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# **THE RISE OF DOMESTIC VIOLENCE DURING LOCKDOWN: A SOCIO-LEGAL STUDY**

AUTHOREED BY - ANKANA BAL

*“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.”*

- Antonio Guterres<sup>1</sup>

## **Abstract**

*Domestic violence is a prolong drawn global pandemic. With COVID-19 lockdown in place, there has been a surge, all over the world, in cases of domestic violence. Victims of domestic violence are more vulnerable and at risk to a frighteningly new degree of violence as they are being forced to live with perpetrators. As a result, there is alarming rise of the calls to the state helplines and shelter homes. It was well presumed fact that isolation with the abusers would aggravate the existing situation. States failure to take pre-cautionary actions verifies states inability / unwillingness to determine the gravity of domestic violence. At the same time, we must remember that the increase of domestic violence during lockdown is the exposure the intrinsic nature of the age-old problem. Although gender differentiation may be denied in many legal systems, there is a state resistance to interfere in “historically considered private matters.” The explicit and implicit gender discrimination, in most states, makes women particularly vulnerable to violence. In light of the current situation, this paper tries to provide a global data on the rising cases of domestic violence, its multiple causes, societal and cultural ignorance (states and legal system) to emphasize on domestic violence cases. It also discusses the existing international legal regime, foreign and domestic laws and finally various measures taken by states to protect the vulnerable women.*

**Key words:** COVID-19, Domestic violence, Intimate partner, Lockdown, Complaint.

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<sup>1</sup> Antonio Guterres, the Secretary General, United Nations (6 April 2020)  
<[https://twitter.com/antonioguterres?ref\\_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor](https://twitter.com/antonioguterres?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor)>  
accessed 11 June, 2024.

## Introduction

Coronavirus (COVID-19) is, essentially, an urgent health catastrophe. Among the 188 countries more than 957,000 people died.<sup>2</sup> As the COVID-19 pandemic has forced several countries into a lockdown, cases of domestic violence rose at an alarming pace all over the world. The horrifying surge in domestic violence made the European Parliament to issue a press release, writing “we won’t leave Europe's women alone”.<sup>3</sup> The increased danger is not surprising. The risk of gender-based-violence heightens during times of crisis like pandemic, natural disaster, financial crisis. Previous epidemics, such as, cholera and Zika virus disease outbreaks in Latin America, Ebola virus disease outbreak in west Africa,<sup>4</sup> the global financial recession in 2009<sup>5</sup> and natural disasters, like, Christchurch earthquake,<sup>6</sup> Katrina hurricane disaster<sup>7</sup> led to upsurge of domestic violence. Studies also show that in the Christmas and summer vacations, when families spend more time together, domestic violence goes up.<sup>8</sup> The activists and scholars were presumed that social distancing and isolation would provide an opportunity for abusers to unleash more violence. But governments unprepared for the way the public health measures created opportunities for abusers to terrorize their victims. In light of this, this article seeks to examine intrinsic nature, characteristics and reasons of domestic violence.

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<sup>2</sup> Johns Hopkins University, ‘Territories with Confirmed cases with COVID-19’ (*Alzejeera*, 20 September 2020) <<https://www.aljazeera.com/news/2020/01/countries-confirmed-cases-coronavirus-200125070959786.html>> accessed 20 September, 2024.

<sup>3</sup> Press Release, ‘COVID-19: Stopping the rise in domestic violence during lockdown, European Parliament’ (*European Parliament*, 7 April 2020) <<https://www.europarl.europa.eu/news/en/press-room/20200406IPR76610/covid-19-stopping-the-rise-in-domestic-violence-during-lockdown>> accessed 5 June, 2024.

<sup>4</sup> ‘Everything on her shoulders: Rapid assessment on gender and violence against women and girls in the Ebola outbreak in Beni, DRC’ (*International Rescue Committee*, 15 March 2020) <<https://www.rescue.org/report/everything-her-shoulders-rapid-assessment-gender-and-violence-against-women-and-girls-ebola>> accessed 24 July, 2024.

<sup>5</sup> Claire M. Renzetti, ‘Economic Stress and Domestic Violence’ CRVAW Faculty Research Reports and Papers (*UKnowledge*, September 2009) <[https://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1000&context=crvaw\\_reports](https://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1000&context=crvaw_reports)> accessed July 23, 2024.

<sup>6</sup> Jacqui True, ‘Gendered violence in natural disasters: Learning from New Orleans, Haiti and Christchurch’ 25(2) *ANZSW* (2013) 78.

