Shades of a Shadow Pandemic: Global Comparisons and Indian Situations of Domestic Violence during Covid-19 Lockdown

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Introduction

In the face of the COVID-19 pandemic, countries across the world are grappling with securing the health and safety of their citizens. From an epidemiological perspective, the threat of the virus is to an individual's respiratory functions. Through the legal lens, however, the shadows of this pandemic have endangered the life of women and young girls in another, equally fatal manner: domestic violence.

The harrowing case of Stacey— a US resident — is one such experience of a woman being subjected to domestic violence during the pandemic. As reported by Christopher Connelly, Stacey was strangled by her partner in front of her children merely because she did not prepare his meal. The fear of continued abuse was further aggravated by the ongoing COVID-19 pandemic. Questions such as 'Should I leave right now during this pandemic', 'we could possibly get sick' and 'I need to go and save my life and my kids' rendered it difficult for her to take a firm stance.¹ Many women across the world have been caught by the virulent spread of the shadow pandemic in a similar manner; with the myths

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¹See, Christopher Connelly, 'I Had To Make A Decision: How Domestic Violence Survivors Are Navigating Covid-19' (*KERANews*, 15 June 2020) https://www.keranews.org/news/2020-06-15/i-had-to-make-a-decision-how-domestic-violence-survivors-are-navigating-covid-19 accessed 15 October 2020.

around domestic violence dominating their mind. These myths are in stark contrast to reality. For example, she thinks that her partner gets violent because she must be provoking somehow, the reality is that he is responsible for his own behaviour. Another myth is that she must have done something seriously wrong that made him lose control. The reality is that extreme violent acts have ensued after silly events like the baby was crying or the meal was cold or like in case of Stacey, the meal was not ready when he wanted.

For years, domestic violence has been trivialized across the world as well as in India.²Factors like socio-cultural influences, mistaken beliefs, patriarchal assumptions and, oftentimes, the power imbalance between the victim and the perpetrator have caused a yearly increase in gender-based violence in India. Instances of violence against women have risen steeply in past months with the advent of COVID-19 and its associated consequences. The 2018 NCRB data indicated that domestic violence was the principal crime against women in India.³These extant fault lines between law and society have been exemplified by the pandemic. The UN Women termed this situation as the 'shadow pandemic', denoting the concealed nature of such atrocities being meted out against women in closed-door situations due to lockdowns.⁴

According to Oxford's Dictionary of Law, domestic violence refers to "any incidence of violence, threatening behavior, or abuse (psychological, physical, sexual, financial, or emotional) between adults who are or have been intimate partners or family members, regardless of

²See for general explanation, Brenda Cossman and RatnaKapur, *Subseversive Sites: Feminist Engagements with Law in India* (SAGE Publications, 1996).

³Himanshi Dhawan, 'Not Rape, domestic violence is top crime against women' (*Times of India*, 5 October 2020) https://timesofindia.indiatimes.com/india/not-rape-domestic-violence-is-top-crime-against-women/articleshow/78494876.cms accessed 15 October 2020.

⁴UN Women, 'The Shadow Pandemic: Violence against women during COVID-19' (UN Women) https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19-accessed 15 October 2020.

gender or sexuality." The World Health Organization reports that almost 30% women experience some form of intimate partner violence and 1 in 3 women issubjected to general physical/sexual violence in their lifetimes. Despite efforts by the UN including the Beijing World Conference on Women and the CEDAW, the world over domestic violence has only increased in the recent years, especially during the current situation.

In this article, the authors proceed to analyse this interplay of domestic violence and the pandemic through a legal lens. In Part II, the authors provide a comparative global perspective on the shadow pandemic. In Part III, the authors examine the Indian experience and juxtapose it with the international scenario. In the same part, the authors also look at Pune's experience as a special slice of empirical evidence. Lastly, the authors conclude with suggestion to unite the fault lines to better prepare India in case of a second wave of the COVID-19 global pandemic.

The Shadow Pandemic: A Comparative Global Perspective

The COVID-19 global pandemic, according to the WHO, is a respiratory disease due to a new coronavirus. The virus is highly contagious and leads to mild respiratory illness in most cases. The more severe cases, usually in patients with co-morbidities, can even lead to

⁵A Dictionary of Law, 722 (Oxford University Press).

