

## A COMPARATIVE STUDY OF DOMESTIC VIOLENCE IN BRICS NATIONS – PRE AND POST COVID-19

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*The most common kind of sexual or physical abuse suffered by women is that by a partner. Human rights are violated when males or boys use violence against women or girls. When it comes to domestic abuse, it is estimated that one in three women will experience some kind of gender-based violence at some point in their lives. The number of women who have been abused by a romantic partner or a non-relationship sexual partner is estimated to reach 736 million. For years, the world's leaders have recognised its seriousness. In 1995, the Beijing Declaration and Platform for Action said that violence against women must be eliminated. Within the "UN's 2030 Agenda for Sustainable Development," a worldwide goal to abolish "all kinds of violence against women and girls in public and private spaces" was added. Global action was called for in 2016 by the "World Health Assembly's" Resolution 69.5, which urged a national multisector approach to combating violence against women and young girls. In spite of all of these responsibilities, 49 countries still don't have a clear policy on domestic abuse. Lower and lower-middle-income women nations are particularly vulnerable to this violence, which has long-term effects on their health and well-being. In the world's poorest nations, women aged 15 to 49 have a lifetime frequency of domestic abuse of 37 percent. One in every four women who have ever been in a relationship has been a victim of domestic abuse at some point in their lives.*

*Keywords: BRICS; domestic violence; women; gender; abuse; law.*

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## Introduction

By looking at crises through the lens of social interactions, we get a better understanding of the “social structure of societies, organisations, families, and other interpersonal relationships” from which catastrophic events emerge. The ability to critically analyse power dynamics in pandemic circumstances is enhanced when we pay attention to the gender interactions that occur during disasters. Various research and observations have revealed that women may suffer a “re-emphasis on traditional and lower family status and deteriorating conditions” during times of catastrophic disasters.

It is vital to point out the distinctions between “IPV, domestic violence (DV), and gender-based violence (GBV),”<sup>1</sup> which are sometimes used interchangeably. Any behaviour that occurs in an intimate relationship between partners or ex-partners (whether married or cohabiting) that has the potential to inflict physical, psychological, or sexual harm to those involved in the intimate relationship is often referred to as “IPV.”<sup>2</sup>

<sup>1</sup> The 1993 United Nations Declaration on the Elimination of Violence Against Women defines “gender-based violence” as “an act that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women (including threats of such acts), or coercion or arbitrary deprivation of liberty, whether occurring in public or private life.” The focus of this paper is Domestic Violence – the most common form of GBV against women.

<sup>2</sup> Violence against women, World Health Organization (WHO), 9 March 2021 (May 7, 2023), available at <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>.

This concept has been defined as “acts that are physically and emotionally harmful or that carry the potential for physical harm and may also include sexual coercion or assaults; physical intimidation; threats to kill or harm; restriction of normal activities and freedom; and denial of access to resources” by the “US National Institutes of Mental Health Committee” on Family Violence,<sup>3</sup> however. In contrast, the World Health Organization (WHO) defines “domestic violence” (DV) as any act of hostility, physical, psychological, sexual, or economic, that occurs inside or between members of a domestic unit, such as a family or an intimate relationship. An intimate male partner/cohabiting partner, parent(s), sibling(s), family member(s), or anyone known to the family can commit DV against a woman/child/adolescent. In other words, the term “DV” is a more inclusive phrase than “IPV.” Beyond “IPV and DV, GBV” refers to acts of violence perpetrated against a person solely because of their gender. It is often used to describe any kind of violence that is based on exploiting gender disparities. GBV may cause physical, sexual, psychological, and economic suffering, much like IPV and DV.<sup>4</sup>

Girls and women are vulnerable particularly to “gender-based violence (GBV),” which has been shown to be one of the most apparent symptoms of gender inequality. As a result, research shows that DV surges at times of crisis and happens in all countries across the globe, regardless of socioeconomic level. Women and children were entrusted with the task of preparing meals at evacuation centres after the 2010 earthquake and tsunami in East Japan. Internally displaced individuals (IDPs) in Haiti following the 2010 earthquake had to deal with male-dominated assistance committees that controlled the distribution of supplies, resulting in some women being compelled to bargain for relief items via sexual favours. There have been reports of similar situations in IDP camps in North-East Nigeria, too. Despite this, victims’ ability to disclose abuse is frequently hindered by society’s pressure.

In 2005, after Hurricane Katrina, the rate of rape among women who had to leave their homes in Mississippi’s highest baseline rate was 53.6 times higher in 2004. The rate of rape in close relationships was 16 times higher than the annual average in the U.S. A study in Karamoja, Uganda, found that violent behaviours such as rape, DV, and child marriage increased during droughts. Female genital cutting was also shown to be more common during these times.

Nearly a decade after the outbreak of the crisis according to reports, violence against women and girls has continued unabated across the Middle East. Since the beginning of the crisis, sexual harassment, underage marriage, forced marriage, domestic violence, sexual violence, and other forms of GBV have been reported.

Examples of crises that exacerbate lopsided gender relations include pandemics, natural catastrophes, and war. Depending on family support during and after a crisis

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<sup>3</sup> National Research Council, *Understanding Violence Against Women* (1996).

<sup>4</sup> Joel N. Tochie et al., *Intimate Partner Violence during the Confinement Period of the COVID-19 Pandemic: Exploring the French and Cameroonian Public Health Policies*, 35 Pan Afr. Med. J. 54 (2020).

has been demonstrated to enhance existing power relations, further removing women's agency and control. Despite the essential insights that a gender analysis provides, data collection on sex, age, and disability is rarely fully undertaken during and after a pandemic crisis, despite gender-sensitive evaluations and assessments. In the aftermath of the global coronavirus epidemic, this dynamic is still playing out.

"Gender-based violence (GBV)" has also been linked to the role women and girls play in disaster and crisis circumstances. Women and girls in the Sahel, for example, are forced to go great distances to get water and fuel, increasing their vulnerability to harassment and sexual assault.<sup>5</sup>

As a result, research has shown that men's addictions to alcohol, drugs, and gambling are linked to an upsurge in violence against girls and women during catastrophes. According to a study conducted following Myanmar's Cyclone Nargis, an increase in alcohol intake was linked to a 30 percent rise in DV. When coronavirus pandemic spreads through a community, women and girls are more likely to get sick than men because the general population has more sexually transmitted diseases (STDs).<sup>6</sup>

## 1. Domestic Violence in Russia and Brazil

In both Brazil and Russia, the decisions of international and regional human rights authorities had a strong impact on the country's citizens. "Prior to 2001, there was little interest in domestic violence in Brazilian society," despite the fact that some measures had already been implemented (such as the opening of shelters, special police stations for women, and the Supreme Court's condemnation of "honour defence" in cases of wife-killing).<sup>7</sup> Domestic abuse and "honour murders" were only brought to the public's notice in high-profile incidents because of a lack of specific legislation.<sup>8</sup> Although high-profile instances resulted in convictions, criminals were often sentenced to just a few months in prison for their crimes. There was a flurry of activity following the Commission's findings on the Maria da Penha case, which included media coverage, NGO action, and public debates. The year 2004 was dubbed the "Year of the Woman" in Brazil, where many conferences and seminars were conducted to discuss various governmental remedies to the issue.

<sup>5</sup> Amnesty International, *"Circles of Hell": Domestic, Public and State Violence against Women in Egypt* (2015).

<sup>6</sup> IFRC, *Unseen, Unheard: Gender-Based Violence in Disasters* (2016) (May 7, 2023), available at <https://www.ifrc.org/sites/default/files/2021-08/1297700-Gender-based%20Violence%20in%20Disasters-EN.pdf>.

<sup>7</sup> As of 2014, there were 74 "safe houses" operating in Brazil. See Table IV.4. Latin America and the Caribbean: shelters and safe houses for women victims of violence, in Economic Commission for Latin America and the Caribbean, *Confronting Violence Against Women in Latin America and the Caribbean: Annual Report 2013–2014* (2014), at 60 (May 7, 2023), available at <https://repositorio.cepal.org/server/api/core/bitstreams/2d092ec3-57df-4bb1-9c72-086aa991f65f/content>.

<sup>8</sup> Paula Spieler, *The Maria da Penha Case and the Inter-American Commission on Human Rights: Contributions to the Debate on Domestic Violence Against Women in Brazil*, 18(1) *Indiana J. Glob. Leg. Stud.* 121 (2011).

Violence against women: In 2005, as part of the National Campaign, Tolerance Zero was started.

