



Examining gender-based domestic violence against women and the impact of COVID-19

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Author(s)	Geoghegan, Bridget
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Bridget Geoghegan

Introduction:

The term ‘shadow pandemic’, used to describe the increase of violence towards women, especially domestic violence during the COVID-19 pandemic (the pandemic), has entered the global vernacular in the past year. Yet, the pandemic did not cause domestic violence but rather served as a magnifying glass to expose the pre-existing systemic, and often overlooked, issue of domestic violence against women. This essay seeks to provide a deeper understanding of the nature of domestic violence and demonstrate how COVID-19, which blurred the lines between the public/private divide, exposed the prevalence of domestic violence in a way that cannot be ignored.

Part one of this essay provides an examination of the nature of gender-based domestic violence against women, from its near acceptance within global society to explanatory factors, each through the lens of the public/private divide. Part two explores the delay to recognition of domestic violence as an international human rights violation, in addition to outlining key instruments that exist today at both an international and regional level. Finally, part three looks to the impact of COVID-19 on domestic violence, in particular within the United Kingdom (UK), to illustrate how the global pandemic has aggravated a pre-existing societal issue of domestic violence and exposed the fragility of the systems in place to protect women who are victims of such abuse.

Understanding Domestic Violence:

[A] What is Gender-based Domestic Violence Against Women?

Domestic violence, also referred to as ‘intimate partner violence’ or ‘domestic abuse,’ can be defined as:

the wilful intimidation, physical assault, battery, sexual assault, and/or other abusive behaviour as part of a systematic pattern of power and control perpetrated by one

intimate partner against another. It includes physical violence, sexual violence, threats, economic, and emotional/psychological abuse.¹

Domestic violence is a gendered act, with the Office for National Statistics in the UK reporting that in 2018, 75 per cent of victims in domestic abuse related prosecutions were female.² The plight of domestic violence against women percolated through public consciousness during what became known as the ‘battered women’s movement’, which was a ‘highly charged and nationally visible political movement’³ in both England and the United States during the 1970s and 1980s. In 1982, Kathleen Tierney noted the impact of the movement, stating that the ‘plight of beaten women, once socially invisible, is now the subject of public discussion’.⁴ The movement marked the first time women who were victims of abuse were recognised as needing special protection and services, with laws being passed and funds being made available in ‘explicit efforts to aid battered women’.⁵ As will be discussed in this essay, however, the reality is that domestic violence remains widespread and prevalent across societies today.

While women can be the perpetrators of domestic violence, it is important to recognise such violence as more of an individual and situational anomaly, whereas violence against women is a widespread and structural issue in which women are disproportionately affected, both in terms of the number of women affected and also the impacts that violence has on women. Gender based violence, which is rooted in prescribed behaviours, norms and attitudes based upon gender attempts to establish or enforce gender hierarchies and perpetuate gender inequalities, is defined by the Committee on Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee) as:

¹ The National Domestic Violence Hotline, ‘Domestic Violence’ (2020) 1
<https://assets.speakcdn.com/assets/2497/domestic_violence-2020080709350855.pdf?1596828650457> accessed 14 May 2021.

² Office for National Statistics, ‘Domestic Abuse and the Criminal Justice System, England and Wales: November 2019’ (2019) 23
<<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabuseandthecriminaljusticesystemenglandandwales/november2019#prosecution-and-conviction-outcomes>>.

³ Gretchen Arnold and Jami Ake, ‘Reframing the Narrative of the Battered Women’s Movement’ (2013) 19 Violence Against Women 557, 557.

⁴ Kathleen J Tierney, ‘The Battered Women Movement and the Creation of the Wife Beating Problem’ (1982) 29 Social Problems 207, 215.

⁵ *ibid.*

[...] violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.⁶

It was later affirmed by the Committee that gender-based violence against women is a ‘social rather than an individual problem’,⁷ and a ‘means by which the subordinate position of women with respect to men and their stereotyped roles are perpetuated.’⁸ For the purposes of this essay, the term domestic violence will be understood and referred to as a form of gender-based violence against women, given its highly gendered nature.

[B] Prevalence in Society:

In 1969, Johan Galtung remarked that ‘when one husband beats his wife, there is a clear case of personal violence, but when one million husbands keep one million wives in ignorance, there is structural violence’.⁹ This statement, unfortunately, remains as true today as it was 50 years ago. A review into the global prevalence of violence against women conducted between 2000 and 2018 found that 1 in 3 women, around 736 million, are subjected to physical or sexual violence by an intimate partner, a non-partner, or both, at least once in their lifetime.¹⁰ It was also found that approximately 641 million women have been subjected to intimate partner violence at least once.¹¹ In considering these figures, it is necessary to mention that the true figures are potentially far higher, as victims of domestic violence, often an unseen crime, may fear stigma, shame and repercussion, resulting in these crimes being continually under-reported. Furthermore, a report by the United Nations (UN) Office on Drugs and Crime found that of the 87,000 women that were intentionally killed in 2017, 58 per cent of those women were killed by an intimate partner or a family member. In other words, 137 women across the world were killed by a family member or intimate partner every day in 2017.¹²

⁶ UN Committee on the Elimination of Discrimination against Women [CEDAW Committee], ‘General recommendation No. 19: Violence against women’ (1992) para 6.

⁷ CEDAW Committee, ‘General Recommendation No. 35 on gender-based violence against women, updating General Recommendation No. 19’ (26 July 2017) UN Doc CEDAW/C/GC/35, para 9.

