

Supreme Court Guidelines

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22 May '00 14:46 P01

The GUIDELINES and NORMS prescribed herein are as under :-

HAVING REGARD to the definition of 'human rights' in Section 2(d) of the Protection of Human Rights Act, 1993, TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time.

It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women:

**1. Duty of the Employer or other responsible persons in work places and other institutions:**

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

**2. Definition:**

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a) physical contact and advances;
- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where-under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting

For CHC Lib Resource File

Womens Health File

(Women + Worker

Woman + Law

Human Rights Issues)

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or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

### **3. Preventive Steps:**

All employers or persons in charge of work place whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:

- (a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.
- (b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- (c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Acts, 1946.
- (d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

### **Criminal Proceedings:**

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

#### **5. Disciplinary Action:**

Where such conduct amounts to mis-conduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

#### **6. Complaint Mechanism:**

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

#### **7. Complaints Committee:**

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

#### **8. Workers' Initiative:**

Employees should be allowed to raise issues of sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

#### **9. Awareness**

Awareness of rights of female employees in this regard should be created :

particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

#### 10. Third Party Harassment:

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

12. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.

Accordingly, we direct that the above guidelines and norms would be strictly observed in all work places for the preservation and enforcement of the right to gender equality of the working women. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the field. These Writ Petitions are disposed of, accordingly.

..... CJI.

..... J.  
[Sujata V. Manohar]

..... J.  
[B.N. Kirpal]

*Att. to Ms. Manjeet Bhatia*

New Delhi;

August 13, 1997.

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**PUTTING WOMEN'S SAFETY FIRST:  
ETHICAL AND SAFETY RECOMMENDATIONS FOR  
RESEARCH ON DOMESTIC VIOLENCE  
AGAINST WOMEN**

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Global Programme on Evidence for Health Policy  
World Health Organization  
Geneva, Switzerland

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7/6/2000*

These recommendations were developed from those prepared for the World Health Organization Multi-Country Study on Women's Health and Domestic Violence by the Core Technical Team for the Study: Claudia Garcia Moreno from the Global Programme on Evidence for Health Policy in WHO (Study Coordinator), Charlotte Watts from the London School of Hygiene and Tropical Medicine (Senior Technical Adviser to the Study), Lori Heise and Mary Ellsberg from the Centre for Health and Gender Equity (Technical Advisers). They build on the collective experiences of the International Research Network on Violence Against Women. We also acknowledge the able guidance of the WHO Expert Steering Committee of the Study and of the Scientific and Ethical Review Group (SERG) of the WHO Special Programme of Research, Development and Research Training in Human Reproduction (HRP).

For further information on these Guidelines and the Multi-Country Study please contact:

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## INTRODUCTION

Violence against women, in its various forms, is endemic in communities and countries around the world, cutting across class, race, age, religious and national boundaries. According to the United Nations Declaration, violence against women includes "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life (United Nations 1993)". The most common type of abuse of women worldwide is "domestic violence" or the physical, emotional and/or sexual abuse of women by their intimate partners (Heise 1994). There are other forms of abuse, such as dowry harassment and wife inheritance, which are linked to traditional or customary practices and are limited to specific regions and communities.

It is only now, through the sustained activism by women's organisations that violence against women, including domestic violence, is starting to receive substantial attention internationally. As domestic violence against women becomes increasingly recognised and discussed, important questions are being raised concerning its magnitude in different settings, and its causes and consequences. Likewise, there is increasing recognition of the need for better data on the effectiveness of different interventions.

Due to the limitations of service-based data, accurate figures on the prevalence of domestic violence must be obtained through population-based surveys in which a representative sample of randomly selected women are asked directly about their experiences of abuse. Population-based surveys can also be used to obtain important insights into some of the causes and consequences of violence, and in the long term, to monitor trends and to explore the community impact of different interventions. More in-depth qualitative research provides a means to obtain greater insights into the settings and contexts in which violence occurs, the dynamics of abuse, and to better understand how women, children and communities are affected by this violence. Likewise, research on men can provide important insights into the causes of violence, and to explore the impact of different forms of intervention.

Research on violence against women, however, raises important ethical and methodological challenges. Researching abuse is not like other areas of investigation -- the nature of the topic means that issues of safety, confidentiality and interviewer skills and training are even more important than in other forms of research. It is not an exaggeration to say that the physical safety and mental well being of both the respondents and the research team can be put in jeopardy if adequate precautions are not taken.

In order to guide future research in this area, the World Health Organization has developed the following recommendations regarding the ethical conduct of domestic violence research. These build on the collective experience of the International Researchers Network on Violence Against Women (IRNVAW)<sup>1</sup>. They have been reviewed and approved by the WHO Steering Committee for the Multi-Country Study on

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<sup>1</sup> This network, co-ordinated by the Centre for Health and Gender Equity (formerly the Health and Development Policy Project), is made up of individuals who have pursued gender-violence research, particularly in developing country settings. It meets annually to exchange information on how best to research physical and sexual abuse in a methodologically rigorous and ethically sound manner.

Women's Health and Domestic Violence Against Women, and also reviewed by key members of the Scientific and Ethical Review Group (SERG) of the Special Programme on Research and Research Training on Human Reproduction (HRP.) The recommendations are in addition to those outlined in the CIOMS International Guidelines for Ethical Review of Epidemiological Studies (1991).

## **RESEARCHING DOMESTIC VIOLENCE AGAINST WOMEN**

It is often felt that domestic violence against women is too sensitive a topic to be explored in a population-based survey, and that shame, self-blame or fear of further violence will prevent women from discussing their experiences. However, community-based research on this issue has been successfully conducted in Asia, Africa, the Middle East, Latin America, Europe and North America (Heise 1994, WHO 1997), and a number of instruments have been developed to quantify the extent, nature, severity and frequency of different forms of interpersonal violence. These studies show that research on domestic violence against women can be conducted with full respect of ethical and safety considerations. They also show that when interviewed in a non-judgmental manner in an appropriate setting, many women will discuss their experiences of violence. Indeed, rather than being a barrier, evidence suggests that many women find participating in violence research beneficial (Health and Development Policy Project, 1996).

Despite these positive findings to date, there is the real danger that research conducted without due sensitivity and attention to safety and confidentiality could be distressing and put respondents, and at times researchers, at risk. All research on domestic violence against women needs to prioritize women's safety, and build into the study design plans on how to protect the safety of all participants and to ensure that the research is conducted in an ethical and appropriately sensitive manner. Box 1 summarizes key ethical and safety principles that should guide all research on violence against women. Recommended actions that should be taken to ensure that the research adheres to these principles are then described.

### **BOX 1: ETHICAL AND SAFETY RECOMMENDATIONS FOR DOMESTIC VIOLENCE RESEARCH**

- The safety of respondents and the research team is paramount, and should infuse all project decisions
- Prevalence studies need to be methodologically sound and to build upon current research experience about how to minimize the under-reporting of abuse
- Protecting confidentiality is essential to ensure both women's safety and data quality
- All research team members should be carefully selected and receive specialized training and on-going support
- The study design must include a number of actions aimed at reducing any possible distress caused to the participants by the research
- Fieldworkers should be trained to refer women requesting assistance to available sources of support. Where few resources exist, it may be necessary for the study to create short-term support mechanisms.
- Researchers and donors have an ethical obligation to help ensure that their findings are properly interpreted and used to advance policy and intervention development
- Violence questions should be incorporated into surveys designed for other purposes only when ethical and methodological requirements can be met



**a) Safety of the respondents and the research team is paramount and should infuse all project decisions.**

The physical safety of respondents and interviewers from potential retaliatory violence by the abuser is of prime importance. If the focus of the survey becomes known -- either within the household, or among the wider community -- the topic of the interview may become known to a perpetrator of family violence. For women experiencing abuse, the mere act of participating in a study may provoke further violence. This may place the respondent or the interview team at risk, either before, during or after the interview. At the same time the woman, as the subject and beneficiary of the research, needs to give full informed consent. Thus, for both ethical and safety reasons, the survey is introduced to the household and wider community as a survey on women's health and life experiences. However, the woman herself has to be fully informed about the nature of the questions. The sensitivity of the research topic can be raised during the initial consent procedure. More information about the topic of violence, and several opportunities for her to stop the interview or avoid responding to certain questions can be given before specific questions on violence.

- Interviews should be conducted only in a private setting. The participant should be free to reschedule (or relocate) the interview to a time (or place) that may be more safe or convenient for her.
- The survey needs to be framed as a study on women's health or family relations in order to enable the respondent to explain the survey to others safely. This explanation can be used to describe the survey to the community and to other members of the household. Once the respondent and interviewer are alone, further information should be provided to her as part of the consent procedure.
- In instances where the sampling unit is the household, only one woman per household should be interviewed about her experiences of domestic violence. In households with more than one eligible woman, a single respondent should be selected randomly for interview. Any interviews conducted with other household members (either male or female) should not include questions directly exploring their attitudes towards or their use of violence -- as this may result in their concluding that the key respondent was also asked about domestic violence.
- Interviewers should be trained to terminate or change the subject of discussion if an interview is interrupted by anyone. A short diversionary questionnaire on a less sensitive topic concerning women's health (such as menstruation, family planning or child spacing) can be developed to assist with this. The interviewer can then forewarn the respondent that she will start to discuss this other topic if an interview is interrupted, and if needed, turn to the diversionary questionnaire.
- Logistics planning should include consideration of respondent safety. This will require that the study's budget anticipate the likely need to re-schedule some interviews. It should also include advance identification of additional locations (such as a local health centre) where interviews can be conducted if women so desire.

- Logistics planning and budgeting should also consider the safety needs of interviewers. To ensure safety, it may be necessary for interviewers to travel in pairs or to assign a male escort to accompany teams into certain neighbourhoods known to be unsafe for women alone. This is particularly true in circumstances where interviewers may have to conduct interviews in the evenings.

**b) Prevalence studies need to be methodologically sound and build upon current research experience about how to minimize the under-reporting of violence.**

The increasing priority being given to violence against women has, in some settings, resulted in the rapid implementation of population-based surveys to document the prevalence of different forms of abuse. As with other studies on sensitive topics, the tendency will be for participants to under-report their experiences. Thus, there is the danger that a well-intentioned but poorly conceptualised or implemented study may result in serious under-reporting of violence. This raises both ethical and practical concerns. Ethically, it is unacceptable to conduct a poorly designed study that cannot hope to address its primary study aims. This is particularly true for studies on violence against women, where the nature of the subject matter may put women at risk and where women are asked to disclose difficult and painful experiences.

Practically, too, it is of concern if a study documents low levels of domestic violence in a setting where prevailing evidence is to the contrary. It could be argued that some information about the prevalence of abuse is better than no information at all. However, in this case, bad data may be worse than no data, as low prevalence estimates could potentially be used to question the importance of violence as a legitimate area of concern. Consequently, it is important that domestic violence surveys are methodologically sound and build upon current research about how to minimize under-reporting.