⁶World Health Organisation, 'Violence Against Women' (*WHO*, 29 September 2017) https://www.who.int/news-room/fact-sheets/detail/violence-against-women accessed 15 October 2020.

⁷ See, 'The United Nations Fourth World Conference on Women' (UN Women) https://www.un.org/womenwatch/daw/beijing/platform/violence.htm accessed 15 October 2020; See further, UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

death.⁸ The largely unexplained nature and origin of the pandemic trouble epidemiologists to this date.

India confirmed its first case on 30th January, 2020.⁹ The rate of infection was so high that on 24th March, 2020, the Prime Minister of India announced a nationwide lockdown. Except the continuance of certain essential services like healthcare, the entire country was housed in to contain the spread. About 90 other countries declared similar lockdowns and thus, a total of almost 4 billion people were confined to the four corners of their homes.¹⁰

In the past, epidemics such as Ebola or Zika (which also caused people to stay within their homes for an extended period of time) have had a positive correlation with cases of domestic violence against women. 11 In other words, the spread of an epidemic simultaneously exhibited an increase in cases of domestic violence in the affected area. This phenomenon can be attributed to certain vulnerabilities of women due to factors such as income inequality within the household, physical overpowering by men, lack of time for self-care, protecting children from perpetrators of violence etc. which get intensified during an epidemic. This has led to women being the worst affected across social strata.

⁸World Health Organisation, 'Coronavirus' (*WHO*, 2020) https://www.who.int/health-topics/coronavirus#tab=tab 1> accessed 15 October 2020.

⁹David Reid, 'India confirms its first coronavirus case' (*CNBC*, 30 January 2020) https://www.cnbc.com/2020/01/30/india-confirms-first-case-of-the-coronavirus.html accessed 15 October 2020.

¹⁰Alasdair Sandford, 'Coronavirus: Half of humanity now on lockdown as 90 countries call for confinement' (*EuroNews*, 3 April 2020) accessed 15 October 2020.

[&]quot;IUNDP, 'Ebola recovery in Sierra Leone: tackling the rise in sexual and gender-based violence and teenage pregnancy during the ebola crisis' (*UNDP*, 2015) https://www.undp.org/content/dam/sierraleone/docs/Ebola%20Docs./SL%20FS%20SGBV.pdf accessed 15 October 2020; Oxfam International, 'Dominican Republic gender analysis: study of the impact of the Zika virus on women, girls, boys and men' (*Oxfam International*, 2017) https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620261/rr-dominican-republic-gender-analysis-210417-en.pdf? sequence=1&isAllowed=y> accessed 15 October 2020.

In the present context, the COVID-19 global pandemic rehashes and worsens the malady of domestic violence. The UN Women Executive Director brought to light the predicament of women during these tumultuous times by stating –

"With 90 countries in lockdown, four billion people are now sheltering at home from the global contagion of COVID-19. It's a protective measure, but it brings another deadly danger. We see a shadow pandemic growing, of violence against women." 12

The United Nations Secretary General described this "horrifying increase in violence" as a "war on women". ¹³These statements find support of various survey and other empirical studies. Countries like US, France, Singapore, UK have displayed a significant rise in gender-based violence reporting in the recent times. ¹⁴Countries in Africa including Liberia, Kenya and Nigeria have reported skyrocketing figures in relation to gender-based violation. ¹⁵ Moreover, Kenyan agencies stated that closing down of schools has resulted in higher cases of rape-induced pregnancies among young girls. A survey of refugee women in Africa across 15 African nations stated that about three-quarter women reported

¹²Phumzile Mlambo-Ngcuka, 'Violence against women and girls: the shadow pandemic', (*UN Women, 6 April 2020*) https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic accessed 15 October 2020.

¹³Michelle Nichols, 'U.N. to tackle gender equality, chief calls it 'greatest' rights challenge' (*Reuters*, 1 October 2020) https://in.reuters.com/article/women-unidINL1N2GR1LN accessed 15 October 2020.

¹⁴UN Women, 'COVID-19 and Ending Violence Against Women and Girls' (*UN Women*, 2020) accessed 15 October 2020.