⁸ *ibid.*, para 10.

⁹ Johan Galtung, ‘Violence, Peace, and Peace Research’ (1969) 6 *Journal of Peace Research* 167, 171.

¹⁰ World Health Organisation on behalf of the Inter-Agency Working Group in Violence Against Women Estimation and Data (VAW-IAWGED), ‘Violence Against Women Prevalence Estimates, 2018’ (2021) xvi, available to download at <<https://www.who.int/publications/i/item/9789240026681>> accessed 12 May 2021.

¹¹ *ibid.*, xi.

¹² United Nations Office on Drugs and Crime, ‘Global Study on Homicide: Gender-Related Killing of Women and Girls.’ (2019) 10 <https://www.unodc.org/documents/data-and-analysis/GSH2018/GSH18_Gender-related_killing_of_women_and_girls.pdf> accessed 12 May 2021.

[C] Factors Contributing to Domestic Violence Against Women:

These findings alongside further qualitative and quantitative research into this area demonstrate that this is a global, systemic issue with an imperative ‘need to address the economic and sociocultural factors that foster a culture of violence against women.’¹³ Domestic violence is deeply rooted in cultural understandings of gender and power. Furthermore, these acts of violence are structural in nature whereby it ‘impacts the everyday lives of people yet remains invisible and normalised’.¹⁴ Sara Crawley argues that ‘battering is the reflection of the inequality between women and men and is a conscious strategy used by men to control women and to maintain the system of gender inequality.’¹⁵ Furthermore, David Sugarman and Susan Frankel note that the consensus among varying feminist perspectives is ‘that patriarchy, as a system of social organization, and its concomitant ideology perpetuate male violence against women.’¹⁶

While it is ultimately a personal decision to inflict violence on another and caution should be given not to undermine individual autonomy and culpability, there are also macro system-level forces at play. It is recognised that ‘cultural mores, religious practices, economic and political conditions may set the precedence for initiating and perpetuating domestic violence’.¹⁷ These sociological factors reinforce gender inequality including harmful gender norms and roles, and damaging stereotypes such as ‘conceptions of male authority and female submission’,¹⁸ in which women are perceived to be weak, vulnerable and submissive, whereas men are perceived as strong, assertive and violent. It is viewed that ‘when men abuse women in intimate relationships, they use the violence to define their own gendered identities.’¹⁹ Furthermore, research has noted ‘the relationship of intimate partner violence to traditional gender attitudes

¹³ World Health Organization, *Global and Regional Estimates of Violence against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence* (World Health Organization 2013) 3 <<https://apps.who.int/iris/handle/10665/85239>> accessed 12 May 2021.

¹⁴ Sally Engle Merry, *Gender Violence: A Cultural Perspective*, vol 3 (1st edn, Chichester, West Sussex, England: John Wiley & Sons Ltd 2009) 15.

¹⁵ Sara L Crawley, *Gendering Bodies* (Lanham: Rowman & Littlefield Publishers 2008) 154.

¹⁶ David B Sugarman and Susan L Frankel, ‘Patriarchal Ideology and Wife-Assault: A Meta-Analytic Review’ (1996) 11 *Journal of Family Violence* 13, 14.

¹⁷ Ravneet Kaur and Suneela Garg, ‘Addressing Domestic Violence against Women: An Unfinished Agenda’ (2008) 33 *Indian journal of Community Medicine: Official Publication of Indian Association of Preventive & Social Medicine* 73, 74.

¹⁸ Merry (n 14) 11.

¹⁹ *ibid.*, 13.

and misogyny’.²⁰ Previous research has also noted the connection between domestic violence and an adherence to an ideology of familial patriarchy.²¹

[D] Impact of the Public/Private Dichotomy on Domestic Violence:

To fully comprehend the nature of domestic violence against women, it is important to recognise and understand the dichotomy that exists in societal and legal systems, which is the ‘the binary construct of the public as opposed to the private’.²² In application, this presents as the public realm which includes government, economics and the workplace which are subject to state interference whereas as family life and home, ‘delineated as the quintessentially private realm, is void of such intrusion’.²³ Upon deeper examination, one finds this often subliminal and supposedly neutral dichotomy is blatantly highly gendered in nature. One feminist explanation for this is that in the western liberal tradition, areas within the public sphere were ‘regarded as the natural province of men; while the private world of the home, the hearth and children is seen as the appropriate domain of women,’²⁴ with the male public realm accorded greater importance and power. Charlotte Bunch argues that violence against women is not only personal or cultural but ‘is central to maintaining those political relations at home, at work, and in all public spheres.’²⁵ Charlesworth and others discuss that ‘a universal pattern of identifying women's activities as private, and thus of lesser value, can be detected’.²⁶ As such, many women remain confined and marginalised to the private sphere in society, an assignment which makes women’s concerns invisible and ‘entrenches their inequality with men’.²⁷

This divide of the public and private spheres is inextricably linked to why violence against women in the home often remains in the ‘realm of private terror enshrined in familial structures

²⁰ Michael P Johnson, ‘Domestic Violence: It’s Not About Gender-Or Is It?’ (2005) 67(5) *Journal of Marriage and Family* 1126, 1128.

²¹ Michael D Smith, ‘Patriarchal Ideology and Wife Beating: A Test of a Feminist Hypothesis’ (1990) 5(4) *Violence and Victims* 257, 268.

