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**“INCREASE IN DOMESTIC VIOLENCE DURING THE
PERIOD OF LOCKDOWN.”**

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I. INTRODUCTION:

As the whole world has come to a standstill due to an ongoing pandemic, an already existing peril that one isn't talking about, ignorance or call it the new normal for our society, yes! I am talking about Domestic Violence which is rampant during this extremely unfortunate nationwide lockdown. Before proceeding with the present scenario, let me explain the phrase that one seems to neglect due to various reasons, *“what will the society say?”*, *“who will believe me?”*, *“it is just a matter of few days”*, *“I have no choice”*, are few instances why this cruelty is never reported. Domestic Violence isn't a word that is rigid to its explanation, it includes both emotional as well as physical violence, irrespective in which form it occurs.

The most usual form that strikes everyone is in marital relation. It is pertinent to note that domestic violence can have various forms, in the marital relationship and in any kind of cohabitation. *Child abuse, marital rape, sexual abuse, physical assault, mental torcher, cruelty towards elderly, threat to hurt, abuse of persons dealing with mental health issues, verbal abuse, economic abuse and the list is never-ending.* Domestic violence and abuse in India are not just a problem of the poor or middle classes, it is very much prevalent among the rich and the famous too. No doubt that the victims are more vulnerable during this period of lockdown. There is no doubt that the pandemic has disrupted lives all over the world, yet it can be regarded as a silver lining under those dark clouds, for us to have time for ourselves, as **TIME** has been a luxury to have for many of us. Keeping in mind the term that I have

used above “*silver lining*”, this is definitely another way around for most of them out there, longing to just free themselves and break through the cage. The bitter truth is, lockdown is the only solution to save themselves from the catastrophe. The next question that arises is, *what are these people supposed to do to defend themselves from the ongoing violence against them?*

II. LAWS TO PROTECT THE WOMAN FROM DOMESTIC VIOLENCE:

In India there are various laws to protect the woman who is victims of violence and abuse or to protect oneself from being victims of violence and abuse, *The Protection of Women from Domestic Violence Act, 2005* (hereinafter referred to as the **DV Act, 2005**) is a civil law to protect women from any form of cruelty from her husband. This law does not only include married women but unmarried too, carrying on a live-in relationship. The scope of the above-mentioned law is extended to family members as well, mothers, grandmothers, sisters etc, to seek protection against domestic violence, monetary reliefs under *section 20 of the DV Act, 2005*, financial maintenance from their abusers in case living apart. It enables one to access help for proper health care, counselling, legal aid and shelter home.

Let me explain how this piece of legislation works, any person who has been abused or likely to be abused or any person who has reasons to believe that an act of domestic violence has been or is likely to be committed, may give this information to the concerned appointed Protection Officer of that district. Any breach of protection orders by the respondent shall be an offence under the *DV Act, 2005* and shall be cognizable and non-bailable.

Likewise, a complaint can be filed with the police station having the necessary jurisdiction, under *section 498A of Indian Penal Code*; complaint can be filed by the woman aggrieved by the offence or by any relative of the woman. This standing has been clarified by the Supreme Court in a judgement delivered by the *Bench of Justices Ashok Bhushan and K M Joseph*, stating that a complaint filed by a relative of a woman subjected to cruelty by her husband or her in-laws are also maintainable. Also, to mention, punishments under this section are cognizable and non-bailable offences.

Unfortunately, most of them out there are not even aware of their basic fundamental legal rights, to be protected from being abused, even if it is done by their near and dear ones. Being beaten up by the husband is treated to be normal in our society. Sticking around their abusive husbands and not trying to seek a divorce is epitomised in our society. People prefer to keep themselves in oblivion.

III. DOMESTIC VIOLENCE AGAINST OTHER PERSONS:

It is pertinent to note here that the Domestic Violence we talking about, as mentioned above is also prevalent against elder citizens in the house, against children, against men and that one class of people that no one puts light on is transgenders:

a) Against Elder Citizens:

With the population growing rapidly, there is also an increase in the number of senior citizens in our country. Due to dependency, financially as well as emotionally there has been an increased number of domestic violence cases against elder citizens, out of which some are reported and some just go unheard. Keeping in mind the present scenario of lockdown, it is even more difficult for senior citizens to seek immediate help along with taking care of their health. The Indian legal system has not yet acknowledged the concept of “*elder abuse*” and the result is that there is no separate legislation for the protection of elders from abuse in India. However various provisions in the Indian legal system cover a section of “*elder abuse*”.