Amendments to the civil and criminal laws in Brazil are aimed at promoting gender equality in marriage and eliminating moralistic terms like “honest lady” or “virgin woman”, respectively. A lot of money was given to the “National Pact to Combat Violence Against Women” (“Pacto Nacional para Enfrentamento à Violência contra a Mulher”) so that it could carry out its plans.<sup>9</sup>

Furthermore, in 2006, Brazil passed the “Maria da Penha Law (Law No. 1134/2006),” which integrated gender-based considerations into the federal penal code. Special courts and harsher punishments for criminals were among the measures contemplated by the legislation, which applied to cities with populations of “more than 60,000 (for example, police stations and shelters for women).”<sup>10</sup> As of 2011, “Brazil’s National Council of Justice reported favourable results: more than 331,000 prosecutions; 110,000 final judgements; and over two million phone contacts to the Service Center for Women.”<sup>11</sup> It was only in 2018 that the legislation was changed to include a provision requiring perpetrators of domestic violence to compensate the Unified Health System for any costs associated with treating their victims. Rehabilitative and re-education programmes may also be required of the aggressor under Bill 5001/16.<sup>12</sup>

It was in 2015 that the country’s criminal law was amended to include femicide (i.e., gender-related killing) as a crime that warranted the same punishment as murder.

Researchers also noted that Brazil’s foreign policy has become more pro-women’s rights as a result of the country’s increased international involvement.

Brazil’s National Action Plan on Women, Peace, and Security was announced in March 2017 as part of the country’s commitment to the agenda outlined in the series of United Nations Security Council resolutions starting with Resolution 1325 (2000).<sup>13</sup>

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<sup>9</sup> See Table IV.3: Latin America and the Caribbean: campaigns against violence against women, in Economic Commission for Latin America and the Caribbean, *supra* note 7, at 59–60.

<sup>10</sup> Maria da Penha Law: A Name that Changed Society, U.N. Women, 30 August 2011 (May 7, 2023), available at <https://www.unwomen.org/en/news/stories/2011/8/maria-da-penha-law-a-name-that-changed-society>.

<sup>11</sup> Galina Nelaeva, *Violence Against Women in Russia and Brazil: International and Domestic Responses*, 8(4) BRICS L.J. 76 (2021).

<sup>12</sup> Spieler 2011, at 136–7. For more details, see Secretaria de Políticas para as Mulheres da Presidência da República, *Pacto Nacional pelo Enfrentamento à Violência contra as Mulheres* (2011) (May 7, 2023), available at <https://www12.senado.leg.br/institucional/omv/entenda-a-violencia/pdfs/pacto-nacional-pelo-enfrentamento-a-violencia-contra-as-mulheres>.

<sup>13</sup> Mónica Salomón, *Exploring Brazilian Foreign Policy Towards Women: Dimensions, Outcomes, Actors and Influences*, 63(1) *Revista Brasileira de Política Internacional* 1 (2020).

It's still not enough, according to the "Inter-American Commission on Human Rights (IACHR)" in 2019, because four women are slain every day in Brazil, even if the legislation is in existence. In particular, Human Rights Watch highlighted the fact that According to the statute, "barely 8 percent of towns had police stations specialising in violence against women and only approximately 2 percent had women's shelters."<sup>14</sup>

Brazil's President, Jair Bolsonaro, has come under fire for his anti-feminist views and for slashing funding for women's rights initiatives. Even though the results of the above activities have been uneven and different, "the spread of human rights rules seems to have been significant" since the special laws were passed.<sup>15</sup>

Since the 1990s, Russia has been considering the adoption of a law to address domestic abuse. Even after 40 submissions to the State Duma for consideration over the previous 10 years, this law has never made it beyond the first of its three readings.<sup>16</sup>

For months after *Volodina v. Russia* was decided, a new draught bill was proposed in the Federation Council, which sparked controversy in the public arena. Controversy over the bill demonstrated the difficulty of gaining public support for legislation in such an emotionally charged area of the law. When a new version of the bill came out, activists and people who work to protect human rights who had helped write the bill in the beginning were upset and unhappy.

"Family and domestic violence" is one of the most controversial themes in the proposed draught legislation, attacked by both liberal and conservative organisations in society. In other words, people were upset because this phenomenon was defined as a deliberate act that causes or threatens physical or mental discomfort, as well as property damage, but does not include elements of an administrative violation or a criminal offence.

It was impossible to imagine what situations the drafters were referring to when they proposed this definition of violence, since violence, as such, usually had components of either an administrative or criminal crime. Due to this conceptual vagueness, practising attorneys pointed out that legislation like this would be of little benefit to victims.

There has also been a lot of discussion about a restraining/protection order. What kind of structure should this order have? How and by whom should it be put into effect? The victim's safety is a concern. Isn't it possible that state officials may use it as a pretext to remove children from their parents? Since there is no mechanism to

<sup>14</sup> Sebastián Essayag, *From Commitment to Action: Policies to End Violence Against Women in Latin America and the Caribbean: Regional Analysis Document*, U.N. Development Programme & U.N. Women (2017) (May 7, 2023), available at [https://oig.cepal.org/sites/default/files/from\\_commitment\\_to\\_action\\_policies\\_to\\_end\\_vaw\\_in\\_latam\\_and\\_the\\_caribbean.pdf](https://oig.cepal.org/sites/default/files/from_commitment_to_action_policies_to_end_vaw_in_latam_and_the_caribbean.pdf).

<sup>15</sup> Katy Watson, 'Feminism is sexist': The women backing Brazil's Bolsonaro, BBC News, 23 October 2018 (May 7, 2023), available at <https://www.bbc.com/news/world-latin-america-45944164>.

<sup>16</sup> Olimpiada Usanova, *Russia's "Traditional Values" and Domestic Violence*, Kennan Cable No. 53 (June 2020) (May 7, 2023), available at <https://www.wilsoncenter.org/publication/kennan-cable-no-53-russias-traditional-values-and-domestic-violence>.

safeguard victims from their abusers, it has been noted in the literature as a severe problem. Even in nations where such directives may be enforced, it is important to keep in mind that doing so might be challenging. Abusers often don't get punished because the police don't do anything or aren't good at what they do, and because the police themselves are rude and biased.

Due to legal shortcomings that make it difficult for victims to seek justice, a specific statute is needed to address this issue in the first place. So-called private processes, in which victims are expected to gather evidence of crimes on their own, may be problematic since they sometimes require certain abilities that the victims do not possess. When it comes to those who have been subjected to years of abuse and trauma, it may be tough even for trained experts.

It was also decriminalised in 2017 for non-aggravated first-time battery incidents, which are now administrative crimes. The category of "near individuals" was eliminated by "Federal Law No. 8-FZ" "On Amendments to Article 116 of the Criminal Code of the Russian Federation," rendering relatives and strangers alike equal before the law. This has been seen as a risky move, in part because the police no longer perceive the need to engage in family problems, and hence many incidents go undiscovered.<sup>17</sup> Aside from that, administrative penalties levied against the abuser are often met from the family's financial resources. As homicide rates continue to rise, victims who take action in self-defense may wind up being convicted of murder under "Article 105 of the Criminal Code" because of their impotence and invisibility. According to a survey conducted by the United Nations, 82% of women, compared to 18% of males, were victims of intimate partner murder worldwide in 2019. Intimate partner/family homicides account for 64% of female homicides and 36% of male homicides.<sup>18</sup>

As a third concern, the state's protective measures may only be used in criminal cases; they do not extend to administrative violations; therefore, victims of battery are not qualified for them.

A particular statute alone isn't enough; it requires sophisticated measures such as "law enforcement officer training and education, adequate counselling and service provision for victims, and legal and psychological aid for family members" of individuals who have been damaged by such crimes. There must be extensive and long-term procedures put in place to safeguard the safety of the victims. These methods must be easily available.

The culture of impunity and quiet contributes to the problem of domestic abuse and violence against women, which is why it is critical to see it as a systemic issue rather than a one-off event.<sup>19</sup>

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<sup>17</sup> Criminal Procedure Code of the Russian Federation, Art. 20(2).

<sup>18</sup> Sandra S. Park, *CEDAW's Promise for Strengthening Law-Enforcement Accountability to Survivors of Domestic and Sexual Violence in the United States*, 2014 Mich. St. L. Rev. 357 (2014).

<sup>19</sup> U.N. Office on Drugs and Crime, *Global Study on Homicide* (2019) (May 7, 2023), available at <https://www.unodc.org/documents/data-and-analysis/gsh/Booklet1.pdf>.

### **1.1. Domestic Violence and COVID-19 in Russia and Brazil**

Unprecedented difficulties confronted the world in 2020. Lockdowns, cordoning off cities, and other “self-isolation” regimes were implemented throughout the globe in unprecedented numbers. The most vulnerable elements of society, including children, the elderly, and women, have begun to be targeted by human rights organisations and international organisations in this context. Many women and girls were susceptible to violence from their spouses or other intimate partners in quarantine because of the lack of help from specialist groups, friends, or family members. According to Antonio Guterres, U.N. Secretary-General on 6 April 2020, “healthcare providers and police are overwhelmed and understaffed ... local support groups are paralyzed or short of funds. Some domestic violence shelters are closed; others are full.” Local support organisations are immobilised or underfunded. Some shelters for victims of domestic abuse are no longer open, while others are completely packed.<sup>20</sup>

Other groups quickly followed suit. They pointed out how vulnerable women were during the crisis and asked their members to help protect those who were hurt.<sup>21</sup>

It became clear in late March and early April 2020 that the situation was much more complicated than first thought. Despite the fact that victims did not disclose the abuse because they were terrified of reprisal if they sought assistance from the police or other family members, domestic violence increased dramatically.<sup>22</sup>

It’s hard to get an accurate estimate of how many people will be abused by their partners in 2020, but it’s still shocking: according to U.N. projections, “243 million women and girls (ages 15-49)” were victims of sexual and/or physical violence in their relationships in that time frame.