<sup>7</sup> Pamela Jenkins and Brenda Philips, ‘Domestic Violence and Hurricane Katrina’ (January 2008) <[https://www.researchgate.net/profile/Pamela\\_Jenkins/publication/239585662\\_Domestic\\_Violence\\_and\\_Hurricane\\_Katrina/links/54008c220cf2c48563ae4326/Domestic-Violence-and-Hurricane-Katrina.pdf](https://www.researchgate.net/profile/Pamela_Jenkins/publication/239585662_Domestic_Violence_and_Hurricane_Katrina/links/54008c220cf2c48563ae4326/Domestic-Violence-and-Hurricane-Katrina.pdf)> accessed 17 July, 2024.

<sup>8</sup> ‘Summary Report on WHO Multi-country Study on Women’s Health and Domestic Violence against Women’ (*WHO*, 2005) <<http://dspace.ceid.org.tr/xmlui/bitstream/handle/1/93/ekutuphane4.1.6.4.pdf?sequence=1&isAllowed=y>> accessed 25 July, 2024.

## Global surge of violence

The worldwide lockdown in an unprecedented way, confined families and individuals in their homes. It, often, only allowed out for emergencies or to shop for essentials. As quarantines take effect around the world, that kind of ‘intimate terrorism’ (a term many experts prefer for domestic violence) is flourishing. The U.N.’s reproductive and sexual health agency, a sub-agency under UNs Population Fund, predicted in April that the first six months of lockdown measures could lead to 31 million more cases of domestic abuse globally.<sup>9</sup> For the better understanding of the factual aspects, let us look at the global picture.

Latin America noticed two kinds of facet in the on-going phenomena. Some countries, like Brazil and Mexico, there has been a rise in formal reports of abuse, while in others, including Bolivia and Chile, there has been a drop in formal complaints.<sup>10</sup> Prosecutors and UN Women said the latter is likely not due to a decline in violence, but because women are less able to seek help or report abuse through normal channels.<sup>11</sup> After a nationwide lockdown was imposed on March 20, Argentina’s emergency line for abuse victims, supported by its justice department, has seen a 67% rise in calls for help in April compare to a year earlier. In Chile, the women’s minister said that calls to domestic abuse helplines had increased 70% in the first weekend of quarantine. The government has bolstered counselling channels and looked to keep shelters open for women at risk. Daily domestic violence calls, In Colombia, to a national women’s hotline were up nearly 130% during the first 18 days of the country’s quarantine.

In Spain a 35 years old woman was killed by her husband in front their children in the coastal province of Valencia. She was the 17<sup>th</sup> woman who killed by the partner or ex-partner in Spain this year.<sup>12</sup> A 78-year-old, also, killed by her husband was the second victim of femicide during Spain's lockdown. There was a 47% increase in calls to Spain’s domestic violence helpline over the same period last year in the first two weeks of April alone. The number of women

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<sup>9</sup> Haley Ott, ‘U.K. domestic violence charity says calls have surged 66% as coronavirus lockdown continues’ (*CBS NEWS*, May 27 2020) <<https://www.cbsnews.com/news/uk-domestic-violence-charity-huge-spike-calls-for-help-as-coronavirus-lockdown-continues/>> accessed 9 June, 2024.

<sup>10</sup> Lucila Sigal, Natalia A. Ramos Miranda, Ana Isabel Martinez, Monica Machicao, ‘Another pandemic: In Latin America, domestic abuse rises amid lockdown’ (*Reuters*, 27 April 2020) <<https://in.reuters.com/article/health-coronavirus-latam-domesticviolenc/another-pandemic-in-latin-america-domestic-abuse-rises-amid-lockdown-idINKCN2291JM>> accessed 7 June, 2024.

<sup>11</sup> *Ibid.*

<sup>12</sup> Natalie Higgins, ‘Coronavirus: When home gets violent under lockdown in Europe’ *BBC News* (Brussels, 13 April 2020) <<https://www.bbc.com/news/world-europe-52216966>>, accessed 02 June 2020

contacting support services by email or on social media is said to have increased by as much as 700%.<sup>13</sup> The Spanish government has designated support services as essential services. Many of the calls to the national helpline were about shared custody of children and visiting rights under the lockdown, but agreed that enforced confinement was inevitably heightening tensions in the home.<sup>14</sup>

France initially reported a sharp drop in calls to the national helpline.<sup>15</sup> But within a week calls to police for domestic violence increased by more than 30% during lockdown. The biggest increase has come from Paris.<sup>16</sup>

