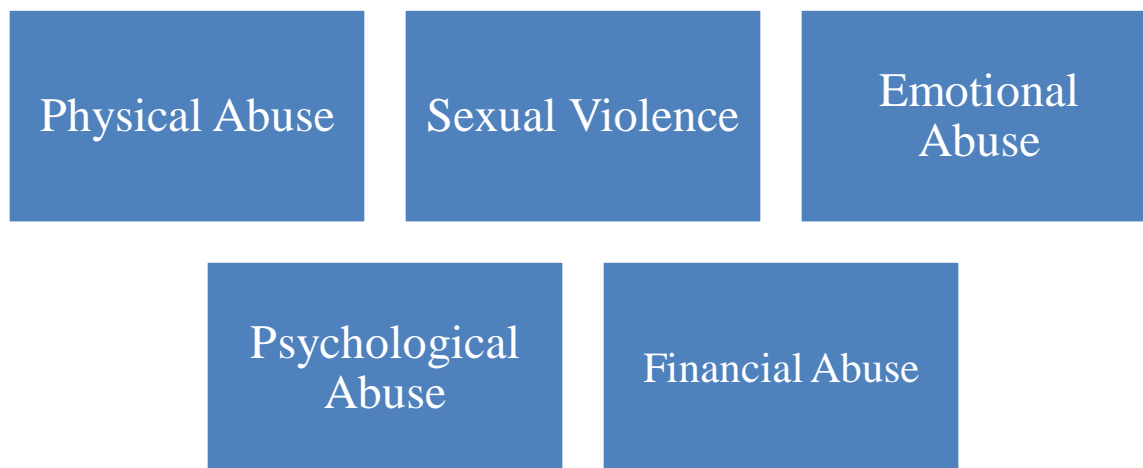
Keywords: Covid-19, Domestic Violence, Lockdown, Penal laws

DOMESTIC VIOLENCE

Domestic Violence is like no other crime as it doesn't happen in any vacuum place or with any stranger. It happens in our own home which is supposed to be the safest and sacred place for us. It's the violence from someone who claims to love us. It is done by our people because of their vacuity. It may occur in any relationship even in live-in relationship as the **Section 2(f) of The Protection of Women from Domestic Violence Act, 2005** states that domestic relationship means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or **through a relationship in nature of marriage**, adoption or are family members living together as a joint family.¹ Therefore as per Section 2 (f), it not only applies to a married couple, but also a relationship like marriage.

This is a myth that it happens only in the illiterate families where people do not have that much education. It happens to all kinds of people with regard to no age, financial status, or educational background. It doesn't mean men who have had studied masters can't abuse their partner. Similarly, a woman with a notable career doesn't mean she can't be abused.

TYPES OF DOMESTIC VIOLENCE



¹ The Protection of Women From Domestic Violence Act, 2005

RISE IN NUMBER OF CASES OF DOMESTIC VIOLENCE DURING COVID-19 PANDEMIC

Incidents of Domestic Violence against women have gone up since this lockdown has started because of this pandemic.²

For women and children who face such domestic violence have no escape from their abusers during the lockdown. Lockdown was so necessary for this pandemic and it is supposed to be a blessing for all as we got some time to spend with our families which were missing in our daily lives routine but some people felt that this is a curse for them as they were abused in some or other way by their so-called loved ones only.

According to data released by the National Commission for Women (NCW), the number of domestic violence complaints has been doubled. From 30 in the first week of March, the number of complaints rose to 69 between 23rd March and 1st April, and this number has been increasing day by day.³

Till June 29, 2020, 1500 complaints of domestic violence has registered by the police in Ludhiana, Punjab. The numbers saw a sharp rise from 850 domestic complaints before lockdown.⁴

Recently in a survey, conducted by Tamil Nadu Women's collective in 62 villages in the state showed that at least 81% of the families reported some sort of domestic violence during the lockdown. Meanwhile in Maharashtra, the government has received over 4,000 domestic complaints during this pandemic.⁵

Many more women tried to come out of their home to seek help but seeking help during lockdown is not an easy task as they were unable to lodge their complaints via phone as the abusers were at home all day. Most of the women don't file a complaint or against the abusers as the stigma is

