



Migration & Asylum Project (M.A.P)

Centre for Refugee Law & Forced Migration Studies

Submission to the UN Special Rapporteur on Violence Against Women COVID-19 and the increase of domestic violence against women

Migration and Asylum Project (M.A.P.) is India's first and only refugee law centre. Established in 2013, it aims to expand the protection space available for forced migrants and refugees, mainly women and children, through programmes focusing on four thematic areas: legal empowerment, women & girls in conflict, research & policy, and advocacy & outreach.

This submission seeks to provide information on the issue of violence against women in the wake of COVID-19 in India, with a special focus on refugees, wherever such information is available. The responses are based primarily on desk research and consultation within our networks.

Question 2

Are helplines run by Government and/or civil society available? Has there been an increase in the number of calls in the context of the COVID-19 pandemic?

a. Availability of helplines

Officials from the Ministry of Home Affairs, Government of India reported to the media that, as on 16 April 2020, more than 50 helplines were providing assistance to women facing domestic violence in India during the lockdown period. This includes helplines run by police, women's welfare departments and NGOs.¹ While some of these helplines are active nationally, some are State-specific and others were set up at district level. Notably, The National Commission for Women (NCW), the nodal Government authority to safeguard the rights of women in India, and several states in India have set up Whatsapp helplines² and other online mechanisms³ as a safe option for women who cannot make calls for fear of being overheard.

b. Recorded increases in distress calls from women

Aggregated data on the total number of calls received by these helplines and the action taken in response to them is not available. However, media reports from inquiries into the

¹ Press Trust of India, *Coronavirus lockdown | Over 50 helplines set up across India to help women facing domestic violence*, The Hindu, 18 April 2020, available at <https://www.thehindu.com/news/national/coronavirus-lockdown-over-50-helplines-set-up-across-india-to-help-women-facing-domestic-violence/article31376933.ece> [accessed 04 June 2020].

² Press Trust of India, *NCW launches WhatsApp number to report domestic violence during COVID-19 lockdown*, The Economic Times, 10 April 2020, available at <https://economictimes.indiatimes.com/news/politics-and-nation/ncw-launches-whatsapp-number-to-report-domestic-violence-during-covid-19-lockdown/articleshow/75082848.cms> [accessed 04 June 2020].

³ Press Trust of India, *Kerala government launches WhatsApp number to report domestic violence during lockdown*, The Economic Times, 11 April 2020, available at <https://economictimes.indiatimes.com/news/politics-and-nation/kerala-government-launches-whatsapp-number-to-report-domestic-violence-during-lockdown/articleshow/75095648.cms?from=mdr> [accessed 04 June 2020]; Department of Women and Child Development, Government of Odisha, Official twitter account, 15 April 2020, available at <https://twitter.com/WCDOdisha/status/1250419785449361416> [accessed 04 June 2020].



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functioning of the helplines indicate a rising trend. For instance, data released by the NCW indicates a sharp rise in the number of domestic violence claims following the lockdown. Phase I of India's lockdown began on 25 March, 2020. In the months of April and May, the NCW received 1428 complaints relating to domestic violence, out of a total 3023 i.e. 47.2%. In contrast, in the months immediately preceding the lockdown, between January and March, 871 complaints out of a total of 4233 i.e. 20.6% were related to domestic violence.⁴ There was also an increase in the number of complaints from women under the category, 'right to live with dignity' which according to the NCW, includes cases pertaining to cruelty, domestic violence and harassment.⁵ Of the 1906 complaints received since January, 464 were registered in May. However, the NCW also notes that the complaints related to rape and attempt to rape declined, from the 142 complaints in January to 12 and 51 complaints respectively in April and May.⁶ Notably, the data made available by NCW does not include physical visits, postal complaints and calls made on the landline, as these services have been largely suspended during the lockdown period.

Official information on domestic violence complaints from state governments, received through various sources such as state-level women's commissions, police, helplines, Anganwadi workers, and protection officers also reinforce the uptick in the number of domestic violence complaints in the context of COVID-19 and the lockdown. For instance, the Delhi Police recorded nearly 2500 women calling emergency helpline numbers that trigger the Emergency Response Support System of the state police in a single week, the second week of April. Of these calls, 1612 (about 66%) were related to domestic violence. In the State of Punjab, data collected by the state police department measures a 21% increase in complaints of crimes against women in the 30 days following the COVID-19 curfew, as compared to the 30 days immediately preceding it. The data also records separately a 21% increase in the number of domestic violence complaints in the same period.⁷ In the south of India, the Government of Tamil Nadu informed the High Court of Madras that between 25 March and 14 May, the state noted 616 complaints of domestic violence.⁸ Similarly, in Telangana, the number of domestic violence cases as a percentage of total complaints received by the Sakhi One Stop Centres (OSCs), which provide access to medical, legal, psychosocial counselling and shelter services to women affected by violence increased from 40% in January and 68%

⁴ National Commission for Women, Details of Complains Received in 2020, available at http://ncwapps.nic.in/frmRTICell_ComplaintDetails.aspx in Ambika Pandit, *Domestic violence accounts for over 47% complaints to NCW in lockdown*, The Times of India, 2 June 2020, available at <https://timesofindia.indiatimes.com/india/domestic-violence-accounts-for-over-47-complaints-to-ncw-in-lockdown/articleshow/76161829.cms> [accessed 04 June 2020].

⁵ National Commission for Women, Frequently Asked Questions (FAQs) for Complaint Registration, available at <http://ncw.nic.in/frequently-asked-questions-faqs-complaint-registration> [accessed 04 June 2020].