Current research suggests that rates of disclosure are linked to the manner in which questions are worded and asked. Generally, questions should avoid using loaded terms such as 'abuse,' 'rape,' or 'violence' and instead ask respondents about whether or not they have experienced certain specific acts, such as being hit, slapped, or beaten. For each type of abuse, it is useful to ask about a range of behaviours along with specific cues directing the respondent to consider different settings (such as at home, work or school) or potential perpetrators (such as current partners, former partners, other male relatives, males in positions of authority). Single, global questions on abuse are generally inadequate for capturing true rates of abuse (Health and Development Policy Project 1995). Rates of disclosure have also been found to be related to the nature and length of other questions in the interview; the number of opportunities respondents are given to disclose; and the presence or absence of others during the interview.

The extent to which women will discuss their experiences of violence is also influenced by the sex, skill, and training of the interviewer. Most violence against women is perpetrated by men, and experience to date suggests that female respondents feel most comfortable talking about violence with other women. It has also been found that adult women prefer not to discuss violence with interviewers whom they perceive may not understand or be sympathetic with their experiences. Consequently, in some settings, difficulties have been encountered when using young or un-married women as interviewers, or when using interviewers who are not experienced at discussing sensitive issues. This highlights the importance of ensuring that interviews are conducted by carefully selected and appropriately trained female interviewers.

These issues highlight the need for the careful pre-testing and piloting of the research tools, and the importance of monitoring the quality of a study's implementation. In situations where very low levels of abuse are documented, the findings should be discussed with key informants and different community groups before being widely disseminated. Where these groups question the validity of the findings, their concerns should also be presented during dissemination activities.

**c) Protecting confidentiality is essential to ensuring both women's safety and data quality.**

Much of the information provided by respondents will be extremely personal. The dynamics of a violent relationship are such that the act of revealing details of abuse to someone outside the family could also provoke another violent episode. For these reasons, the confidentiality of information collected during a survey or from in-depth interviews with survivors of violence is of fundamental importance. A number of mechanisms should be used to protect the confidentiality of the information collected, including:

- All interviewers should receive strict instructions about the importance of maintaining confidentiality. No interviewers should conduct interviews in their own community.
- No names should be written on questionnaires. Instead, unique codes should be used to distinguish questionnaires. Where identifiers are needed to link a questionnaire with the household location or respondent, they should be kept separately from the questionnaires, and upon completion of the research, should be destroyed. In all further analysis, the codes should be used to distinguish questionnaires. Participants should be informed of confidentiality procedures as part of the consent process.
- Where tapes are made of in-depth interviews with survivors of violence, these should be kept in a locked file, with access restricted to identified people, and erased following transcription. The permission of the respondent should be sought before taping. Again, no record of the name of the women interviewed should be kept and women should be informed of who will have access to the tapes and for how long they will be kept.
- Particular care should be taken during the presentation of the research findings that the information presented is sufficiently aggregated to ensure that no one community or individual can be identified. Where case-study findings are presented, sufficient detail should be changed to ensure that it is not possible to identify the source of this information.
- Although photographs of abused women can be a powerful and emotive way of communicating about domestic violence, particular care should be used when using this form of documentation. Women should be asked specifically whether photographs may be taken and shown, and must agree to this as part of the informed consent process. They should be informed how and where the photographs will likely be shown or displayed.

**d) All research team members should be carefully selected and receive specialised training and on-going support.**

One of the enduring lessons to emerge from the experience of IRNVAW members is that all team members, including interviewers, involved in violence against women research need specialised training and support over and above that normally provided to research staff. This training should include a basic introduction to domestic violence issues and an overall orientation to the concepts of gender, and gender discrimination/inequality. The training must provide a mechanism for field workers to confront and overcome their own biases, fears and stereotypes regarding abused women. Many fieldworkers will have internalised the "victim-blaming" attitudes that permeate the culture at large--a reality that is likely to undermine their ability to get full and honest disclosure from the women they interview. Indeed, rates of reported abuse have been shown to be very sensitive to intimation of judgement or blame on the part of interviewers.

In addition, training should include an opportunity for research staff to come to terms with their own experiences with abuse. The high prevalence of violence against women world wide means that it is very likely that one or more research staff will have been a direct target, or have familial experiences of violence. While this may improve the interviewers' skills and empathy, the process of being involved in the study (either as an interviewer, supervisor, data processor or statistician) may awaken images, emotions, internal confusion and conflict. These reactions may affect their ability to work, may have a negative impact on their health, and may create tension in the home. Even where a researcher or fieldworker has not herself experienced violence, listening to stories of violence and abuse, not unlike research in fields such as death and dying, may be draining and even overwhelming. Experience has shown that unless this reality is confronted directly, research projects can experience high rates of attrition among staff.

There are a number of ways in which investigators can attend to the needs of researchers and fieldworkers. During the training process it is important that the subject of violence is openly discussed, and that participants are given the option of withdrawing from the project without prejudice. During the research, regular debriefing meetings should be scheduled to enable the research team to discuss what they are hearing, their feelings about the situation, and how it is affecting them. These meetings should aim to reduce the stress of the fieldwork, and avert any negative consequences.

Despite these measures, some field-workers may need to be given less emotionally taxing tasks, be given a break from the study, or may have to withdraw from the research altogether. Interviewers must also be helped to understand their role in relation to a woman who reports experiencing violence. They should be open to assisting her if asked (see below), but they should not tell her what to do or to take on the personal burden of trying to "save her".

**e) The study design must include a number of actions aimed at reducing any possible distress caused to participants by the research.**

Active efforts must be made to minimize any possible distress caused by the research. Domestic violence is a sensitive and stigmatized issue, and women are often blamed for the violence they experience. All questions about violence and its consequences should

be asked in a supportive and non-judgemental manner. In addition, care needs to be taken to ensure that the language of the questionnaire cannot be interpreted as being judgemental, blaming or stigmatizing (Liss and Solomon, 1996).

As noted above, there is some evidence that many women find being provided with the opportunity to talk about their experiences of violence beneficial. Nevertheless, the respondent may recall frightening, humiliating or extremely painful experiences, which may cause a strong emotional reaction. Interviewers therefore need to be trained to be aware of the effects that the questions may have on the informant and how best to respond, based on the woman's level of distress. Some women may become emotional during an interview but still choose to proceed, after being given a moment to collect themselves. Interviewer training should include how to terminate an interview if the impact of the questions becomes too negative.

All interviews should end in a positive manner (Parker and Ulrich, 1986), reinforcing the woman's own coping strategies and reminding her that the information she has shared is important and will be used to help other women. Likewise, interviewers should affirm that no one deserves to be abused and inform the respondent of her rights under the law.

**f) Fieldworkers should be trained to refer women requesting assistance to available local services and sources of support. Where few resources exist, it may be necessary for the study to make provision for short-term support mechanisms.**

It is important that researchers anticipate and be prepared to respond appropriately to that subset of women who may need additional assistance during or following an interview. Prior to conducting the research, researchers need to meet with potential providers of support, which may include existing health, legal, social service and educational resources in the community, and less formal providers of support (including community representatives, religious leaders, traditional healers and women's organisations). Discussions should be held to identify the forms of support that each is able to provide. A resource-list should then be developed and offered to all respondents, irrespective of whether they have disclosed experiencing violence or not. The resource list should either be small enough to be hidden or include a range of services so as not to alert a potential abuser to the nature of the information supplied.

Where few resources exist, it may be necessary to have a trained counsellor or women's advocate accompany the interview teams and provide support on an "as needed" basis. Generally this can take the form of alerting all participants that a staff person trained in family issues will be available to meet with anyone who cares to at a set time and place. Preferably this location should be a health centre, church or local organisation where women can easily go without arousing suspicion.

**g) Researchers and donors have an ethical obligation to help ensure that their findings are properly interpreted and used to advance policy and programmes.**

It is important that research findings are fed into ongoing advocacy, policy making and intervention activities. Too often critical research findings never reach the attention of the policymakers and advocates best positioned to use them. The enormous personal, social and health-related costs of violence against women places a moral obligation on researchers and donors to try to ensure that study findings are applied in the real world.

It is also important that the study community receives early feedback on the results of the research in which they have participated.

One way to improve the relevance of research projects is, from the outset, to involve advocacy and direct service groups either as full partners in the research or as members of an advisory committee. Such committees can play an important role in helping guide the study design, advise on the wording of questions, assist with interviewer training and give guidance on possible forms of analysis and the interpretation of results. They also have a central role to play in publicizing and applying the project's findings.

A range of activities, using formal and informal media, can be used to disseminate the study findings locally and nationally, and to explore possible follow-on activities. Wherever possible, findings should be fed into ongoing advocacy, policy development and intervention activities, such as the internationally recognized "Sixteen Days of Activism Against Gender Violence (November 25<sup>th</sup> to December 10<sup>th</sup>)"<sup>2</sup>.

Researchers need to be pro-active in helping to ensure that their research findings are interpreted appropriately by the lay public and the media. Although analysis may highlight sub-groups at higher risk of particular forms of violence, researchers should take care when presenting such findings not to feed into any negative stereotypes of particular ethnic or social groups, and to ensure that no one community or individual can be identified or stigmatised. One strategy is to highlight that violence against women cuts across all communities and socio-economic groups. Another is to emphasize the similarities and parallels among sub-groups and to describe how particular forms of inequality may contribute to differences (Aronson and Fontes 1997). For example, higher levels of physical violence have frequently been reported among lower socio-economic groups. In such situations, it is important to use the findings to advocate for positive change, rather than to allow the results to further stigmatize this group.

**h) Violence questions should be incorporated into surveys designed for other purposes only when specific ethical and methodological requirements can be met.**

Increasingly, researchers have become interested in integrating questions related to violence against women into studies designed primarily for other purposes. This approach can be useful for providing basic data on violence when a more in-depth focused study is not feasible, and for providing insights into the links between violence and other health and development issues (e.g. including questions on victimization into a study exploring women's suicide attempts).

However, experience indicates that there are often tradeoffs to such a strategy. The challenges of ensuring data quality and ensuring respondent safety are often greater in such circumstances than in focused studies on violence. Since disclosure rates for violence are affected by a variety of factors (including the length of the interview, the type and number of questions, as well the rapport established between interviewers and respondents), "sandwiching" a few violence questions between lengthy questions on unrelated issues tends to affect prevalence figures negatively by reducing women's

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<sup>2</sup> The "16 Days of Activism Against Gender Violence" is part of the Global Campaign for Women's Human Rights initiated in 1991 by the Center for Women's Global Leadership in the U.S.A.

willingness to disclose violence. Furthermore, although measures such as specialized training for interviewers, confidentiality and follow-up support for both interviewers and informants is critical in any survey addressing violence against women, it is often much more difficult to ensure that these guidelines are followed when violence represents only a small part of the research objective.

Because of these drawbacks, “integrating” violence questions into other studies makes sense only when the primary research team is willing and able to address the basic ethical and methodological guidelines outlined herein. Where this is not feasible, it is preferable to avoid asking women directly about their own experiences of abuse. In such instances, it is generally more appropriate to ask less personal questions regarding attitudes toward abuse and/or the respondents knowledge of others who have experienced abuse, rather than to probe directly into a woman’s history. The more extensively women are asked about their own experiences of abuse, the more imperative it becomes to ensure backup support and confidentiality.