² National Commission for Women, Newsletter April 2020

<http://ncw.nic.in/newsletters/apr-2020>

³ Esha Roy, India Express (April 3, 2020);

<https://indianexpress.com/article/india/domestic-violence-abuse-complaints-rise-in-coronavirus-lockdown-ncw-6344641/>

⁴ Reethu Ravi, The Logical Indian Crew (29 June 2020);

<https://thelogicalindian.com/news/suicide-domestic-violence-during-lockdown-ludhiana-21980>

⁵ Reethu Ravi, The Logical Indian Crew (29 June 2020)

<https://thelogicalindian.com/news/suicide-domestic-violence-during-lockdown-ludhiana-21980>

attached that if they lodge a complaint against the abusers and once they are arrested, they may face worse abuse once they are released and in the interim, might face harassment from their in-laws or others. The same is observed in a case where a woman in Nainital who hails from Delhi wants to come back as she is being beaten up by her husband. However she approached NCW, but she doesn't want her husband to be arrested, as she knows that he will be out on bail soon and by then her in-laws will continue the torture.⁶In another case in Hyderabad, a woman and her teenage son from an earlier marriage were facing the brunt of her second husband's frustration over not getting alcohol during the lockdown. She reached out to the police, who provided with her an official helpline number. But the intensity of the abuse increased when the husband came to know about her complaint.⁷

This situation is not only in India but also occurs globally. The number of domestic violence cases reported at a police station in Jingzhou, a city in the Hubei province of China, the region where Covid-19 was first detected, tripled in February 2020, compared with the same period the previous year⁸. In the United Kingdom, calls, emails and website visits to Respect, the national domestic violence charity have increased 97 percent, 185 percent and 581 percent respectively. In the first three weeks of Covid-19 lockdowns, 14 women and 2 children were murdered in the country.⁹ Large numbers of cases continue to be reported in the US, UK, France, Spain and several other Western nations.¹⁰

WHY COVID -19 PANDEMIC INCREASES THE RISK OF VIOLENCE AGAINST WOMEN?

Abusers who used to abuse whether physically, mentally, or sexually before the Covid-19, now they do domestic violence more on women because of stress, the disruption of social and protective

⁶ Chanchal Chauhan, India Today published (April 27,2020); <https://www.indiatoday.in/mail-today/story/domestic-violence-spikes-in-lockdown-govt-told-to-step-in-1671460-2020-04-27>

⁷ Shemin Joy ,Deccan Herald (April 26,2020)

<https://www.deccanherald.com/specials/insight/coronavirus-crisis-no-lockdown-for-domestic-violence-829941.html>

⁸ Shemin Joy, Deccan Herald (April 26,2020)

<https://www.deccanherald.com/specials/insight/coronavirus-crisis-no-lockdown-for-domestic-violence-829941.html>

⁹ Department of Global Communications

<https://www.un.org/en/coronavirus/un-supporting-%E2%80%98trapped%E2%80%99-domestic-violence-victims-during-covid-19-pandemic>

¹⁰ Girija Shivkumar ,The WIRE (16th April, 2020)

<https://thewire.in/women/covid-19-lockdown-domestic-violence>

networks, loss of income and decreased access to services. All can exacerbate the risk of violence for women.

There is plausibility that women in an abusive relationship and their children will be exposed to violence as the violence is upsurge because the family members spend more time in close contact and families cope with additional stress and potential financial losses.

This lockdown increases the burden of women as today also it is the responsibility of women only to take care of the home and family members and now when all of them are at home, she needs to take care of everyone and their needs and wants especially she has to take special care of those who used to do domestic violence on her. She has to keep in mind always that her gesture won't become a reason for spoiling their mood. This creates a fear in the victim's mind.

The pandemic is likely to increase sexual violence leading to rape and unwanted pregnancies. A forceful or non-consensual sex in a marriage leads to sexual violence on women and these types of complaints are still less in number than physical violence because of the stigma which is attached in a marriage that if women complaint against the intimidate partner who sexually assaulted her, it will ruin her respect in the society, moreover she will face dire consequences from the in-laws.