⁶ *Supra* note 4.

⁷ The Print, *Punjab curfew proves dangerous for women with 21% spurt in domestic violence complaints*, 23 April 2020, available at <https://theprint.in/india/punjab-curfew-proves-dangerous-for-women-with-21-spurt-in-domestic-violence-complaints/407679/> [accessed 04 June 2020].

⁸ The Hindu, *Rise in cases of domestic violence*, 21 May 2020, available at <https://www.thehindu.com/news/national/tamil-nadu/rise-in-cases-of-domestic-violence/article31636543.ece> [accessed 04 June 2020].



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and 61% percent in February and March to a whopping 89% in April. The state-wise data, however, has not been compiled, neither does it measure the same parameters over the same period of time. The lack of rationalised data makes it impossible, at present, to make a statement about the increase of domestic violence against women at the national level.

Statements from the central or state governments also largely do not measure the calls for assistance made to helplines and services run by non-governmental civil society organisations. Several prominent women's rights organisations running helplines have also noted the trend of increasing domestic violence. Dr. Nayreen Daruwalla, the Director of the Society for Nutrition, Education & Health Action (SNEHA), an NGO in Mumbai that supports domestic abuse victims, has reported⁹ that SNEHA's emergency domestic violence helpline has been receiving 4-5 requests for emergency intervention a day, up from the 4-5 reports each month that was common prior to the lockdown.

c. The other side

However, some organisations also reported a drop in calls about fresh cases. For example, the Delhi Commission of Women (DCW) witnessed a decrease in calls related to domestic violence – from 808 between 12th and 25th of March to 337 between 7th and 20th of April.¹⁰ Shakti Shalini, a Delhi-based NGO, noted a dramatic decrease in the number of calls from the 25-30 calls a week to about 5-6 in the early weeks of the lockdown.¹¹ Other prominent women's rights organisations like Jagori, International Foundation for Crime Prevention and Victim Care (PCVC) and Prajnya Trust also reported a decline in calls from women on their helplines in the early weeks of the lockdown.¹²

The decrease, however, is indicative only of the inability of women in India to access help, a problem compounded by COVID-19 and the lockdown. Locked down with their abusers, many women have no way to make a phone call without being overheard. In theory, this lack of privacy is a problem for technology, and can be addressed through messaging services and online complaint mechanisms. However, India has one of the largest gender-gaps in technology in the world. According to a study, only 43 per cent of women in India own mobile

⁹ Joe Wallen, *One in three women in India subject to domestic abuse, study finds*, The Telegraph, 2 June 2020, available at <https://www.telegraph.co.uk/global-health/science-and-disease/one-three-women-india-subject-domestic-abuse-study-finds/> [accessed 04 June 2020].

¹⁰ Shemin Joy, *Coronavirus Crisis: No lockdown for domestic violence*, Deccan Herald, 26 April 2020, available at <https://www.deccanherald.com/specials/insight/coronavirus-crisis-no-lockdown-for-domestic-violence-829941.html> [accessed 04 June 2020].

¹¹ Aathira Konikkara, *Lockdown and domestic violence: As NGOs struggle to support women at risk, government plays catch up*, The Caravan, 15 April 2020, available at <https://caravanmagazine.in/gender/lockdown-domestic-violence-ngo-struggle-government-catch-up> [accessed 04 June 2020].

¹² Adrija Bose, *India's Domestic Abuse Survivors are in Lockdown with their Monsters, But Helplines Are Not Ringing*, News 18, 6 April 2020, available at <https://www.news18.com/news/buzz/indias-domestic-abuse-survivors-are-in-lockdown-with-their-monsters-but-the-helplines-are-not-ringing-2563955.html> [accessed 04 June 2020].



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phones compared to almost 80 per cent of Indian males.¹³ Among those that have access to a mobile phone, the gap in digital skills may mean women not being able to use the device effectively. Furthermore, with lower education levels and financial independence than their male counterparts, the agency that Indian women can exercise is often low. These factors combine to drastically reduce their avenues to seek assistance when faced with domestic violence.

Question 3

Can women victims of domestic violence be exempted from restrictive measures to stay at home in isolation if they face domestic violence?

Lockdown rules in India have changed several times since its first Phase starting 25 March 2020. In each iteration, the list of essential services that remained operational included police forces and medical facilities.¹⁴ However, the list of essential services did not contain any specific exemptions for services intended to protect women from domestic violence such as helplines, shelters and rescue services. Therefore, while persons seeking to avail essential services have been exempted from the early phases of the lockdown in India, the scope of essential services does not extend to include assistance to victims of domestic violence.

Furthermore, several media reports state that the police in Indian cities, tasked with the enforcement of the lockdown, often resorted to violence and force.¹⁵ In certain cases, people trying to deliver or purchase essential supplies and even doctors and medical personnel were subjected to excessive force by the police.¹⁶ These reports are likely to add to the many barriers preventing women from reaching out for assistance when faced with violence. The Director of the NGO, Jagori, affirms this hypothesis, "They would have seen those videos of cops beating up people who were out on the streets. Will any woman step out after seeing that? They will think it is better to get beaten up by a known man than to get beaten by a bunch of policemen," said Jayashree Velankar to News 18.¹⁷

Therefore, despite the extant rules, it is likely that women, fearing violence from the police, have been further deterred from reporting and seeking legal redress against perpetrators of domestic violence.