The pandemic showed that traditional ways of working on women’s rights in times of crisis and health problems need to be rethought and changed a lot.

The first social distancing measures were implemented in Russia around the end of March and beginning of April, when domestic violence reports began to rise. The relationship between domestic violence and the epidemic was initially established in Russia, in collaboration with other countries such as China, who had previously experienced the disaster and recorded widespread abuse in self-isolation. Travel throughout the city was forbidden, hostels were closed, and trains and buses were

<sup>20</sup> “For many women and children, the home is not a safe place”: Statement by the President of GREVIO, Marceline Naudi, on the need to uphold the standards of the Istanbul Convention in times of a pandemic, Council of Europe, 24 March 2020 (May 7, 2023), available at <https://rm.coe.int/grevio-statement-covid-24-march-2020/pdfa/16809cf55e>.

<sup>21</sup> COVID-19 et violence à l’égard des femmes: Ce que le secteur et le système de santé peuvent faire, World Health Organization (WHO), 7 April 2020 (May 7, 2023), available at <https://www.who.int/fr/publications-detail/WHO-SRH-20.04>.

<sup>22</sup> Jamie Grierson, *Domestic abuse killings “more than double” amid Covid-19 lockdown*, The Guardian, 15 April 2020 (May 7, 2023), available at <https://www.theguardian.com/society/2020/apr/15/domestic-abuse-killings-more-than-double-amid-covid-19-lockdown>.



cancelled, making it impossible to physically separate abused victims from their abusers. At the same time, the number of calls to the assistance centres serving the victims has skyrocketed. Based on information from NGOs and the media, Russia's Human Rights Commissioner, Tatiana Moskalkova, indicated that domestic abuse instances decreased under lockdown. A 2.5-fold rise in numbers was reported by the woman (from 6,054 in March 2020 to 13,000 in April 2020). During the outbreak of the pandemic, progress on a domestic abuse bill was put on hold. When asked when the work on the bill will restart, Russian Federation Council Speaker Valentina Matvienko said that the "circumstances allow."<sup>23</sup>

However, both the government and private actors have taken some steps in this direction. Gosuslugi, a public service site, published information on how victims of domestic abuse should proceed, and police stations were mandated to offer information on social services to anyone seeking assistance. During lockdown, women were permitted to remain at several hotels. It was found that most of these measurements were found to be deficient and difficult to obtain. Another important thing about how the pandemic affected women was that it caused a lot of social and economic problems, especially for older women, single mothers, pregnant women, etc.<sup>24</sup>

While domestic abuse has received increasing attention from activists and policymakers, scholars have also received attention. In Russia, the number of publications on this subject was relatively low before 2020, but that number is expected to skyrocket. Researchers examined "domestic violence and violence against women, including psychological abuse, domestic violence against minority women, etc.," were examined by researchers. Aside from legal and procedural concerns, Russian courts' case law was analysed to point out potential difficulties with the investigation of such crimes. For example, determining the seriousness of a storm may be challenging since storms might be dangerous yet leave no obvious signs of their presence. Additionally, judges were cited for their prejudiced views against the victims (who were frequently blamed for what occurred because they were, for example, too afraid to flee from the abuser). Because even if the lawmakers weren't quite clear about why or how to implement special legislation, they all agreed that the issue needed to be addressed.

Russia and Brazil both encountered comparable difficulties at the same time. To begin with, the quantity of services available to women was drastically decreased. Statistics collected by "Brazil's Public Security Forum" show that the number of emergency protective measures issued in Sao Paulo dropped by 38 percent in April

<sup>23</sup> Anna Andreeva et al., *Women's Rights and the Feminists' "Dirty Plans": Media Discourses During the COVID-19 Pandemic in Russia*, 36(3) *Affilia* 319 (2020).

<sup>24</sup> Domestic Violence in Russia: The Impact of the COVID-19 Pandemic, Chatham House, 20 July 2020 (May 7, 2023), available at <https://www.chathamhouse.org/2020/07/domestic-violence-russia-impact-covid-19-pandemic>.

compared to the same month last year, while calls to the state's emergency 190 hotline for domestic violence went up by 45 percent.<sup>25</sup>

In addition, "police stations are still open 24 hours a day in several states, such as Rio de Janeiro, Sao Paulo, and the Federal District. However, police stations, including those for women established by the historic Maria da Penha statute in 2006," are functioning under restricted schedules. Virtual domestic abuse complaints are now allowed in Sao Paulo and Rio de Janeiro, and Sao Paulo magistrates may now impose emergency protective measures online and send summonses over WhatsApp.<sup>26</sup>

More than 27% women called support lines in Brazil during March-April 2020, more than they did a year earlier, according to World Bank projections. It's possible that women were having difficulty getting in touch with the police, since fewer offences involving violence against women were reported.<sup>27</sup>

The presence of "alcohol and drug use, anxiety and boredom during confinement, as well as dysfunctional personality qualities or personality disorders" enhanced the chance of violent conduct, particularly among people with dysfunctional personality features or personality disorders.<sup>28</sup>

Domestic violence and violence against women were addressed in Brazil by the civil society and government through awareness campaigns, information distribution, online platforms and applications for reporting crimes (which would allow for the uploading of photographs and videos), and other measures. For the most vulnerable people under quarantine, a "special decree (Decree No. 10.282)" mandated that they receive critical assistance.

## 2. India

In India, domestic violence against women is a complicated and deeply ingrained phenomenon. Women are abused not just by their spouses but also by members of their own families, both before and after they are married. In terms of social and economic status, Indian women and girls often have fewer advantages than their male counterparts. Women's sexuality and its safe transfer to husbands, who are supposed to "own" them, are still considered vital for a girl to get married. The

<sup>25</sup> Anya Prusa et al., *Pandemic of Violence: Protecting Women During COVID-19*, Wilson Center, 15 May 2020 (May 7, 2023), available at <https://www.wilsoncenter.org/blog-post/pandemic-violence-protecting-women-during-covid-19>.

<sup>26</sup> O Combate à Violência contra a Mulher (VCM) no Brasil em época de COVID-19, World Bank, 25 June 2020 (May 7, 2023), available at <https://www.worldbank.org/pt/country/brazil/publication/brazil-addressing-violence-against-women-under-covid-19>.

<sup>27</sup> Violência doméstica durante a pandemia de Covid-19, Fórum Brasileiro de Segurança Pública, 29 May 2020 (May 7, 2023), available at <https://forumseguranca.org.br/wp-content/uploads/2020/06/violencia-domestica-covid-19-ed02-v5.pdf>.

<sup>28</sup> Lisieux E. de Borba Telles et al., *Domestic Violence in the COVID-19 Pandemic: A Forensic Psychiatric Perspective*, 43(3) Braz. J. Psychiat. 233 (2020).

sexist sex ratio has dropped to 929 females for every 1,000 males, demonstrating the pervasiveness of gender discrimination (1991 census). But regional and local variances do exist. Karve (1965) notes that northern women have a lower degree of autonomy than their southern counterparts and are less likely to have a say in the allocation of economic resources. There are a few upper-class metropolitan women who have some of the advantages of education, employment, and financial freedom. Regional distinctions in women's roles in society have little to do with variances in the prevalence of domestic violence. The prevalence of domestic violence is widespread across all situations, geographies, and religions.

Domestic abuse in India has historically been seen as a serious danger to women's lives because of the dowry system. As a result, an amendment to the Dowry Prohibition Act was the first piece of legislation in the nation to address the problem of so-called "dowry fatalities (1961)."<sup>29</sup> "Section 304B of the Indian Penal Code" makes any violence against a spouse or in-laws for dowry demands a crime. As feminist studies and activism developed, cross-disciplinary studies helped to clarify the wide variety of causes and effects on women of marital and familial violence.<sup>29</sup>

Many women across the world, including those in India, live in a state of continual vulnerability. They are the easy prey for a wide range of criminal and repressive operations. For women, it seems that sexual assault is a constant presence in their daily lives. Even more shocking, the number of crimes perpetrated against women and, in particular, spouses in marital homes has increased massively in India, according to government statistics. Domestic violence, on the other hand, has been around for a long time and may be found in all socioeconomic and age brackets. Violence against women has been suggested to be inherent in every traditional ritual or practise. There has been an increase in the prevalence of male-biased norms and beliefs in Indian society as a result of the country's economic growth. According to the National Family Health Survey-3,

34% of all women aged 15 to 49 in India have experienced violence at some point in their lives (IIPS 2007: 499). As a result, the percentage of crimes against women in India has climbed from 13.2 percent in 2003 to 52.24 percent in 2013.