### **CONCLUSION: PUTTING WOMEN’S SAFETY FIRST**

Domestic violence is now receiving substantial attention, resulting in increased funding for research on violence against women worldwide. The recommendations detailed in this document reflect current knowledge concerning the ethical and safety considerations that need to be addressed when conducting research on domestic violence. The special nature of this research topic demands that safety concerns be considered from the very beginning of a study, through its implementation and dissemination. This means that violence research will likely require a longer timeframe and a greater investment of resources to ensure these issues are fully addressed. Donors and researchers alike can make their own contribution to women’s safety by following these guidelines and never putting research objectives above women’s well-being.

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With the compliments  
of the  
WHO Representative

*Make perop apna + give  
all women groups at work  
meeting*  
*hr*  
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*ps*

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Aawaaz-e-Niswan (Voice of Women) is a collective of Muslim women, which has been working in Nagpada, Bhendi Bazaar, Dongri & the surrounding Muslim areas of Central Bombay since 1987. We in this collective have faced difficulties in our lives and have created this collective space on the foundation of our experiences.

Our major work within Aawaaz-e-Niswan has been to support women struggling within their families for their rights. Individual women in distress have been approaching Aawaaz-e-Niswan since its inception. Most of them have been subjected to severe physical and mental torture; harassed for dowry, given talaq (divorce) orally or in writing and forced to forfeit their meher (bride price) by force, or deserted without maintenance for themselves or their children.

Due to all this problems and no source of income, children have to give up their studies and as a result of this most of the time fall into bad company. By seeing all this problems we felt a need to help such children in their education. We are enclosing a form for your support and co-operation in our endeavour. We are planning to help children studying in first to tenth standard and also students studying in colleges.

Awaiting your early response and co-operation.

Thanking you,

Yours Sincerely,



Yasmin Aga / Nasim Naik

CONTACT No.: 37166910 / 3790566

**FORM**

DATE: \_\_\_\_\_

NAME OF DONOR: \_\_\_\_\_

RESIDENTIAL ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OFFICE ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PHONE NO (RES/OFF): \_\_\_\_\_

CASH / CHEQUE DONATION: \_\_\_\_\_

DRAWN ON: \_\_\_\_\_ CHEQUE NUMBER: \_\_\_\_\_

AMOUNT IN WORDS: \_\_\_\_\_

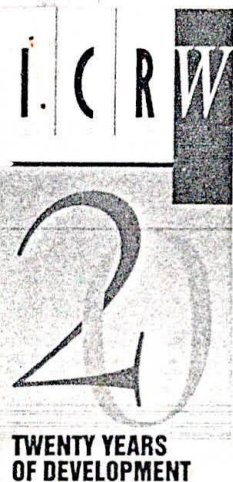
MATERIAL DONATION:

TEXTBOOKS / NOTE BOOKS / UNIFORMS / STATIONARY /

SCHOOL FEES / SHOES (PLEASE TICK)

SIGNATURE OF DONOR: \_\_\_\_\_

DATE: \_\_\_\_\_



March 15, 1999

Dear Mr. Anwar Jeevan,

I am writing this to invite your participation in a two-day workshop on Responses to Domestic Violence in India at Mumbai on April 12 and 13, 1999.

The International Center for Research on Women has initiated, as part of a large global programme, a large research project on domestic violence in India in collaboration with Indian researchers. The research attempts to understand prevalence of violence, and its correlates as well as document and analyse the responses to violence. A detailed description of the project is enclosed for your information.

Three studies have been completed so far and will be discussed at the April Workshop. The first is a study by Leela Visaria which has examined the prevalence and correlates of domestic violence in five villages of Kheda District in Gujarat. The second is a study by Nishi Mitra of the Tata Institute of Social Sciences on the responses to domestic violence by the State and nongovernmental sectors in the States of Maharashtra and Madhya Pradesh. The third study is by Veena Poonacha and Divya Pande of SNDT Women's University examining responses to domestic violence in the States of Gujarat and Karnataka with a special focus on case studies of NGOs in the two states.

The Workshop is structured as a two day event. On the first day a small group of researchers, activists and policy makers will discuss the studies in depth to cull the critical recommendations that emerge from the studies. The second day will be a wider public dissemination of the reports with emphasis on the recommendations. Two overseas projects, one in Mexico and the other in Bulgaria, being conducted by ICRW as part of its global programme, will also be presented.

In order to facilitate speedy communication, please fill out the enclosed information sheet with your most updated phone and fax numbers. Please reply, by fax/mail at the earliest, confirming your participation to our Conference Organisers at the following address;

Choices Inc.  
165 Defence Colony, Flyover Market  
New Delhi 110024  
Telephone; 011 4610102  
Telephone/fax; 011 4629268  
Email: [choicesinc@hotmail.com](mailto:choicesinc@hotmail.com)

Contact persons: Mr. Rahul Singh/Mr. Ranadip Boruah/Ms. Kalpana Singh

Yours sincerely,

Anuradha Rajan  
for

Nata Duvvury  
Project Director - PROWID

International  
Center for Research  
on Women

Anuradha Rajan, Consultant  
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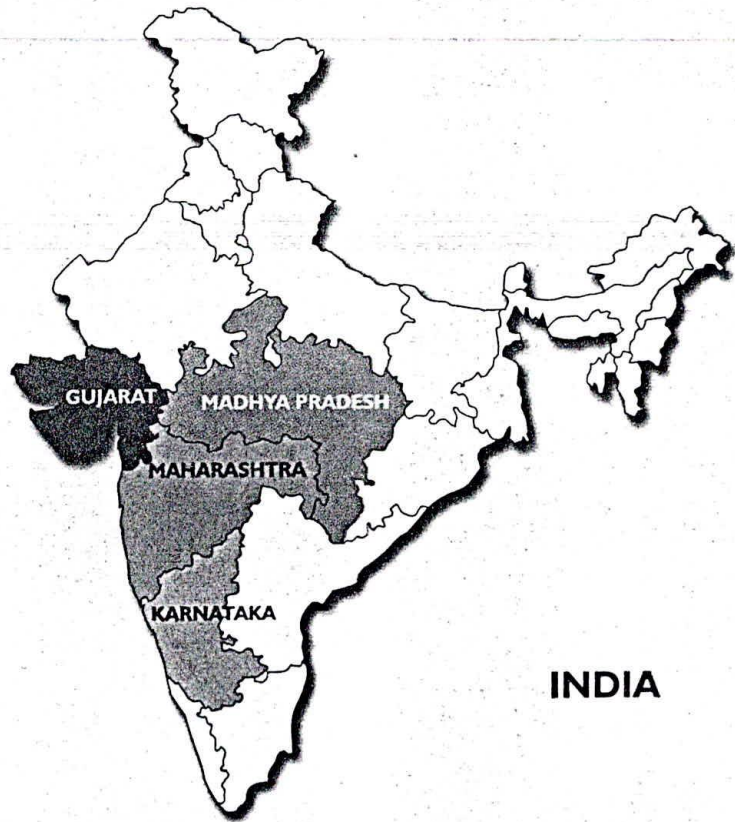
Phone/Fax : 91-11-6283933

<b>The accreditation system should be (ACCSYSBE)</b>	1	60	1 Independent & autonomous of any authority 2 Supported by legislation 3 Should be a recommending authority 4 Should be independent & autonomous but supported by municipal & government funds. 8 Not applicable (NA) 9 No response (NR)
<b>Benefits of accreditation system for hospitals/nursing homes</b> Help improve standards <b>(BENIMSTD)</b>	1	61	1 Yes 2 No 9 No response (NR)
Opportunity to have a continuous process of quality assurance <b>(BENCQA)</b>	1	62	1 Yes 2 No 9 No response (NR)
Help compare performance with other hospitals <b>(BENCOMP)</b>	1	63	1 Yes 2 No 9 No response (NR)
Useful marketing tool <b>(BENMKT)</b>	1	64	1 Yes 2 No 9 No response (NR)
Regulate (manage) competition between hospitals <b>(BENREGCO)</b>	1	65	1 Yes 2 No 9 No response (NR)
Create a level playing field among various hospitals <b>(BENFIELD)</b>	1	66	1 Yes 2 No 9 No response (NR)
Due to the hostile attitude of BMC officials affecting the implementation of BNHRA act <b>(BENBMC)</b>	1	67	1 Yes 2 No 9 No response (NR)
Help insurance companies to collaborate with hospitals <b>(BENCOLIN)</b>	1	68	1 Yes 2 No 9 No response (NR)

# 1 Patterns and Trends of Domestic Violence

To develop an understanding of the patterns and trends of domestic violence, the project will examine existing institutional records. While these records may be limited—e.g. they are incomplete as to such things as socioeconomic status, religion, and age or they are filtered through the eyes of the person recording the information—it is critical to examine them if only because they represent the currently available information. Also, the very exercise of examining these records can, in fact, provide a fuller understanding of the limitations of existing mechanisms of data collection and identify ways to improve them. This knowledge is essential for developing new reporting instruments that would form the basis for a database on domestic violence.

Institutional records from police stations, hospitals, non-governmental organizations, and the courts—the four major entry points for a woman seeking redress—will be examined in separate studies. For comparison purposes, each study will determine the extent to which specific variables, critical to describing and recording reported cases of domestic violence, are used. These include age of woman or man, duration of marriage/relationship, family structure, family size, age of children, sex of children, housing, education, work status, and relationship with perpetrator. Researchers will assess collection of variables specific to the incidents of violence, including frequency, nature of the attack, reason, type of injury, and type of weapon.



The studies will also probe how the flow of information from one institution to another influences the responses of each to incidents of domestic violence. This will allow researchers to determine how institutional definitions and administrative structures impede or contribute to complaints brought by women. Much of this analysis will be based on key informant interviews and focus group discussions with officials at the institutions as well as with the complainants.

In addition to the four studies of institutional records, a fifth study will examine existing primary survey data on domestic violence. It is hoped that this will shed light on the dimensions of domestic violence within communities and will corroborate some of the patterns that emerge from the studies of institutional records. A description of the five studies is provided here.

## An Analysis of Records of Special Police Cell in Mumbai

Anjali Dave and Gopika Solanki  
Tata Institute of Social Sciences, Mumbai

The introduction of special police cells to facilitate women reporting violence has been an important response to violence by the Indian state. One of the initial cells was set up by the Mumbai Police in coordination with Tata Institute of Social Sciences in 1983. The cell provides a wealth of recorded information of cases brought by women. An analysis of this data along with the records of the partner police station is being undertaken by one of the research teams. An important question that the study will address is how the language of recording the case influences the investigative process and the final resolution of the case.

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## Focus on India

India has a strong women's movement that has pushed the agenda of violence against women consistently. In addition, the government of India has been open to working with the women's movement to reform laws and evolve strategies to provide support and treatment services. Throughout the 1980s, Indian society witnessed numerous struggles by women's organizations on issues of dowry deaths, custodial rape, abductions of women, *sati* (the burning of a widow on the husband's funeral pyre), female infanticide, sexual harassment of young girls and women in public places (euphemistically referred to as "Eve teasing"), trafficking, and prostitution. It is important to note that there has been legal reform by the government in response to each of these issues of violence against women during the past decade (Agnes 1996).