¹³ Karishma Mehrotra, *Internet in India: Gaping gender gap*, The Indian Express, 8 August 2018, available at <https://indianexpress.com/article/technology/tech-news-technology/internet-in-india-gaping-gender-gap-5296818/> [accessed 04 June 2020].

¹⁴ Government of India, Ministry of Home Affairs, Order No. 40-3/2020-D dated 24 March 2020, available at https://mofpi.nic.in/sites/default/files/mha_order_and_guidline_as_on_24.03.2020.pdf [accessed 04 June 2020].

¹⁵ BBC News, *Coronavirus lockdown in India: 'Beaten and abused for doing my job'*, 28 March 2020, available at <https://www.bbc.co.uk/news/world-asia-india-52063286> [accessed 04 June 2020].

¹⁶ Scroll, *Watch: Indian police are beating up people on the streets to enforce the coronavirus lockdown*, 26 March 2020, available at <https://scroll.in/video/957293/watch-indian-police-are-beating-up-people-on-the-streets-to-enforce-the-coronavirus-lockdown> [accessed 04 June 2020].

¹⁷ *Supra* note 12.



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Question 4

Are shelters open and available? Are there any alternatives to shelters available if they are closed or without sufficient capacity?

a. Shelters in India

In India, domestic violence shelters are run by both governments and civil society under the Protection of Women against Domestic Violence Act, 2005. Shelters are also available under other laws and schemes such as SWADHAR Greh Scheme for women in difficult circumstances,¹⁸ Ujjawala Scheme for survivors of trafficking,¹⁹ and One-Stop Crisis Centres which offer temporary shelter to women who have been subjected to any kind of violence.²⁰ There are also schemes to provision of shelters run by state governments. In addition to these, shelter homes are also run by women's rights organisations.

However, even prior to the pandemic, the number of shelters in India has been woefully inadequate. Two Supreme Court advocates, in a representation, urged the NCW to set up special shelters for women during the lockdown and recommended other measures for the protection of women,²¹ however, no additional measures have been announced as of now. Furthermore, the conditions in many of the available shelters are deplorable and have often been compared to those in prisons.²²

b. Impact of COVID-19 on availability and accessibility of shelters

Prior to the outbreak of COVID-19, first responders such as Protection Officers or women's rights organisations, on receiving calls for intervention would coordinate with the police to bring women facing domestic violence to shelter homes. However, with police forces engaged in enforcement of stay-at-home orders, and NGOs' reach restricted by government regulations, rescue services for women in India have gone from bad to worse.

¹⁸ Government of India, Ministry of Women and Child Development, Guidelines for SWADHAR Greh Scheme, 2015, https://wcd.nic.in/sites/default/files/Guidelines7815_2.pdf [accessed 04 June 2020].

¹⁹ Government of India, Ministry of Women and Child Development, Guidelines for Ujjawala Scheme, 2016, <https://wcd.nic.in/sites/default/files/Ujjawala%20New%20Scheme.pdf> [accessed 04 June 2020].

²⁰ Government of India, Ministry of Women and Child Development, One Stop Centre Scheme, Implementation Guidelines for State Governments/UT Administrations, 2017, https://wcd.nic.in/sites/default/files/OSC_G.pdf [accessed 04 June 2020].

²¹ Avani Bansal and Sourjya Das, Letter to The Ministry of Women and Child Development and the National Commission for Women, 14 April 2020, available at https://images.assettype.com/barandbench/2020-04/44ab6cbc-2c9d-4e6c-b4e0-abbdff11f69e/Complaint_Victims_of_Domestic_Violence.pdf [accessed 04 June 2020].

²² Shalini Nair, *Probe blows lid off women shelter homes: 'congested jails, mentally ill rolling on floor'*, The Indian Express, 17 December 2018, available at <https://indianexpress.com/article/india/probe-blows-lid-off-women-shelter-homes-congested-jails-mentally-ill-rolling-on-floor-5496548/> [accessed 04 June 2020]; Prita Jha, *A jail, not a shelter: women's refuges in India*, Open Democracy, 13 January 2017, available at <https://www.opendemocracy.net/en/5050/jail-not-shelter-women-s-refuges-in-india/> [accessed 04 June 2020].



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Under the Protection of Women against Domestic Violence Act, 2005, shelter homes are duty bound to provide shelter to women²³ however, many organisations are reporting that shelters are reluctant to accept new cases due to overcrowding and sanitation concerns.²⁴ Other organisations note that the capacity of existing shelters has decreased significantly due to social distancing requirements, further reducing their ability to provide shelter to women.²⁵

c. Alternatives to Shelters

At the time of drafting of this response, no information on alternatives to shelters is available.

Question 5

Are protection orders available and accessible in the context of the COVID-19 pandemic?

In India, any reliefs for domestic violence, including protection orders are only available through a magistrate i.e. through the court machinery. Therefore, access to protection orders is dependent on access to courts, which has been delineated in the response to Question 6 below.

Question 6

What are the impacts on women's access to justice? Are courts open and providing protection and decisions in cases of domestic violence?

a. Position of the Law

In India, a woman who has experienced domestic violence or fears domestic violence may approach a court directly to file an application seeking relief under the Protection of Women for Domestic Violence Act, 2005, the primary legislation protecting women from domestic violence in India. A person may also approach the police, an NGO or a Protection Officer i.e. an officer appointed by state governments to assist victims of domestic violence, who can file an application to a magistrate of the court on her behalf.

One of the possible recourses following such a complaint is a protection order. These protection orders are issued by a magistrate under Section 18 of the Protection of Women for Domestic Violence Act, 2005²⁶ and restrain the perpetrator from committing certain acts.²⁷

²³ Section 6, The Protection of Women against Domestic Violence Act, 2005.

