

# Dwilani Irrynta

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# International Human Rights Protection: The Impact of COVID-19 Pandemic on Domestic Violence in Asia

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## Abstract

The Corona Virus Disease 2019 (COVID-19) outbreak has impacted practically every aspect of life worldwide, particularly in Asia. Governments from various States work hard in preventing and mitigating the spread by instituting a variety of measures such as social distancing and lockdown. While those measures have been effective in containing the spread, there are other negative consequences, including the risks associated with domestic violence in the family home, whether physical, psychological, verbal, sexual, or economic violence. Subsequently, there has been a significant increase in online searches for help from intimate partner violence, according to the United Nations Population Fund (UNFPA). Moreover, the UN Women also reported that essential services, such as shelters and helplines, have exceeded the capacity. By using a normative legal research methodology which sources are obtained from secondary data, the finding shows that the existed regulations, either national or international, are not sufficient in preventing the violence or protecting the victims. Thus, the attention of both the Governments and the international community is urgently needed in overcoming such issues.

## I. Introduction

In late 2019, COVID-19 (Coronavirus Disease 2019), a virus that infects human respiratory organs (Wicaksono & Lestari, 2020), was discovered in Wuhan, China. The virus then quickly infected various parts of Asia in early 2020, which then the outbreak spread to various States around the world, infecting millions of people and killing hundreds of thousands. Subsequently, the World Health Organization (WHO) elevated the significance of the outbreak by declaring it as a global pandemic which consequently caused substantial disruptions to the order of life. Following that, numerous States imposed health emergencies due to public health risks. In order to prevent the spread, several policies such as physical distancing, social isolation, quarantine, and lockdown were implemented with the extent and degree of such policies varying from one State and another.

As a global pandemic that posed a tremendous threat to the world, the COVID-19 was challenged not only by health organizations and social scientists but also by a wide range of parties, including government officials, scholars, as well as businessmen.

In addition to the health sector, which was severely impacted by the COVID-19 pandemic, the economic sector, which is regarded vital in the organization of the life of the State, was also impacted. While the pandemic continued to harm public health, it also caused a global economic recession (Cannon et al., 2021). People are required to work from home, causing the economy to stall. As a result, a large number of local firms collapsed and went out of business. Aside from that, massive layoffs by companies also affected numerous daily workers. People have lost their jobs and livelihoods as a result of such conditions, although the necessities of life must continue to be met in order to survive.

Furthermore, people spent an increasing number of hours at home with their families due to mobility restrictions as well as assembly bans during the COVID-19 pandemic. It can be said that people were confronted for the first time with constraints on a large number of guaranteed human rights and freedoms, with none of a single State in the world being exempt from them (Čović, 2020). Despite the fact the physical health of the public is at risk during the pandemic, people who were overnight forced to accept a significant shift in their way of life overnight, along with uncertainty and a sense of helplessness (Čović, 2020), also need to be concerned since their mental health is also at risk. As a very complex, global, and massive issue, the COVID-19 pandemic simultaneously puts people live under social and mental pressure, including depression and anxiety.

Accordingly, there has been a significant increase in regard to cases related to domestic violence, with the United Nations Population Fund (UNFPA) estimating a 20% increase in intimate partner violence (IPV) worldwide (Williams & Bailey, 2021) due to mobility restrictions including quarantines and lockdowns. Domestic violence thrives under the optimal conditions established on public health policies that appeared to be effective in preventing the spread of the virus. Moreover, the victims of such violence are technically forced to spend time alone at home with their abusive partners (World Health Organization, 2020). As a result, women are increasingly exposed to violence as they bear a greater burden by caring for the household, escorting children to study, and helping to make a wage to satisfy the family's economic demands. Moreover, the patriarchal culture, which has grown embedded in the numerous Asian States, makes the situation even worse.

The article is written to provide information regarding the increase of domestic violence cases during the COVID-19 pandemic in Asia, in which the majority of the victims are women, based on contextual and legal analysis conducted on the basis of credible facts. Such an issue is hoped to become a topic of worldwide conversation, raising public awareness of the significance of legal protection and aid for victims and/or survivors of such violence. Both domestic and international society is urged to promote awareness about the importance of overcoming the adversity of domestic violence, especially when women become the victims.