²² Catherine Moore, ‘Women and Domestic Violence: The Public/Private Dichotomy in International Law’ (2003) 7 *The International Journal of Human Rights* 93, 93.

²³ *ibid.*

²⁴ Hilary Charlesworth, Christine Chinkin and Shelley Wright, ‘Feminist Approaches to International Law’ (1991) 85(4) *The American Journal of International Law* 613, 626.

²⁵ Charlotte Bunch, ‘Women’s Rights as Human Rights: Toward a Re-Vision of Human Rights’ (1990) 12 *Human Rights Quarterly* 486, 491.

²⁶ Charlesworth, Chinkin and Wright (n 24) 626.

²⁷ Hilary Charlesworth, ‘The Public/Private Distinction and the Right to Development in International Law’ (1988-1989) 12 *Australian Year Book of International Law* 190, 192.

and cultural customs’,²⁸ and was historically considered to be of lesser significance than other forms of violence occurring in the public sphere. Catherine Moore argues that:

the established application of the public/private dichotomy inadequately addresses the needs of female victims of domestic violence as it implicitly condones a lack of state regulation of the private sphere within which this form of violence occurs.²⁹

It is further asserted that, ‘a direct and enduring consequent of the public/private dichotomy’³⁰ is state failure to recognise these acts of violence as criminal, to engage in preventative and remedial action, and hold perpetrators to account in a manner similar to if these acts were committed in the public sphere.

Domestic Violence as an International Human Rights Issue:

[A] Delay to Recognition at the International Level:

The right to be free from violence is considered to be ‘one of the cornerstones of international human rights law’,³¹ yet until relatively recently, gender violence, which includes domestic violence, was not regarded as a human rights violation. Indeed, for far too long the ‘UN remained blind to the human rights dimension of violence against women in its many forms.’³² This lack of recognition at an international level can too be connected back to the public/private divide. Nadine Taub and Elizabeth Schneider have asserted that, ‘law’s absence devalues women and their functions: women are simply not important enough to merit legal regulation’,³³ with international law reproducing the public/private dichotomy that is seen at a domestic level. In the international context, this manifested as international law operating only within relations between states. While there is the internationally recognised right to freedom from torture and other forms of cruel, inhuman or degrading treatment, such acts must have been perpetrated in the public realm, for example by a public official. Therefore, following this rationale, domestic violence against women was seen as a private issue and not of concern at

²⁸ Taskforce on Feminism, Diversity and Disabilities, ‘Domestic Violence, the Silent Threat for Women during COVID-19’ (*DiEM25*, 8 December 2020) <<https://diem25.org/domestic-violence-the-silent-threat-for-women-during-covid-19/>> accessed 12 May 2021.

²⁹ Moore (n 22) 121.

³⁰ *ibid.*, 95.

³¹ Ekaterina Yahyaoui Krivenko, *Gender and Human Rights: Expanding Concepts* (Edward Elgar Publishing Limited 2020) 88.

³² *ibid.*, 89.

³³ Nadine Taub and Elizabeth M Schneider, ‘Perspectives on Women’s Subordination and the Role of Law’ in David Kairys, *The Politics of Law: A Progressive Critique* (Pantheon Books 1982) 122.

the international level ‘despite its impact on the inherent dignity of the human person’.³⁴ It is considered that this ‘privileges the male world view and supports male dominance in the international legal order.’³⁵ Regarding the impact of the public/private divide at an international level, Dorothy Thomas and Michele Beasley remarked that, ‘nowhere is the effect on international human rights practice of the public/private split more evident than in the case of domestic violence.’³⁶

Despite feminist groups advocating that violence against women was one of the key issues to be addressed at the UN World Conference on Women of 1975, violence against women or domestic violence was not expressly referred to at the conference, demonstrating that at the time, these issues were not considered a priority at the international human rights level. CEDAW entered into force in 1981 during the UN Decade for Women, 1975-1985, and is the first international treaty dedicated to achieving women’s equality. The convention is fundamentally a non-discrimination treaty which is focused on the achievement of women’s equality. It is also the treaty with the most reservations from states. The treaty, however, contains no specific reference to violence against women or domestic violence. This omission has been described as ‘unacceptable in the light of everyday instances of violence against women in every region of the world.’³⁷ The treaty was, however, drafted at a time when domestic violence was just beginning to be viewed as a matter of domestic law which may explain this omission. Despite this, later interpretations of the convention by the UN and treaty body prohibit violence against women as a form of discrimination. Thus human rights have entered the private sphere with regards to domestic violence.

[B] International Instruments:

In 1989, in General recommendation No. 12 on violence against women, the CEDAW Committee confirmed, in considering articles 2, 5, 11, 12 and 16 of the convention, that state parties are to protect women against violence, including ‘abuses in the family’.³⁸ This marked a significant shift towards recognising state responsibility in relation to violence against women, including domestic violence, as an international human rights concern. General

³⁴ Charlesworth, Chinkin and Wright (n 24) 629.

³⁵ *ibid.*, 627.

³⁶ Dorothy Q Thomas and Michele E Beasley, ‘Domestic Violence as a Human Rights Issue’ (1993) 15 *Human Rights Quarterly* 36, 40.

³⁷ Javaid Rehman, *International Human Rights Law* (2nd edn, Harlow, England 2010) 551.