²⁴ Shamita Harsh, *COVID-19 Lockdown: India is Failing Domestic Violence Victims*, Stories Asia, 25 April 2020, available at <https://www.storiesasia.org/2020/04/25/covid-19-lockdown-india-is-failing-domestic-violence-victims/> [accessed 04 June 2020]; Breakthrough, India, Submission to NITI Aayog, Ministry of Women and Child Development (MWCD) and the National Commission for Women (NCW), *Recommendations Emerging from the Town Hall on Another Pandemic - Domestic Violence*, undated, available at https://pdfhost.io/v/mad3nJCIU_Breakthrough_TownHall_Recommendations.pdf [accessed 04 June 2020].

²⁵ Roshni Chakroborty, *Responding to the Domestic Violence Crisis of COVID-19*, HarvardFXB Centre for Health and Human Rights, 20 April 2020, available at <https://fxb.harvard.edu/2020/04/20/responding-to-the-domestic-violence-crisis-of-covid-19/> [accessed 04 June 2020].

²⁶ Section 18, The Protection of Women against Domestic Violence Act, 2005

²⁷ *Ibid.*



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Other reliefs including residential orders i.e. directions related to provision of accommodation to the aggrieved woman, monetary reliefs, compensation, and custody orders can also be issued by the magistrate.

b. Functioning of Courts during COVID-19 Lockdown

In India, courts at various levels, such as the Supreme Court, the High Courts of various states, District Courts and other subordinate courts largely govern their own day-to-day functioning. Therefore, there is no uniform diktat for the functioning of courts during the COVID-19 lockdown and each court has issued notifications and circulars regarding their own operations and/or cases subordinate to them.

In the early days of the pandemic, many courts in India had already suspended their normal functioning, taking up only “urgent matters”, which were being heard remotely. This trend has largely continued, with courts gradually increasing the scope of matters being taken up for hearing. The urgency of specific matters has largely been left to the subjective determination of officers of the court.

For instance, the High Court of Delhi suspended operations in Phase I of the nationwide lockdown in India²⁸ barring “extremely urgent matters”, as decided by officers of the court.²⁹ As on date of drafting this response, the suspension of normal functioning and the policy of taking up of only fresh matters of extreme urgency through video-conferencing has been extended through a series of notifications, until 30th June, 2020.³⁰ This state of affairs is also applicable to all courts subordinate to the High Court of Delhi,³¹ which includes courts where first instance cases of domestic violence are filed.

In a notification dated 26th April, 2020, the High Court of Delhi expanded the scope of matters taken up during the period to include certain categories of pending cases, including matters related to The Protection of Women from Domestic Violence Act, 2005 and matrimonial

²⁸ High Court of Delhi, New Delhi, Office Order No. 159/RG/DHC/2020, 25 March 2020, available at http://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_S87QLI4F47T.PDF [accessed 04 June 2020].

²⁹ High Court of Delhi, New Delhi, Office Order No. 157/RG/DHC/2020, 23 March 2020, available at http://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_F96N7ECEFRP.PDF [accessed 04 June 2020].

³⁰ High Court of Delhi, New Delhi, Office Order No. 15/DHC/2020, 13 June 2020, available at http://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_RX6JVN5F3DT.PDF [accessed 19 June 2020].

³¹ High Court of Delhi, New Delhi, Office Order No. 16/DHC/2020, 13 June 2020, available at http://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_QFGDC297B59.PDF [accessed 19 June 2020].



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matters including matters relating to maintenance, visitation rights and custody, so long as they were at the stage of final hearing.³²

Other High Courts of various states in India and therefore, the courts subordinate to them have also issued similar orders, a few highlighting cases of domestic violence specifically as being permitted within the class of “urgent matters” while others leaving the urgency of the matter to be determined on a case-by-case basis.

It must, however, be noted that the decision of the designated officer of the court as to urgency of a matter is not subject to any checks and balances. Legal practitioners fear that urgent matters may often translate to high-profile cases and senior counsel, as opposed to the urgency of the case itself.³³ The subjectivity and discretion in the determination of urgency across jurisdictions has resulted in a lack of consistency across jurisdictions and arbitrary positions being taken by various courts.

c. Legal Aid during Lockdown Period

Article 39A of the Constitution of India lays out the obligation of the State to ensure that legal aid is available to individuals who are unable to seek it due to financial or other disabilities. The Legal Services Authorities Act, 1987 which sets up authorities at the national and state levels for provision of legal aid to indigent persons lays down the duty of the state to provide legal aid and assistance to weaker sections of society. Courts in India have, through a slew of decisions, affirmed this duty. Furthermore, India’s commitments under various international instruments also require *inter alia* that all persons in the territory of India have access to justice, including the right to a fair trial, and free legal assistance to those who lack the means to pay for it.

The National Legal Service Authority (NALSA), has collaborated with the Ministry of Women and Child Development and issued directions to the Legal Service Authorities in various states to collaborate with One Stop Centres to address the issue of legal aid for domestic violence cases. As per interim data from collected by NALSA from 28 State Legal Services Authorities, a total of 727 cases relating to domestic violence were reported to the Legal Services Authorities in different states / UTs across the country for legal aid, out of which 658 cases received were fulfilled.³⁴

³² High Court of Delhi, New Delhi, Office Order No. 121/RG/DHC/2020, 24 April 2020, available at http://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_5U75WWGF7N8.PDF [accessed 04 June 2020].