While international attention has been focused on dowry deaths, perhaps the most dramatic manifestation of violence against women, it is only one part of the problem. Not all violence within the house-

hold can be reduced to dowry demand; domestic violence or wife battering is far more systematic and pervasive than previously acknowledged. The few studies available indicate that physical abuse of Indian women is quite high, ranging from 22 percent to 60 percent of women surveyed (Rao 1996 and Mahajan 1990). A survey in Uttar Pradesh, a state in northern India, found that nearly one in three men reported that they had physically abused their wives (Evaluation Project/PERFORM 1997). All this points to the need for a deeper understanding of the patterns and trends of domestic violence.

However, research on domestic violence is highly sensitive and there is strong cultural resistance in most societies to publicly acknowledging the extent of the problem. It is difficult to motivate governments to address the question of violence against women in general, and domestic violence in particular, though international human rights conventions are increasingly providing governments with guidelines for analysis of and responses to inci-

dents of violence. Non-governmental organizations (NGOs) working in India have, therefore, expressed the need for reliable data on domestic violence with which they can develop targeted intervention and education strategies.

Equally important is the need to understand the effectiveness of various preventive and supportive strategies, which have already been put in place. These include services provided by public and non-governmental sectors, establishment of shelter homes, counseling services, and legal aid centers. Further, several Indian states have established special women's police cells to aid women in reporting violence. An evaluation of these interventions is critical as more and more countries initiate systematic efforts to address domestic violence. India, therefore, offers a unique setting wherein a study of prevalence, patterns and trends of domestic violence, and an evaluation of responses to violence against women can be undertaken in an integrated fashion.

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## Project Description

The PROWID-supported project being implemented in India is a three-year research activity conducted in partnership with in-country researchers from a range of academic and activist organizations. A National Advisory Council, representing the different constituencies that address the issue, provides guidance for the project (see list of NAC members in box on page 7). The goal of the project is to provide reliable and sound

information with which to identify, replicate, expand, and advocate for effective responses to domestic violence. The project will have three components: first, assessing the patterns and trends by identifying and analyzing existing data sets on domestic violence; second, conducting population-based surveys to estimate prevalence and to deepen the understanding of determinants and outcomes of domestic violence; and third,

distilling lessons learned through an analysis of on-going programmatic and policy interventions. The project will produce a report synthesizing the information gathered and identifying the characteristics of successful prevention and support strategies and policy measures. For the purposes of this project, domestic violence is defined as physical violence against a woman within her home.

## 2 A Population-Based Survey of Domestic Violence

While studies of the institutional records may give some insights into patterns and trends of domestic violence, they are limited by the fact that only a small proportion of those who experience violence, in fact, access these institutions. Thus, an important gap felt by both activists and policymakers is the virtual absence of large-scale, rigorous empirical data on domestic violence to establish prevalence, identify risk and protective factors, and determine the health and economic outcomes. However, there are critical difficulties in a population-based survey, not the least of which is respondents' comfort in responding to queries on private acts and matters. Equally problematic is the ethical dilemma of maintaining confidentiality and the degree of intervention by the researcher that is acceptable in individual interviews.

A large, multi-site, population-based survey of domestic violence is being undertaken by PROWID in collaboration with the International Clinical Epidemiologists Network (INCLEN). The study will focus on violence against women and children, and will be conducted by local researchers. The study will be undertaken in seven sites representing different geographical/cultural regions of India: Lucknow, Delhi, and Bhopal (in the north); Chennai, Vellore, and Thiruvananthapuram (in the south); and Nagpur (in the

west). The objectives of the study are to determine the magnitude of family violence against women and children in India; to explore factors related to family violence against women and children with a focus on individual, family, community and societal factors, as well as the health and economic outcomes related to family violence; and to identify modifiable risk and protective factors that are associated with family violence. Further, as the survey protocol is similar to that used by INCLEN in other countries, it will enable cross-country comparisons of contributing factors in addition to intra-country comparisons. Observed similarities and differences in prevalence rates,

examined in terms of societal beliefs, community norms, family stresses and resources, and individual characteristics will provide valuable information for the design of future prevention efforts.

The study will utilize a combination of focus groups and cross-sectional interviews to gather both qualitative and quantitative information. Given the sensitivity of the issue and the delicate ethical problems that may arise in the course of the survey, intensive training of the interviewers is a significant element of the project. Issues of confidentiality, provision of support, and extent of intervention in individual cases by the researcher will be addressed in the training.



### Principal Investigators of INCLEN sites

**Lucknow:** Dr. M.K. Mitra and Dr. R.C. Ahuja, King George's Medical College

**Bhopal:** Dr. S. S. Bhambol, Gandhi Medical College

**Delhi:** Dr. R. M. Pandey and Dr. M. Lakshman, All India Institute of Medical Sciences

**Nagpur:** Dr. Dipty Jain, Government Medical College

**Chennai:** Dr. Saradha Suresh and Ms. Shuba Kumar, Chennai Medical College

**Vellore:** Dr. L. Jeyaseelan, Christian Medical College

**Thiruvananthapuram:** Dr. M.K.C. Nair and Dr. Rajmohan Pillai, Government Medical College



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## **An Analysis of Hospital Records in Thane District, Maharashtra**

Surinder Jaswal

Unit of Medical and Social Psychiatry, Tata Institute of Social Sciences, Mumbai

For women who are either unable or unwilling to access any other institution to redress a situation of violence, hospitals represent an important entry point as access may be less restricted. Hospital records of the major municipal hospital, the referral state hospital, as well as the community health outposts in both rural and urban areas will be examined in Thane, a city just outside of Mumbai. Within the

municipal hospital, the study examines the records of the different departments, such as orthopedics, skin, ophthalmology, and surgery, in addition to the emergency/casualty department. Another element of the study will be to reconstruct the specific incident of violence through in-depth interviews. Construction of the definition of violence by both the community and the providers of care also will be studied.

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## **An Analysis of Primary Survey Data from Kutch District, Gujarat**

Leela Visaria

Gujarat Institute of Development Studies, Ahmedabad

A separate study will analyze population-based survey data which is already in existence from five villages in the Kutch district of Gujarat. The survey, conducted in 1994, was broadly aimed to explore the status of women in the context of the establishment of milk cooperatives in the area. Interestingly, in the initial round of the survey, the researchers were questioned by the women respondents as to why they were not discussing the issue of violence. At this prompting by the women, a module on violence was introduced. In addition to the survey of 400 women, 38 in-depth interviews with women who had reported domestic violence were conducted. The PROWID-supported analysis of this data set will estimate the prevalence and describe the patterns of violence in a rural setting.

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## **An Analysis of Court Records in Bangalore District**

V Elizabeth

National Law School University of India, Bangalore

Courts represent yet another avenue for resolution in the legal process. Court records also illustrate how domestic violence is employed as a method of control in a range of disputes including those revolving around ownership of property. A research team in Karnataka is examining the records of a family court in Bangalore, three district

level courts (also known as sessions court), and the High Court. Selected samples of cases from each of these courts will be examined in detail to understand the judicial interpretation of existing laws that impact on domestic violence and to identify the gaps in investigative procedures that result in non-conviction.

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## **An Analysis of Records of NGOs in Bangalore**

Sandhya Rao

Hengasara Hakkina Sangha, Bangalore

Non-governmental organizations are a final critical entry point for women who are unable to access police, hospital or legal services on their own. NGO services include, among other things, crisis counsel-

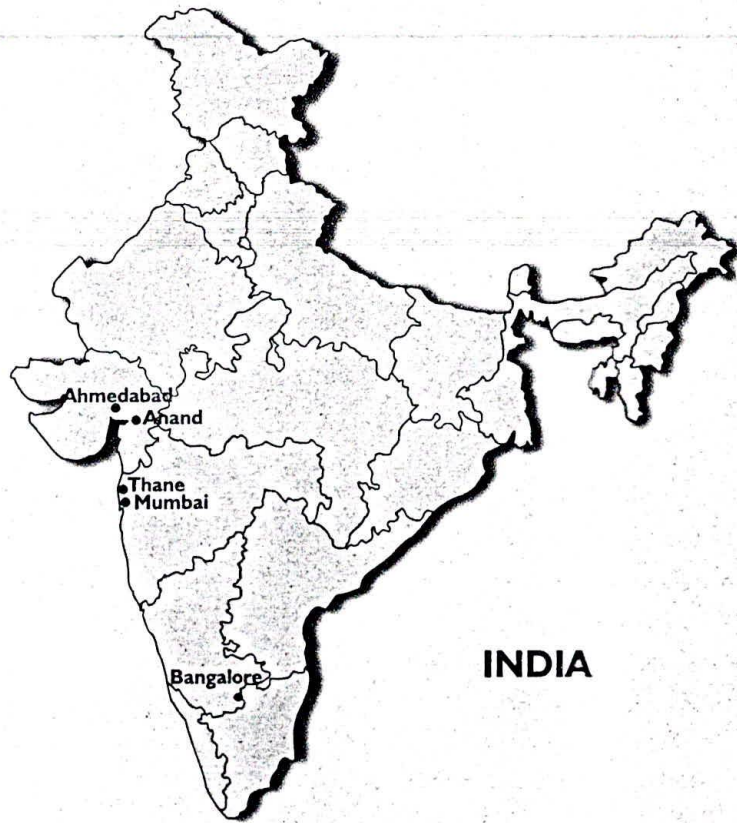
ing, legal assistance, temporary shelter, economic opportunities or a combination of these services. A study of NGOs' records will be undertaken in Bangalore. Included in the sample will be a feminist

organization which has been working in the area of violence against women for the past 20 years and a shelter which has been in existence since the 1920s.

### 3 Analysis of Programmatic Responses

The design of strategies for a programmatic response depends not only upon detailed information on the extent and nature of the problem of domestic violence but also on an understanding of the responses that have already been implemented. India has a rich experience of implementing a variety of programmatic responses to violence. These range from the provision of support and care services (including shelter homes, counseling agencies, and legal aid centers) to awareness-raising and advocacy efforts such as demonstrations, campaigns, and social boycott of perpetrators.

Public sector programs introduced to empower women, such as the literacy program and the women's development program, widely known as the Mahila Samakhya Program, have been important vehicles for these efforts. Policy and administrative actions, including amendments to the Indian Penal Code, gender sensitization programs for police and judiciary, and establishment of women's police cells and vigilant women's committees known as *Dakshita Samitis*, have contributed to creating a positive climate for change. Less well known is the effectiveness of these responses in reducing the causes and consequences of domestic violence. There is a need to distill lessons so as to sustain advocacy efforts and maximize the impact on prevention of violence.



Another set of PROWID-supported studies will review the variety of responses to domestic violence and evolve a classification system of interventions, either for redress or prevention. Indicators will be developed to assess the characteristics of the effective responses to violence. The studies will generate a methodology for systematizing response level information and distilling characteristics of successful interventions which could then be replicated in other states.

The study sites have been selected to take into account the different streams of the women's movement as well as the variation in the status of women across regions and communities. Maharashtra has long

been in the forefront of the women's movement in India and has also been the site of many new feminist non-governmental organizations. Gujarat, an adjoining state to the north and west of Maharashtra, has a long tradition of social service in tune with Gandhi's philosophy as it emerged in the national movement. Madhya Pradesh, to the east, is considered to be among the least developed of the states on the basis of a range of social and economic indicators, and has a higher concentration of tribal populations compared to other Indian states. Finally, Karnataka, to the south, is representative of the southern states in which women's status is higher relative to most other Indian states.