Since India's independence, the government has worked to improve the status of women and reduce violence against them (as well as children) by enacting new legislation. Gender equality was not a major topic of discussion while the Indian Constitution was being drafted, although it has been said that the Indian Constitution's authors were sensitive to this subject. Consequently, they declared

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<sup>29</sup> Dowry Prohibition Act 1961, Ministry of Women & Child Development (May 7, 2023), available at <https://wcd.nic.in/act/dowry-prohibition-act-1961>.

that all people would have “Equality of Status and Opportunity” as well as “Social, Economic, and Political Justice”. In India, sex discrimination is illegal, and equality before the law is a fundamental right. While it was not possible to achieve the aim of “equal pay for equal labour” for men and women, the directive principle of equal pay for equal effort will be adopted at a later period. Again, Article 44 of the Constitution’s long-cherished ambition of creating a uniform civil code to secularise and homogenise family law is a Directive Principal. Although Hindu law, which is meant to be a personal law of divine origin like others, has been taken up by the legislators for the purpose of introducing amendments and creating uniformity among Hindus. Thirty-three percent of the seats in panchayats and municipalities are reserved for women, and a law ensuring that the same reservation is made at the highest level of electoral organisations is now before Parliament.

In addition to these changes,

the Indian Penal Code (IPC), Special & Local Legislation (SLL), and other laws affecting women have been drafted by the government. Several of these laws and acts were changed later on in order to make them relevant and effective. Some of the most notable include: the Special Marriage Act, 1954; the Hindu Marriage Act, 1955; the Hindu Succession Act, 1956; the Immoral Traffic (Prevention) Act, 1956; the Dowry Prohibition Act, 1961; the Indian Divorce Act, 1969; the Indecent Representation of Women (Prohibition) Act, 1986; the Commission of Sati (Prevention) Act, 1987; the Prohibition of Child Marriage Act, 2006. The Indian Penal Code (IPC) includes specific provisions for crimes against women, such as rape (Section 376), kidnapping and abduction (Sections 363-373), homicide for dowry, the death of dowry, or attempts to commit homicide for dowry (Section 302/304-B), torture or cruelty by a husband or a relative (Section 498-A), molestation (Section 354).<sup>30</sup>

It’s more common for rural and illiterate women in rural areas to be abused than their more educated or metropolitan counterparts. Such growing incidences of violence against women have prompted the Indian women’s movement to seek a swift judicial response in the last several decades. Every campaign has resulted in a legislative change as a consequence of these initiatives. However, these regulations are seldom enforced, and as a consequence, fewer people have been convicted as a result of stricter punishments being included in the code of conduct. Because of this, people who fight for women’s rights now question how well laws protect women from violence.

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<sup>30</sup> Government of India, Ministry of Health and Family Welfare, *National Family Health Survey 4, State Fact Sheet* (2014-15) (May 7, 2023), available at [http://rchiips.org/nfhs/pdf/NFHS4/PB\\_FactSheet.pdf](http://rchiips.org/nfhs/pdf/NFHS4/PB_FactSheet.pdf).

The government of India passed the new protection legislation named The Protection of Women from Domestic Violence Act, 2005 in response to escalating domestic violence incidents and pressure from women's activists and NGOs (PWDVA).

Many feminists believe that laws have not always treated women equally and fairly in comparison to males, but many campaigners have hoped that the new legislation will offer much-needed protection and redress to women victims.<sup>31</sup>

The Indian Penal Code established domestic abuse as a criminal offence under section 498-A in 1983, yet it has remained one of the gravest hazards to women in the country. Women who have been victims of domestic violence by their spouses or in-laws may now seek instant help under the Protection of Women from Domestic Violence Act, 2005 (PWDV).<sup>32</sup> As of now, domestic violence is a problem in India regardless of social status or religious beliefs. It has been on this list since 2006, when the PWDVA was added.<sup>33</sup>

In 2018, there were 28.3 (95.5 percent CI: 28.1-28.5) documented cases of domestic violence in India, a 53 percent increase from 2001. This rate fluctuated widely at the state level in 2018, ranging from 0.5 to 113.7 (95 percent confidence intervals 0.5 to 1.5). In 2018, there were an estimated 2.0 (95 percent CI 2.0-2.0) and 1.4 (95 percent CI 1.4-1.4) dowry-related fatalities and suicides in India. Most states reporting has remained stable during these years, with the exception of a handful that accounted for the temporal variance in these rates. Crime-related incidents were underreported due to NCRB reporting system flaws. People arrested for these offences have been decreasing in numbers on average during the last several years. Just 15.5 percent of the cases went to trial, and only 6.8 percent of the defendants were convicted.<sup>34</sup>

Spousal violence has been shown to be on the rise in India, according to

NFHS surveys conducted between 2006 and 2019. While states such as Himachal Pradesh and Sikkim had a decline in 2015 and 2016, new states such

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<sup>31</sup> India Code, Section 498A. Husband or relative of husband of a woman subjecting her to cruelty (May 7, 2023), available at <https://indiankanoon.org/doc/538436/>.

<sup>32</sup> Government of India, Protection of Women from Domestic Violence Act, 2005, India Code (2005).

<sup>33</sup> Ata Duvvury, *Domestic Violence in India: A Summary Report of Three Studies*, International Center for Research on Women and The Centre for Development and Population Activities (September 1999) (May 7, 2023), available at <https://www.icrw.org/wp-content/uploads/2016/10/Domestic-Violence-in-India-1-Summary-Report-of-Three-Studies.pdf>.

<sup>34</sup> Violence against women prevalence estimates 2018, World Health Organization (WHO), 9 March 2021 (May 7, 2023), available at <https://www.who.int/publications/i/item/9789240022256>.

as Maharashtra and the newly established union territories (UTs) of Jammu & Kashmir and Ladakh saw a surge in 2019. There are places like Karnataka, for example, where the rate of domestic violence against women is extremely alarming. Data from the fifth National Health and Nutrition Examination Survey (2019-21) suggests that Karnataka, Bihar, and Manipur are the three states where marital abuse is most prevalent.<sup>35</sup>

### **2.1. Domestic Violence and COVID-19 in India**

Five million people have died and more than 300 million have been infected as a result of the ongoing COVID-19 epidemic. Lockdowns and a stop to economic activity have generated a tremendous economic catastrophe, with nations still suffering from the effects. The epidemic has also had significant social and humanitarian consequences. Experts have dubbed it a “shadow pandemic” – the rise in violence and abuse that occurred amid the several lockdowns and service interruptions. Increased levels of stress owing to the double-duty load of caring and home responsibilities have exacerbated the hazards. Domestic violence reports have increased by 30% or more in several countries.

There's no doubt that the epidemic has brought to light just how critical it is to deal with domestic violence as a matter of public health. It's not only the COVID-pandemic that's to blame for a surge in domestic violence. Women have historically been hit harder by domestic violence when social infrastructure crumbles under the weight of catastrophes and crises. During the Ebola epidemic in Africa in 2014-16, for example, gender-based violence rose by 19 percent in Sierra Leone. No country or place is immune to the problem of violence against women being overlooked, ignored, or not getting enough money.<sup>36</sup>

In the last two years, because of a pandemic that caused lockdowns, women have had less access to resources and have been more likely to have abusive spouses or other known risk factors.

Women's vulnerability to violence was worsened by stress, the disintegration of social and supportive networks, and a lack of vital sexual and reproductive health care. It was not unusual for victims of gender-based violence to put off seeking aid due to a lack of laws and regulations, the ineffective implementation of policy changes, and the related social stigma. As the health crisis went on, problems with mobility, worries about getting sick, and being alone only made the problem of underreporting worse.

From 2019 to 2021, there will be a rise in the types of gender-based violence that are officially recognised in India. Complaints from women in such distress are registered

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<sup>35</sup> Neetu John et al., *Lessons Never Learned: Crisis and Gender-Based Violence*, 20(2) Dev. World Bioeth. 65 (2020).

<sup>36</sup> United Nations (2019) (May 7, 2023), available at [https://www.un.org/sustainabledevelopment/wp-content/uploads/2019/07/E\\_Infographic\\_05.pdf](https://www.un.org/sustainabledevelopment/wp-content/uploads/2019/07/E_Infographic_05.pdf).

with the National Commission for Women (NCW), which attempts to address them without actively interacting with the judicial system. Cases involving domestic abuse, dowry harassment, and breaches of one's right to live in dignity have all experienced an uptick.<sup>37</sup> In all of these scenarios, the "safe" place of a home is involved.