³³ Sandhya PR, *Corona is a wake-up call for Indian courts. They aren't equipped to function in a crisis*, ThePrint, 27 March 2020, available at <https://theprint.in/opinion/corona-is-a-wake-up-call-for-indian-courts-they-arent-equipped-to-function-in-a-crisis/389224/> [accessed 04 June 2020].

³⁴ National Legal Services Authority, *Interim Report on Legal Aid during the Pandemic*, undated, available at https://www.livelaw.in/pdf_upload/pdf_upload-374882.pdf [accessed 04 June 2020].



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d. Courts directing Government Action during COVID-19 Lockdown

In addition to orders regarding their own functioning during the COVID-19 lockdown, many courts in India have also passed directions or guidelines for governments and various authorities in response to petitions by NGOs seeking government action in light of rising cases of domestic violence during the lockdown. The High Court of Karnataka, for instance, has asked that the state government report to the court the measures being taken to address an alleged spike in cases of domestic violence during the lockdown.³⁵ Similarly, in the context of a Public Interest Litigation (PIL) filed in the High Court of Delhi, the Court directed the Central Government, Delhi Government, National Commission for Women, Delhi Commission for Women, and other concerned authorities to convene a meeting to look into the issue of protection of women against domestic violence during the lockdown.³⁶ The High Court of Delhi also directed the government to ensure that the helplines are operated by a well-trained staff, and that outreach efforts are amped up. The Court further asked concerned authorities to determine whether temporary Protection Officers can be appointed to augment the 17 Protection Officers that ordinarily serve the national capital.³⁷

Notably, the High Court of Jammu & Kashmir took *suo motu* cognizance of increasing domestic violence cases against women during COVID-19 lockdown and suggested measures to handle the situation including the creation of a dedicated fund to address issues of domestic violence against women and girls as part of the COVID-19 response and increased call-in services, counselling and designating public places such as pharmacies and grocery shops as safe spaces for women seeking assistance. The Court also directed that all courts subordinate to it must treat cases of domestic violence as “urgent”.³⁸

e. Practical Access to Justice

While courts have been, to varying degrees, open and providing protection and decisions in cases of domestic violence, restrictions on movement during the lockdown have restricted practical access to justice for women in India. As outlined in the response to Question 2, access to reporting mediums are significantly lower for Indian women as compared to their male counterparts, especially in lower-income groups. Making calls outside of the earshot of other members of the household is often not possible, less so during a lockdown. However, many

³⁵ Mustafa Plumber, *Karnataka HC Asks State About Action Taken On Increasing Complaints Of Domestic Violence During Lockdown*, LiveLaw, 22 April 2020, available at

<https://www.livelaw.in/news-updates/hc-asks-state-about-action-taken-on-increasing-complaints-of-dv-during-lockdown-155639?infinitescroll=1> [accessed 04 June 2020].

³⁶ *All India Council of Human Rights, Liberties & Social Justice vs Union of India*, W.P.(C) 2973/2020 & CM APPL.10318/2020, Delhi High Court, (unreported), available at https://www.livelaw.in/pdf_upload/pdf_upload-373404.pdf [accessed 04 June 2020].

³⁷ The Leaflet, *Delhi High Court issues directions to check domestic violence during Covid-19 lockdown*, 4 May 2020, available at <https://theleaflet.in/delhi-high-court-issues-directions-to-check-domestic-violence-during-covid-19-lockdown/> [accessed 04 June 2020].

³⁸ *Court on its own Motion v. UTs of J&K and Ladakh*, WP(C) PIL No. (unnumbered) of 2020, dated 16-4-2020 available at <https://www.livelaw.in/top-stories/breaking-jk-hc-takes-suo-moto-cognizance-of-plight-in-domestic-violence-cases-amid-lockdown-issues-guidelines-read-order-155440> [accessed 04 June 2020].



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women are ordinarily able to physically leave their homes to seek legal, medical or psycho-social support under the pretext of errands or visiting friends or family. However, the lockdown has restricted this avenue. A practising family lawyer in New Delhi, in a conversation with a M.A.P staff member, noted a drop in the number of new cases they have received during the lockdown period, indicating that women have not been able to visit their offices.

f. The Refugee Context

India is home to 200,000 refugees, more than half of whom are women. However, since India has not ratified the Refugee Convention of 1951 and does not have legislation specifically delineating the rights of refugees on its soil, there is significant uncertainty on the rights available to refugees. In particular, refugees' access to justice is restricted by several barriers; the most prohibitive of which is the fear of arrest and deportation.

In case of refugee women, factors such as language barriers, lack of awareness of local laws, deep-rooted fear of authority, and uncertainty of their legal status, dissuade survivors from taking legal action against perpetrators of violence against them, even in the best of times. Within the already marginalised refugee population in India, therefore, refugee women are further entrenched in their vulnerability by their inability to access legal redress. Against the backdrop of the pandemic, this concern is only heightened. While no statistics are available on violence against refugee women specifically, prior to or during the pandemic, to be able to make an objective assessment of the scale of the problem, conversations with several refugees have indicated that their already abysmal access to justice is further eroded during the COVID-19 lockdown.

Question 7

What are the impacts of the current restrictive measures and lockdowns on women's access to health services? Please specify whether services are closed or suspended, particularly those focusing on reproductive health.

