

**THE DARK SIDE OF LOCKDOWN - SHADOW PANDEMIC**

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**Abstract**

Reinforced by generations of patriarchy and self-imposed male domination in society, violence against women has pervaded the ‘sanctity’ of marriage for ages now. Violence and abuse in order to assert dominance and power over the victim, in this case, the spouse, has been a common occurrence, fueled by a society that took a very long time to see it as a problem and take appropriate measures against it. Many of us have found happiness, being with our family but this pandemic has made us question our culture, values, and humanity. For many, the lockdown brought dark times. Domestic violence may be defined as the physical, verbal, and emotional abuse that a spouse may be subjected to in a marriage, most commonly perpetrated by the husband, the victim being the wife. India has gained notoriety when it comes to women's safety and crimes against women, and these crimes have not been restricted to the outdoors. Domestic violence in India exists in various complexities, factors such as dowry, financial independence, children, adultery, education, etc. come into play. The Coronavirus pandemic has brought about a new fear in the victim's minds. These spouses are now spending the entire period locked in with their abusers. Termed the ‘shadow pandemic’, for its various side effects, this period has led to a drastic increase in the cases of domestic abuse. Even after the lockdown, things didn't improve. Issues such as unemployment, alcoholism etc. caused domestic violence to rise. This has been a worldwide phenomenon, so much so that the United Nations Secretary-General, Antonio Guterres, took cognizance of the situation and has urged governments to look into preventive measures and make homes safer for women and children.

The National Commission for Women has reported a significant increase in the cases phoned into them. They received 587 complaints from 23rd March'20 till 16th April, out of which 239 were regarding domestic violence. The commission received 239 more such complaints during the lockdown. NCW says that the high numbers can be attributed to the lockdown — imposed since March 25th'20, which has locked the abuser and the victim together. It has received 315

domestic violence complaints in the month of April alone<sup>1</sup>. It is wrong to assume that domestic violence is a prevalent issue only in the rural areas, a lot of complaints were filed in urban areas too. As a measure to ensure an open line for victims to report complaints, NCW has launched a Whatsapp number to file complaints related to domestic violence - 7217735372.

Reports made in 2021 showed that there was a 79% rise in domestic violence complaints in the year 2020.

**However, a vast majority of them go unreported due to various reasons, such as**

Inaccessibility to means of communication: Perpetrators of domestic abuse often cut off the victim's access to all electronic devices via which they could receive help. Victims used to get the opportunity to call for help or contact family members when the husband left for work or went out. Which was not possible during the lockdown. Domestic violence victims are usually isolated from their family and friends, cutting off their chances of receiving help. In the lockdown, with no contact with the outside world, these victims were not able to seek help.

Emotional blackmail: With children in the equation, it becomes harder for the victim to leave, taking into consideration the safety of the children. The perpetrator uses emotional blackmail to keep the victim silent and compliant.

Financial dependence: Victims, especially ones who have no financial backing from their family or jobs, remain in abusive marriages as they have no other place to go to. Even if the victim is earning, they have to hand over their pay packets to their husband or family. They need money to rehabilitate themselves and their children if they have any. As there is more financial uncertainty now, they are unable to leave.

Social stigma: The way our society's thinking works, it is very difficult for a married woman to leave her husband, with opposition from her own family and the stigma that people who have no stake in the relationship always create. Divorce is still taboo. Due to the 'Log kya kahenge'

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<sup>1</sup> PTI, Lockdown: NCW receives 315 domestic violence complaints in April. *The Hindu* (May.04, 2020, 08:49AM), <https://www.thehindu.com/news/national/lockdown-ncw-receives-315-domestic-violence-complaints-in-april/article31497599.ece>

syndrome families have been known to disown their married daughters when she tries to leave an abusive marriage. Now with the lockdown, they feel that they have nowhere to go.

*Lack of awareness:* Women trapped in such marriages often do not know what their rights are and what their husband does to them is a crime. They have been taught for eons that the husband has a complete right over the wife and she has to accept everything as her fate. They have resigned themselves to a fate of exploitation and abuse. Different groups faced the brunt of the lockdown in different manners. House help and maids who were no longer able to go to work were abused more often, many times because they were no longer bringing in money to fuel the husband's alcohol habits or reasons as such. For some, the lockdown has caused them to be treated like slaves for the family and has brought more emotional abuse.