Two studies covering these states are:

### **Responses to Domestic Violence in States of Gujarat and Karnataka**

Divya Pande and Veena Poonanchana

SNDT Women's University, Mumbai

The study in the states of Gujarat and Karnataka is being undertaken by the Research Centre for Women's Studies, SNDT Women's University, Mumbai. The Centre has had a long association with a range of non-governmental organizations in both these states and has well-established networks in place which can be tapped for the study.

### **Responses to Domestic Violence in States of Maharashtra and Madhya Pradesh**

Nishi Mitra

Tata Institute of Social Sciences, Mumbai

The study in Maharashtra and Madhya Pradesh is being undertaken by Unit for Women's Studies, Tata Institute of Social Sciences, Mumbai. The Institute is a premier social work institution in the state of Maharashtra and, therefore, has networks with both non-govern-

mental organizations and the Government. With respect to Madhya Pradesh, the Institute has been actively working in coordination with the state government to implement a range of police training programs.

### **Establishing Ownership to Stimulate Change**

When working on an issue as sensitive as domestic violence, researchers must establish a sense of ownership of the study by the community. To do this the research teams will strive to encourage participation from the widest possible range of groups working on violence against women in India. All studies will include periodic workshops involving participants from governmental and non-governmental sectors to solicit comments and advice on selected problems or challenges that may arise in the course of the project. Further, the project has formed a National Advisory Council (NAC) of ten members representing the different stakeholders in the issue: women's non-governmental organizations, lawyers, police, judiciary, medical, government, academics, and business. The NAC will not only take the lead in guiding the project, but will formulate a dissemination and policy communication strategy to act on the research

findings. As a result, it is likely that the relevant constituencies may continue to take actions well beyond dissemination of a specific final report.

### **Project Outputs**

A final report entitled "Domestic Violence in India: Trends, Responses, and Reforms" will be issued. It will be a compilation of the individual research studies on the patterns and trends of domestic violence, the studies on documentation and analysis of responses to domestic violence, and the multi-site primary study. Other reports, including reports-in-brief, information bulletins, and synthesis reports will be produced.

National, regional, and sectoral dissemination conferences will be held as the studies in each component of the project are completed to formally present the findings of the individual research studies.

### **National Advisory Council**

#### **S. C. Behar**

Director  
Academy of Administration, Bhopal

#### **Neera Desai**

Member  
UGC Consultative Committee on Women's Studies, Mumbai

#### **Sona Khan**

Advocate  
New Delhi

#### **Ranjana Kumari**

Director  
Centre for Social Research, New Delhi

#### **Ved Marwah**

Centre for Policy Research, New Delhi

#### **Padma Seth**

National Commission for Women, New Delhi

#### **Veena Shatruguna**

Assistant Director  
National Institute of Nutrition, Hyderabad

#### **S. K. Somaiya**

Chairman  
Somaiya Group of Companies, Mumbai

#### **Celine Suguna**

Vimochana, Bangalore

---

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## Visit PROWID on the Internet at <http://www.icrw.org>

Readers can now visit the ICRW home page on the World Wide Web at <http://www.icrw.org>. One page on the site is dedicated to PROWID, and will be periodically updated with information about program activities and news from the field. We welcome hearing from other programs, institutions or individuals working on related issues and are actively seeking relevant web links to connect with the ICRW home page. Let us hear from you!

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### No.4—September 1998

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**NEED, VIEWS & WILLINGNESS FOR AN ACCREDITATION SYSTEM IN THE CITY OF MUMBAI AN ASSESMENT**

**Semi - Structured Interview Schedule for Hospitals / Nursing Homes**

Prior visits with dates : \_\_\_\_\_ Date of Interview : \_\_\_\_\_ Interviewer \_\_\_\_\_

1) Name of the Hospital / Nursing home : \_\_\_\_\_

2) Name of the office bearer : \_\_\_\_\_

3) Designation : \_\_\_\_\_

4) Address: \_\_\_\_\_

\_\_\_\_\_ Pin \_\_\_\_\_

Phone number : \_\_\_\_\_ Fax number: \_\_\_\_\_

5) Year of establishment : \_\_\_\_\_ 4) Number of Beds : \_\_\_\_\_

6) Whether member of hospital owners association ?  
If yes, kindly provide the name of the association \_\_\_\_\_

7) Type of ownership  
 Individual proprietorship                       Partnership  
 Trusts     Cooperative  
 Corporate     Any other (kindly specify) : \_\_\_\_\_

8) If individual proprietorship / partnership  
a) Medical qualification of main owner : \_\_\_\_\_

b) Admission of patients  Self patients  
 Open to other doctors attached to the hospital / nursing home.  
 Open to doctors not attached to the hospital / nursing home.

9) If Trust/ Cooperative / Corporate  
a) Collaborating with any company for providing services                       Yes                       No  
b) Tied up with any health scheme     Yes                       No  
c) Having its own health scheme     Yes                       No

If yes, to any of the above ( kindly give details ) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**INFORMATION SHEET**

Name: \_\_\_\_\_

Organisation: \_\_\_\_\_

Designation: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Please fill out the above information and send it to

Choices Inc  
I-1A, Maharani Bagh  
New Delhi 110065  
Phone: 4610102  
Fax: 4629268  
E-mail: [choicesinc@hotmail.com](mailto:choicesinc@hotmail.com)

It would give a basic idea of the hospital, its gradation & quality <b>(BENIDEA)</b>	1	69	1 Yes 2 No 9 No response (NR)
It would provide protection in cases relating to the Consumer Protection Act (CPA) <b>(BENCPA)</b>	1	70	1 Yes 2 No 9 No response (NR)
It would lead to accountability <b>(BENACCT)</b>	1	71	1 Yes 2 No 9 No response (NR)
Adherence to existing regulations <b>(BENREGUL)</b>	1	72	1 Yes 2 No 9 No response (NR)
Existing regulations should continue but be more stringent <b>(BENREGST)</b>	1	73	1 Yes 2 No 9 No response (NR)
There should be no regulation <b>(BENNOREG)</b>	1	74	1 Yes 2 No 9 No response (NR)
There should be a system of incentives <b>(BENINCEN)</b>	1	75	1 Yes 2 No 9 No response (NR)
Other monitoring systems <b>(BENMONSY)</b>	1	76	1 Yes 2 No 9 No response (NR)

8<sup>th</sup> Feb 03

HHS

**The Karnataka Domestic Violence Against  
Women (Prevention) Bill, 2003**

proposed bill to be submitted to C.G.'s  
Commission as a draft → Further discussions  
on it - through out the state





*An Act to address the growing menace of domestic violence and in particular to empower courts to grant orders for the protection of victims of domestic violence.*

**PREAMBLE**

**WHEREAS** the Republic of India is party to several international instruments such as the Convention on the Elimination of Discrimination Against Women (CEDAW);

**AND WHEREAS** the United Nations adopted a Declaration on the Elimination of All Forms of Violence against Women in 1993;

**AND WHEREAS** the constitutional guarantee under Article 14 of the Constitution of India guarantees to women equality before the law and equal protection of the laws, and Article 21 secures for women the right to life and personal liberty;

**AND WHEREAS** domestic violence has operated as a severe form of oppression of women and which has been increasing with alarming proportions thereby affecting the fundamental rights of women;

**AND WHEREAS** Article 15(3) of the Constitution of India permits special provisions to be made in the interests of women and children;

**AND WHEREAS** it is necessary to recognise the right of women to protection against violence and to reside in their shared household and towards that end to put into place a co-ordinated and integrated system of responses;

**BE IT THEREFORE ENACTED** by the State Legislative Assembly in the \_\_\_\_\_ year of the Republic of India, as follows: -

Chapter I  
**PRELIMINARY**

---

**1) Short title and extent:**

- a) This Act may be called the Prevention of Domestic Violence Against Women (Prevention) Act, 2001.
- b) It extends to the whole of India except the State of Jammu and Kashmir.

**2) Definitions-** In this Act, unless the context indicates otherwise-

- a) **"accredited service providers"** means governmental, non-governmental, voluntary and charitable associations or institutions working for the welfare of woman that are registered under Societies Registration Act or any other law and providing medical, shelter homes, counselling, legal and financial or other assistance to victims of domestic violence who have entered their names in a register maintained by the State Government under the provisions of this Act;
- b) **"court"** means any court established under the provisions of the Family Courts Act 1984 or where no such court exists, the principal civil court of original jurisdiction or any court or lok adalat or any other authority which the State Government may, by notification in the Official Gazette, specify as a court competent to deal with all or any of the matters specified hereunder and includes any court in which a petition may be made under section 14 of the Act;
- c) **"child"** includes any adopted, step or foster child or any other minor i.e. below the age of 18 years, in a domestic relationship or in a shared household.

d) **"domestic relationship"** means a relationship between two persons who live or have, at any point of time, lived together in the shared household, in any of the following ways:

- i) they are or were married to each other, including marriage according to any law, custom, religion or usage whether such marriage is legally valid or not;
- ii) they cohabit or have at some stage cohabited together;
- iii) they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.

e) **"domestic violence"** means any act, omission or conduct which is of such a nature as to harm or injure or has the potential of harming or injuring the health, safety or well-being of the person aggrieved or any child in the domestic relationship and includes physical abuse, sexual abuse, verbal and mental abuse and economic abuse.

Explanation -

- i) "physical abuse" includes any act or conduct which is of such a nature as to cause bodily pain, harm or danger to life, limb, or health or impair the health or development of the person aggrieved, and includes assault, criminal intimidation and criminal force.
- ii) "Sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the person aggrieved and includes sexual intercourse against the will or without the consent of the person aggrieved and refusal to co operate in contraception when the person aggrieved may reasonably require.  
Provided that where the person aggrieved is below the age of sixteen, any sexual intercourse, whether or not against her will or without her consent shall amount to sexual abuse;
- iii) "sexual abuse" of a child includes any act or conduct of a sexual nature that abuses, harms or violates a child in a domestic relationship.
- iv) "verbal and mental abuse" includes
  - a) insults, ridicule, humiliation, degrading or name calling, including insults, ridicule or name calling specially with regard to not having a child or a male child, or ;
  - b) repeated threats to cause physical pain to any person in whom the person aggrieved is interested .
- v) "economic abuse" includes -
  - a) deprivation of any or all economic or financial resources to which the person aggrieved is entitled under law or custom whether payable under an order of court or otherwise or which the person aggrieved requires out of necessity, including but not limited to household necessities for the person aggrieved and her children, if any, stridhan, property, jointly or separately owned by the person aggrieved, payment of rental related to the shared household and maintenance;
  - b) disposal of household effects, any alienation of assets whether moveable or immovable, valuables, shares, securities, bonds etc or other property in which the person aggrieved has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the person aggrieved or her children or her stridhan or any other property jointly or separately held by the person aggrieved; or

social intimate relationship  
taking any form

- c) prohibiting or restricting continued access to resources or facilities which the person aggrieved is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household;
  - d) prohibiting the person aggrieved from seeking employment or participating in public activities.
- f) **"monetary relief"** means monetary relief which a court shall order under Section 6 of this Act.
  - g) **"person aggrieved"** means any woman or child who is or has been in a domestic relationship with the respondent and who is or has been subjected to acts of domestic violence ;
  - h) **"petitioner"** means any person who makes a petition under Section 8 of this Act;
  - i) **"prescribed"** means prescribed by or under this Act or rules made hereunder;
  - j) **"protection officer"** means an officer appointed under section 24 by the State Government in relation to or for the purposes of this Act;
  - k) **"protection order"** means an order granted in terms of Section 5;
  - l) **"residence order"** means an order granted in terms of Section 7;
  - m) **"respondent"** means any person who is or has been in a domestic relationship with the person aggrieved or a person who is aiding such a person in committing or threatening to commit domestic violence;
  - n) **"shared household"** means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes property owned jointly or by either the person aggrieved or the respondent or property, including tenements, in respect of which either the person aggrieved or the respondent or both jointly have any right, title, interest or equity and includes property which may belong to the relations of the person aggrieved or the respondent or the joint family of which the respondent is a member irrespective of whether the respondent or the person aggrieved has any right, title or interest in the shared household;

## Chapter II

### Rights of an aggrieved person

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#### 3. Right to reside in a shared household and the right to protection against violence

- a) Notwithstanding any other law in force, every woman in a domestic relationship shall have the right to reside in the shared household.
- b) If in occupation of the shared household, a woman in a domestic relationship shall have a right not to be evicted or excluded from the same or any part of it by the respondent save in accordance with the procedure established by law.
- c) If forcibly evicted or denied access to the shared household, a woman in a domestic relationship shall have a right to enter into and occupy the same.

d) Notwithstanding any other law in force, every woman in a domestic relationship has a right to obtain protection against domestic violence under this Act in the form of a protection order and/or a residence order and/or an order granting monetary relief.