In an interview with BBC, former prime minister of U.K., Teresa May said, ‘measures to tackle coronavirus must not do more damage than the disease itself’.<sup>17</sup> Refuge, the charity that runs Britain's national domestic abuse helpline said the rise of demand for its services under the national lockdown. It observed that visits to its website upsurge 950% and the Calls to helpline has jumped 66% since stay-at-home measures were implemented in March.<sup>18</sup> Twenty-six women and girls were killed in suspected domestic homicides within the three months since the lockdown began in late March.<sup>19</sup>

There are three-fold increase in calls to the listening service of the Collective Against Family Violence and Exclusion (CVFE) in Belgium.<sup>20</sup>

In Russia, prior to the pandemic, domestic violence was already a major problem. Thousands of women are murdered annually by their husbands. The crime data shows that 40% of violent crimes occur within families, between 60 to 70% of women do not report incidents of domestic

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<sup>13</sup> *Ibid.*

<sup>14</sup> Stephen Burgen, ‘Women killed in Spain as coronavirus lockdown sees rise in domestic violence’ *The Guardian*, 28 April 2020) <<https://www.theguardian.com/global-development/2020/apr/28/three-women-killed-in-spain-as-coronavirus-lockdown-sees-rise-in-domestic-violence>> accessed 20 June, 2024.

<sup>15</sup> Higgins, *supra* note 12.

<sup>16</sup> Burgen, *supra* note 14.

<sup>17</sup> Interview with Teresa May, Former Prime Minister of U.K., ‘Coronavirus: Lockdown exit must take domestic abuse rise into account – May’ (*BBC NEWS*, 28 April 28 2020) <<https://www.bbc.com/news/uk-52453372>> accessed 18 June, 2024.

<sup>18</sup> Ott, *supra* note 9.

<sup>19</sup> Amanda Taub and Jane Bradley, ‘As Domestic Abuse Rises, U.K. Failings Leave Victims in Peril’ (*The New York Times*, 2 July 2 2020) <<https://www.nytimes.com/interactive/2020/07/02/world/europe/uk-coronavirus-domestic-abuse.html>> accessed 20 July, 2024.

<sup>20</sup> *Ibid.*

violence.<sup>21</sup> NGOs working to help domestic violence victims have reported a spike in cases of abuse since lockdown began. According to the ANNA Centre for the Prevention of Violence, compared to February, calls to their Russia-wide helpline for women were up by 74% in May.<sup>22</sup>

After 9 March Cyprus, calls to a similar hotline rose 30% in the week, when the island had its first confirmed case of coronavirus.<sup>23</sup>

A study from Egypt denotes that women experience physical, emotional, and sexual violence at 26.7%, 17.8%, and 4.6%, respectively.<sup>24</sup> But there is very scarce data emerging from the Islamic countries, during the COVID-19, with sporadic social media reports about domestic violence. In the absence of solid data, it is difficult to speculate, however, domestic violence is probably less likely to surge during the quarantine in Islamic countries than in the West, since there is much less alcohol drinking in Islamic countries, particularly during the month of Ramadan, more family ties, and generally more religious adherence during the time of catastrophes.<sup>25</sup>

In Hubei province of China, the heart of the initial coronavirus outbreak, domestic violence reports to police more than tripled in one county alone during the lockdown in February, from 47 last year to 162 this year.<sup>26</sup> According to the Chinese statistics, 90% of the causes of violence during pandemic period are related to the Covid-19 epidemic.<sup>27</sup>

The National Commission for Women (NCW), in India, records across the country there is more than a twofold rise in gender-based violence complaints during lockdown period. The

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<sup>21</sup> *Ibid.*

<sup>22</sup> Emily Sherwin, 'Moscow hotel hosts domestic violence survivors as abuse cases soar' (*DW*, 6 June 2020) available at <<https://www.dw.com/en/moscow-hotel-hosts-domestic-violence-survivors-as-abuse-cases-soar/a-53693748>> accessed 15 June, 2024.

<sup>23</sup> Emma Graham-Harrison, Angela Giuffrida, Helena Smith, Liz Ford, 'Lockdown around the world bring rise in domestic violence' (*The Guardian*, 28 March 2020) <<https://www.theguardian.com/society/2020/mar/28/lockdowns-world-rise-domestic-violence>> accessed 26 June, 2024.

<sup>24</sup> Yaya Sanni, Hudani Alzahra, Buh Amos, Bishwajit Ghose, 'Prevalence and Predictors of Intimate Partner Violence Among Married Women in Egypt' (13 November 2019) <<https://doi.org/10.1177/0886260519888196>> accessed 28 June, 2024.

<sup>25</sup> *Ibid.*

<sup>26</sup> Amanda Taub, 'A New Covid-19 Crisis: Domestic Abuse Rises Worldwide' (*New York Times*, 06 April 2020) <<https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html>> accessed 24 June, 2024.