¹⁵ Deutsche Welle, 'Violence against women: Africa's shadow pandemic' (*The Indian Express*, 7 October 2020) https://indianexpress.com/article/world/violence-against-women-africas-shadow-pandemic-6705789/ accessed 15 October 2020.

an increase in domestic violence during the pandemic. ¹⁶Even in places where reported cases of gender-based violence declined, it is owing to the close proximity of the abuser and the abused, which disallows any form of reporting or intervention. ¹⁷

Globally, a lockdown meant that there was a reduction of staff members who could take SOS calls. The availability of emergency health services for such cases of partner abuse and gender-based violence plummeted due to prioritization of patients with COVID-19. The victims, in some cases, did not want to report these cases because COVID-19 had led to loss of employment. This dependence forced the victim to endure various types of violence from their partners and/or other family members.

Kosovo's administration, in an effort to remedy the situation, declared a 'zero tolerance' policy on domestic violence related issues. Other European countries have undertaken large scale awareness campaigns to sensitize the citizenry about extant reporting facilities and shelter-homes. There has also been inclusion of domestic violence related support systems in 'essential services' to ensure their smooth continuance during the lockdowns. Developed countries such as US and UK have relied on tech-based solutions such as reporting through internet. Access to 'telehealth' is being strengthened so that medical consultations can take place online. Policy initiatives such as including domestic violence question being included in ordinary health screening has been introduced

¹⁶Jennifer Rigby, 'Three-quarters of refugee women in Africa report rise in domestic violence during Covid-19' (*The Telegraph*, 15 October 2020) https://www.telegraph.co.uk/global-health/women-and-girls/three-quarters-refugee-women-africa-report-rise-domestic-violence/ accessed 15 October 2020.

¹⁷Megan L Evans, Margo Lindauer and Maureen E Farrell, 'A Pandemic within a Pandemic — Intimate Partner Violence during Covid-19' [2020] New England Journal of Medicine https://doi.org/10.1056/NEJMp2024046 accessed 16 October 2020.

¹⁸ Council of Europe Office in Pristina, COVID-19 and isolation at home may increase the risk of Domestic Violence(Council of Europe, 3 April, 2020)https://www.coe.int/en/web/pristina/-/covid-19-and-isolation-at-home-may-increase-the-risk-of-domestic-violence accessed 15 October 2020.

in some countries. An article in the New England Journal of Medicine also suggested hand gestures like raised fists "to identify the presence of an abusive partner during telemedicine appointments." ¹⁹

Furthermore, Colombia declared pharmacies as safe-spaces for victims of gender-based violence.²⁰ France has undertaken multiple innovative steps such as housing victims in hotels, pop-up counselling centres in pharmacies as they are open during a pandemic and allowing the reporting of such violence through covert gestures at neighbourhood pharmacies.²¹Ultimately, per the United Nations, 'the abuse can only be ended by awareness'.²²

Shadow Pandemic: The Indian Experience

India witnessed a similar spate of domestic violence cases in the past months. The National Commission for Women recorded double the number of complaints between 23rd March and 16th April 2020 than it had in a similar preceding period.²³ Furthermore, the total number of complaints from March, 2020 to May, 2020 has been higher than any reporting in the past decade in the given time period. These figures are

¹⁹Evans, Lindauer and Farrell (n 18).

²⁰Anastasia Moloney, 'Bogota's supermarkets become safe spaces for women to report abuse' (*Thomson Reuters Foundation*, 23 April 2020) https://news.trust.org/item/20200423012221-ci2syB accessed 15 October 2020.

²¹Melissa Godin, 'French Government to House Domestic Abuse Victims in Hotels as Cases Rise During Coronavirus Lockdown' (*The Time*, 31 March 2020) https://time.com/5812990/france-domestic-violence-hotel-coronavirus/ accessed 15 October 2020.

²²UN Women, 'Ending Violence Against Women' (*UN Women*) https://www.unwomen.org/en/what-we-do/ending-violence-against-women/increasing-knowledge-and-awareness accessed 15 October 2020.