## II. Research Methods

The type of research was normative or doctrinal legal research (Christiani, 2016). In order to identify legal principles, norms, and doctrines, the authors combined two approaches, the statute approach and the case approach. The former was carried out by identifying some relevant regulations, and the latter was carried out by analyzing cases related to such issues. Secondary data was used for the research, and it consisted of

primary legal materials, i.e., actual law sources such as Conventions, legislation, or other legal documents and secondary legal materials (Barus, 2013) consisted of journals, books, news, internet sites, and other related documents. Through library research, the data was collected by reading, analyzing, and assessing related documents (Berring, 1987) in order to derive a conclusion from the collected information.

### III. Result and Discussion

#### A. International Human Rights Law Perspective on Domestic Violence

In general, human rights are typically conceptualized to apply primarily to the public sphere. The structure and substance of various international human rights norms overwhelmingly favor men (Bhandari, 2019). It is due to the fact the public-private division continues to retain legal privileges based on gender, causing women to be identified as the primary dependents of men. Accordingly, such understanding limits women's claims over socio-economic rights (Ashraf et al., 2017). Moreover, what occurs in the private sphere appears to be overlooked as the human rights regime focuses more on the public sphere. In fact, that is where women's human rights violations frequently occur. As a result, the majority of feminist criticisms reject such human rights narratives that define civil and political rights in terms of the public life of a person while ignoring violations of such rights in the private sphere of a family relationship.

Despite the fact women have historically been victims of rape, wife abuse, and other forms of violence, it was in the mid-1970s that activists began adopting the term "violence against women" (VAW) (Mehta & Tiwari, 2021) in international discussions. The World Conference of the International Women held in 1975 was the first in a series of global Women's Conferences (Corredor, 2019) which recognized and alluded to several situations in relation to eliminating discrimination of gender, extending women integration and participation in development, and increasing women contribution in strengthening world peace. Through the Conference, States were also encouraged to establish appropriate regulations to protect women from various types of violence. However, it did not devote much attention to the issues of VAW, nor did it adopt any resolution on the subject.

In 1980, the second Women's Conference, namely the World Conference of the UN Decade for Women: Equality, Development, and Peace, was held in Copenhagen (Britannica, 2018). The Conference highlighted numerous issues in regard to VAW by passing resolutions on abused women and family violence which then addressed domestic violence in its final report. Nonetheless, such resolutions had only minor effects in terms of elevating domestic violence from a private affair to a problem demanding continuous and prioritized international attention.

Afterward, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which was stipulated by the UN General Assembly, entered into force as an international treaty in 1981 (Nasrin, 2019). The Convention, unsurprisingly, reflected the systematic pattern of the public-private dichotomy as an integral part of human rights

narratives (Qureshi, 2020). The CEDAW addressed gender discrimination in a variety of areas along with the measures to eliminate it. Even so, the Convention initially did not take into account the private sphere since its main focus was on the issues of discrimination that arose in the public sphere of women's lives. In reality, however, the division between the rights to economic security and the rights to personal liberty is very important for women. Moreover, economic issues frequently are inextricably associated with violence, especially for women who have abusive male partners. As a result, addressing the issues of domestic violence need to be emphasized under the concept of substantive gender equality, which implies considering women's situation in the private sphere.

The CEDAW has a dynamic aspect in this regard (Qureshi, 2020), with the capacity to adjust constructively, embrace developments, and integrate new approaches to international human rights law. Furthermore, information acquired from States parties is developed and modified to reflect new insights and trends. The Committee, for instance, adopted General Recommendation 19 to address the issue of domestic violence. Besides that, the adoption of the Declaration on the Elimination of Violence against Women (DEVAW) 1993 also generated a coherent image that identified VAW as a violation of human rights and significantly increased the focus of the private sphere at the international level. Such developments imply that, in terms of human rights, the subject of VAW and domestic violence has been elevated from a subsidiary sphere and placed on the mainstream agenda.

International Human Rights Law (IHRL), as derived from declarations, treaties, and customary international law, essentially imposes on States the obligation to include norms of protection in regard to VAW and domestic violence within their legal frameworks. IHRL sets out responsibilities for States on the issues related to at least four fundamental keys of human rights, namely the right to life, the prohibition on inhuman and degrading treatment, the prohibition on discrimination, and the right to health (Bradley, 2018). Human rights bodies, including the Human Rights Council and the Office of the UN High Commissioner for Human Rights (OHCHR), have issued jurisprudence on how these rights interconnect with the obligation of a State to protect women from their abusers, as well as the conditions in which the State in question may be held liable for violating these rights.