### **The Protection of Women from Domestic Violence Act, 2005**

This Act provides for the office of Protection Officers and holds the government responsible for providing legal and medical aid to victims of domestic abuse and protection and shelter homes for them. Since it is a civil law, it tries to ensure aid to victims and does not provide any criminal procedure for the perpetrator. It is only in 2005 that domestic violence was defined in Indian law and a composite Act was introduced in the interest of abuse victims. This Act defines domestic violence not just as physical but also as verbal, economic, sexual, and emotional abuse. It has its basis in the United Nations Declaration on the Elimination of Violence Against Women, which was adopted by the UN General Assembly in 1993. It recognizes domestic violence as a violation of human rights, citing the wife's right to personal liberty and life (Article 21). It recognizes women's right to reside with dignity and without violence, regardless of their relationship with the perpetrator of the crime.<sup>2</sup> Alongside, research conducted by the Centre for Women and Law at the National Law School of India University (NLSIU), in 1998-1999, studied court records from the High Court of Karnataka and based on 5 landmark cases provided a strong background for the PWDVA 2005. Once a case of domestic violence has been reported, the police, Protection Officers, Service providers or Magistrate, can then inform the victim of her rights, i.e., her right to file applications for protection orders, monetary relief, custody, etc and to

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<sup>2</sup> *The Protection Of Women From Domestic Violence Act, 2005, Indiankanoon,*  
<https://indiankanoon.org/doc/542601/>

file a complaint under Section 498A of IPC. They also make her aware of the services available to her in the form of shelter homes, medical facilities, etc. Protection Officers are tasked with the job of making the Domestic Incident Report and forwarding it to the Magistrate, who then fixes a hearing date. The Officer also has to ensure that the victim receives all the benefits mentioned and has appropriate access to shelter, medical services, and counselling. Once the crime has been ascertained, the Magistrate can file protection orders to ensure the safety of the victim. However, during the lockdown, the function of these offices was hampered. The speed of action being taken was much slower, even as the number of cases raised.

### **Section 498A**

The husband's side of the family, in many cases, exploits the victim physically and mentally for dowry. There was a need for the dowry system and domestic violence to be outlawed. The Government of India amended the IPC(1860) by way of the Criminal Law (2nd amendment) Act. On 26th December 1983 a new section, 498A, was inserted under Chapter XX-A. The amendment included dowry deaths and recognized cases of domestic violence. Section 498A is the only section in IPC that criminalizes domestic violence. Section 498A states that if a husband or any relative of the husband of a woman subjects her to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine (Cruelty to Women<sup>3</sup>.The offense filed under section 498A may be: Cognizable, Non - compoundable, and Non - bailable. Supreme court, in the case of Sushil Kumar Sharma Vs. Union of India and Ors (2005), sentenced this section as 'Legal Terrorism'. In another case of Preeti Gupta and Anr Vs. the State of Jharkhand (2010), the apex court observed that there is a serious need to review the legislation as exaggerations of incidents were observed in complaints. Even if a person is innocent it is difficult to deliver justice, as the section is non-bailable and cognizable. Hence, the 243rd report of the Law Commission was brought on section 498A of IPC, changes were made in order to remove the flaws in the section and its misuse. It was opined in the 243rd Report of the Law Commission that the section should not be used as an instrument of counter-harassment and suppression.

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<sup>3</sup> Tejaswi Pandit, *Cruelty to Women [S. 498-A IPC and allied sections, The SSC Online Blog (Dec. 03, 2018), <https://www.sconline.com/blog/post/2018/12/03/law-for-laymen-section-498-a-ipc-and-allied-sections-cruelty-to-women/>*

**Conclusion**

The integrity of marriage as an institution is wrecked when abuse and violence comes into play. Patriarchy has deep roots in our society, which is why male domination in a marriage has been normalized. Structured gender inequality imposes too many barriers for women in a marriage, where gender roles are handed to her as a child-bearer and caretaker of the house. Subordinate to her husband. Often the husband uses abuse to assert dominance and authority. The institution of marriage is destroyed the moment a spouse lays a hand on the other or uses any other form of abuse, even verbal or financial. Awareness and special laws against domestic violence are given less importance in pandemics and emergencies. While she may survive the pandemic, will she survive the after effects of lockdown? Code-words like “Mask-19” were popularized in France and Spain, to make it known that they are being abused without alerting their husbands. Shop owners, pharmacists, and police on patrol should be able to take cognizance of such cases and take appropriate measures. Such tricks were not observed in India during the lockdown. Victims of domestic violence are not aware of how to make use of such punishable laws, as there is a global rise in the cases of domestic violence during this pandemic, it is highly essential for the government to take immediate cognizance and action since there still many parts of the country which are practicing lockdowns. It is a requirement to appoint protection officers even on a temporary basis and recognize their jobs as essential. As they are the first point of contact in such civil cases and guide victims on the process of availing legal aid, counselors, medical facilities, etc. in local areas, but such appointments were not made since the authorities didn't pay enough attention to the issue. We are out of lockdown but still dealing with its after-effects. It's high time that such issues are dealt with. All women and children deserve to live a safe and dignified life. In the face of a pandemic, when tensions are soaring, even more so.

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