4. **Duty to inform person aggrieved of rights-** A police officer or a protection officer who has received a complaint of domestic violence or is otherwise present at the scene of an incident of domestic violence or when the incident of domestic violence is reported to him, shall-
- a) inform the person aggrieved of her right to apply for and obtain a protection order, an order for monetary relief and/or a residence order under the provisions of this Act;
  - b) inform the person aggrieved of the services of accredited service providers and
  - c) inform the person aggrieved of her right to free legal services under the Legal Services Authorities Act, 1987.

Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognisable offence.

### Chapter III Orders

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#### 5. Protection order—

- a) The court may pass a protection order prohibiting the respondent from:
- i) committing any act of domestic violence;
  - ii) aiding and abetting in the commission of acts of domestic violence;
  - iii) entering the place of employment of the person aggrieved or, if person aggrieved is a child, its school; or any other place frequented by the person aggrieved;
  - iv) entering the residence of the person aggrieved;
  - v) attempting to communicate in any form whatsoever with the person aggrieved, including personal, oral or written, electronic or telephonic contact;
  - vi) committing any other act as specified in the protection order;
  - vii) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both parties, either singly or jointly; including her stridhan or any other property held either jointly or separately by the person aggrieved;
  - viii) causing violence to the dependants, other relatives and persons who give the person aggrieved assistance from domestic violence.
- b) The court may impose any additional conditions which it deems reasonably necessary to protect and provide for the safety of the person aggrieved or any child.
- c) While passing an order under Section 5(a) or (b), the Court may also pass an order directing the police to give protection to the person aggrieved or to assist her or the petitioner in the implementation of the order.
- d) The court may direct the respondent to return to the possession of the person aggrieved her stridhan or any other property or valuable security to which she is entitled to either singly or jointly.
- e) The court may direct the Protection Officer or any other authority to remove the person aggrieved to a place of safety such as any short stay home run by any accredited service provider.

- f) The court shall, in all cases where it has passed a protection order under this section, order that a copy of such order be given to the protection officer in charge of the area, jurisdiction police station and to any accredited service provider located within the local limits of the jurisdiction of the Court.

#### 6. Monetary Relief-

- a) The court shall direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the person aggrieved and any child as a result of the domestic violence and includes but is not limited to-
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- i) loss of earnings;
  - ii) medical expenses;
  - iii) loss caused due to the destruction, damage or removal of any property from the control of the person aggrieved;
  - iv) maintenance for the person aggrieved as well as her children, if any;
  - v) compensation for the domestic violence inflicted upon the person aggrieved;
  - vi) litigation and travelling expenses
- b) Copies of an order for monetary relief shall be forwarded by the Court to the concerned protection officer and to the Station House Officer of the police station within whose jurisdiction the respondent resides.
- c) The respondent shall be required to pay monetary relief to the person aggrieved immediately upon passing of such order, or within the date specified in the order made in terms of sub-section (a) and in accordance with the terms therein.
- d) The protection officer may, upon the failure on the part of the respondent to make payment in terms of sub-clause (c), by an order, direct an employer or a debtor of the respondent, to directly pay to the person aggrieved or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

#### 7. Residence order-

- a) The court may pass a residence order to:
- i) restrain the respondent from alienating or dispossessing the shared household or encumbering the same;
  - ii) restrain the respondent from renouncing his rights in the shared household except in favour of the person aggrieved;
  - iii) permit the person aggrieved to enter and remain in the shared household or part thereof;
  - iv) prohibit, suspend or restrict the exercise by the respondent of his right to occupy the shared household;
  - v) restrain the respondent from dispossessing the person aggrieved from the shared household, and
  - vi) direct the respondent to secure alternate accommodation for the person aggrieved or to pay rent for the same, which is in accordance with the standard of living and status of the respondent, if for sufficient reasons, the court is of the opinion that it will be harmful or injurious for the person aggrieved to live with the respondent in the shared household, having regard to the circumstances of the case.

- (b) While making an order under this section, the court may impose on the respondent obligations relating to the discharge of rent or other payments, having regard to the standard of living and status and resources of the parties.

**8. Custody Order –** Notwithstanding any other law in force, the court may, at any stage of the hearing of the petition for protection order, grant temporary custody of any child or children to the person aggrieved or the petitioner and specify, if necessary, arrangements for visitation by the respondent.

Provided that in any case where a complaint of sexual abuse of a child has been made, and the court is prima facie satisfied that such allegation is true, the court shall grant custody to the person aggrieved or the petitioner and no such order for arrangements for visitation by the respondent shall be made.

**9. Compensation Orders –**

- a) In addition to other reliefs under this Act, the court may on an application by the person aggrieved, pass an order directing the respondent to pay compensation and damages for the injuries caused by the acts of domestic violence committed by the said respondent.

- a. The person aggrieved may make an application for compensation and damages under this section without any prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent.

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the person aggrieved, the amount, if any, paid or payable in pursuance of the order made by the court under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance, if any, left after such set off.

Chapter IV  
**Practice and Procedure**

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**10. Petition -** Any person aggrieved may apply to the court for appropriate relief against domestic violence in a form prescribed which form may be obtained free of cost from any court, police station or protection officer.

**11. Particulars of the petition—**Ordinarily, the petition, accompanied by an affidavit must contain the following particulars -

1. particulars of the person aggrieved and the respondent
2. the facts on which the petition is based;
3. the nature of relief sought whether a protection order , residence order and/or an order for monetary relief and
4. the name of the police station at which the person aggrieved is likely to report any breach of the orders.

## **12. Petition by next friend or a protection officer-**

Notwithstanding the provisions of any other law, the petition may be brought on behalf of the person aggrieved by any other person, provided that the petition must be brought with the written consent of the person aggrieved.

Provided further that such written consent would not be necessary in circumstances where the petitioner is an accredited service provider or a protection officer and where the person aggrieved is-

- a) a minor;
- b) suffering from a mental disorder of such nature and to such an extent that she cannot reasonably be expected to apply by herself;  
unconscious or otherwise physically incapable due to the acts of domestic violence;

Provided further that an accredited service provider or a protection officer shall be entitled to appear before the Court and address the same if such accredited service provider is a petitioner or where the petitioner authorises the accredited service provider.

## **13. Orders during court recess –**

A petition under Section 8 of this Act may be brought before the court at anytime. Provided that when a petition is made at any time outside ordinary court hours or on a day that is not an ordinary court day or when the court is not in session, the Duty Magistrate shall pass the necessary protection orders as provided in Sec.5, 6 and 7 of this Act and the same may be confirmed by the court upon resumption of work within 72 hours.

## **14. Relief in other suits and legal proceedings:**

- a) Relief available under this Act, may also be sought in any legal proceeding, civil or criminal, affecting the person aggrieved and the respondent whether such proceeding was initiated before or after the commencement of this Act.
- b) Such order may be sought in addition to and along with any other relief that the person aggrieved may pray for in such suit or legal proceeding, civil or criminal.
- c) During the pendency of investigations in relation to commission of offences mentioned in Schedule 1, a competent court may upon a petition in that behalf by the person aggrieved, grant the orders mentioned in Sec.5, 6 and 7 of this Act, as a condition of release on bail of the respondent.

## **15. Power to grant interim and ex parte orders**

- (a) In any proceeding before it under this Act, the Court may pass such interim order as it deems just and proper.
- (b) If a court is satisfied that a petition *prima facie* discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, it may grant an *ex parte* order under sections 5,6,7,8 and or 9 against the respondent, in a form as may be prescribed under the rules.

## **15A.**

- (a) Where any person is arraigned as a respondent in a petition seeking for any relief under this Act, the burden of proof that he has not committed the said Act shall be on him.
- (b) Where the respondent is accused of sexual abuse, it is not a defence that the petitioner

consented to the said Act.

- (c) The following evidence is not admissible in any proceedings under the Act involving sexual abuse :
- (i) Evidence offered to prove petitioner's sexual predisposition;
  - (ii) Evidence offered to prove the character and past sexual history of the petitioner.

**16. Single acts or condonation-**

The court shall not refuse to grant a protection order merely on the basis that:

- a) only a single act of domestic violence has been committed or a single threat has been made by the respondent or on the ground that the acts or threats if viewed in isolation, appear to be minor or trivial.
- b) the person aggrieved had not complained of the acts of domestic violence and had condoned the same.

Provided that the complaint is brought within 7 years from the date of the commission of the act(s) of domestic violence complained of.

**17. Notice to show cause**

The Court shall issue notice to the Respondent to show cause within 30 days why an order under sections 5, 6, 7, 8 and/or 9 should not be granted or if granted under Section 15 why the same should not be confirmed.

**18. Confirmation, variation or revocation of order-**

- (a) An order under sections 5, 6, 7, 8 and 9 shall operate for a period of three years and may, on application by the person aggrieved, be extended for a further period.
- (b) An order made under this section may, for exceptional circumstances to be recorded in writing, be altered, modified, varied or revoked on an application by either the person aggrieved or the respondent provided the court is satisfied that there is a change of circumstances that requires such alteration, modification, variation or revocation.

**19. Appeal –**

- a) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in the Code of Criminal Procedure, 1973 or in any other law, an appeal shall lie from every judgement or order of the court, to the High Court.
- b) Any appeal by the respondent against the order of monetary relief shall not be registered unless he has deposited 50% of the amount awarded.

Chapter V  
**Protection Officers**

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- 20. Appointment and qualifications of Protection officers-** The State Government shall by notification in the official gazette, appoint such number of Protection Officers in each district as it may consider necessary, to assist the court in the discharge of its duties under this Act.



Provided that such appointment shall be by recruitment by the State Public Services Commission or such other body which conducts, selections, examinations and recommends recruitments of state public servants.