Article 3 of the Universal Declaration of Human Rights (UDHR) and Article 6 of the International Covenant on Civil and Political Rights (ICCPR) both provide the right to life (Bradley, 2018). Despite the fact the right to livelihood enshrined in such instruments is not guaranteed as an absolute right (Sopacua & Sakharina, 2018), the necessity for a fair standard of living for women stimulates the need for legal protection in the economic, social, and cultural sectors. While the principles of the right to livelihood have no binding character amid the international community in general, adequate attention to the fulfillment of rights in such sectors is something that cannot be disregarded under the framework of human rights law. For instance, a State is deemed to violate the right to life when its authorities are put on



notice that the life of a person who is a victim of domestic violence is threatened and yet still fails to take appropriate means to protect her.

Furthermore, a State may also violate the IHRL norm, i.e., the prohibition of inhuman and degrading treatment, when the State in question has acknowledged domestic violence but fails to take the necessary means to protect the victims. One of the international legal instruments which regulate this matter is Article 5 of the UDHR. In essence, IHRL prohibits anyone from prosecuting or persecuting women. The aim is that there may be no women anywhere, especially in the household, who are harassed, abused, or subjected to any treatment which degrades them.

A State may also consider having violated the IHRL norm when it does not give any response to the complaints regarding domestic violence, such as the police who do not respond to the complaints of the victims. Consequently, the State in question fails to provide adequate protection for the victims. In fact, victims of domestic violence often face discrimination, although there are already numerous human rights instruments that prohibit discrimination. Both Article 7 of the UDHR and Article 26 of the ICCPR have regulated that all individuals are equal before the law, and there shall be any form of discrimination. The CEDAW also codifies the prohibition on discrimination against women in a number of respects. The Convention obliges any State to adopt appropriate legislation, sanctions, and measures that need to be taken in regard to all discrimination against women.

A State may also consider having violated the IHRL norm when it does not give any response to the complaints regarding domestic violence, such as the police who do not respond to the complaints of the victims. As a result, the State in question is unable to adequately protect the victims. In fact, victims of domestic violence often face discrimination (Wilcox et al., 2021), although there are already numerous human rights instruments that prohibit discrimination. Both Article 7 of the UDHR and Article 26 of the ICCPR have regulated that all individuals are equal before the law, and there shall be any form of discrimination. Moreover, the CEDAW emphasizes the prohibition on discrimination against women in a variety of different means. The Convention requires every State to enact appropriate legislation, sanctions, and measures that need to be taken in regard to all forms of discrimination against women.

In addition, a State may also deem to violate the international obligation when it lacks providing adequate health needs for the victims of domestic violence. In other words, the State in question is failed to ensure the right to health. It is due to the fact such right has been embodied under Article 25 of the UDHR, which enshrined everyone has the right to an adequate standard of living for the health and wellbeing of themselves and their family. Subsequently, Article 12 of the ICESCR guaranteed that any person has the right to the enjoyment of the highest attainable standard of physical and mental health. Moreover, Article 12 of the CEDAW obliges all State parties to eliminate all forms of discrimination related to the issues of health care towards women.

## B. Domestic Violence during the Pandemic in Asia

It can be said that the COVID-19 pandemic is a worldwide disaster that has similarities with various types of disasters caused by nature or technological hazards. Recent research on the current pandemic, which is similar to other global disasters, indicates a significant occurrence of mental health disorders among the general population as a result of the COVID-19 pandemic, including fear of being infected along with stress due to social isolation and economic instability. As various States around the world, including the Asian States, follow the recommendations of the WHO, i.e., social distancing and quarantine as key strategies (Park et al., 2020) for reducing exponential growth and overburdened health services, the pandemic caused psychological rest and mental disaster.

According to recent research, however, there are numerous indications that differ COVID-19 from other disasters (Ferreira et al., 2020). The main point is that persons who are more reliant on family, neighbors, and others have lesser resilience than those who are less reliant. In other words, the pandemic raises the risk of more frequent and severe abuse in families who were already suffering from domestic violence prior to COVID-19. The "stay at home" motto (Čović, 2020) has had worsened situations experienced by the victims who already live with a person who abuses or dominates them. With the enforcement of restrictive measures by States, it can be foreseen that the perpetrators then misuse the control, monitoring, and coercive tactics over the victims.