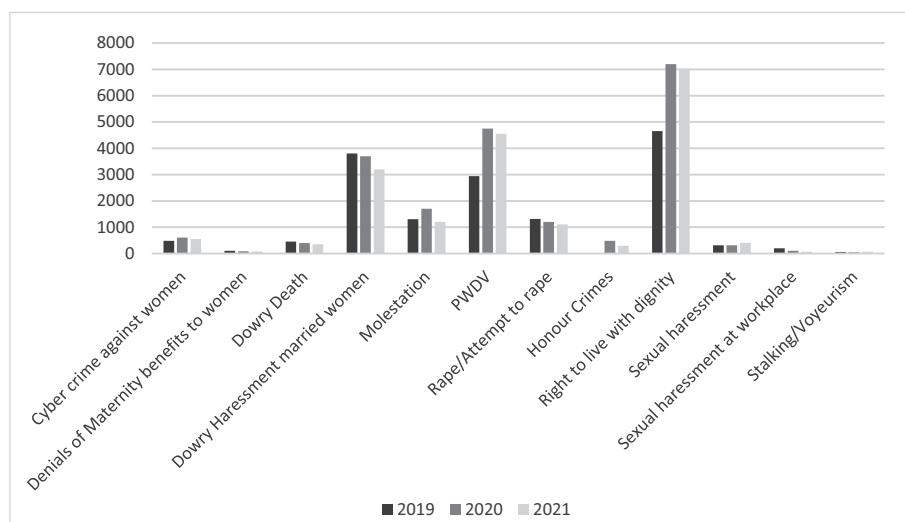


Fig. 1: **Comparative Analysis of Data of Crime against Women in India: 2019–2021**<sup>38</sup>

Out-of-court settlements of civil disputes have skyrocketed in the last two years, but police-registered first information reports, which are necessary to begin legal action, have plummeted even more. Even though NCW statistics and news stories say otherwise, the number of reported cases has either stayed the same or gone down in most of India's states.<sup>39</sup>

Under-reporting has been cited as a problem by many observers, not only in India, when it comes to domestic abuse. As a result of the 2012 Nirbhaya rape case, the Indian government launched the Sakhi programme, which encourages citizens to come forward and report crimes. For women in areas like "Telangana and Maharashtra," these crisis centres have been their first choice for reporting abuse.

<sup>37</sup> National Crime Records Bureau (2020) (May 7, 2023), available at <https://ncrb.gov.in/en/Crime-in-India-2020>.

<sup>38</sup> Source: National Commission for Women (as of September 2021).

<sup>39</sup> Payal Seth, *As COVID-19 Raged, the Shadow Pandemic of Domestic Violence Swept Across the Globe*, The Wire, 23 January 2021 (May 7, 2023), available at <https://thewire.in/women/covid-19-domestic-violence-hdr-2020>.

### 3. China

Since the founding of the “People’s Republic of China in 1949,” the position of Chinese women has changed considerably. There is still a long way to go until they achieve full equality and ultimate freedom in society. Women are subjected to rape, torture, persecution, and abuse in intimate relationships as a result of their gender. Even in times of peace, many women’s homes have become a battleground for domestic violence. In spite of the fact that violence against women is prohibited, or at least may result in legal repercussions, it persists. Violence against women in China has been largely disregarded by the government and, until recently, was considered to be socially acceptable in China. Until the 1990s, domestic violence in China was not given the attention it deserved, in terms of its prevalence, intensity, and scope.

Chinese women’s violence is only one part of a much larger issue that affects women all around the globe. Because of this, men expect women to be submissive and give up their own wants to serve the needs of their male partners.

Although domestic violence is a common problem in China, the word “domestic violence” is a relatively recent one in Chinese culture, and its first occurrence in national law can be found in the proposed amendment to the People’s Republic of China’s Marriage Law.<sup>40</sup> Domestic abuse was never considered a criminal offence or a social issue that needed to be handled by the government or the courts throughout China’s long history of civilisation. Hundreds of millions of Chinese women are victims of an epidemic of violence. Chinese culture has long tolerated domestic violence against women, which is a shame. Even though domestic violence is often criticised in the news, until recently, there wasn’t much attention paid to legal and social ways to stop domestic violence.<sup>41</sup>

Domestic violence in China was extensively studied in the 1990s by a number of different research teams. In Beijing, the “Beijing Women’s Federation” performed a study of eight districts and counties surrounding the capital and found that 20% of the families examined experienced domestic violence, with 80% of those instances involving wife abuse. Twenty-one percent of married males in Beijing have revealed to researchers that they have physically abused their spouses. One percent of men admitted to hitting their wives severely. The Beijing Marriage and Family Research Committee also found comparable results in its poll. “According to the committee’s findings, there is a 20% misuse rate. Only 15% of the men polled admitted to beating their spouses on a regular basis, while 4% admitted to the offence on occasion and 0.9% admitted to it often. A 1993 survey found that more than a third of all family

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<sup>40</sup> The Chinese Marriage Law (Draft Amendment) was originally drafted by family law scholars and then submitted to the NPC Standing Committee for review and revision.

<sup>41</sup> The term and concept of “domestic violence” (Jiatingbaoli) was first introduced into China in 1994 by the Zhongguo Funo Bao. See *Society Should Not Be Indifferent to Domestic Violence*, Zhongguo Funo Bao [China Women News], 11 February 1994.



fight in Shanghai between 1991 and 1992 “involved physical violence,” and that 21.2% of urban women and 31.4% of rural spouses were involved in a physical fight.<sup>42</sup>

Domestic abuse is more common in rural regions, according to national studies. According to a poll conducted by the “All China Women’s Federation in 1990,” over 29% of Chinese wives report being subjected to physical violence by their husbands. When it came to domestic violence, a 1991 poll found that “26.9% of rural women and 17.9% of city women had been abused to some degree by their husbands. Domestic violence is a factor in 50 to 60 percent of divorce proceedings,” according to court data.<sup>43</sup>

Domestic abuse seems to impact women from all socioeconomic groups; however it may be more common in rural places where traditional perceptions of women are more engrained. According to representatives from a women’s federation at the county level in a rural part of central China, 80% of the complaints they dealt with concerned domestic abuse. Most agree that husbands and their abused victims are committing acts of domestic violence against one another.

It is clear from these findings that domestic violence is a major issue in China and that the country’s lawmakers and policymakers should make it a top priority to address this issue as soon as possible.<sup>44</sup>

The “Chinese Communist Party (CCP)” is the sole recognised political party in China. Despite the Communist Party’s stranglehold on power, no one dares challenge its rule. The President and Prime Minister of China are chosen by the “National People’s Congress (NPC).” The Communist Party maintains power over the legislature-in-exile known as the Chinese National Congress Performer Committee. The country’s opposition was able to block the country’s respect for human rights.

When the CCP came to power, social and economic advancement for Chinese women grew, but they were unable to make any progress in the Chinese political arena. The party-female state’s leaders come from outside the party and have lower-status positions than their male counterparts.<sup>45</sup> In other words, despite the fact that only a small number of women participate in politics and are mostly influenced by male party members, they lack political power. For example, Wu Yi is one of the few successful female politicians in Chinese politics. She was dubbed “Iron Lady” by Chinese media and “Goddess of Transparency” by Time magazine while serving as the country’s highest-ranking female official. At the time of her service, she was the

<sup>42</sup> 21% of Capital’s Husbands Admit Battering Their Wives, S. China Morning Post, 6 October 1998.

<sup>43</sup> Catherine So-Kum Tang & Beatrice Pui-Yee Lai, *A Review of Empirical Literature on the Prevalence and Risk Markers of Male-on-Female Intimate Partner Violence in Contemporary China, 1987–2006*, 13(1) *Aggress. Violent Behav.* 10 (2008).

<sup>44</sup> Pan Teng et al., *The Association Between Social Resources and Depression Among Female Migrants Affected by Domestic Violence*, 5 *Eur. J. Psychotraumatol.* (2014).

<sup>45</sup> Chen Tingting, *Battling Domestic Violence in China*, East Asia Forum, 28 June 2016 (May 7, 2023), available at <https://www.eastasiaforum.org/2016/06/28/battling-domestic-violence-in-china/>.

only female member of the Politburo Central Committee, which had 24 members. When she stepped down as vice premier in 2008, she was succeeded by a guy named Li Keqiang (Regional Business News 2012). Political structures, social factors, and cultural norms are preventing women from pursuing political careers.

Gender inequality in Chinese politics is well-known to the Chinese government. Moreover, in an effort to avoid highlighting the disparity between men and women, the Chinese government has taken complete control of the quantity of information in this area and provided figures such as women's representation in the "NPC (National People's Congress)." Selection of female leaders from marginalised groups and appointing these leaders to less powerful positions are two kinds of gender inequality that affect Chinese women. Gender equality in China is a complex issue because none of these factors is obvious. However, the Chinese government has vowed to improve gender equality and increase the number of women in politics. The lack of progress in political involvement, on the other hand, continues to annoy Chinese women. According to several research on gender equality in Chinese politics, female leaders are disproportionately chosen from non-CCP members, and their chances of becoming a senior leader are very slim. Furthermore, the Chinese Communist Party has highlighted the fact that women make up 20% of the NPC's membership to demonstrate its success in achieving gender parity. However, when compared to other nations at a similar level of economic growth, this data is regarded as remarkable. However, in terms of Chinese politics, this parallel may be deceptive.<sup>46</sup> As reported by Regional Business News, more women in politics may serve as the "glue" that ties society together and reduces conflict. Women are more caring and tolerant than men.