<sup>27</sup> Graham-Harrison, Giuffrida, Smith, Ford, *supra* note 23.

total complaints from women rose from 116 in the first week of March, 2020 (March 2-8), to 257 in the final week (March 23-April 1).<sup>28</sup> Economist Ashwini Deshpande analysed NCW data for the months of March 2019 - April 2020. She noticed the average complaints per day and found that "there is already a jump in complaints related to domestic violence and the right to live with dignity, and a smaller increase in rape or attempt to rape and sexual assault", all within the home.<sup>29</sup>

Even in normal times, women facing domestic violence in India rarely turn to the police. Based on the plea filed by All India Council of Human Rights, Liberties and Social Justice (AICHLS), Delhi High Court, on 18<sup>th</sup> April issued notice to the central government and the state government of Delhi to deliberate on measures to curb domestic violence and protect the victims during lockdown.<sup>30</sup>

### **Causes of increasing domestic violence**

The fast-deepening global crisis has massive global social and economic impacts. Researchers and policymakers scramble to collect and analyse data to capture the pandemic's full impacts on diverse individuals, communities and economies and to inform policy responses. The disaggregated data evident not only the differential impact for women and men but also triggered the core facts of the existing gender research. The crisis makes the women vulnerability more prominent, ever before. It has multi-fold effects on women's health, security and overall safety.

#### **i) Epidemic crisis**

The risk of gender-based-violence escalates during times of crisis—such as natural disasters, wars, and epidemics.<sup>31</sup> Previous epidemics, such as, cholera and Zika virus disease outbreaks in Latin America, Ebola virus disease outbreak in west Africa made domestic

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<sup>28</sup> Lachmi Deb Roy, 'Blame It On COVID-19: Domestic Violence on The Rise, Are men Putting More Pressure On Women?' (*The Outlook*, 20 April 20 2020), <<https://www.outlookindia.com/magazine/story/india-news-a-monster-at-home/303071>> accessed 29 June, 2024.

<sup>29</sup> Rukmini S, 'Locked down with abusers: India sees surge in domestic violence' (*Aljazeera*, 8 April 2020) <<https://www.aljazeera.com/news/2020/04/locked-abusers-india-domestic-violence-surge-200415092014621.html>> accessed 29 June, 2024.

<sup>30</sup> 'Implement steps to curb domestic violence during Covid-19 lockdown: High Court to Centre, Delhi govt' (*The Economic Times*, 20 April 2020) <<https://economictimes.indiatimes.com/news/politics-and-nation/implement-steps-to-curb-domestic-violence-during-covid-19-lockdown-high-court-to-centre-delhi-govt/articleshow/75249397.cms>> accessed 12 July, 2024.

<sup>31</sup> Elaine Enarson, 'Violence Against Women in Disaster' 5(7) *SP* (1999) 742.

violence became more prevalent.<sup>32</sup>

### ii) Economic distress

Ability to earn a living, including for women (many of whom are informal wage workers), disruption of livelihood, increasing strained security have decreased access to basic needs and services and cramped living conditions. Consequently, there is increasing stress on families, with the potential to exacerbate conflicts and violence. As resources become scarcer, women became at greater risk for experiencing economic abuse.<sup>33</sup>

### iii) Unpaid care

The ILO data reveals that before COVID-19, women were doing three times more unpaid care and domestic work as men. Now with children out of school, men out of work, heightened care needs of older persons and paid care workers are not allowed into homes, that burden has increased multifold for women across classes and countries. Unpaid care is an enabler of both well-being and income-generation, given the school closures, elder vulnerability and work-from-home arrangements. Most of the unpaid care workers are women. COVID-19 underscore unpaid care as a key dimension of emergency response. Lockdowns are also multiplying the domestic workload. UN Survey shows that atleast three of the unpaid care or domestic activities had increased since the spread of COVID-19.<sup>34</sup>

### iv) Lack of information

Women chiefly promote hygiene routines within the household and caring for family members. To prevent the spread of the virus, their access to reliable sources of COVID-19 information is crucial. An ongoing survey, conducted by UN Women ROAP in several countries, shows that women are less likely to receive information about COVID-19 than men. Disproportion in cellphone ownership, access to the Internet, awareness and educational attainment might be keeping some women away from potentially life-saving information.<sup>35</sup>

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<sup>32</sup> Melissa Godin, 'As Cities Around the world Go on Lockdown, Victims of Domestic Violence Look for a Way Out' (*Time*, 18 March 2020) <<https://time.com/5803887/coronavirus-domestic-violence-victims/>> accessed 5 July, 2024.