Based on the data obtained by the WHO, women who live in low- and lower-middle-income States experience more abuse in domestic violence, including physical and sexual IPV. Southern Asia has the highest prevalence rates ranging from 33% - 51% following by South-Eastern Asia (21%), Eastern Asia (20%), and Central Asia (18%) (World Health Organization, 2021). Meanwhile, in Indonesia, 80% of 2,285 female respondents whose income is below IDR 5,000,000 per month experience the increase of domestic violence during the Pandemic (Mulyana et al., 2021). Accordingly, concerns on the issue of domestic violence have gotten worse due to an increase in the number unemployment and financial stress.

The WHO then raised more concern over the pandemic on the issues related to mental health and psycho-social implications. The organization emphasizes that restriction policies, including isolation and quarantine, have had changes in people's activities, routines, even lifespan. The rise of loneliness, stress, insomnia, depression, alcohol or drug consumption, self-harm, suicide conduct, and, of course, increased domestic violence arise as the consequence of such changes. On such grounds, experts define this situation as an invisible pandemic and a "ticking time bomb" during the COVID-19 pandemic (Mulyana et al., 2021). It is due to the fact millions of women have been victims of sexual and physical violence perpetrated by intimate partners during the Pandemic (UN Women, 2021).

Furthermore, the fact that a lot of Asian States, including China, Indonesia, and Pakistan, follow patriarchal culture embedded in gender

inequality (Rauhaus et al., 2020) is definitely worsened this invisible pandemic. Because domestic violence is frequently perpetrated by men, there are some thoughts that patriarchal masculinities are interconnected with such violence since it can be a means to show that men have the power and control over women. Amid the crisis of the COVID-19 pandemic, men in the patriarchal family tend to increase their acts of abuse in order to express and reassert their power. Since patriarchal culture believes that women should always obey their husbands, the victims tend to not fight back nor try to seek help from others. In consequence, the number of unreported cases concerning domestic violence keeps increasing, and the perpetrators continue to abuse the victims.

Based on such grounds, domestic violence cases increased three times in February 2020 compared to the previous year, according to a police department in Hubei, China, with 90 percent of the cases are interconnected with the COVID-19 pandemic (Čović, 2020). From October 2019 to September 2020, Malaysia had the highest increase (90%) in Asia. Then followed by Nepal (47%), Thailand (29%), and Singapore (29%) (Dahal et al., 2020). Meanwhile, in India, 94 respondents, of whom 58.5 % were women, were conducted an online survey which shows that 7.4 % had issued reports on domestic violence during the lockdown (Indu et al., 2021).

As the number of domestic violence cases rises, divorce cases are also increased since both of them are interrelated. For instance, the statistical data in China indicates there is a rise in the number of divorces as a result of the negative impact of the pandemic on husband-wife relationships during the lockdown (Sudirman et al., 2021). A similar increase can also be seen in the various Asian States. As shown in a news report, the number of divorce requests in Saudi Arabia has increased by 30% (Tripathi, 2021). In addition, due to the prolonged quarantine, a trend known as "corona divorce" emerged on social media among married couples who stuck up with each other in Japan. Meanwhile, in Indonesia, more than 645.824 divorce cases (Sudirman et al., 2021) have been filled to religious affairs during the pandemic. The main factor is the abandonment of the wife by the husband due to economic problems and frequent quarrels, which result in domestic violence, either in the form of verbal or physical.

The vulnerability of women during the COVID-19-induced lockdown becomes an even more critical phenomenon to depict in light of the consequences. The adversity to the COVID-19 scenario is that the victims have nowhere to go to get away from the abuse. Although they can contact a hotline or get psychological treatment over the phone, police are highly advised not to make arrests for anything other than felonies (Cannon et al., 2021). Moreover, many domestic violence shelters are either closed or understaffed. Therefore, States around the world, especially Asia, need to take certain measures in an effort to overcome this problem.