³⁸ CEDAW Committee, ‘General Recommendation No. 12: Violence against women’ (1989) para 5.

Recommendation No. 19 notes that ‘family violence is one of the most insidious forms of violence against women’.³⁹ The committee makes several recommendations to States in relation to domestic violence, notably that, ‘states parties should report on the extent of domestic violence [...] and on the preventative, punitive and remedial measures that have been taken’.⁴⁰ General recommendation No. 35, which updates and compliments General Recommendation No. 19, noted that ‘the *opinio juris* and state practice suggest that the prohibition of gender-based violence against women has evolved into a principle of customary international law.’⁴¹ The Committee also noted the harm of ‘laws allowing for dual arrests in cases of domestic violence or for the prosecution of women when the perpetrator is acquitted’.⁴² The UN has since made several declarations and implemented various measures towards achieving the elimination of violence against women, including resolution 48/104,⁴³ the creation of the role of Special Rapporteur on violence against women, and the establishment of the Spotlight Initiative, a partnership with the European Union to eliminate all forms of violence against women and girls by 2030, in line with the sustainable development goals.

[C] Regional Instruments:

In examining gender-based domestic violence against women, and in considering the delay to recognition at the international level, it is also worth noting the relevant regional instruments, as regional instruments can be understood as the localisation of international law in a manner that reflects regional values. At a regional level, there are now several conventions, soft law declarations and action plans dedicated to combating violence against women, in which specific reference is made to domestic violence. Regional conventions include: The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará);⁴⁴ the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol);⁴⁵ and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic

³⁹ CEDAW Committee, ‘General recommendation No. 19: Violence against women’ (1992) para 23.

⁴⁰ *ibid.*, para 24(s).

⁴¹ CEDAW Committee, ‘General Recommendation No. 35 on gender-based violence against women, updating General Recommendation No. 19’ (26 July 2017) UN Doc CEDAW/C/GC/35, para 2.

⁴² *ibid.*, para 29(c)(iii).

⁴³ United Nations General Assembly, ‘Declaration on the Elimination of Violence against Women’ (23 February 1994) UN Doc A/RES/48/104.

⁴⁴ Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) (adopted 9 June 1994) Art 2.

⁴⁵ Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Maputo Protocol) (signed 11 July 2003) Art 4(2)(a).

Violence (Istanbul Convention).⁴⁶ Other regional soft-law instruments are the Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in the Association of Southeast Asian Nations;⁴⁷ and the Arab Strategy for Combating Violence against Women.⁴⁸

The Impact of the COVID-19 Pandemic on Domestic Violence

[A] The Shadow Pandemic:

As highlighted in section 1.2 of this essay, the reality is that for many women all over the world, the least safe place for them to be in is their own home. The COVID-19 pandemic magnified the pre-existing plight and pervasiveness of domestic violence against women and the fragility of the services upon which many women depend. In March 2020, the World Health Organisation declared the COVID-19 pandemic as a global crisis.⁴⁹ This resulted in approximately 162 states all over the world enforcing strict lockdown measures where people were advised to stay in their homes due to the importance of minimising human-to-human transmission of the virus.⁵⁰ In April 2020, it was estimated that 2.73 billion women were living in a country under lockdown⁵¹ and so, overnight, many women became trapped at home with their abuser. As Brianna Guidorzi and Ciarán Cannon describe, the ‘very measures meant to protect the vast majority of the population – shelter-in-place and lockdown orders – are the same that endanger women and girls at the hands of perpetrators.’⁵²

From the research that has emerged since the beginning of the pandemic, it is clear that lockdown measures have had a grave impact on domestic violence all over the world. For example, research indicates that in China, the number of weekly calls regarding domestic

⁴⁶ Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Council of Europe).

⁴⁷ Association of Southeast Asian Nations, Declaration on the Elimination of Violence Against Women in the ASEAN Region, para 4.

⁴⁸ Arab Women Organisation, Arab Strategy for Combating Violence Against Women (2011) 2.

⁴⁹ ‘WHO Director-General Calls on G20 to Fight, Unite, and Ignite against COVID-19’ <<https://www.who.int/news/item/26-03-2020-who-s-director-general-calls-on-g20-to-fight-unite-and-ignite-against-covid-19>> accessed 17 May 2021.

⁵⁰ Sasmita Poudel Adhikari and others, ‘Epidemiology, Causes, Clinical Manifestation and Diagnosis, Prevention and Control of Coronavirus Disease (COVID-19) during the Early Outbreak Period: A Scoping Review’ (2020) 9 Infectious Diseases of Poverty 29, 32.

⁵¹ Jeni Klugman and others, ‘Justice for Women Amidst COVID-19’ (UN Women, IDLO, UNDP, UNODC, World Bank and The Pathfinders 2020) 8.