Provided further that such appointment shall be in accordance with the qualifications for the post of protection officers as may be prescribed by the State Government.

Provided further that no Protection Officer shall have a rank lower than that of a Sub-Divisional Magistrate.

## 21. Duties and Functions of Protection Officers:-

- a) It shall be the duty of a Protection Officer to assist the Court in the investigation of complaints relating to domestic violence.
- b) The Protection Officer shall be under the control of the Court, and shall perform duties imposed on him by the Court and by this Act.
- (c) In addition to the above the Protection Officer shall perform the following functions:
  - i) Make a Domestic Incident Report in the prescribed form upon receipt of a complaint of domestic violence.
  - ii) Inform the person aggrieved of her right to apply to the court for a protection order, monetary relief and/or a residence order under the provisions of this Act.
  - iii) Assist the person aggrieved in obtaining a protection order from the Court.
  - iv) Ensure that the monetary relief deposited by the respondent is made available to the person aggrieved at the earliest.
  - v) Co-ordinate the activities of the accredited service providers operating in his area.
- (d) The protection officer shall make best efforts to ensure that the activities of the police and the accredited service providers are so co-ordinated as to ensure that a person aggrieved:
  - i) has easy access to information about accredited service providers, including short stay homes in the area that may provide her with support and help that she may require and enable access to services of the accredited service providers;
  - ii) is easily able to access transportation to an alternative residence or a safe place of shelter if the person aggrieved so requires;
  - iii) is able to avail of transportation to the nearest hospital or medical assistance for the treatment of injuries if such assistance is required,
  - iv) is able to obtain assistance in the collection of her belongings, including stridhan or any other property ordered to be returned or restored to her by the order of the court, with the assistance of the police,
  - v) is able to access the Court for orders under this Act.
  - vi) has access to every possible assistance in the service of exparte orders to the respondent, and enforcement of any orders that may have been made by the court under this Act.

- (e) Notwithstanding anything in any law, the protection officer may, subject to confirmation by a Court within 48 hours, by an order:
- i) Direct a bank or a financial institution to suspend transactions in respect of any bank account or locker; or
  - ii) Prohibit a co-operative society or a registry or any authority or an individual or a company from registering a transfer of any share, right or interest in any movable or immovable property.

Chapter V  
**Offences and Penalties**

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- 22. Breach of a order** – A breach of an order made under Sections 5, 6, 7, 8,9 and/or 15 shall be an offence and shall be punishable with imprisonment which may extend upto three years or with fine which may extend upto Rupees twenty thousand or with both.
- 23. Conditional warrant of arrest-** While granting any order under sections 5, 6, 7, 8 or 9 of this Act after hearing both the parties, the Court, if satisfied, that the respondent has committed act(s) of domestic violence, may attach to the order, a power of arrest without warrants for any breach of the same.
- 24. Execution of the warrant** – Upon a complaint by the person aggrieved or otherwise, if the appropriate police officer of the concerned police station is satisfied that a condition exists for execution of the warrant of arrest, he shall execute the warrant and arrest the respondent.
- 25. Cognisance and proof –**
- a The offence under Section 24 shall be a cognizable and non-bailable.
  - b The court may conclude the commission of an offence under Section 24 upon the sole testimony of the person aggrieved.
- 26. Offence by Protection Officer** – If any protection officer refuses or without sufficient cause is unable to give effect to the provisions of this Act or discharge his obligation he shall be punished with imprisonment of either description for a term which may extend upto one year, or with a fine which may extend to Rupees five thousand or with both.
- Provided that no Court shall take cognisance of an offence under this section save with the permission of the state government.
- 27. Powers of the court in relation to offence-**The court passing an order under Section 5,6,7 or 13 shall have the power to try offences punishable under this Act.

Chapter VI-  
Miscellaneous provisions

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**28. Jurisdiction-**

- a) Jurisdiction to grant a protection order and/or try offences under this Act lies with any court, within whose jurisdiction-
- i) the person aggrieved permanently or temporarily resides, carries on business or is employed; or,
  - ii) the respondent resides, carries on business or is employed; or,
  - iii) the cause of action arose
- (b) Any order made hereunder shall be enforceable throughout India.

**29. In camera proceedings** – Unless the court is satisfied to the contrary, proceedings under this Act shall be held in camera.

Provided however that the protection officer, the accredited service provider or any other person whom the petitioner desires shall be permitted to attend the same.

**30. Non obstante clause-** the provisions of this Act and of any rules made hereunder shall have effect notwithstanding anything inconsistent with therewith contained in any other law in force.

**31. Counselling-**The Court may at any stage of the hearing on the petition for a protection order direct the respondent to undergo singly or, at the option of the person aggrieved, jointly with the person aggrieved mandatory counselling with any accredited service provider.

**32. Protection of actions taken in good faith-**No suit, prosecution or other legal proceeding shall lie against any accredited service provider or protection officer or police officer for anything which is in good faith done or purported to be done by or under this Act.

**33. Procedure-**

- a) Except as otherwise stated in this Act, proceedings regarding the issuance of orders and offences provided herein against the same shall be governed respectively by the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973.

- b) Nothing in sub-section (a) shall prevent the court from laying down its own procedure.

**34. Duty of government to ensure effective implementation of the Act -**

- 1) The Government of India shall appoint an eminent person as the Coordinator for Prevention of Domestic Violence who shall submit annual reports to the Government of India on the incidence of Domestic Violence in India and on the implementation of this Act which report shall be laid before both houses of Parliament.
- 2) The Co-ordinator for the Prevention of Domestic Violence, appointed under sub-section (I) of this section shall have the powers to perform all or any of the following:

*For 1987 and 1988  
methodology (?)  
498(A) law  
rule for best source*

- a) powers to investigate and examine all matters relating to Prevention of Domestic Violence
  - b) make in its annual reports to the Government of India, recommendations for the effective implementation of the provisions of this bill
  - c) review, from time to time, the existing provisions of the law on domestic violence.
  - d) Look into complaints and take suo moto notice of matters relating to domestic violence and the non-implementation of the law on domestic violence
  - e) Call for special studies or investigations into specific incidence of domestic violence
  - f) Participate and advise on the planning process for securing a safe environment free of domestic violence.
  - g) Evaluate the progress of the development of women under the law on domestic violence
- 3) The Government of India, as well as the State Government, shall ensure that:
- a) the Act and the contents thereof receive wide publicity in the television, radio and the print media;
  - b) the government officers, the police and the members of the judicial services are given periodic sensitisation and awareness training on the issues addressed by this Act; and
  - c) effective protocols are formulated by concerned ministries dealing with health, prosecutions and welfare to address issues of domestic violence and that the same are periodically revised.

### 35. Power to make Rules-

- a) The State Government may by notification in the official gazette, make rules for carrying out the purposes of this Act.
- b) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-
  - i) prescribing the format in which the forms, petitions, orders, directions and reports under this Act would have to be made;
  - ii) maintaining a register of accredited service providers;
  - iii) rules and procedure for the appointment and co-ordination of protection officers and their duties, tasks and responsibilities;
  - iv) powers of protection officers;
  - v) rules and procedure for appointment of officers to assist protection officers appointed under this Act;
  - vi) method and manner of deposit, recovery and payment of monetary relief;
  - vii) rules of procedure for proceedings under this Act; and
  - viii) any other matter in connection with or in relation to this Act.
- c) The Rules shall be framed in consultation with the National and State Women's Commission as well as activists from women's groups.

## SCHEDULE I

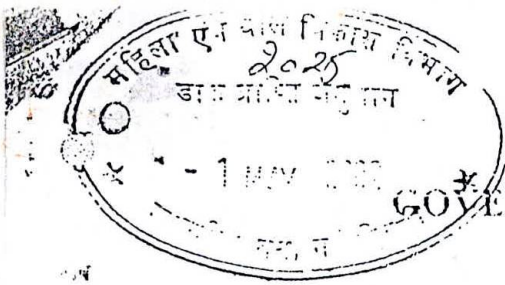
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### 1. Offences under the Indian Penal Code, 1860.

- i) Sections 269 (negligent act likely to spread infection of disease dangerous to life), Section 270 (malignant act likely to spread infection of disease dangerous to life),
- ii) Offences listed under chapter XVI (offences affecting the human body),
- iii) Sections 383, 385, 386, 387, 388, 389 (Sections dealing with extortion),
- iv) Section 403 (dishonest misappropriation of property), Section 405 (criminal breach of trust),
- v) Section 441 (criminal trespass),
- vi) Offences listed under Chapter XX (offences relating to marriage),
- vii) Section 498A ,
- viii) Section 499 (defamation),
- ix) Sections 503 (criminal intimidation), 504 (intentional insult with intent to provoke breach of peace),
- x) Section 507 (Criminal Intimidation by an anonymous communication)
- xi) Section 509 (word, gesture or act intended to insult the modesty of a woman),
- xii) Attempt to commit any of the above offences.

### Other statutes

- i) All offences listed in the Dowry Prohibition Act, 1961
- ii) Section 4, of the Commission of Sati Act,1987.(abetment of sati)
- iii) All offences listed in the Immoral Traffic (Prevention ) Act,1956
- iv) Offence under the Prenatal (Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.



No.WPA-2002 C.R.134 D-2.  
 Women & Child Development Dept.  
 Mantralaya, Mumbai-400 032  
 Date:- 20<sup>th</sup> April, 2002.

From:  
 Shri Wasudeo G.Gorde.  
 Secretary to Government.  
 Women and Child Development Department.  
 Mantralaya, Mumbai-400 032.

2775/  
 To,

The Secretary to the  
 Government of India.  
 Ministry of Home Affairs.  
 Jansalmer House, Mansingh Road,  
 New Delhi-110001.

Subject :- Administrative approval to the "Maharashtra  
 Protection of Women Bill, 2002."

Sir,

I am directed to forward herewith a copy ( with ten spare copies ) of the draft of the "Maharashtra Protection of Women Bill, 2002". The proposal was approved by the State Cabinet in its meeting dated the 4<sup>th</sup> July, 2001.

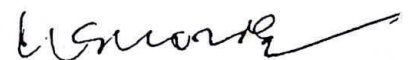
2. The Bill aims at addressing the problems of domestic violence met out to women and sexual harassment of working women at work place. It also aims at securing a woman's right to reside in her matrimonial home or in shared household or her maternal home and also to provide expeditious administrative and judicial redressal for the victims of domestic violence or sexual harassment at work place.

3. The subject matter of the Bill falls under entry 1.64 and 65 in list II, and entries 1, 2, 5, 11A, 13, 24, 45, 46 and 47 in List III in the Seventh Schedule to the Constitution of India and also attracts article 15(3) of the Constitution.

4. Some of the provisions of the Bill are repugnant to the provisions of the Civil procedure Code, 1908 (5 of 1908) which is an existing law, and the Code of Criminal procedure, 1973 (2 of 1974) and the Family Courts Act, 1984 (66 of 1984) which are earlier laws made by the Parliament with respect to the matters enumerated in entries 1, 2, 5, 11A and 13 in List III in the Seventh Schedule to the Constitution of India. It would therefore, be necessary to reserve the Bill, after it is passed, for the consideration and assent of the President under article 254(2) of the constitution.