<sup>33</sup> Jhumka Gupta, 'What does coronavirus mean for violence against women?' (*Women's Media Centre*, March 19, 2020) <<https://womensmediacenter.com/news-features/what-does-coronavirus-mean-for-violence-against-women>> accessed July 10, 2024.

<sup>34</sup> UN Women Rapid Assessment Survey, 'Surveys show that COVID-19 has gendered effects in Asia and the Pacific' (*UN Women Hub*, 28 April 2020) <<https://data.unwomen.org/resources/surveys-show-covid-19-has-gendered-effects-asia-and-pacific>> accessed 10 July, 2024.

<sup>35</sup> *Ibid.*, preliminary results of four countries: Bangladesh, Cambodia, Maldives & Pakistan.

**v) Distance from closed relations**

Women have less contact with family and friends who may provide support and protection from violence. Perpetrators use restrictions due to COVID-19 to exercise power and control over their partners to further reduce access to services, help, and psychosocial support from both formal and informal networks.

**vi) Lack of formal support**

Other services, such as, crisis centres, shelters, legal aid, and protection services may also be scaled back, further reducing access to the few sources of help that women in abusive relationships might have. Besides, existing shelters could not take them because the risk of infection was too great. Moreover, women have lost their peer support as many state and NGO-run shelters are now closed.

**vii) Difficulty in filling DV complaint**

The greatest barrier to reporting abuse is the emotional ties with the perpetrator. “It’s the only crime where the victim doesn’t want revenge but just to live in peace. It’s very difficult to report the father of your children to the police. Many women feel guilty because they’re going to send their children’s father to prison.”<sup>36</sup> Thus in order to bring a formal complaint, women need the support of family and people around them and isolation makes this more difficult.

**vii) Access to vital sexual and reproductive health services are likely become more limited.**

As a result, there are alarming rise of the calls to the domestic violence helplines and shelters. UNDP has noticed that domestic violence survivors are aware of the danger faced by gender-based and in being forced to live with perpetrators. Therefore, most women still request anonymity, even when they are asking for help.<sup>37</sup>

**Severity of violence during lockdown**

The lockdown provides the scope to turn the intermittent abuse into a process of systemic intimate violence where repetitive harm is caused - emotional or physical, or the threat of committing, which forms a continuum of violence from which the victim, due to her isolation

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<sup>36</sup> Burgen, *supra* note 14.

Ana Bella, a survivor of abuse & the founder of ‘Fundación Ana Bella to fight gender violence’, said.

<sup>37</sup> ‘Amidst Coronavirus Pandemic, UNDP rings the alarm on domestic violence’, *UNDP* (24 April 2020) available at <https://www.eurasia.undp.org/content/rbec/en/home/stories/coronavirus-pandemic-albania-domestic-violence.html> accessed 02 June, 2024.

or other kinds of incapacitation, is unable to procure traditional legal assistance.<sup>38</sup>

Psychiatrists have found that the coercive methods domestic abusers use to control their partners and children “bear an uncanny resemblance” to those kidnappers use to control hostages and repressive regimes use to break the will of political prisoners.<sup>39</sup> In an interview conducted by New York Times over WhatsApp on the women stuck at home with an abusive husband or Partner, one woman said that her partner has been regularly abusing her. She wrote in a message sent late at night to hide the communication from her husband. He insisted on total surveillance at all times. If she tried to lock herself in a room, he kicked the door until she opens it. She could not even have privacy in the bathroom.<sup>40</sup>

As the cycle repeats itself, the severity of the violence intensifies and there are fewer and shorter periods of remorse. The emotional stress caused by this cycle results in dependency, sleeplessness, depression and symptoms of post-traumatic stress disorder.<sup>41</sup> The violence destabilizes the body, mind, and wellbeing of the victim. The exhibition of this includes broken bones, perforated organs and other mental ill-health, and death.<sup>42</sup>

### **Ineptitude of state to interfere in “private matter”**

Domestic violence is a manifestation of social views, perceptions, priorities, and custom.<sup>43</sup> The explicit and implicit gender discrimination, in most states, makes women particularly vulnerable to violence. Victims of domestic violence are often unable to escape it, in part because of this gender-based differentiation.<sup>44</sup> The historical distinction between the public and the private domain correlated with the role differentiation between genders - the public domain has been male-dominated and women generally are expected to operate in the private sphere.<sup>45</sup> Though gender differentiation may be denied in many legal systems today and process of law is apparently neutral, but the public/private distinction endures societal views of domestic

<sup>38</sup> Prosecutor v. Furundlija, Case No. IT-95- 17/I-T (10 December 1998) 159-164, 174, 186.