The Indian Penal Code, 1860, penalises abuse of all sorts irrespective of any gender, age, caste etc. *Section 125 of the Criminal Procedure Code, 1973*, provides for a man to pay maintenance to parties who are unable to maintain themselves which includes a child as well as illegitimate child and parents. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*, as per this Act a senior citizen is an Indian citizen who is at least 60 years old. A parent includes father or mother, whether biological, adoptive, stepfather or stepmother, whether or not the father or the mother are senior citizens. A parent can claim maintenance either under *section 125 of*

CRPC, 1973, as stated above or under the *Maintenance and Welfare of Parents and Senior Citizens Act, 2007*; maintenance cannot be claimed from both the acts.

The solution under this ongoing catastrophe is to report the elder abuse to the concerned police station, of that particular area. Necessary steps shall be taken by our police force who have been working willingly to curb violence and to avoid defeat of regulations during this unfortunate period of lockdown. Creation of essential government helpline numbers is suggested for the ones in distress to report the violence.

b) Against Children:

Children are most vulnerable to domestic violence, as many out there at such tender age are not aware of what actions are right and wrong. The abusive environment in the house since childhood affects a child's growth and makes him/her react to violence as a normal phenomenon or perhaps develop violent characteristics themselves. Children are the most vulnerable and seeking help is difficult if the abusers are parents itself. Since the lockdown has been pronounced by our Prime Minister, the **CHILDLINE INDIA** helpline number has received more than **92000 SOS calls** asking for protection from abuses and violence in 11 days, a sombre indication that the lockdown has turned into extended captivity not just for women but also for children trapped with their abusers. Child rights bodies recently wrote to the *Prime Minister's Office*, asking the government to declare 1098 as a COVID-19 emergency outreach number for children or parents or caregivers¹.

Let's talk about the legislations available for protection of children against any form of abuse and violence:

The Constitution of India has in various provisions highlighted the responsibility of the States to protect the rights of children, *Article 15(3)* speaks about the powers

¹ PTI, Govt Helpline receives 92,000 calls on abuse and violence in 11 days, Economic Times, (April, 08, 2020, 02:19 PM), <https://economictimes.indiatimes.com/news/politics-and-nation/govt-helpline-receives-92000-calls-on-abuse-and-violence-in-11-days/articleshow/75044722>.

given to the legislature to make special provisions for the protection of both women and children, *Clause (e) and (f) of Article 39* states principles of policy to be followed by the State, the State shall direct its policy towards securing the health and strength of workers, men and women and the tender age of children are not abused, that children are given opportunities and facilities to develop in a healthy manner and that children are protected from exploitation. The United Nations have adopted the convention on the *rights of the child*, laying down various standards for securing the best interest of the child, which has to be adhered by the Member States. The Government of India has ratified this convention on the 11th of December 1992.

The Juvenile Justice (Care and Protection of Children) Act, 2015, lays down laws for the protection of children in need of care and protection and children found to be in conflict with the law (*a child in conflict with the law means a child who has committed an offence and who is under eighteen years of age on the date of commission of the offence*). The State Government shall constitute in every district, one or more Juvenile Justice Boards for executing the functions relating to children in conflict with the law. Similarly, the State Government shall constitute in every district one or more Child Welfare Committee for exercising the powers and the functions relating to children in need of care and protection.