⁵² Brianna Guidorzi and Ciarán Cannon, ‘The “Shadow Pandemic”: Addressing Gender-Based Violence (GBV) During COVID-19’ in Pádraig Carmody and others (eds), *COVID-19 in the Global South* (1st edn, Bristol University Press 2020) 117, 119 <<https://www.jstor.org/stable/j.ctv18gfz7c>> accessed 11 May 2021.

violence rose by 278 per cent during the lockdown.⁵³ In Australia, google searches regarding domestic violence rose 75 per cent in the weeks following the first COVID-19 cases.⁵⁴ In Jordan, research shows that 20.5 per cent of surveyed women reported experiencing increased domestic abuse during the pandemic.⁵⁵ In France, there was a reported 30 per cent increase in domestic violence, and a 36 per cent increase in Paris alone since 17 March 2020.⁵⁶ In the UK, there was a 25 per cent increase in calls to the National Domestic Abuse Helpline during the first week of lockdown. In addition, visits to their website grew by 150 per cent compared to the last week in February.⁵⁷ A survey conducted by Women's Aid in June 2020, found that 61.3 per cent of respondents said that domestic abuse got worse during the lockdown.⁵⁸ Furthermore, in the UK, sixteen women and girls were killed in suspected domestic homicide during the first month of lockdown, which is over triple the number from the same period in 2019.⁵⁹ It was also noted that Black and other minority women were at greater risk of domestic violence during the COVID-19 pandemic.⁶⁰

These are few statistics that demonstrate the global impact that COVID-19 lockdown measures have had on domestic violence in countries with varying societal and cultural norms. It is also worth recalling that the actual impact is likely to be greater due to the frequency of underreporting domestic violence. These figures further illustrate that the likely impact of increased violence against women and those most vulnerable in the home were not sufficiently

⁵³ Mengliang Dai, Yiwei Xia and Rongxu Han, 'The Impact of Lockdown on Police Service Calls During the COVID-19 Pandemic in China' [2021] *Policing: A Journal of Policy and Practice* 12 <<https://doi.org/10.1093/police/paab007>> accessed 17 May 2021.

⁵⁴ Emily Olle, "'They Will Not Get Away with It': Domestic Violence Searches Spike during Virus Outbreak' (7NEWS.com.au, 31 March 2020) <<https://7news.com.au/lifestyle/health-wellbeing/coronavirus-lockdown-results-in-75-per-cent-increase-in-domestic-violence-google-searches-c-901273>> accessed 17 May 2021.

⁵⁵ Iman Aolymat, 'A Cross-Sectional Study of the Impact of COVID-19 on Domestic Violence, Menstruation, Genital Tract Health, and Contraception Use among Women in Jordan' (2021) 104(2) *The American Journal of Tropical Medicine and Hygiene* 519, 519.

⁵⁶ 'Domestic Violence Cases Jump 30per cent during Lockdown in France' (*euronews*, 28 March 2020) <<https://www.euronews.com/2020/03/28/domestic-violence-cases-jump-30-during-lockdown-in-france>> accessed 17 May 2021.

⁵⁷ David Chipakupaku, 'Coronavirus: Calls to National Domestic Abuse Helpline Rise by 25per cent in Lockdown' (*Sky News*, 6 April 2020) <<https://news.sky.com/story/coronavirus-calls-to-national-domestic-abuse-helpline-rise-by-25-in-lockdown-11969184>> accessed 12 May 2021.

⁵⁸ Sarah Davidge, 'A Perfect Storm: The Impact of the Covid-19 Pandemic on Domestic Abuse Survivors and the Services Supporting Them' (Women's Aid 2020) 7 <<https://www.womensaid.org.uk/wp-content/uploads/2020/08/A-Perfect-Storm-August-2020-1.pdf>>.

⁵⁹ Amanda Taub and Jane Bradley, 'As Domestic Abuse Rises, U.K. Failings Leave Victims in Peril' *The New York Times* (2 July 2020) <<https://www.nytimes.com/interactive/2020/07/02/world/europe/uk-coronavirus-domestic-abuse.html>> accessed 11 May 2021.

⁶⁰ Evelina Svensson and Dr Sue Robson, 'The Impact of the COVID-19 Crisis on the UK's Sector for Black and Minoritised Women: A Comparative Analysis Based on Survey Responses and Findings' (Women's Resource Centre 2020) 32 <<https://www.wrc.org.uk/Handlers/Download.ashx?IDMF=5f2bfaa1-b8a7-465f-ac23-41b169d46990>> accessed 20 May 2021.

considered nor were the necessary precautions implemented when states enforced blanket lockdowns upon citizens.

In light of this increase in violence towards women, especially domestic violence, the term ‘shadow pandemic’ has been used to describe this serious issue. During a webinar hosted by the UN Girls’ Education Initiative on ‘Tackling the Shadow Pandemic’, the panel experts frequently noted the inaccuracy of the term shadow pandemic given that this violence does not occur in the shadows, it occurs in plain sight. Panel expert Yvonne Laruni noted that by using the term ‘shadow pandemic’, ‘we water down the impact of the violence’ undermining the fact that it is ‘a full-blown pandemic.’⁶¹ Furthermore, violence against women is not a new outbreak similar to the COVID-19 virus, but has rather been exposed by the government’s response to the virus. It was also suggested that referring to this type of violence as a ‘crisis’ risks adopting a quick fix approach that doesn’t fully recognise how deeply embedded and systemic this issue actually is.

[B] Examining how COVID-19 Impacted Domestic Violence and Domestic Violence Services:

It has been stated that ‘whilst the Covid-19 pandemic did not cause domestic abuse, it created a perfect storm of challenges for survivors and the services supporting them.’⁶² In the UK, for example, the rise of domestic abuse during the pandemic has been described as ‘a decade in the making.’⁶³ This ‘perfect storm’ was a combination of: increased exposure and proximity to abuse; restricted access for victims to support services; and was compounded by the impact that COVID-19 had on domestic abuse services.