Therefore, the phrase "Stay Home, Stay Safe" is not for the women who are constantly facing violence by their so-called loved ones. As this situation cuts off them from their friends, families; they are unable to make calls and complain or move to a safer place.

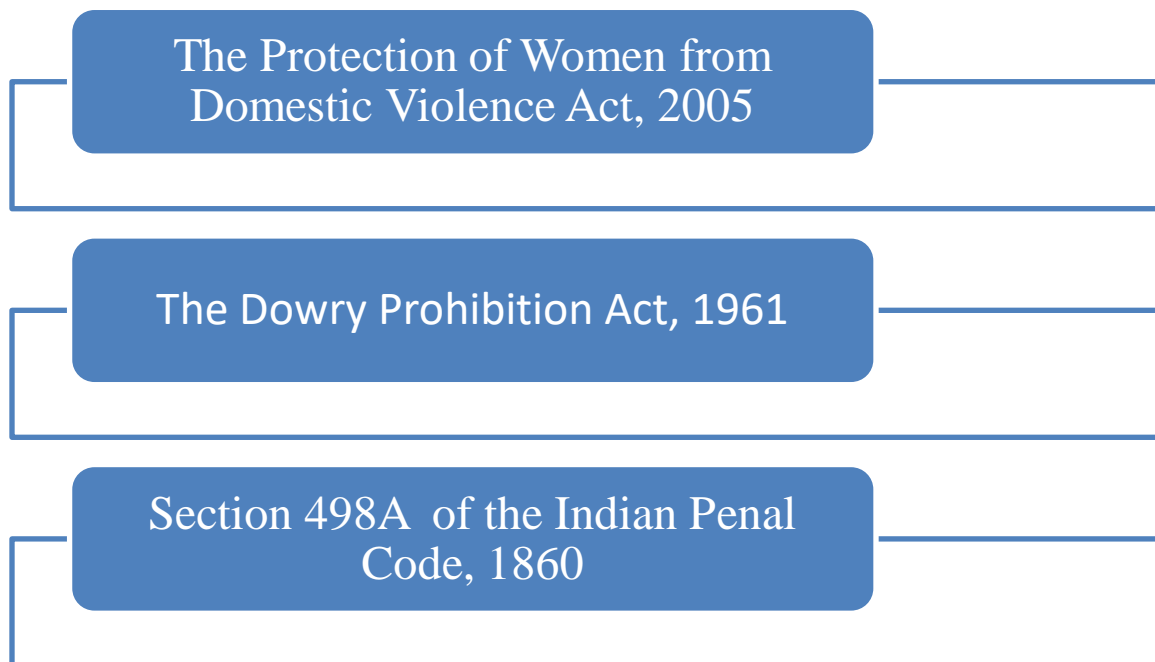
IMPACT ON WOMEN OF INCREASING VIOLENCE DURING COVID-19 PANDEMIC

Any kind of violence has a significant impact on the health and well-being of the victim, and when violence is done by someone you love, it leaves even a deeper impact on the victim's mental health also. The emotional pain is more than the physical pain as it is a wrong committed by their loved ones which is not expected. The psychological consequences can be as serious as the physical effects, or even can be worse but not less than the later.

Women who have been abused by their intimate partner are three times more likely to suffer depression, anxiety or severe conditions such as schizophrenia or bipolar disorder than other women, according to research.¹¹

Violence and abuse affect not just the women involved but also their families and most importantly children. Today, the children do not want to leave with their parents and try to find an excuse to leave them, Thus we can presume that after the lifting of lockdown, there will be a spike in the number of divorce petitions in the family court.

LAWS IN INDIA AGAINST DOMESTIC VIOLENCE



1. THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

¹¹ World Health Report, 2001

Under this law, women can seek protection against domestic violence, financial compensation, the right to live in their shared household, and they can get maintenance from their abuser in case they are living apart.