Due to the focus on containing the spread of COVID-19 as well as movement restrictions imposed by the lockdown, there has been a worrying disruption in India's basic health services from March 2020, including curtailed immunization schedules, restricted inpatient, outpatient and emergency treatment for infectious and non-communicable diseases, reduced laboratory investigations, and lowered access to mental health treatment.³⁹ Further, while the Indian healthcare system depends heavily on female Accredited Social Health Activist (ASHA) workers particularly for providing reproductive health services at the grassroots level, the ASHA workers themselves have not been provided basic PPE to protect them from

³⁹ Rukmini S, *How covid-19 response disrupted health services in rural India*, Livemint, 27 April 2020, available at: <https://www.livemint.com/news/india/how-covid-19-response-disrupted-health-services-in-rural-india-11587713155817.html> [accessed 04 June 2020].



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risk of exposure to COVID-19.⁴⁰ The impact of the restrictive measures and the lockdown on women's access to health, particularly reproductive health, is highlighted below:

a. Maternal health services

The Indian Ministry of Health and Family Welfare (MOHFW) has issued guidelines stating that pregnant women must be provided with all essential maternal health services including antenatal services, intrapartum services and postpartum services.⁴¹ Therefore, there is no official suspension or closure of maternal health services. However, despite these guidelines, many states have curtailed outreach services for immunisation and maternal health services citing the importance of taking precautionary measures against the infection.⁴² There have been several instances where pregnant women and their families faced severe difficulties in accessing maternity care at hospitals.⁴³ The Health Management Information System maintained by the Ministry of Health and Family Welfare suggests that in March 2020, when the nationwide lockdown was enforced, institutional deliveries dropped by 43% in comparison to March 2019. The number of childbirths registered in hospitals across India was 17,17,500 in March 2019, and 9,71,782 in March 2020.⁴⁴

b. Access to abortion and contraceptives

The MOHFW guidelines specify that public health facilities should provide contraceptives, and that access to medical and surgical abortion facilities should continue.⁴⁵ However, the nationwide lockdown imposed from 25th March onwards in an effort to combat the COVID 19 pandemic, has adversely impacted contraceptive access. A policy brief by Foundation for Reproductive Health Services India states that restricted access to contraception due to the lockdown is likely to result in millions of unintended pregnancies, unsafe abortions and maternal deaths.⁴⁶ Poonam Muttreja, executive director of Population Foundation of India also stated that the absence of family planning services, as well as the limited supply of and

⁴⁰ Ishita Mishra and Nithya Mandyam, *No masks, no sanitizers for community health workers*, Times of India, 21 April 2020, available at: <https://timesofindia.indiatimes.com/india/no-masks-no-sanitisers-for-ashas-frontline-health-workers-say-feel-alone-in-our-fight/articleshow/75063758.cms> [accessed 04 June 2020].

⁴¹ Ministry of Health and Family Welfare, *Enabling Delivery of Essential Health Services during the COVID 19 Outbreak: Guidance note*, available at: <https://www.mohfw.gov.in/pdf/EssentialservicesduringCOVID19updated0411201.pdf> [accessed 04 June 2020].

⁴² Ramila Bisht, Jyotishmita Sarma and Rajashree Saharia, *COVID-19 Lockdown: Guidelines Are Not Enough to Ensure Pregnant Women Receive Care*, The Wire, 08 May 2020, available at: <https://thewire.in/women/covid-19-lockdown-pregnant-women-childbirth> [accessed 04 June 2020].

⁴³ Ditsa Bhattacharya, *Women Struggle to access Maternity Care in Delhi, Organisations Write to Govt*, NewsClick, 08 May 2020, available at: <https://www.newsclick.in/COVID-19-Lockdown-India-Health-Access-Pregnant-Women> [accessed 04 June 2020].

⁴⁴ Sumi Sukanya Dutta, Namita Bajpai, Sudhir Suryawan, *COVID lockdown hits maternal health services*, New Indian Express, 16 May 2020, available at: <https://www.newindianexpress.com/nation/2020/may/16/covid-lockdown-hits-maternal-health-services-2143968.html> [accessed 04 June 2020].

⁴⁵ *Supra* note 41.

⁴⁶ Foundation for Reproductive Health Services, *Impact of COVID 19 on India's Family Planning Program, Policy Brief*, May 2020, available at: <https://pratigyacampaign.org/wp-content/uploads/2020/05/impact-of-covid-19-on-indias-family-planning-program-policy-brief.pdf> [accessed 04 June 2020].



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restrictions on access to contraceptives will result in an increased number of unplanned births, unsafe abortions, and additional childbirths.⁴⁷ The MOHFW has also suspended sterilisations and insertion of IUCDs at public facilities until routine services resume.⁴⁸

c. Menstrual health

During the initial phase of the lockdown, sanitary napkins were not included in the list of the essential items. This resulted in severe production and supply disruptions which led to a shortage at chemists, grocery stores and e-commerce websites as people began panic buying/hoarding, and many girls and women were forced to resort to the practice of using old clothes/rags to manage their periods.⁴⁹ A survey conducted by the Menstrual Health Alliance of India among organisations involved in relief work in India and certain countries in Africa, indicated severely restricted access to menstrual hygiene for women, particularly due to the closure of educational institutions and lack of access to community organisations. The survey found that 84% women who responded said that there is either no or severely restricted access to menstrual products in communities that they work in, especially for sanitary pads. Further, consumers of 62% of the organisations manufacturing menstrual hygiene products that took part in the survey faced problems in accessing products from their regular channels, while 22% reported no access to menstrual products at all.⁵⁰ Before the coronavirus outbreak and resulting lockdown, 89% of the organisations were using community-based networks to distribute menstrual hygiene products but 67% of these were forced to pause normal operations.⁵¹ Access to toilets for managing menstruation is also a challenge, particularly in urban slums where community sanitation facilities are used.⁵² Further, units manufacturing menstrual pads reported that they do not have sufficient supply of raw materials to continue production even during the next three months. They have also been severely hit by road transport restrictions, unavailability of migrant workers, and the closure of import channels.⁵³

⁴⁷ Mini P Thomas, *COVID-19 lockdown may derail India's population control measures*, The Week, 21 May 2020, available at: <https://www.theweek.in/news/health/2020/05/21/covid-19-lockdown-may-derail-india-population-control-measures.html> [accessed 04 June 2020].