Various researchers have hypothesized the causation of the intensified violence against women in the home during lockdown, noting that pandemics and quarantine have been found to have ‘negative psychological effects including post-traumatic stress, stress symptoms, confusion and anger.’⁶⁴ In a study looking at the impact of COVID-19 on women in Jordan, Iman Aolymat considered that increased time at home with partners, partial or total loss of employment and

⁶¹ UN Girls’ Education Initiative, *Tackling the Shadow Pandemic* (2021) <<https://www.youtube.com/watch?v=M6lyfgJGHRw>> accessed 17 May 2021.

⁶² Davidge (n 58) 37.

⁶³ Nandini Archer, ‘The COVID-19 Domestic Violence Crisis in the UK Is a Decade in the Making’ (*Open Democracy*, 5 May 2020) <<https://www.opendemocracy.net/en/5050/covid-19-domestic-violence-crisis-uk-decade-making/>> accessed 11 May 2021.

⁶⁴ Samantha K Brooks and others, ‘The Psychological Impact of Quarantine and How to Reduce It: Rapid Review of the Evidence’ (2020) 395 *The Lancet* 912, 912.

subsequential financial strain along with disruption of healthcare services may have triggered the increase of domestic violence.⁶⁵ Research into domestic violence in India during the pandemic identified alcohol withdrawal and unemployment as sources of motivation for the perpetrator along with shortage of police force and isolation from family or friends who otherwise may have intervened as explanatory factors to the rise of domestic violence.⁶⁶ An Irish report noted that increased relationship conflict due to illness and no child care were also risk factors.⁶⁷ Other exacerbating factors included the difficulty for women to access social services and support during lockdowns.⁶⁸

Pre-COVID-19, research was undertaken into the connection between financial disadvantage and domestic abuse. This found that disadvantaged communities may be more likely to have a higher rate of domestic violence and at an individual level, domestic violence is more common among couples who are ‘economically distressed’.⁶⁹ In light of COVID-19, this finding seems highly plausible given the rise in domestic abuse globally coinciding with the economic strain that the pandemic had on many, especially those in low-paying and typically more precarious jobs. However, when noting explanatory factors, it must be reiterated that the pandemic did not cause domestic violence, domestic violence is ultimately a consequence of women’s inequality and a personal choice by the abuser which ‘cannot be excused by external factors, no matter what those circumstances may be.’⁷⁰

A further impact of the pandemic is that in some countries, funds and other resources have been diverted to tackling the virus, with domestic violence services not being deemed essential. This was further compounded by ‘lost income, staff shortages and additional costs of remote working.’⁷¹ Other impacts included:

⁶⁵ Aolymat (n 55) 523.

⁶⁶ Akshaya Krishnakumar and Shankey Verma, ‘Understanding Domestic Violence in India During COVID-19: A Routine Activity Approach’ (2021) 16 *Asian Journal of Criminology* 19, 25–27.

⁶⁷ Dr Jessica Doyle, ‘L&RS Note: Anticipating the Gendered Impacts of COVID-19’ (Oireachtas Library & Research Service 2020) 8 <https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2020/2020-04-20_l-rs-note-anticipating-the-gendered-impacts-of-covid-19_en.pdf> accessed 18 May 2021.

⁶⁸ Meerambika Mahapatro, Moksh M Prasad and Sudhir Pratap Singh, ‘Role of Social Support in Women Facing Domestic Violence during Lockdown of Covid-19 While Cohabiting with the Abusers: Analysis of Cases Registered with the Family Counseling Centre, Alwar, India’ (2021) *Journal of Family Issues* 1, 2.

⁶⁹ Michael Benson and others, ‘Neighborhood Disadvantage, Individual Economic Distress and Violence Against Women in Intimate Relationships’ (2003) 19 *Journal of Quantitative Criminology* 207, 227.

⁷⁰ UN Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, ‘Intersection between the coronavirus disease (COVID-19) pandemic and the pandemic of gender-based violence against women, with a focus on domestic violence and the “peace in the home” initiative’ (24 July 2020) UN Doc A/75/144, 10.

⁷¹ Davidge (n 58) 37.

services having to rise to the challenge of meeting increased demand, following changing government guidance, changing their way of working, adapting to new service formats and new technologies, all at a very fast pace.⁷²

In the UK, Women's Aid reported on the impacts to domestic violence services finding that 84.4 per cent of respondents 'felt that their ability to effectively support women has been affected by Covid-19'.⁷³ For example, during the first few weeks of lockdown, only 120 refuge beds were available compared to 239 in the same weeks in 2019 despite Women's Aid warning the UK government in 2019 that the number of beds available was already 1,715 short of the number recommended by the Council of Europe.⁷⁴ This is just one example that demonstrates how the COVID-19 crisis highlighted and exacerbated the long existing problems facing domestic violence services around capacity, funding and resources.

A report published by Women's Resource Centre into the impact of COVID-19 on the UK's Sector for Black and Minoritised Women, describes how 'the coronavirus outbreak poses a real threat to the sustainability and survival of [specialist women's voluntary community organisations] and a precarious future for the UK's women's sector as a whole'.⁷⁵ Despite an additional allocation of funds by the government to domestic abuse supports, Women's Aid CEO stated that, there is still a shortfall of over £200 million needed to keep women's refuges open and running, and without this victims will face being turned away.⁷⁶ In noting the inadequate state resourcing of specialist domestic violence services, it is interesting to recall that Olufemi has argued that 'when successive governments implement violent austerity policies in order to 'balance the budget', it is women who are hit the hardest, because their lives have always been intimately linked to the state'.⁷⁷

⁷² Jenny Birchall and others, 'The Domestic Abuse Report 2021: The Annual Audit' (Women's Aid 2021) 56 <<https://www.womensaid.org.uk/wp-content/uploads/2021/09/The-Domestic-Abuse-Report-2021-The-Annual-Audit-Revised-2021.pdf>> accessed 20 May 2021.