Chinese women and girls are often subjected to many sorts of abuse, including sexual assault, human trafficking, damaging traditional practises, and other acts of aggression against their physical and mental well-being and basic human dignity. The scope and complexity of China's pandemic of domestic violence cannot be overstated. Despite the presence of laws that promotes women's rights, such as in marriage and divorce, violence against women is endemic in China. Domestic violence against women is linked to societal inequality in China, and women's devaluation supports the cycle of oppression and violence against women.<sup>47</sup>

"The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)" and other Chinese laws forbidding domestic violence and abuse against women do not represent the reality of women's lives in China. Despite the fact that domestic violence is banned in China, a huge percentage of Chinese women are supposedly victims of it. Under the "CEDAW," domestic violence laws, marriage law, and Chinese law respecting women's rights, China is obligated to abolish all types of

<sup>46</sup> Jun Zhao, *China and the Uneasy Case for Universal Human Rights* (2015).

<sup>47</sup> Campaigning for Kidney Health, *The Lancet*, 12 March 2016 (May 7, 2023), available at [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(16\)00688-7/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(16)00688-7/fulltext).

discrimination against women and to take appropriate efforts to promote gender equality. Because the Chinese government recognises domestic violence as a social problem, there are laws prohibiting it. As soon as a problem is found, the laws are used as a starting point to find out how the government works on a regular basis.

Violations against women are on the rise in China, and the ramifications for victim's ability to function in their own families and in society at large are grave. It's critical to lay forth the specifics of this phenomenon, such as its size and kind. Although domestic violence and abuse against women are illegal in China, justice and equality between men and women have not been implemented in practise. To put it another way, they're just words on paper. China's laws outlaw domestic violence, but its patriarchal society has made women seem unstable because of the control males have over them, which is a major factor in the abuse of women and their families, according to all of China's domestic violence regulations. When women are in distress, it might be difficult for them to seek assistance since domestic abuse is a private affair that they may tolerate due to financial constraints.

As part of a wider system or framework of "family dynamics, cultural norms, and social values, a psychosocial formulation" views the issue as accepting violence in many forms. It's time to address the problem of violence in our society. Violence against women is expected to go down if the amount of violence in society as a whole goes down.

A woman's ability to function in the public and private spheres is eroded when she is subjected to domestic violence and abuse. It's also false to claim that there is a distinction between the public and private domains. The reason for this is that in China, the family is governed by the state and its laws. Women and girls are hurt more than men and boys when cultural reasons are used to justify breaking all of their human rights.

According to Chinese law, it is a crime in China to harm or abandon a member of one's family in such a way as to constitute family violence. By law, a private prosecution may be filed by the victim at the people's court, and relevant public security agencies will conduct investigations, and the people's procuratorate responsible for prosecuting the offender will do so in accordance with the law. Additional damages may be sought by an innocent person who was subjected to domestic violence that resulted in the divorce of a husband and wife. Domestic abuse would be treated more seriously and less often if these laws had been put into effect. As a result, China's legislation on domestic violence has fallen short due to a lack of effective prevention measures and support services for victims. It is not considered a social crime in China to violate a member of one's own family on the basis of interracial relations. When it comes to a private matter, the courts don't take the right steps and instead see domestic violence as a crime against society.<sup>48</sup>

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<sup>48</sup> U.N. General Assembly, Report of the Working Group on the Issue of Discrimination Against Women in Law and in Practice, A/HRC/23/50, 19 April 2013 (May 7, 2023), available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/132/51/PDF/G1313251.pdf?OpenElement>.

A violation of the legislation against domestic violence includes acts of “psychological, physical, and other harm committed by family members, such as restraints, maiming, and beating, limits on one’s bodily liberty, intimidation, or repetitive verbal abuse.” The state, society, and families all have a role to play in preventing domestic abuse, according to the law “(Domestic Violence Law 2015: articles 1, 2, and 3).” Neither is it concerned with how to assist abused women to leave their relationships or how to avoid domestic violence. There won’t be less domestic abuse if women can’t leave their abusive relationships because they need their partners for money.

Women who have been abused often find that they are unable to leave their abusive spouse because they are trapped in the relationship. For a variety of reasons, women put up with domestic violence. It’s possible they’ll feel embarrassed, humiliated, or powerless. Fearing retaliation from the abuser, they refuse to tell anyone about the violence or seek assistance outside of the house. As a result, women lack the tools to take charge of their own lives and become traumatised to the point of being unable to make rational decisions. Another thing to remember about victims and abused women is that they are not responsible for their own circumstances. Otherwise, they risk losing the most important aspects of their existence, such as child custody, due to the category that denotes a completely dysfunctional mother. Furthermore, this kind of behaviour is depicted as a problem, with serious ramifications in terms of women’s failure to recognise hitting and injury, as well as the practical consequences of being labelled odd. Abused women in China lose not only their children but also their lives as a consequence of their behaviour that has led them to condone violence against them.<sup>49</sup>

### **3.1. Domestic Violence and COVID-19 in China**

Despite the lack of data on domestic abuse events in China, there is a clear trend of rising use of domestic violence hotlines in the area. The mass media has reported that phone volume has increased by up to a whopping 33 percent. An upsurge in call volume was reported by a CSO-operated hotline in China. The comparisons between reports of phone calls to helplines should be regarded with a grain of salt. It is possible to determine percent changes in certain articles by comparing call volumes across time periods ranging from years to months to weeks. Given the conflicting variables on call volume, volumes might fall if women are continually supervised- these data may only show part of the rise in calls for assistance services.<sup>50</sup> The number of domestic abuse cases that shelters and women’s groups are dealing

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<sup>49</sup> Nina Verfaillie, *The Connection Between Poverty and Domestic Violence*, BORDEN Magazine, 5 November 2013 (May 7, 2023), available at <https://www.bordenmagazine.com/connection-poverty-domestic-violence/>.

<sup>50</sup> Du Qiongfang, *Chinese families see surge in domestic violence amid COVID-19 lockdown*, Global Times, 12 March 2020 (May 7, 2023), available at <https://www.globaltimes.cn/content/1182484.shtml>.

with is also on the rise, according to a number of recent stories. According to one report, the number of cases addressed during a lockdown has tripled. For the first time offenders, a large number of domestic violence incidents have been recorded. There is a strong possibility that pandemic circumstances are causing this amount of hostility in spouses. Increased Internet usage during the epidemic may have led to an upsurge in digital violence. Because this is a new type of VAW, in many regions, the infrastructure for reporting and dealing with it may not yet be in place. It's possible that reports of online and ICT-enabled violence are missing or undercounting incidents. Several research demonstrate that the COVID-19 outbreak has increased the incidence of domestic violence in China, despite the fact that there is no good national statistics on the subject. For example, the large-scale lockdown may have contributed to an increase in violence in families, as well as economic suffering and anxiety induced by pandemics among family members and a lack of assistance for victims of family violence during these times. During the current COVID-19 epidemic, family violence has emerged as a critical societal problem that must be addressed effectively and quickly. During the epidemic, both "governmental and non-governmental organisations (NGOs), as well as agencies and service sectors, must be aware of the requirements of family violence victims and give quick and appropriate help". Even more disturbing than the apparent rise in VAW is the silence of victims whose predicament goes unnoticed. A generalised assumption may be made that women are at greater danger in all corners of the globe because of their restricted mobility and lack of support networks. There's no better time than now to ponder how the Chinese society and government help reduce the spread of VAW and provide assistance to those who are affected by the outbreak.<sup>51</sup>

#### 4. South Africa

In South Africa, patriarchy and sexism are prominent in the same ways they are in other countries. There is comparable violence against women in other places. Violence against women in South Africa, on the other hand, has distinct patterns. The first is about the scope of the issue, and the second is about the unique legacy of racism and patriarchy that has resulted in an all-pervasive masculinity in South African society, regardless of sector, class, or culture. According to "Justice Albie Sachs of the South African Constitutional Court," patriarchy is a form of oppression because it is "one of the country's few genuinely non-racial institutions."<sup>52</sup>

Because of three distinct cultural traits, men in South Africa have developed a strong sense of masculinity. As a first cause, the militarization of the nation while the Nationalist

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<sup>51</sup> European Alliance for Hope and Empowerment (ECFJA), *COVID 19 Within the Approach of Domestic Violence and Child Abuse* (2020) (May 7, 2023), available at <https://www.efjca.eu/news/covid-19-within-the-approach-of-domestic-violence-and-child-abuse>.