<sup>39</sup> Judith Lewis Herman, ‘Complex PTSD: A Syndrome in Survivors of Prolonged and Repeated Truma’ 0076 (1992) 5(3) *JTS* 383.

<sup>40</sup> Godin, *supra* note 32.

<sup>41</sup> Michael P. Johnson, ‘Patriarchal Terrorism and Common Couple Violence: Two Forms of Violence Against Women’ (1995) 57 *JMF* 283.

<sup>42</sup> Amnesty International, ‘Broken Bodies, Shattered Minds: Torture and Ill-treatment of Women’, Report Index no. ACT40/001/2001, March 6 2001 <<http://web.amnesty.org/library/Index/engact400012001>> accessed 13 July, 2024.

<sup>43</sup> Johnson, *supra* note 40.

<sup>44</sup> Elizabeth M. Schneider, ‘Battered Women & Feminist Law Making’ 25 (Yale University Press, London, 2000).

<sup>45</sup> Judith Resnik, ‘Categorical Federalism: Jurisdiction, Gender, and the Globe’ (2001) 111 *YLJ* 619.

violence cases. Current state law regulating private affairs stems from a culture in which the parity of male and female citizens is still to be realized. Moreover, there is a state resistance to regulating private matters, which stems in part from the difficulty in penetrating the private realm.<sup>46</sup> This tendency of state legal systems leads women activists to engage in a protracted struggle to obtain public condemnation of what had been previously considered a private matter.<sup>47</sup>

State omission usually manifests in deficient police services, inaccessible and inefficient court processes, poor health services, a lack of economic assistance – either in the form of welfare systems or protective labour laws.<sup>48</sup> In many countries, the courtroom is no women friendly, let alone women who are survivors of systemic intimate violence.<sup>49</sup> Women, often, experience explicit and implicit discrimination in the legal system; they are humiliated, misunderstood, re-victimized and patronized.<sup>50</sup> The criminal justice system may be too heavy handed for victims who do not want their partners to be incarcerated.<sup>51</sup> It is quite common that police officials underestimate the fatal seriousness of the violence or they may lack the resources to assist the same victims repeatedly. If a victim is unable to procure help from state sources, there is a clear deficiency on the part of the state's service provision. This may be due to a financial incapability to provide resources, but is often also the result of the state's fallacy of the fluid and cyclical pattern of systemic intimate violence.

This ignorance and inertia on the part of states becomes systemic, and the intimate violence, which we perceive as private, develops a very public dimension.<sup>52</sup>

### **Existing laws to protects during pandemic domestic violence**

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<sup>46</sup> Celina Romany, 'State Responsibility Goes Private: A Feminist Critique of the Public/Private Distinction in International Human Rights Law' in Rebecca J. Cook (ed.) *Human Rights of Women: National Ans International Perspectives* (University of Pennsylvania Press, 1994) 85, 99.

<sup>47</sup> Deborah M. Weissman, 'The Personal Is Political-and Economic: Rethinking Domestic Violence' (2007) 2 *BLR* 387.

<sup>48</sup> Pualani Enos, 'Prosecuting Battered Mothers: State Law's Failure to Protect Battered Women and Abused Children' (1996) 19 *HWLJ* 229, 231.

<sup>49</sup> Isabel Marcus, 'Refraining Domestic Violence: Terrorism in the Home' in Martha A. Fineman, Roxanne & Mykitiuk (eds.) *The Public Nature of Private Violence: The Discovery of Domestic Abuse* 11 (Taylor and Francis, 1994) 26-27.

<sup>50</sup> Vicki Jackson, 'What Judges Can Learn from Gender Bias Task Force Studies' (July-Aug. 1997) 81 *JUDICATURE* 15.

<sup>51</sup> because, for example, the abuser may be the breadwinner, the father of the victim's children.

<sup>52</sup> Bonita Meyersfeld, 'Domestic Violence, Health, And International Law' (2008) 22(1) *EILR* 68.