⁷³ Women's Aid, 'The Impact of Covid-19 on Domestic Abuse Support Services: Findings from an Initial Women's Aid Survey' (2020) 8 <<https://www.womensaid.org.uk/wp-content/uploads/2020/05/The-impact-of-Covid-19-on-domestic-abuse-support-services-1.pdf>> accessed 19 May 2021.

⁷⁴ Women's Aid, 'Written Evidence Submitted by the Women's Aid Federation of England' (*Parliament UK Written Evidence*, April 2019) <<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/draft-domestic-abuse-bill-committee/draft-domestic-abuse-bill/written/100863.html>> accessed 20 May 2021.

⁷⁵ Svensson and Robson (n 60) 1.

⁷⁶ 'Women's Aid Responds to the Government's Funding Announcement' (*Women's Aid*, 3 March 2021) <<https://www.womensaid.org.uk/womens-aid-responds-to-the-governments-funding-announcement/>> accessed 20 May 2021.

⁷⁷ Lola Olufemi, *Feminism, Interrupted* (Pluto Press 2020) 25 <https://www.jstor.org/stable/j.ctvxrpzvs?turn_away=true> accessed 20 May 2021.

[C] Lack of a Gender Perspective in Lockdown Measures:

A report published in 2020 by the UN Special Rapporteur on the causes and consequences of violence against women criticized states' measures to combat COVID-19 as having 'mostly been gender-blind',⁷⁸ and having failed to recognise that measures to combat violence against women are essential and a basic human right that should not be restricted.⁷⁹ In the same report, the Special Rapporteur also reminded states of their obligation to protect women from violence at the hands of private individuals and families.⁸⁰

Looking to the UK, an open letter to the UK prime minister from 22 specialist organisations supporting domestic violence against women victims alerted the UK government that 'the mass experience of isolation measures, the diversion and repurposing of public services to respond to Covid-19, and the existing vulnerability of many women and girls at a time of less protection is a potential crisis.'⁸¹ In noting the great support that the government was making available to businesses, it was requested that the government adopt a strategy to protect women during the pandemic. The letter outlined key areas in which these essential services for victims of domestic violence needed support: resourcing, crisis response plans to include input for violence against women and girls' experts, strong public messaging and equal protection for migrant women.

Similarly, a report by the House of Commons Home of Affairs Committee called for strong action to tackle domestic violence during the COVID-19 crisis and to support victims in order to avoid 'devastating consequences'.⁸² A poll conducted by Amnesty UK between 24-27 April found that 72 per cent of respondents agreed that the government should do more to ensure all victims of domestic abuse are protected, with 65 per cent agreeing that more funding should be made available to protect and support victims.⁸³ Human Rights Watch described the UK as 'failing domestic abuse victims in the pandemic'⁸⁴ following further delays in enacting the

⁷⁸ Šimonović (n 70) 4.

⁷⁹ *ibid.*

⁸⁰ *ibid.*

⁸¹ Women's Aid et al., 'Open Letter to the Prime Minister: Covid-19 Pandemic and Preventing and Responding to an Increase in Violence against Women and Girls' (3 April 2020) 2 <<https://www.womensaid.org.uk/wp-content/uploads/2020/04/An-open-letter-to-the-prime-minister.pdf>> accessed 14 May 2021.

⁸² House of Commons House of Commons, 'Home Office Preparedness for Covid-19 (Coronavirus): Domestic Abuse' (House of Commons 2020) HC 321 25 <<https://publications.parliament.uk/pa/cm5801/cmselect/cmhaff/321/321.pdf>>.

⁸³ Amnesty International UK, 'UK: 72per cent of UK Think More Should Be Done to Protect All Domestic Abuse Victims' <<https://www.amnesty.org.uk/press-releases/uk-72-uk-think-more-should-be-done-protect-all-domestic-abuse-victims>> accessed 11 May 2021.

⁸⁴ Human Rights Watch, 'UK Failing Domestic Abuse Victims in Pandemic' (*Human Rights Watch*, 8 June 2020) <<https://www.hrw.org/news/2020/06/08/uk-failing-domestic-abuse-victims-pandemic>> accessed 11 May 2021.