This law is to ensure that women do not get kicked out of their own homes and can sustain themselves if they have been abused. It is also meant for protecting women from their abusers- a Magistrate can pass following orders under the Act to ensure the abuser doesn't contact or get close to the survivor:-

- a. Protection Orders
- b. Residence Orders
- c. Monetary Relief
- d. Custody Orders
- e. Compensation Orders

A victim can approach following authorities under this law:

- a. Protection Officer, or
- b. Service Provider

You can also approach to the

- a. Police or a
- b. Magistrate directly

2. THE DOWRY PROHIBITION ACT, 1961

This is the criminal law that punishes the taking and giving of dowry. Under this law, if someone takes, gives or even demands dowry, they can be imprisoned six months or they can be fine up to Rs 5000.

3. SECTION 498A OF THE INDIAN PENAL CODE, 1860

Section 498A was added to the abovementioned act in 1983 through amendment and makes Domestic Violence a criminal offense. This law helps women who are facing violence at home. This is a criminal law, which applies to husbands or relatives of husbands who are

cruel to women. Cruelty refers to any conduct that drives women to suicide or causes grave injury to her life or health including mental health and also includes mental harassment in the name of dowry. Convicted punishers will be charged with imprisonment for up to three years or fine or both.

In the United States, Office on Violence against Women (OVW) defines domestic violence as a “pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can take many forms, including physical abuse, sexual abuse, emotional, economic, or and/or psychological abuse”.

In 1994, the U.S. government established the Violence against Women Act (VAWA) intended to enhance both casualty administrations and capture and indictment of batterers.

VAWA not just reauthorized STOP (Services, Training, Officers, Prosecutors) grants are awarded to states to develop and strengthen the criminal justice system’s response to violence against women and to support and enhance services for victims. ¹²

India is lacking in such types of grants, they should also make some provisions like the U.S. which would be beneficial for casualties.

Also the cases of domestic violence upsurge in other countries also, but in India, there are more cases compare to other countries as in other parts of the world, mechanisms to protect women from being locked in with their abusers have evolved to take into account lockdowns and social distancing.

The French government has promised to open pop-up counseling centers and pay for hotel rooms for domestic violence victims, who have also been encouraged to seek help at pharmacies.

In Italy, the government has launched an app that enables domestic violence victims to seek help without making a phone call.

In India, the response has been of a nose around.

¹² <https://www.vawamei.org/grant-program/stop-formula-grant-program/>

SOME JUDGMENTS IN WHICH COURT TOOK STRICT ACTION AGAINST THE ACCUSED

1. AJIT SINGH HARNAMSINGH GUJRAL V. STATE OF MAHARASHTRA¹³

In this case, the husband burnt his wife and three grown-up children. They were killed in the most gruesome, cruel and diabolic manner. The Supreme Court upheld the death penalty and held:

“Burning living persons to death is a horrible act which causes excruciating pain to the victim, and this could not have been unknown to the appellant. A person like the appellant who instead of doing his duty of protecting his family kills them in such a cruel and barbaric manner cannot be reformed or rehabilitated. The balance sheet is heavily against him and accordingly, we upheld the death sentence awarded to him is upheld. The accused did not act on any spur of the moment provocation. Though quarrel occurred between him and his wife at midnight, yet the fact that he had brought a large quantity of petrol to his residential apartment shows that he had pre-planned the diabolical and gruesome murder in a dastardly manner. A distinction has to be drawn between ordinary murders and murders which are gruesome, ghastly or horrendous. While life sentence should be given in the former, the latter belongs to the category of the rarest of rare cases, and hence death sentence should be given.”

2. DINESH SETH V. STATE OF NCT OF DELHI¹⁴

The appellant was married to the deceased (his wife) on 2-12-1984. She died on 22-11-1986. It was deposed by the witnesses immediately after marriage the deceased was being beaten by the appellant, his brothers and was subjected to harassment and taunting by in-laws for being dark-complexioned and illiterate/ not fluent in English. The appellant had hit the

¹³ (2011) 14 SCC 401 : (2012) 3 SCC (Cri)1349

¹⁴ (2008) 14 SCC 94 : (2009) 2 SCC (Cri) 783

deceased with a brick resulting in the wound on her head to be stitched. On the date of the death also, the deceased was subjected to physical torture and harassment. The court held that the beating was given to the deceased and harassment to which she was subjected had a direct bearing on her committing suicide. Therefore, the Supreme Court convinced that the High Court did not commit any error in convicting the appellant under Section 498A IPC. The appeal was dismissed and the appellant, who is on bail, shall be arrested for serving the remaining sentence.