<sup>52</sup> Carol E. Lockwood et al. (eds.), *The International Human Rights of Women: Instruments of Change* 25 (1998).

government was in power and the conscription of significant numbers of white males began in the 1960s.<sup>53</sup> Apartheid was kept in place by a huge military apparatus. For white South Africans, the cost of sustaining this system rested on those who were required to do two years of military duty as a result of the country's segregation policy. Both within and outside South Africa, white South Africans felt and were subjected to an oppressive feeling of siege as a consequence of the intense opposition to Apartheid.<sup>54</sup> This led to repressive actions against the majority black population. In the final report of the "Truth and Reconciliation Commission," the government of South African use of its security apparatus to perpetuate white supremacy is documented in great detail. In 1994, South Africa had an authoritarian, racist government. During this time, there was a lot of militarism, and the new democratic government thought that black women were loose and promiscuous.<sup>55</sup>

The second recent event that adds to the macho culture is the political fight in the black townships, which gave young people who didn't have jobs or political power the chance to challenge the government's security and police apparatus.

Because of this conflict and the violence that followed, the urban comrade, who is almost always a man, has become a symbol of black manhood standing up to the apartheid beast.

For the most part, this conflict was "genuine." Many young black boys in South Africa felt politically and economically disadvantaged as a result of the country's racial segregation. These people were jobless and impoverished, yet they fought tirelessly to improve their lives. It's true that some of the comrades went above and beyond politics. Black youth unemployment and economic have dominated sociologist's discussion of "comrades" and "amaqabane." Many young people's hopes and dreams have been shattered by the first sign of unemployment. There is a lot of focus on the link between unemployment and hostility and violence. Another indicator is "normlessness," which refers to the inability to maintain values; a lack of collective social solidarity; and subsequent anti-social behavior.

The "necklacing" of alleged informers and Winnie Mandela's football squad demonstrate acceptable limits. It was common in the 1980s to see "jackrolling" and "modelling" as especially harmful activities. The phrase is used to describe "modelling" is a name used to describe the practise of forcing female informers to walk through the street's nude. "Jackrolling" represents the systematic practise of groups of men raping young women in Soweto, most commonly schoolgirls.<sup>56</sup>

As for the third part, it comes from the fact that the law and society have always seen women as children who need to be watched over by men.

<sup>53</sup> Christopher G. Weeramantry, *Apartheid: The Closing Phases?* 103 (1980).

<sup>54</sup> Joseph Hanlon, *Apartheid's Second Front: South Africa's Wars Against its Neighbours* (1986); Peter Vale, *The Search for Southern Africa's Security*, 64 *Int'l Aff.* 697 (1991).

<sup>55</sup> Gavin Woods, *Rebels with a Cause: The Discontent of Black Youth*, 7 *Indicator S. Afr.* 62, 64 (1999).

<sup>56</sup> Ari Sitas, *The Making of the 'Comrades' Movement in Natal, 1985-91*, 18(3) *J. S. Afr. Stud.* 629, 631 (1992).

The marginalisation and distortion of African culture and customs, resulting from successive colonial regimes and the apartheid state, have left them vulnerable. "It played a significant role in preserving the position of women as subordinates." To add insult to injury, the need to adjust to the brand-new circumstances of "Gender equality advocates in African South Africa are in danger of having their political agenda pushed forward by patriarchs who don't necessarily agree with them."

A distinct brand of South African masculinity emerged as a result of the mix of a white militarised and racist state, widespread revolt in the form of armed resistance, and patriarchal indigenous legal systems, which left women in a particularly vulnerable position. The shocking statistics on female violence serve as a sharp reminder of our vulnerability.

Violence against women in South Africa seems to have reached epidemic proportions, according to both scientific and anecdotal data. Abuse against women has always been an issue, but apartheid's distortions reduced it to a private matter, as in domestic violence, or to an issue isolated to black neighbourhoods, where the police had no jurisdiction, as in rape or witchcraft. This issue has been more well-known and publicised in the current political climate.<sup>57</sup>

Rape and domestic abuse are the two most common types of violence inflicted on women in South Africa, and those topics are the subject of this study. Domestic abuse affects women of all races and socioeconomic backgrounds, but rape has a disproportionate impact on black women.<sup>58</sup>

#### **4.1. Violence Within a Family Context**

However, contrary to popular belief, men who abuse women can hold respectable positions in society and hold respectable professions such as those of doctors, psychologists, priests, and business executives, despite the fact that the stereotype of the abusive husband as an uneducated, unemployed working-class man is prevalent in popular culture. Many women have had interaction with an abusive male at some point in their lives, and we refer to them as monsters. "He's just liked any other person."

In South Africa several women's organisations have conducted research that shows that domestic violence is widespread in the country. More than half of married women in a poll undertaken by the "Human Sciences Research Council (HSRC)," a government-funded research body, said that they had been divorced because of "marital rape or abuse in the Cape Town metropolitan region." In 1992, the Rape Crisis claimed that one in three women had been abused by their male companion.

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<sup>57</sup> Joanne Fedler, *Lawyering Domestic Violence Through the Prevention of Family Violence Act 1993 – An Evaluation After a Year in Operation*, 112(2) S. Afr. J. Hum. Rts. 231, 232–3 (1995).

<sup>58</sup> Catherine Campbell, *Learning to Kill? Masculinity, the Family and Violence in Natal*, 18(3) J. S. Afr. Stud. 614 (1992).



"The Women's Bureau" believes that around one in four women are assaulted by their relationships. "The Advice Desk for Abused Women" believes that one in six women is frequently attacked by her husband and that one in four women is compelled to depart due to a life-threatening scenario in her house at some point throughout the year. In addition, one out of every six women, according to POWA and the Coordinated Action for Battered Women, is the victim of domestic violence.<sup>59</sup>

In 1994, a study in Soweto indicated that one in three women who went to a clinic for any reason had been beaten by their spouse or lover at some point. In response to a survey conducted by the "Women's National Coalition," worrying figures reveal that domestic abuse has become all too commonplace in recent years "to not seek aid outside of one's family and friends' informal network of support." In its complete report, Human Rights Watch reported on the following conclusions from its surveys: Violence in a male-female relationship is typically considered natural and unavoidable in rural regions because men are viewed as essential to economic stability.<sup>60</sup>

For a variety of reasons, accurate data on domestic violence is difficult to come by. Police records do not differentiate between domestic violence and other kinds of assault. Furthermore, women who have been assaulted, especially black women, believe that the police are uncaring and uninterested in their plight. The lack of a national census on domestic violence and other types of violence against women is also a problem.

Because South Africa lacks a longstanding legacy of refuges and shelters for battered women, the majority of abused women turn to family and friends for help. That's all starting to change. As a result, most of the evidence is based on hearsay. Domestic abuse victims are afraid of being shunned by their families, whether they are under pressure to stay in an "abusive relationship or their relatives, even if supportive, are afraid of the stigma that comes with domestic violence". Finally, due to the prevalence of domestic violence and the common perception that it is an inevitable part of close relationships, particularly marriage, women who have been assaulted report that 38% of the women they surveyed knew someone who had been abused.

CEDAW's commitment to protect women's rights to security, fair treatment, health, and development is increasingly being seen as interfering with domestic abuse, which is a breach of CEDAW. The "South African Parliament" passed the "Domestic Violence Act 168" in December 1998, which proves that this is true and shows that the government is serious about fixing this problem.<sup>61</sup>

<sup>59</sup> Pat Singh, *Protection from Violence Is a Right*, in *The Constitution of South Africa from a Gender Perspective* 136, 140 (1995).

<sup>60</sup> *Id.*

<sup>61</sup> DVA, in Lillian Artz & Diane Jefthas (eds.), *Reluctance, Retaliation and Repudiation: The Attrition of Domestic Violence Cases in Eight Magisterial Districts*, GHJRU/University of Cape Town (2011).



#### **4.2. Domestic Violence and COVID-19 in South Africa**

Prior to the onset of the COVID-19 pandemic, South Africa had the most recorded GBV cases in the world. According to reports, a woman is murdered in South Africa on average every three hours, and many of them have been attacked and raped before they are slain, according to reports. Protests have already broken out around the nation as a result of this trend. GBV and femicide have been declared national catastrophes as a result of the South African government's recognition of the poor situation of women in the country in September 2019.<sup>62</sup>

During the lockdown, sources say that about "148 people have been arrested and charged with GBV-related crimes in South Africa." In the first week, reports say that almost 2,000 complaints were made to South Africa's police.

More than 12,000 calls have been made to the GBV Nationwide Command Center since the lockdown was implemented, which runs a national contact centre. There were also claims of women being raped in the COVID-19 reaction camps for the homeless.

Despite this, South Africa is one of the only African nations to impose very stringent anti-discrimination regulations during lockdown. Cigarettes and alcohol, which have been linked to DV as well as a weakened immune system, were banned by the government.<sup>63</sup>

The majority of women in South Africa, and particularly the majority of black women, are in a precarious position. There is no guarantee that women's constitutional and enabling laws will be translated into real-world rights. For something to happen, there are a number of requirements that must be met. First, the government needs to come up with ways to enforce the constitutional rights that have been set up.<sup>64</sup>

Adjudicators must take into account South Africa's social, economic, and cultural context when interpreting these rights. All South Africans who wish for a society free of injustice and discrimination against women need to keep up their vigilance.