### i) Laws of the foreign countries

UK has several laws to prevent domestic violence. In 2004, UK Parliament passed the first law to provide legal protection to domestic violence victims.<sup>53</sup> The Clare's Law in 2012 empowers people to ask the police to maintain and follow-up a record of abusive offences on their partner or family member or friend who is believed to be at risk.<sup>54</sup> From 2014-15 there are several laws passed.<sup>55</sup> Despite of all the efforts the cases of domestic violence keep raising which led Terasa May's government introduced the Domestic Abuse Bill July, 2019 but it has been postponed. The Bill applies to England and Wales and proposes the first government definition of domestic abuse, including financial abuse and controlling and manipulative non-physical behaviour. The new Bill adds multiple protections for victims, like, domestic Abuse protection orders, protection notices, which can be used to impose long-term bans on perpetrators making contact with the victim.<sup>56</sup>

France passed the several anti-domestic violence laws 2010<sup>57</sup> but till France recorded the highest number of domestic violence in Europe.<sup>58</sup> The government initiates several efforts, like, to increase awareness of gender-based violence in school, open a round-the-clock domestic violence hotline, hire more specialized social workers in police stations, and increase treatment of violent partners to avoid repeat offenses.<sup>59</sup>

At the end of 2004, the Spanish parliament passed the first law to combat intimate partner violence against women.<sup>60</sup> This new law not only establishes harsher penalties for offenders, but also contains provisions for training programmes for health professionals and judges. It also encourages campaigns in public education institutions and the media to raise awareness about violence against women. Prevention strategies to combat intimate partner violence are now a priority in Spain.<sup>61</sup> It is important to mention that the law of 2004 creates Courts for

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<sup>53</sup> UK Domestic Violence, Crime and Victims Act, 2004.

<sup>54</sup> 'Domestic Violence Disclosure Scheme: Guidance' (UK); 'Disclosure Scheme for Domestic Abuse' (Scotland).

<sup>55</sup> [Parliament \(2014\) The Care Act](#) (applies to England only), [Scottish Parliament \(2015\) Abusive Behaviour and Sexual Harm \(Scotland\) Bill](#), [UK Government \(2015\) Serious Crime Act. Part 5: Domestic abuse](#), [Welsh Government \(2015\) Violence against Women, Domestic Abuse and Sexual Violence \(Wales\) Act 2015](#).

<sup>56</sup> *BBC NEWS*, *supra* note 17.

<sup>57</sup> [Law reinforcing the prevention and the repression of the violence within the couple or committed against the minors 2006](#); [Law strengthening the prevention and punishment of conjugal violence and violence against minors, 2006](#); Law on Violence against women, [violence within couples and violence against children](#), 2010, amended in 2010.

<sup>58</sup> European Institute for Gender Equality, 'Combating violence against women: France' (2016) <http://eurogender.eige.europa.eu/> accessed 30 June, 2020.

<sup>59</sup> Aurelien Breedon, 'France announces new measures to tackle domestic violence', *New York Times*, 25 November 2019 available at <https://www.nytimes.com/2019/11/25/world/europe/france-domestic-violence.html> accessed 14 July, 2024.

<sup>60</sup> [Act on Integrated Protection Measures against Gender Violence, 2004](#).

<sup>61</sup> [Carmen Vives-Cases](#), 'Intimate partner violence against women in Spain', 60(8) (2006) *JECH* 652-653.

Violence Against Women - Specialised criminal courtrooms associated to the Inquiry Courts. These courts also have powers in the civil jurisdiction acting as Courts of First Instance and Inquiry. They are associated to the Judicial District, even though one court can be created to cover the area of two or more districts.

In China, the first law that specifically targets the issues relating to domestic violence was passed in 2015. The main principles of the Anti-Domestic Violence Law are explicitly States, “to prevent and stop domestic violence; protect the equal rights of family members; preserve equal, harmonious, civilized familial relationships; promote family harmony and social stability.”<sup>62</sup> A careful observation of the last objective (preserving and protecting family harmony) directly contradicts with the first (preventing domestic violence), which interrupt the law’s overall ineffectiveness.<sup>63</sup> Hence, The Anti-Domestic Violence Law considers mediation as the primary method in treating domestic violence cases and “encourages individuals who encounter domestic violence in their families to educate and criticize the abusers, and to try their best in mediating and reducing family conflicts.”<sup>64</sup>

The Russian Parliament decriminalizes various domestic violence offences by removing legal protections for victims. It also allows perpetrators of abuse within the family to act with impunity.<sup>65</sup>

## ii) Indian laws

Earlier women, in India, women could, only, approach to courts under Sec. 498A of the IPC. Most of the cases, the women have to move out of her matrimonial home to ensure safety. The criminal law does not provide any measure which can continue her staying in matrimonial home and yet raise voice against violence. Thus, The Protection of Women from Domestic Violence Act is enacted in 2005. The Act provide an extended definition of domestic violence which includes not only physical but also verbal, emotional, sexual and economic violence. It also offers the scope for urgent protective injunctions, alongwith economic rights including maintenance and compensation. But, as Flavia Agnes observes that, “even after a decade and