3. MANDAKINI BALASAHEB KALBHOR V. STATE OF MAHARASHTRA¹⁵

In this case, a young girl Vaishali ended her life by consuming Duneet methanol in the form of insecticide and succumbed to the same. Deceased's father lodges a complaint on the very same day that Vaishali ended her life. He also alleged that his daughter had complained about cruel treatment inflicted on her in-laws and her husband. Within a period of six months of her marriage, the deceased committed suicide. Harassment was in the form of taunts and her unacceptability in the house. It also speaks of the deceased being ridiculed by the mother-in-law and her behavior was reiterated by other members of the family including the husband of the deceased.

“Deceased who was unhappy on account of the harassment could see no hope and she took the desperate step to escape the unbearable suffering and pain which she was subjected to in an attempt not to put an end to her life but to end the traumatic ordeal which she had to undergo within a short span of her married life.”

Court added that, Section 498-A came to be inserted to suitably deal not only with the cases of dowry death but also cases of cruelty to a married woman by her in-laws.

“ the conviction and sentence of the mother-in-law of the deceased are upheld and a notice issued to deceased's husband who was erroneously acquitted by the trial court of the offence punishable under Section 498-A by affording him an opportunity of hearing.”

COMMON PREVENTIVE MEASURES

¹⁵ 2019 SCC Online Bom 1774

1. Seminars and counseling should be held in schools on domestic violence as many students are experiencing the violence and see the victim but don't say anything about it to anyone because for them this becomes a normal behavior as they experience this on the usual basis in their home. If they start to identify something wrong is committed in their home, they can raise their voice by telling to their counselors or teachers and through them, many lives and relations can be safe
2. Seminars and counseling on domestic violence should also be held in communities especially in rural places and workplaces as sometimes women hesitate to reach their friends or family, but through counseling, they can raise their voice against domestic violence.
3. Be kind and help others, in today's time, none raise voice for anyone from the fear of police investigation, but in these types of cases, neighbors play a vital role and can help those victims who won't able to help themselves. Initiate neighborhood campaigns and develop a support system.
4. Shelters should be open in India in every community for victims of domestic violence in which they can easily refuge themselves in the urgency like in this pandemic. In Western countries, there are shelters especially for the women who are facing domestic violence.
5. The government should make unique projects/schemes in which they encourage women to take part, regardless of any age and become independent. Just before the Covid-19 lockdown was imposed in India On March 25, a young woman rushed to her mother's place in Delhi to save herself from the verbal and physical torture of her spouse, she felt she could remain safe and at peace for some days, but her hopes were short-lived. With the lockdown preventing her from returning to her husband's house and slide in income with no job, the tension was rising in the lower-middle class family, As income was squeezed, her brother was apparently feeling that she was an additional burden. One day, the brother severely beat her up.¹⁶ In other words, socio-economic status of the women in the country should be improved.

¹⁶ Shemin Joy, Deccan Herald (April 26, 2020)

<https://www.deccanherald.com/specials/insight/coronavirus-crisis-no-lockdown-for-domestic-violence-829941.html>

6. Stringent action should be taken against the people harassing women (implementation of *The Protection of Women from Domestic Violence Act,2005*).
7. The Legislative measures can be used to prevent violations of social norms and regulations at the local level so that problems coming from the local level can be prevented.

CONCLUSION

This needs to stop! Women need to become more aware of their rights and the culprits need to be more aware of the legal consequences of their actions. Family members at these very woeful times should make their bond stronger instead of breaking apart. They may consult relationship counselors if they are facing relationship issues without any shame as this is only going to benefit them in the long run. But if nothing works, and the extent of this heinous and monstrous deed is beyond limits, then the victims should take a stand for themselves without fear and opt for legal aid.