The fight against gender and racial injustice is far from done. Nonetheless, racism has lost all its clout, and any prospect of racism reappearing has been eradicated by the political commitment to non-racism. Despite the fact that sexism and violence against women have been eradicated, a masculinist culture that reinforces women's subservient roles acts as a safe haven for the eradication of these concerns. South African women will be working hard for a long time to make a change in this scenario.

<sup>62</sup> Nonhlanhla Sibanda-Moyo et al., *Violence Against Women in South Africa: A Country in Crisis*, Centre for the Study of Violence and Reconciliation (2017) (May 7, 2023), available at <https://www.csvr.org.za/pdf/CSVr-Violence-Against-Women-in-SA.pdf>.

<sup>63</sup> Joanne Chukwueke, *The "Shadow Pandemic" of Gender-Based Violence*, Atlantic Council (May 2020) (May 7, 2023), available at <https://atlanticcouncil.org/blogs/africasource/the-shadow-pandemic-of-gender-based-violence/>.

<sup>64</sup> Boram Jang & Khanyo Farise, *Gender Based Violence During the COVID-19 Pandemic and Economic, Social and Cultural Rights*, *Opinio Juris*, 23 April 2020 (May 7, 2023), available at <http://opiniojuris.org/2020/04/23/gender-based-violence-during-the-covid-19-pandemic-and-economic-social-and-cultural-rights/>.

## 5. Causes and Remedies

Threatening or other violent behaviour inside a family may involve “physical, sexual, psychological, or economic abuse of children,” as well as domestic violence against a spouse or significant other. Violence in families during pandemics is exacerbated by variables such as economic stress, disaster-related instability, and an increase in exposure to exploitative relationships. People living in dangerous family violence circumstances are confined to their houses as a result of social isolation measures established across the world in an effort to prevent the spread of COVID-19. Individual and communal vulnerabilities are exacerbated by social isolation, which reduces readily available and familiar sources of support.<sup>65</sup> Higher demand for domestic abuse services and allegations of increased danger to children not attending school have already been documented in BRICS nations. This pattern of social isolation has been witnessed before during diseases and pandemic outbreaks. According to the police in India, when stay-at-home orders went into effect, crime dropped by 40 percent while domestic violence callouts rose by 5%. According to Google, there was a 75% rise in the number of queries related to domestic abuse help on the internet.

This is a common trend across the world. Since social isolation and quarantine measures were implemented, there has been an upsurge in reports of domestic abuse and family violence. Anecdotal data from the “United States, China, Brazil, and Australia” shows an upsurge in violence towards women, children, and their partners as a result of isolation and quarantine. In February 2020, there were three times as many reports of domestic violence in Wuhan, China, then the year before. This was the first country to impose a wide-scale quarantine.

### 5.1. Isolation and Domestic Violence

Several nations have taken proactive steps to restrict the spread of the new coronavirus via mitigation and containment. Numerous nations public health strategies centre on social exclusion and social stigmatisation, and violators of these rules often face harsh punishments. A family forced to stay at home due to social isolation will see an increase in contact and a decrease in the number of existing support networks, including those provided by extended family members and other social or community-based networks for at-risk families. Additionally, seclusion puts children at an increased risk of neglect and abuse, including “physical, emotional, sexual, and domestic violence.” People across the world are living in stressful situations because of (required) mandated social distance and isolation methods, as well as the consequent shortages of basic supplies and economic implications of these efforts. Despite the fact that social isolation is an effective infection control

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<sup>65</sup> Nicole E. van Gelder et al., *COVID-19: Reducing the Risk of Infection Might Increase the Risk of Intimate Partner Violence*, 21 *EClinicalMedicine* (2020).

tool, it may have substantial “social, economic, and psychological effects,” all of which can act as a trigger for stress and, ultimately, violence.

### **5.2. Ideal Conditions**

With the pandemic’s associated psychological and economic strains and possible increases in negative coping methods (e.g., excessive alcohol intake), an unprecedented wave of marital violence might be sparked. People are increasingly drinking more at home because of the rise in alcohol sales due to social distancing measures and the closure of bars and restaurants. There has been a dramatic surge in unemployment throughout the globe, with millions signing up for welfare benefits and a global recession expected in the near future. Domestic violence risk factors include substance addiction, financial stress, and isolation. People who are isolated because of familial violence have fewer options to seek assistance. Family violence and abuse are more difficult for outsiders to see if you are isolated from the rest of society.

### **5.3. Coercive Control and COVID-19**

Coercive control mechanisms, such as the use of confinement, fear, and the threat of infection as a strategy of abuse, have been reported to be utilised by abusers with COVID-19. Charities that assist victims of domestic violence have expressed worry over claims that intimate partners are abusing their victims by employing COVID-19. Intimate partners have allegedly misled one another about quarantine restrictions and other COVID-19-related mistreatment. Reports indicate that domestic violence victims may be reluctant to seek medical attention for fear of getting COVID-19.<sup>66</sup>

During these trying times, rethinking family violence survivors support systems is essential. This is a difficult moment for everyone, but particularly for the most vulnerable families and children. We understand this. The “U.N. Secretary-General” has urged nations to prioritise help and put-up emergency warning systems for those who are coping with domestic abuse in their families. Some domestic abuse support organisations have released COVID-19 information that focuses on what friends and family can do to help those who feel isolated in the fight against domestic violence. When it comes to helping people who are dealing with domestic violence, charities know how important it is to help their neighbours by telling them how to spot signs of abuse and getting them to talk to their neighbours.

## **Conclusion**

Women’s rights activists’ credit international and regional human rights organisations for blurring the lines between public and private discourse, which had

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<sup>66</sup> Sarah Fielding, *In quarantine with an abuser: surge in domestic violence reports linked to coronavirus*, The Guardian, 3 April 2020 (May 7, 2023), available at <https://www.theguardian.com/us-news/2020/apr/03/coronavirus-quarantine-abuse-domestic-violence>.

previously concealed and minimised the experiences of women who had been victims of abuse. Women's rights are a global issue, and U.N. and regional tribunals have proved that they have an influence on local issues. International and regional human rights organisations have made progress in recognising the many circumstances and experiences of women who are victims of violence and other social problems.

But the problem of intersectionality must be addressed at the international and local levels. In light of pandemic 2020's demonstration that domestic violence cannot be separated from women's social and economic rights, including financial autonomy, access to healthcare, psychological counselling, and legal assistance. It remains to be seen how these international and regional institutions will respond to such complex issues as violence against women during health emergencies. According to researchers, concentrating on physical harm obscures (or even negates) other types of suffering that women may experience as a result of structural inequities. Violence against women and children is exacerbated by alcohol and drug abuse, mental illness, and a lack of adequate housing, making it difficult to address this issue in isolation.

Domestic violence is now more dangerous and alienating than it has ever been because of the lack of access to official institutions, medical care, and informal networks of support. Quarantining children and women with a violent spouse or father may be as deadly as the epidemic for some, if not more so. Poverty and infectious illness are known to be linked, and this association may be worsened by gender power imbalances and a lack of faith in public institutions. Unfortunately, as the example of Russia demonstrates, victims' isolation was compounded even more by the absence of specific legislation to protect them, and the issue of drug misuse, physical violence, sexual assault, and verbal violence was increasingly covered by the media. Despite the existence of a legal framework, it was difficult in Brazil to guarantee the constant protection of women, particularly those who belonged to minorities or were refugees. For this reason, it seems that women must also be included in national and local crisis decision-making, particularly women who are directly involved in healthcare, as well as humanitarian work in general.

However, considering that domestic violence is a global issue, it is obvious that international measures to fight it must be enhanced. With regard to post-pandemic situations, we hope that in addition to local legislation and other measures, governments will understand the need to address the issue both domestically and globally.

Pandemics provide an enabling climate for a wide range of violent acts to be exacerbated or sparked. Restrictions on travel and the closure of critical community services are likely to increase the probability of family violence. Politicians and Governments must raise awareness of the higher risk of violence during pandemics and emphasise the significance of individuals keeping in contact (while adopting cautious measures) and reporting any concerns about abuse. Keeping in touch with loved ones, especially if you fear they are in danger of domestic abuse, is a vital

tactic to employ when you are feeling alone. It is also important to inform the general public about resources that are available in the area (such as hotlines and telehealth), respite care services such as shelters, and rape crisis centres, as well as counselling) via a variety of sources such as social media and the mainstream media. By offering first-line psychological care such as listening empathetically, asking about concerns, validating people's experiences and emotions, increasing safety, and linking individuals to appropriate support resources, mental health professionals may help people (WHO 2020).

As a final point, nations should consider adopting an extra protocol to the "CEDAW Convention," or a new convention, to control issues such as online abuse against women. As seen in Pandemic 2020, technology may be an integral part of people's daily lives, but it can also cause emotional exhaustion and social media addiction. Despite numerous appeals from international organisations and NGOs, international treaties have not yet addressed the issue of "cyber violence and cyber bullying," especially among school children or teenagers, even though international organisations and NGOs have repeatedly urged nations to penalise cyber violence in their criminal law. Partners, ex-partners, co-workers, classmates, and even strangers are all examples of perpetrators.

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