²³ Scroll Staff, 'Covid-19 lockdown: Domestic violence cases reported to NCW nearly double in last 25 days' (*Scroll*, April 2020) https://scroll.in/latest/959515/covid-19-lockdown-domestic-violence-cases-reported-to-ncw-nearly-double-in-last-25-days accessed 15 October 2020.

still farther from reality. This is because 86% women do not report instances of domestic violence to the telephone helpline.²⁴

A lockdown also means the victim will be hampered from reporting a case of domestic violence as the perpetrator will be in close proximity to the victim. Jagori, a Delhi based NGO, cited the same reason for a reported 50% decrease in callsfrom a particular area.²⁵

The problem posed by the *proximity* of the abusive partner was compounded by the state authorities' *priority* to limit the spread of the virus. This meant that state authorities were apprehensive of safe-shelters where the victims could be afforded sanctuary as it risked an increase in COVID-19 infections. Another calamity in India relates to inaccessibility of contraceptives and safe abortion facilities. A study by Marie Stopes International projected that from January 2020 to June 2020, an estimated 6.5 lakh unintended pregnancies and 2,600 maternal deaths may occur due to country's lockdown measures.²⁶ This means that sexual violence that translates into pregnancy could add to the woes of women during the COVID-19 pandemic.

India's internet penetration rate, which stands at about 50%, contributes to the problem.²⁷ This is because solutions such as internet-based reporting and telehealth-related solutions, as stated *supra*, will not

²⁴VivekRadhakrishana*et al.*, 'Domestic violence complaints at a 10-year high during COVID-19 lockdown' (*The Hindu*, 22 June 2020) accessed 15 October 2020.

²⁵Jagriti Chandra, 'Rise in Domestic Violence, policy apathy: NCW' (*The Hindu*, 2 April 2020)https://www.thehindu.com/news/national/covid-19-lockdown-spike-indomestic-violence-says-ncw/article31238659.ece accessed 15 October 2020.

²⁶Associated Press, '1.3 million women in India lost access to contraceptives, abortions during the COVID-19 pandemic' (*Firstpost*, 20 August 2020) https://www.firstpost.com/health/1-3-million-women-in-india-lost-access-to-contraceptives-abortions-during-the-covid-19-pandemic-report-8732021.html accessed 15 October 2020.

²⁷Statista, 'India's Internet Penetration Rate from 2007 to 2020' (*Statista*) https://www.statista.com/statistics/792074/india-internet-penetration-rate/ accessed 15 October 2020.

be as effective in India. This is further worsened by India's poor 'digital-literacy rate'.²⁸Thus, presence of internet connectivity might still be futile and victims might not be able to report such cases by email.

The primary legislation that deals with instances of domestic violence in India is the Protection of Women from Domestic Violence Act, 2005 ("Act").²⁹ Section 3, Act defines domestic violence as not only physical violence but also as emotional violence, economic violence, etc. However, the socio-cultural influences have restricted the actual exercise of Section 3, Act to mere physical violence in many cases.³⁰ In addition to the statutory protection, Art. 21of the Indian Constitution guarantees also uphold an individual's right to live with human dignity.³¹ It is self-evident that gender-based violence negatively affects this freedom guaranteed by the Constitution. Consequently, it comes down to the State machinery to uphold these constitutional norms by taking the necessary steps to curb any derogation.

These afore-stated reasons cumulatively suggest that the fundamental shortcoming is not *per se* with the relevant legislative framework but the implementation thereof. To this end, various pleas were filed to contain and cut down the rapid increase of domestic violence. In April, the All India Council of Human Rights filed a petition urging the Delhi High Court to take necessary steps in this regard.³² The

²⁸Shemin Joy, 'Digital literacy for rural population hasn't met half of the target' (*Deccan Herald*, 15 March 2020) https://www.deccanherald.com/national/digital-literacy-for-rural-population-hasnt-met-half-of-the-target-813995.html accessed 15 October 2020.

²⁹See, Protection of Women from Domestic Violence Act, 2005.

³⁰ Flavia Agnes, 'What Survivors of Domestic Violence Need from Their New Government' (2019) 54(17) EPW Engage https://www.epw.in/engage/article/what-survivors-domestic-violence-need-their-new accessed 15 October 2020.