Domestic Abuse Bill which would have provided increased protection to victims and facilitated the urgent ratification of the Istanbul Convention. Although the Home Office clarified that stay home measures ‘do not apply if you need to leave your home to escape domestic abuse’,⁸⁵ such guidance did not prove sufficiently helpful. The approach of suggesting that victims of abuse should leave their home during a pandemic as opposed to addressing the root of the issue is also questionable. As such, in spite of the plethora of warnings and recommendations, it is still considered that:

the British government failed to take into account the needs of the victims of domestic violence when imposing their lockdown measures and did not adequately foresee the rise in domestic violence incidents.⁸⁶

Furthermore, not only had governments globally received specific warnings from bodies regarding the likely impact of lockdown measures on domestic violence during COVID-19, it has long been noted that during times of crisis, emergency and conflict, women ‘endure multiple and compounding forms of violence.’⁸⁷ Viral outbreaks before COVID-19, such as Ebola (in West Africa and DRC), Cholera (in Yemen) and Zika (in the Caribbean, Central and South America) also led to an increase in the cases of domestic violence.⁸⁸ Amber Peterman and others have noted that although comprehensive studies of the rise in violence against women ‘during or post-pandemic are scarce, media reports and anecdotal evidence are widespread’.⁸⁹ Indeed, the UN recognised the need to pay attention to the gendered impacts of an outbreak as ‘critical to responding effectively’ in a report issued following the Ebola outbreak.⁹⁰

In noting states’ failure to adequately consider the gendered impact of lockdown measures, especially for women who are victims of domestic abuse, the lack of women in government

⁸⁵ Home Office, ‘Domestic Abuse: Get Help during the Coronavirus (COVID-19) Pandemic’ (*GOV.UK*) <<https://www.gov.uk/guidance/domestic-abuse-how-to-get-help>> accessed 18 May 2021.

⁸⁶ Anna Samya Sri and others, ‘COVID-19 and the Violence against Women and Girls: “The Shadow Pandemic”’ [2021] *International Journal of Social Psychiatry* 1, 1.

⁸⁷ Neeu John and others, ‘Lessons Never Learned: Crisis and Gender-Based Violence’ (2020) 20 *Developing world bioethics* 65, 65.

⁸⁸ See generally, Shalini Mittal and Tushar Singh, ‘Gender-Based Violence During COVID-19 Pandemic: A Mini-Review’ (2020) 1 *Frontiers in Global Women’s Health* 4; Sarah Davies and Belinda Bennett, ‘A Gendered Human Rights Analysis of Ebola and Zika: Locating Gender in Global Health Emergencies’ (2016) 92 *International Affairs* 1041; Amber Peterman and others, ‘Pandemics and Violence Against Women and Children’ (Centre for Global Development 2020) Working Paper 528.

⁸⁹ Amber Peterman and others, ‘Pandemics and Violence Against Women and Children’ (Center for Global Development 2020) Working Paper 528 3 <<https://www.cgdev.org/publication/pandemics-and-violence-against-women-and-children>> accessed 18 May 2021.

⁹⁰ UNGA, ‘Protecting humanity from future health crises Report of the High-level Panel on the Global Response to Health Crises’ (9 February 2016) UN Doc A/70/723, 44.

fore of international conversation, symbolising a public call to action and recognition of the global and systemic nature of domestic violence. In considering the impact of COVID-19 on the public/private divide in relation to domestic violence, Jane Krishnadas and Sophia Hayat Taha comment:

The lockdown measures in the public sphere have created a window into the existing violence in the domestic sphere, as increasing incidents and reports have propelled what is more often thought of as private violence into the public gaze.⁹⁶

Conclusion:

This article sought to provide a deeper understanding of domestic violence and the impact of the COVID-19 pandemic, through the examination of: the nature of gender-based domestic violence, gender-based violence as an international human rights issue, and finally the impact of the COVID-19 pandemic on gender-based domestic violence, through the lens of the public/private divide.

Part One explored how in light of the widespread prevalence of domestic violence against women and the disproportionate impact on women, this issue ought to be understood as a societal rather than an individual problem. Importantly, it is viewed that gender-based domestic violence against women is a tool in which women's subordinate position within society is perpetuated. The concept of the public/private divide is explored, in which women are relegated to the private sphere and therefore violence against women, particularly domestic violence was seen as a private issue that happens within the home and not of state or wider societal concern. Part Two traced the slow and winding journey towards the recognition of gender-based violence at the international level, viewing this delay as a manifestation of the public/private divide. Finally, the impact of COVID-19 on domestic violence is examined, including the increase in violence towards women and increased pressure on services, which were exacerbated by the critical lack of a gender perspective in lockdown measures. It is viewed that when most of the world retreated to their homes, there was a blurring of the public/private spheres, which exposed the severity of domestic-violence against women and the fragility of the systems in place to protect women, in way that could not be ignored.

⁹⁶ Jane Krishnadas and Sophia Hayat Taha, 'Domestic Violence through the Window of the COVID-19 Lockdown: A Public Crisis Embodied/Exposed in the Private/Domestic Sphere' (2020) 7 *Journal of Global Faultlines* 46, 46.

To conclude, it is argued that despite the description of violence against women, in particular domestic violence, as a ‘shadow pandemic’, this violence is deeply embedded within society and rooted in the public/private divide, harming gender norms and damaging gender stereotypes. Following this, it is put forward that domestic violence is a crisis that, unlike the COVID-19 pandemic, ‘cannot be stopped with a vaccine’⁹⁷ but rather requires meaningful engagement and deconstruction of the central frameworks that relegates women to a subordinate position within society. One can only hope that as restrictions ease and society returns to the public domain that the ‘re-routing of the public gaze’⁹⁸ which was witnessed during the pandemic continues and that the conversation around real and meaningful ways of tackling domestic violence against women will continue.

⁹⁷ ‘Endemic Violence against Women “Cannot Be Stopped with a Vaccine” – WHO Chief’ (*UN News*, 9 March 2021) <<https://news.un.org/en/story/2021/03/1086812>> accessed 12 May 2021.

⁹⁸ Krishnadas and Taha (n 96) 54.