### **C. Whether the Actions Taken to Protect Victims' Rights are Sufficient**

In the recent period, the COVID-19 pandemic, which began in December 2019 and continues to present, has evolved into a multifaceted



global crisis. Problems that were initially solely included in the health sector then spread gradually to other sectors such as business, education, politics, and even human rights. As a result, various factors subsequently drive domestic violence to rise up due to the imposition of preventative confinement measures. As mentioned earlier, the violence has occurred as the period of remaining at home increases owing to lockdowns and quarantines imposed by governments to mitigate and prevent the spread of the virus.

Since the outbreak of COVID-19, the UN Women has encouraged governments and the international community to emphasize and enforce regulations on domestic violence along with adapting services needed by the victims and expanding numerous measures to raise public awareness over such violence. The UN Secretary-General encouraged all governments to make VAW prevention and redress a priority in their COVID-19 national response plans in April 2020 (Marina & Olga, 2021). In addition, the Secretary-General has also initiated a Gender-Based Violence (GBV) political engagement strategy to urge governments to prioritize and increase funding for essential services for women's organizations, to prevent such violence through national zero-tolerance policies and social mobilization campaigns, to adapt services to the COVID-19 context, and to collect data for the improvement of GBV-related services and programs.

Subsequently, various Governments responded by establishing hotlines and other remote services. For example, the Indonesian Ministry of Women Empowerment and Child Protection established a call center (Muhafidin, 2021) for women and children known as 'Sahabat Perempuan dan Anak' 129 to receive complaints from those who had been victims of abuse. The Ministry also established a psychological service entitled '*Layanan Psikologi Sehat Jiwa*,' which may be reached via hotline 119 to assist family members whose mental health is affected by the impact of the pandemic. Besides that, the majority of Arab States use similar measures. A hotline focusing on sexual and reproductive health services was established jointly with UN agencies and the Ministry of Health in Oman (El Bizri et al., 2021). Women may seek psychological help through the hotline at the same time. Meanwhile, India has developed an application called 'Stand Up Against Violence,' which has contact information for government and non-government agencies, service providers, and activists (Pitre & Lingam, 2021) who may help women who have been victims of domestic violence.

On the other hand, such services cannot be considered "essential" in addressing adequate measures over the surge in domestic violence during the pandemic. Despite the fact such services were intended and adjusted to the present condition where there is a mobility restriction, they bring other issues. One of the most significant obstacles is that many women still lack access to mobile phones, the internet, or other digital devices to access offered services, particularly in rural areas. They may be unable to afford an internet connection or are unaware of how to use the services in certain circumstances. Moreover, many providers are having difficulty since they are untrained to deliver such services.

While remote services have alleviated several of the challenges caused by lockdown, physical distancing, and other restrictions, Governments still must carry out more actions to counter domestic violence and guarantee those services related to such violence are easily accessible. Services in various sectors, including social, health, and justice, must be more strongly developed and institutionalized. The Governments are also responsible for ensuring the continuance of such support services. Given that one of the consequences of the COVID-19 pandemic is mental health concerns, it is also necessary to recognize the potential to increase understanding of how to provide first psychological aid and mental health protection.

The other reasons for the continued occurrence of domestic violence are the lack of involvement and the small number of Non-Governmental Organizations (NGOs) dealing with such issues. Governments must realize that the strength and power that they have are limited. Therefore, public participation is essentially necessary. By cooperating and collaborating with NGOs or other institutions, Government will be able to create complementary social networks in order to provide and improve services needed by the victims. In addition, adopting and enforcing protocols and regulations related to domestic violence as well as the means to assist and help victims to reach the services they need are also critical measures to be taken. For instance, reaching out to the victims personally and accompanying them to the police station and/or court to ensure their safety while adhering to the regulations and mobility restrictions applied during the pandemic.

#### **IV. Conclusion**

The COVID-19 pandemic is a worldwide issue affecting all States. Aside from the health sector, which has been emphasized and is of particular importance to everyone, there is another issue that we must all consider, namely domestic violence. Due to limited mobility caused by physical separation, quarantine, and lockdown, which are imposed as mandatory for everyone in order to prevent the spread of the virus, along with the patriarchal culture that is rooted in Asian society, the victims of domestic violence, particularly those who live and isolate with the perpetrators, have a major challenge because it is even more difficult to call out for help if compared with the situation prior to COVID-19. As a result, not only Governments but also NGOs, the private sectors, and individuals must take work hand in hand to solve these issues.

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