⁴⁸ *Supra* note 41.

⁴⁹ Clarence Mendoza, *COVID-19 lockdown: Impact on menstrual hygiene management*, CNBC TV18, 28 May 2020, available at: <https://www.cnbc18.com/healthcare/covid-19-lockdown-impact-on-menstrual-hygiene-management-6018721.htm> [accessed 04 June 2020].

⁵⁰ Amrita Madhukalya, *84% women say lockdown restricted their access to menstrual products: Survey*, Hindustan Times, 22 May 2020, available at <https://www.hindustantimes.com/india-news/84-women-say-lockdown-restricted-their-access-to-menstrual-products-survey/story-tdwlmvGPYfy2HVBE6UHRgM.html> [accessed 04 June 2020].

⁵¹ Kairvy Grewal, *Lockdown has hit access to menstrual hygiene products in India, some other countries: Survey*, The Print, 21 May 2020 available at: <https://theprint.in/india/lockdown-has-hit-access-to-menstrual-hygiene-products-in-india-some-other-countries-survey/426316/> [accessed 04 June 2020].

⁵² Special Correspondent, *Coronavirus lockdown | Women's access to menstrual hygiene products hit, says survey*, The Hindu, 28 May 2020, <https://www.thehindu.com/sci-tech/health/lockdown-hits-womens-access-to-menstrual-hygiene-products-survey/article31697210.ece> [accessed 04 June 2020].

⁵³ Devrupa Rakshit, *Survey: Indian Women Unable To Access Menstrual Hygiene Products Under Covid19 Lockdown*, The Swaddle, 29 May 2020, available at: <https://theswaddle.com/survey-indian-women-unable-to-access-menstrual-hygiene-products-under-covid19-lockdown/> [accessed 04 June 2020].



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Question 8

Please provide examples of obstacles encountered to prevent and combat domestic violence during the COVID-19 lockdowns.

Various newspaper reports have highlighted the obstacles encountered in preventing and combating domestic violence during the COVID-19 lockdown as follows⁵⁴:

- a. Since the imposition of the lockdown, the most popular media of reporting complaints to the National Commission for Women i.e. post and physical visits are not functional. Therefore, those who cannot use phones, emails, or social media to contact crisis response initiatives are likely to be entirely excluded from their purview.
- b. Lack of privacy and enforced proximity with the perpetrator creates an additional barrier for the woman to call available helplines to access resources to combat domestic violence.
- c. The lockdown restricts women from leaving the house to escape the situation or seek assistance. Women cannot travel to police stations, and social workers cannot reach them or arrange for their travel.
- d. It is not possible for NGOs or CSOs to offer assistance in person, whether counselling or arranging for the impacted person to leave their home if they need to, and the only help that they can offer at present is counselling over the telephone.
- e. The police are overburdened with COVID-19 duties, and visiting homes to investigate domestic disputes is often not considered a priority.
- f. Parole granted to prisoners and under-trials in order to ease the pressure on overcrowded jails during the COVID-19 epidemic has meant that several perpetrators of violence have returned home.

Question 9

Please provide examples of good practices to prevent and combat violence against women and domestic violence and to combat other gendered impacts of the COVID-19 pandemic by Governments.

In addition to the existing avenues to file complaints via email and telephone, the central and state governments have launched several numbers for reporting violence against women through whatsapp messages or toll-free telephone calls. The Delhi State Legal Services Authority (DSLISA) has launched helplines where domestic violence survivors can send an SMS or give a missed call to be contacted with legal aid and advice, and these helpline numbers have been advertised through radio jingles, newspaper advertisements and

⁵⁴ Dhamini Ratnam, *Domestic violence during Covid-19 lockdown emerges as serious concern*, Hindustan Times, 26 April 2020, available at: <https://www.hindustantimes.com/india-news/domestic-violence-during-covid-19-lockdown-emerges-as-serious-concern/story-mMRq3NnnFvOehgLOOPpe8J.html> [accessed 04 June 2020]; Shemin Joy, *supra* note 10; Ambika Tandon & Mira Swaminathan, *How Useful Are Calls to Domestic Abuse Helplines During Lockdown*, The Quint, 14 May 2020, available at: <https://www.thequint.com/voices/blogs/coroonavirus-lockdown-domestic-abuse-are-helpline-numbers-useful> [accessed 04 June 2020]; Aathira Konikkara, *supra* note 11.