The Protection of Children from Sexual Offences Act (POCSO), 2012, prohibits any sexual offences against children. Special courts are to be constituted by the State Government for adjudicating these matters and for the sake of speedy trials.

c) Against Men:

Yes! Violence against men is very much prevalent in our society. The mistake that everyone seems to do is to consider all men's as preparators of crime and not the victim. Social issues such as *cruelty against women, dowry torcher, sexual assault, marital rape, betrayal*, have become such frequent phenomenon in our society that there is no light shed on the other way around cases, violence against men. At times

the stringent laws available for genuinely protecting the interest of a woman is misused or taken advantage of to settle scores. Blackmailing is one of the most common tactics. In one of the Case, the Supreme Court has ruled out that men need protection from women making unsubstantiated domestic harassment claims. To add on to the on-going injustice, there is also no legal provision for married men to seek protection against verbal or mental abuse. Obviously, there is no denial to the fact that our constitution speaks about the fundamental rights of all men and women to be protected and treated equally and that all are same in the eyes of law, yet there is a grey area when we speak about men as victims of domestic violence.

However, there are various NGOs working for the protection of men against violence. *Save Indian Family Foundation (SIFF)* is a very prominent nongovernmental men's rights group working for the protection of men's interest in India. Basically, this NGO works to support men and their families facing false domestic violence charges, dowry claims and *section 498A*. it also provides counselling for men with suicidal thoughts.

During this unfortunate lockdown, we cannot precisely rule out that men are not subjected to domestic violence; many cases go unreported due to ego problems, or with the basic tactic of blackmailing the male partner of wrong charges.

d) Against Transgender:

Another section of people who are dusted under the carpet, basically ignored, are the transgenders, their rights. As mentioned above, due to the nationwide lockdown, everyone is affected in some or the other way, whether it is the daily wage workers, middle class, upper-middle-class, the privileged and the transgender community. Begging being their most common source of income, many are left with nothing in their pockets. In such scenarios, violence or abuse against them is nothing to be surprised off. Either from the landlords for not paying the monthly rent or from the community itself. Lack of financial stability makes them the most vulnerable during

such unfortunate circumstances. However, violence against them is not something new, it existed even prior to the lockdown due to the number of reasons, but this lockdown has added into the already existing injustice, probably this time in a higher rate. Large numbers of transgenders do not have the basic documentation of *Aadhar card, Voter id, Pan Card, Bank Account*; therefore they fall outside the ambit of government schemes like ration. *The Pradhan Mantri Garib Kalyan Yojana* announced by our Finance Minister, has no reference made to the Transgender Community. Definitely, the Transgender community has raised voice to provide them assistance during this period of lockdown; no improvement as yet is seen.

Recently a bill has been passed by the parliament, *The Transgender Persons (Protection of Rights) Bill, 2019*, which provides for prohibition of any discrimination against the Transgender Community in terms of employment, healthcare, education, housing and other services. It also mentions about the recognition of Transgenders by making an application in the prescribed form. Even though there is a bill that has been passed, looking at the present situation, it doesn't seem to favour the Transgenders.

IV. VIOLENCE AGAINST ANIMALS:

It is pertinent to note here that violence by humans is not restricted to other humans itself; it can be done by humans against animals too. This is a very serious issue which isn't dealt with much severity. It has been observed that humans with violent nature tend to cause harm to people living with them including their pets. Lockdown has seen violence and cruelty against animals as well, either in the form of abandonment or death by starvation. The **WHO** has however assured people that the Covid-19 is not transmitted through animals, therefore not to abandon their pets.

Basic awareness is being spread to feed stray dogs while heading out of the house to purchase groceries. The Constitution of India under its *Article 51A (G)*, makes it a fundamental duty on the citizens of India to have compassion towards wildlife and living creatures. *The*

Prevention of Cruelty to Animals Act, 1960, provides for the formation of Animals Welfare Board of India, to protect animals from being subject to unnecessary pains and sufferings. The Act also prevents cruelty towards animals. *Section 11(h)* states that if an owner of the animal fails to provide necessary food, drinks and shelter, he/she shall be punishable. *Section 11(i)* of the act provides that if the owner without any reasonable cause abandons the animal which causes pain or sufferings to the animal, he/she shall be punished.

V. CONCLUSION:

Thus, it can be noted here that the extended lockdown has also extended the violence rate, not just towards women's in the society but towards everyone in some or the other way. Being aware of the situation and one's rights is crucial and fundamental to protect oneself from injustice.