³¹Article 21, Indian Constitution, 1950; Maneka Gandhi v. Union of India, AIR 1978 SC 597.

³²Nilashish Chaudhary, 'Stop Intimate Terrorism: Plea In Delhi HC Against Increase In Domestic Violence And Child Abuse Cases During Lockdown' (Live Law, 16 April 2020) accessed 15 October 2020.">https://www.livelaw.in/news-updates/stop-intimate-terrorism-plea-in-delhi-hc-against-increase-in-domestic-violence-and-child-abuse-cases-during-lockdown-155351>accessed 15 October 2020.

petitioners recommended several solutions such as increasing staff members to attend hotlines, setting up of nodal offices, offering free telecounselling and nation-wide media drives. The Delhi High Court directed the Respondents (Union of India, Delhi Government, *inter alia*) to convene a high-level meeting which shall consider the implementation of the recommendations of the petitioner.³³ The Delhi High Court, while hearing the same petition, later on averred that the recommendation to appoint a higher number of Temporary Protection Officers should be considered by the Respondents.

The Jammu and Kashmir High Court took *suo-moto* cognizance of the upsurge in domestic violence cases. The Jammu and Kashmir High Court, after analyzing global best practices in this regard, delineated various steps that the government should take. Some of them include:

- "(i) Creation of dedicated funding to address issues of violence against women and girls as part of the COVID-19 response by the Union Territories of the Jammu and Kashmir and Ladakh;
- (ii) Increased availability of call-in services to facilitate discreet reporting of abuse;
- (iii) Increased tele/online legal and counseling service for women and girls;
- (iv) Designated informal safe spaces for women, say grocery stores and pharmacies, where they can report domestic violence/abuse without alerting the perpetrators.
- (v) Immediate designation of safe spaces (say for instance empty hotels/education institutions etc) as shelters for women who are compelled to leave their domestic

³³Karan Tripathi, 'Protection of Women From Domestic Violence During Lockdown: Delhi HC Directs Centre, Delhi Govt To Convene High Level Meeting' (*LiveLaw*, 20 April 2020) https://www.livelaw.in/news-updates/protection-of-women-from-domestic-violence-during-lockdown-delhi-hc-directs-centre-delhi-govt-to-convene-high-level-meeting-155513 accessed 15 October 2020.

situation. These shelters must be treated as accessible shelters."³⁴

The Madras High Court followed suit by entertaining a plea that sought effective implementation of Section 12(5), Act which mandates a Magistrate to dispose any application made by the aggrieved or a Protection Officer within sixty days.³⁵ The Madras High Court ordered the State Government to furnish a status report in this regard. Similarly, the Allahabad High Court asked the Additional Advocate General to "obtain a status report to the steps taken by the State Government".³⁶ The Karnataka Government also submitted a status report to the Karnataka High Court.³⁷ It stated that there was a sharp increase in report cases. Furthermore, the State Government of Karnataka is implementing a scheme viz. 'Santhwana' that offers legal aid, counselling and medical assistance to victims of domestic violence. The Report stated that 18 Protection Officers were tending to domestic violence related issues at the time.

The crackdown on the sale of liquor during lockdown also purported to decrease domestic violence. WHO, in an earlier report,

³⁴Akshita Saxena, 'J&K HC Takes Suo Moto Cognizance Of Domestic Violence Cases Amid Lockdown; Issues Guidelines'(LiveLaw, 18 April 2020) accessed 15 October 2020.

³⁵Devika, 'Setting Up Of 'Emergency Response System' To Assist Victims Of Domestic Violence: State To File Additional Status Report' (SCCOnline Blog, 30 April 2020) https://www.scconline.com/blog/post/2020/04/30/madras-hc-setting-up-of-emergency-response-system-to-assist-victims-of-domestic-violence-state-to-file-additional-status-report/ accessed 16 October 2020.

³⁶LiveLaw News Network, 'Allahabad HC Seeks Status Report On Steps Taken By UP Govt To Prevent Rising Number Of Domestic Violence Cases During Lockdown' (*LiveLaw*, 18 June 2020) https://www.livelaw.in/news-updates/allahabad-hc-seeks-status-report-on-steps-taken-by-up-govt-to-prevent-rising-number-of-domestic-violence-cases-during-lockdown-read-order-158538 accessed 16 October 2020.