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distribution of pamphlets at chemist shops and milk booths.⁵⁵ Apart from this, certain local governments have come up with innovative measures to combat violence against women:

a. Pune District: Institutional quarantine for perpetrators of domestic violence

The Pune Zilla Parishad formed dedicated village-level committees to track cases of domestic violence and counsel persons resorting to abuse. If the abuse continues even after counselling, the perpetrator could be placed in institutional quarantine as punishment.⁵⁶ A vigilance committee, consisting of women from three agencies, namely, the Women and Child Department, anganwadi workers from self-help groups (SHGs) and panchayat samitis, would visit houses in each ward of a gram panchayat and conduct an anti-domestic violence campaign. Their duty would be to reach out to all homes and keep a track of domestic violence in their areas, while also adhering to COVID-19 safety guidelines. After a case of domestic violence is registered, members of the vigilance panel will try counselling the offending husband. If the violence or harassment does not abate even after counselling, then the husband would be dispatched to institutional quarantine.⁵⁷

b. Tamil Nadu: Use of anganwadi workers

In Tamil Nadu anganwadi workers are being asked to act as coordinators to receive complaints against domestic violence during the COVID-19 lockdown. In villages anganwadi workers interact with women in the village and they are easily accessible to them. Women who are affected by domestic violence during Covid-19 lockdown can lodge their complaints directly with anganwadi workers.⁵⁸ The government has provided smartphones to these anganwadi workers, who are closely associated with women in the community.⁵⁹

⁵⁵ *Supra* note 10.

⁵⁶ Nadeem Inamdar, *Pune ZP to send domestic violence perpetrators to institutional quarantine*, Hindustan Times, 19 April 2020, available at: <https://www.hindustantimes.com/pune-news/pune-zp-to-send-domestic-violence-perpetrators-in-institutional-quarantine/story-UZJSOjnuWie1KFn10iilrN.html> [accessed 04 June 2020].

⁵⁷ Shoumojit Banerjee, *Coronavirus Lockdown | Pune zilla parishad plans tough action to check domestic violence*, The Hindu, 18 April 2020, available at: <https://www.thehindu.com/news/national/other-states/coronavirus-lockdown-pune-zilla-parishad-plans-tough-action-to-check-domestic-violence/article31371216.ece> [accessed 04 June 2020].

⁵⁸ PIB Chennai, *Anganwadi Workers to Receive Complaints against Domestic Violence*, 22 May 2020, available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1626078> [accessed June 04, 2020].

⁵⁹ *Effective steps taken to curb domestic violence during lockdown, TN tells Madras HC*, New Indian Express, 25 April 2020, available at: <https://www.newindianexpress.com/states/tamil-nadu/2020/apr/25/effective-steps-taken-to-curb-domestic-violence-during-lockdown-tn-tells-madras-hc-2135296.html> [accessed June 04, 2020]; Shilpa Nair, *Spike in number of domestic violence cases in Tamil Nadu amid lockdown, police receives over 5700 complaints*, Times Now News, 23 May 2020, available at: <https://www.timesnownews.com/mirror-now/in-focus/article/spike-in-number-of-domestic-violence-cases-in-tamil-nadu-amid-lockdown-police-receives-over-5700-complaints/596027> [accessed June 04, 2020].



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c. *Jammu & Kashmir: Directions issued by High Court*

On April 18 2020, the Jammu & Kashmir High Court passed an order taking *suo motu* cognizance of domestic violence cases during the lockdown, and issued a number of interim directions including, *inter alia*, the following:⁶⁰

- Increased availability of call-in services to facilitate discreet reporting of abuse;
- Increased tele/online legal and counselling service for women and girls;
- Designated informal safe spaces for women, say grocery stores and pharmacies, where they can report domestic violence/abuse without alerting the perpetrators.
- Immediate designation of safe spaces as shelters for women who are compelled to leave their domestic situation. These shelters must be treated as accessible shelters.
- Giving urgent publicity to information regarding all of the above measures as also the availability of the facilities for seeking relief and redressal against the issues of domestic violence.

Since data on the implementation of each of these approaches is yet to emerge, it is currently not possible to evaluate the impact of these alternative measures adopted or proposed by governments.

Question 10

Please provide examples of good practices to prevent and combat violence against women and domestic violence and to combat other gendered impacts of the COVID-19 pandemic by NGOs and NHRIs or equality bodies.

Since the lockdown has made it impossible for NGOs or CSOs to offer assistance in person, several organisations have shifted to providing counselling and advice over the phone. Some of the approaches taken by various NGOs in India are highlighted below:⁶¹

- a. Shakti Shalini, a Delhi-based NGO, is one of the organisations that has been running a 24-hour helpline since the lockdown began. A counsellor with the NGO, indicated that the number of calls had dropped from 25-30 calls a week to 5-6 calls a week and attributed the reduction to survivors' constant proximity to the perpetrators. The 24-hour helpline allows the survivors to call at a convenient time when they might have some privacy.
- b. Some NGOs, such as Swayam, a women- and child-rights NGO operating in Kolkata and Diamond Harbour have managed to supply rations to women who needed support by coordinating between local shops and people from the community.
- c. Vishakha, an NGO in Rajasthan that supports working migrant women, has been able to implement outreach programmes for those affected by the lockdown and supply rations to women where a need is identified. The NGO has also set up 25 depots in 25 villages

⁶⁰ The Leaflet, *COVID-19: J&K HC takes suo motu cognizance of increase in domestic violence cases amidst Lockdown*, 18 April 2020, available at: <http://theleaflet.in/covid-19-jk-hc-takes-suo-moto-cognizance-of-increase-in-domestic-violence-cases-amidst-lockdown/> [accessed June 04, 2020].

⁶¹ *Supra* note 11.



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where sanitary napkins, some basic medicines, contraceptives and emergency pills are made available.

- d. Nazariya, an organisation with a specific focus on issues affecting lesbian women, bisexual women and trans people assigned female at birth, has been organising weekly sessions on the video-conferencing app Zoom to compensate for the impossibility of in-person discussions.