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<sup>62</sup> Article 1, Sophie Mak, ‘China’s Hidden Epidemic: Domestic Violence’ (*The Diplomat*, 6 April 2020) <<https://thediplomat.com/2020/04/chinas-hidden-epidemic-domestic-violence/>> Accessed 12 July, 2024.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

<sup>65</sup> Janette Akhilgova, ‘COVID-19 Conversations: Russia is Failing to Protect Victims of Domestic Violence’ (*Equality Now*, 1 May 2020) <[https://www.equalitynow.org/covid\\_19\\_russia\\_dv](https://www.equalitynow.org/covid_19_russia_dv)> accessed 11 July, 2024.

a half, the assurances made in the Act have not been actualised when we examine the cases which are filed under this act.”<sup>66</sup>

### **Remedial measures taken by the states**

The governments impose lockdowns without making sufficient provisions for domestic abuse victims. The very technique is used to protect people from the virus has a perversely impact on victims of domestic violence. Social distancing and isolation provide an opportunity for abusers to unleash more violence. Some countries there are alarming rise of the calls to the helpline and some countries there are sudden drops of calls. But the numbers may actually be higher, as reporting might be lower since many women must remain in self-isolation with the perpetrators of violence.

In France, an SMS service set up for people with hearing impairments now helps abuse victims too and receives 170 text messages a day. Drop-in areas have been opened in shopping centres and there is a support service for perpetrators "on the edge".<sup>67</sup>

This led to the government to introduce a scheme to help women who might not be able to get away from an abusive partner for long enough to get help. A woman can simply go into a chemist and request a Mascarilla-19 face mask, the pharmacist then knows to call for help. The scheme has since been extended to other regions in Spain and beyond. France Germany, Italy, and Norway are using pharmacies to subtly ask for help.<sup>68</sup>

Denmark and Germany have set aside prepaid hotel rooms for domestic violence victims to get away from their partners.<sup>69</sup> Calls in Denmark for emergency accommodation almost doubled in the week after the government told people to stay at home. The government of Denmark has since funded 55 extra rooms in shelters for four months and on Wednesday the lockdown will be eased, allowing some Danish schools to reopen and giving an opportunity for women to seek help.<sup>70</sup>

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<sup>66</sup> Flavia Agnes, ‘What Survivors of Domestic Violence Need from Their New Government’ (27 April 2019) 54 (17) *EPW* <<https://www.epw.in/engage/article/what-survivors-domestic-violence-need-their-new>> Accessed 20 July, 2024.

<sup>67</sup> Higgins, *supra* note 12.

<sup>68</sup> Burgen, *supra* note 14.

<sup>69</sup> *Ibid.*

<sup>70</sup> Higgins, *supra* note 12.

In many countries there have been calls for legal or policy changes to reflect the increased risk to women and children in quarantine. In the UK, the Women's Equality party, has called for special police powers to evict perpetrators from homes for the duration of the lockdown, and for authorities to waive court fees for the protection orders. The western countries demand for a rule which lead domestic violence abuser to leave the family home and not the victim.

In Albania, Ministry of Health and Social Protection alongwith UNDP launched a mechanism that standardizes actions to be taken by diverse institutions like police, hospitals and shelters in dealing with urgent cases amid the COVID-19 situation. The General Directorate of Police issued special instructions to all local police on how to give adequate attention to sexual and domestic violence cases in their communities and how to take appropriate actions in cooperation with local domestic violence coordinators.

In partnership with the Government of Sweden, UNDP supports the government to improve protection and services for survivors, strengthen laws, and address the root causes of violence by challenging social norms and behaviours and tackling the wider gender inequalities.<sup>71</sup>

### Conclusion

The women organizations, activists, professional academic are claiming that the number of women reporting domestic abuse under the lockdown is "just the tip of the iceberg". The endorsement of "family harmony" ('izzat') and "fulfilling familial duties" reflects in every society, holds a strong belief in family unity over conflict and separation. Hence, the cultural idea of family indirectly promotes the idea that victims should remain virtuous in the face of abuse and be obligated to tolerate abuse. This would mean that women will be largely influenced by the notion that they should not openly protest about their significant others' transgressions in order to protect family harmony. WHO estimates that one out of three women in the world, experience physical or sexual violence in their lifetime but among the least reported human rights abuses. In 2018-9, more than one billion women lacked legal protection from sexual violence by an intimate partner, including women living in 21 out of 36 fragile and conflict-affected states. Even where legislation exists, enforcement may be weak due to serious gaps in national laws, lack of protection orders, and inadequate police and judicial responses.

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<sup>71</sup> UNDP, *supra* note 37.