³⁷Mustafa Plumber, 'Karnataka HC Asks State About Action Taken On Increasing Complaints Of Domestic Violence During Lockdown' (*LiveLaw*, 22 April 2020) https://www.livelaw.in/news-updates/hc-asks-state-about-action-taken-on-increasing-complaints-of-dv-during-lockdown-155639 accessed 16 October 2020.

found that there was a strong linkage of alcohol with intimate partner violence.³⁸ The report stated that alcohol leads to loss in physical and sensory control, thereby increasing the propensity of any individual to lose control.

On a local level, Pune, where the authors are located, has witnessed some practical solutions. Since segregation of the victim and the perpetrator during lockdown became difficult, many perpetrators were made to assist in various local government offices or were sent to containment zones for healthcare and/or sanitation assistance.³⁹ These steps were undertaken to break the pattern of violence. The contribution of the 21,000 ASHA workers in Maharashtra has been instrumental in controlling the spread of this shadow pandemic. This was because ASHA workers assumed the role of vigilante in the present scenario by reporting cases of domestic violence in their locality to the police.⁴⁰ASHA workers were able to act as the crucial intermediary and counselors by facilitating a community or neighborhood watch. Further, the interdepartmental collaboration between the police and healthcare resulted in victim-centric, family centric solutions preventing further recurrence of the incidents.

The approaches at global level and in comparative jurisdictions find resonances and resemblance in the executive approach of National women's commission at the national level, NGOs and various state government initiatives. Yet, the unique victim-centric approach of Pune with strict swift action against perpetrator holds the long-term promise as an innovative alternative approach with interdepartmental collaboration. The responses of various high courts show how this shadow pandemic

³⁸Mustafa Plumber, '477 Calls Received on Helplines Regarding Domestic Violence During Lockdown Period' (*LiveLaw*, 25 April 2020) < https://www.livelaw.in/news-updates/477-calls-receive-on-helplines-regarding-domestic-violence-during-lockdown-period-state-tells-karnataka-hc-155763> accessed 16 October 2020.

³⁹Figures and information based on an interview with ChaitraliDekhmukh (Journalist&PhD Scholar, Symbiosis International Deemed University)

⁴⁰Ibid.

provoked a uniform response with deeper understanding of the power equations and added vulnerability thanks to the commitment of judges and prevalence of the legislation. The specific guidelines show how the seriousness of this shadow pandemic was addressed at the behest of social service organizations who were quick to respond as conscience-keepers.

Conclusion

For years, domestic violence has been brushed under the carpet in India. Socio-cultural influences such as fear of ostracization from society, financial insecurity discourage women, among other factors as mentioned *supra* render women dispirited. India's legislative framework does have the force required to curtail domestic violence. However, law's zero tolerance has to be accompanied by social and policy-level zero tolerance. The foundational step is to spread awareness in both rural and urban India, to evolve alternative adhoc strategies in the line of Pune approach and the openness of judiciary to validate and legitimize the experience as well as solutions proposed by the social service organisations.

Global, national and local practices and approaches unveiled so far, suggest that the best way to tackle the shadow pandemic is to collaborate with all the stakeholders in the spirit of zero tolerance and with victim-centric approach underlined by a long term vision. To this end, a community-based approach takes primacy whereby not only the police officials and the judiciary, but also the immediate community gatekeepers or watchdogs such as NGOs, local community leaders and neighbors can keep a reasonable check on each other. Most importantly, the power imbalance that is created between the victim and perpetrator has to be restored. Thus, psychological support from trained experts over hotlines alongside immediate economic support ought be made available to diffuse the imbalance. The above-described shades of a shadow pandemic along with the plausible remedies still would leave the field

open. It is for establishing a 'second coming' with a 'moral center' working towards the ideal of a gender-just family, society, nation and a human kind, where the 'ceremony of innocence' is not drowned⁴¹

⁴¹ 'The Second Coming', 1920, a poem by William Butler Yeats, https://www.poetryfoundation.org/poems/43290/the-second-coming, accessed on 1 November 2020