5. Since the subject matter of the Bill also falls in the Concurrent Legislative List (List III), as per the instructions of the Government of India, before introducing the Bill in the State Legislature, it is necessary to obtain administrative approval of the Government of India for the said Bill. I am therefore to request you to move the Government of India to accord its administrative approval to the Bill, so as to enable this Government to introduce the said Bill in the next session of the State Legislature for consideration and passing.

Yours faithfully,



( Wasudeo G. Gorde )  
Secretary to Government

Copy forwarded with compliments to :-

✓ (1) The Secretary to the Government of India, Ministry of Human Resource Development (Department of Women & Child Development), Shastri Bhawan, New Delhi-110001, with a copy of the bill, with a request to expedite the matter with the Ministry of Home Affairs, New Delhi-110001.

5

(2) The Special Commissioner to the Government of Maharashtra, Maharashtra Sadan, Copernicus Road, New Delhi-110 001, with a copy of the Bill, with a request to take necessary action.

(3) The Principal Secretary (Legislation) to the Government of Maharashtra, Law and Judiciary Department, Mantralaya, Mumbai - 32, for information.



**L. A. BILL No. OF 2002.***A BILL*

*to comprehensively address issues relating to domestic violence, deprivation of matrimonial home and sexual harassment of working woman at work place or otherwise and to cast certain duties on every societal structure and unit for prevention and protection against sexual harassment of women, and for empowerment of courts to grant expeditious protection and relief to the victims of domestic violence.*

**WHEREAS** it is necessary to recognise the right of a woman for protection against domestic violence, deprivation of matrimonial home and sexual harassment at work place or otherwise and to address these issues comprehensively and to cast duty on every societal structure and unit for prevention and protection against sexual harassment of women;

**AND WHEREAS** there is need to establish the mechanism for expeditious administrative and judicial protection by coordinated and integrated system of responses and to provide for empowerment of courts to grant expeditious protection and relief to such victims; it is hereby enacted in the Fifty-third Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Maharashtra Protection of Women Act, 2002.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may by notification, in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,-

(a) "accredited service provider" means a government or non-government voluntary, charitable association or institution registered as such with Government under this Act in the prescribed manner or under the Bombay Public Trusts Act, 1950 or under the Societies Registration Act, 1860, with the object, *inter alia*, of protecting the rights and interests of women including providing shelter homes, counseling, medical, legal and financial or other assistance and services to women victims of domestic violence;

(b) "aggrieved woman" means any woman who is or has been a victim of domestic violence;

(c) "aggrieved employee" means any woman employee who is or has been a victim of sexual harassment at her work place;

(d) "Court" means the Court of a Judicial Magistrate First Class or as the case may be, the Metropolitan Magistrate, appointed as the Women Protection Magistrate under section 5 of this Act, and shall

Bom. XXIX of 1950. 21 of 1860.

include any other Court which the Government may in consultation with the High Court, by notification in the *Official Gazette*, specify as a Court competent to deal with all or any of that matters specified under this Act.

(e) "domestic violence" means and includes , -

(I) any willful physical or mental ill-treatment or cruelty meted out to a woman, -

(A) in her matrimonial home, by her husband or any other member of such household;

(B) in the home or house where such woman resides, by any of the members of her family or any other person residing in the house with her;

(II) forcing a woman to prostitution by her husband or any of the members of her family or any other person residing in the house with her;

(III) removing or expelling a woman from her home, by respondent without due process of law;

Explanation.- For the purposes of this clause, -

(i) " the term " cruelty" shall have the same meaning as assigned to it under section 498-A of the Indian Penal Code;

(ii) an action shall not amount to domestic violence or cruelty, if the pursuit of course of conduct by the respondent was reasonable for his immediate protection or the immediate protection of his or any other person's property;

(f) "employer" means any person, who employs any woman as employee and includes any person who is for the time being incharge of or responsible for the management of any firm, company, institution, organisation, factory, corporation, undertaking or any government or semi-government office or department, where a woman employee is employed;

(g) "Government" or " State Government" means the Government of Maharashtra;

(h) "home" means a house where a woman ordinarily lives,-

(i) together with a male in a domestic relationship; or

(ii) other members of her family or relatives;

and shall include her matrimonial home;

(i) "*Mahila Dakshata Samiti*" means a *Mahila Dakshata Samiti*

appointed under section 28;

(j) "matrimonial home" means a house, owned by the husband or otherwise, where a woman after her marriage is residing or was residing with her husband ;

(k) "monetary relief" means an order granting monetary relief to the aggrieved woman by the Court under section 9;

(l) "prescribed" means prescribed by rules made under this Act;

(m) " Protection Officer" means an officer appointed by State Government under section 25;

(n) "respondent" means and includes,-

(I) in respect of the aggrieved woman , her husband or other relative or person, whether related by blood, marriage or otherwise, against whom the aggrieved woman has sought any relief under this Act;

(II) in respect of the aggrieved employee, the employer or any other officer or other employee employed by such employer against whom the aggrieved employee has sought any relief under this Act;

(o) "sexual harassment " means and includes any unwelcome sexually determined behaviour with a woman at her working place , whether directly or otherwise, such as,-

(i) physical contact and advances;

(ii) a demand or request for sexual favours;

(iii) sexually coloured remarks;

(iv) showing pornography;

(v) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature;

(p) "societal structure and social unit" means a structure or unit specified under section 11;

(q) "woman" means a female human being of any age.

## CHAPTER II

### PROVISIONS IN RESPECT OF DOMESTIC VIOLENCE

Prohibition  
against  
domestic  
violence.

3. No woman shall be subjected to domestic violence by any person.

Prohibition  
against  
eviction from  
home.

4. Notwithstanding anything contained in any other law for the time being in force, no woman shall, without due process of law, be evicted or removed from her home by a respondent or any other person.

### CHAPTER III

#### WOMEN PROTECTION MAGISTRATE

Women  
Protection  
Magistrate.

5. (1) The Government shall, in consultation with the High Court, appoint one or more Women Protection Magistrates for each district in the State:

Provided that, while appointing such Magistrate the preference shall be given to women.

(2) Every Women Protection Magistrate shall be assisted by a panel of two social workers, who shall be the persons of ability and integrity and having special knowledge, sensitivity and experience of dealing with the problems relating to the domestic violence and other issues pertaining to women and children, to be nominated by the State Government. Out of such two social workers one shall be a woman, nominated in consultation with the State Women's Commission.

(3) The social workers shall be appointed for a period of three years.

(4) Appointments made, from time to time, as women Protection Magistrates and the social workers shall be published in the *Official Gazette*.

(5) The social workers nominated by the Government under sub-section (2), shall receive such fees and allowances as may be prescribed.

(6) No order made by the Women Protection Magistrate shall be invalid by reason only of the absence of any member social worker, during any stage of the proceeding.

Powers and functions of Women Protection Magistrate.

2 of 1974.

6. The Women Protection Magistrates shall for the purposes of this Act have the powers conferred by the Code of Criminal Procedure, 1973 on the Metropolitan Magistrate or as the case may be, a Judicial Magistrate, First Class.

Powers of Court.

7. (1) The Court may, without prejudice to its inherent powers, on an application being made by any aggrieved woman or under the provisions of section 20, pass any of the following orders against the respondent, namely:-

(i) order prohibiting commission of any act of domestic violence against the aggrieved woman by the respondent, specifically prohibiting the eviction or removal of the aggrieved woman from her home by the respondent without due process of Law;

(ii) order of possession or occupation, if the aggrieved woman is already evicted or removed from the home, putting back such woman in possession or occupation of her home, by the respondent;

(iii) if it is reasonably not possible to put back such woman in peaceful possession or occupation of the home then, by order made against the respondent, directing him to secure or to make suitable arrangement of residence of the aggrieved woman or pay rent of the suitable residence for such aggrieved woman;

(iv) order in suitable case, prohibiting the respondent from entering the home or part of the home, where such aggrieved woman lives or in any way disturbing her peaceful residence in such home.

Order of prohibition.

8. The Court may, on an application being made by the aggrieved woman pass an order prohibiting the respondent, without the specific permission of the Court from,-

(i) selling or in any way alienating his right in the home of such woman;

(ii) selling, alienating or otherwise, disposing off any movable assets in such home or the sridhan of such woman;

Monetary relief.

9. (1) The Court may, on an application being made by an aggrieved woman, pass an order against the respondent granting monetary relief in favour of the aggrieved woman, in suitable cases, providing, *inter alia*, for :-

(i) payment of compensation on account of loss of earnings due to inability to attend the office or place of work as a result of domestic violence meted out to her;



(ii) payment of medical expenses incurred for the treatment as a result of domestic violence meted out to her;

(iii) payment of compensation for loss caused due to destruction, damage or removal of property from the home of the aggrieved woman;

(iv) immediate maintenance of the aggrieved woman as well as her dependent children;

(2) The order granting monetary relief in favour of the aggrieved woman shall specify the period within which it shall be complied with by the respondent and the duration for which the monetary relief shall be payable.

#### CHAPTER IV

### PROVISIONS RELATING TO SEXUAL HARASSMENT AT WORK PLACE

Sexual harassment.

**10. (1)** It shall be the duty of every employer to prevent any sexual harassment and to protect the women employees from, any sexual harassment at the place of work.

(2) An aggrieved employee who is a victim of any act of sexual harassment at her work-place may, file a complaint under this Act, for the redressal of and relief from, such harassment, to her employer.

(3) It shall be the duty of every employer to provide an appropriate forum or complaint mechanism for redressal of any grievance or complaint of sexual harassment, as prescribed.

(4) The prevention and protection forum provided by the employer shall exercise such powers and perform such duties, and follow such procedure for prevention and redressal of such complaints, as prescribed.

## CHAPTER V

### RESPONSIBILITY FOR SECURITY AND PROTECTION OF WOMEN

Responsibility  
of societal  
structure,  
societal unit  
and employer  
for security of  
women.

**11.** (1) It shall be the duty of every societal structure and societal unit mentioned in sub-section (2), to prevent sexual harassment to women and to provide security and protection to women against sexual harassment in work places and in the manner prescribed by the Government.

(2) For the purposes of sub-section (1), the following units shall be the societal structures and societal units, namely:-

- (a) Urban and rural local authorities at various levels;
- (b) Employers of women employees including seasonal and part-time employees;
- (c) Custodial organizations including prisons and shelter homes;

(d) Service providers, such as, homes for women and children and hospitals and educational organizations; and

(e) any other organizations as may be specified in this behalf, by general or special order issued in this behalf, by the Government.

## CHAPTER VI

### PROCEDURE OF COURTS TO BE FOLLOWED

2 of 1974.

Code of Criminal Procedure, 1973 to apply to the proceedings under this Act.

**12.** The provisions of the Code of Criminal Procedure, 1973 shall, as far as may be, apply to the proceedings before the Court under this Act.

Jurisdiction of Court.

**13.** Any application under this Act, shall be presented to the Court exercising jurisdiction under this Act, -

(i) Where the aggrieved woman or aggrieved employee resides, or

(ii) the place where the cause of action has arisen.

Court to try the applications expeditiously.

**14.** Every endeavour shall be made by the Court while hearing any application filed under this Act to dispose it off within three months from the date of filing of the application.

Procedure for recording evidence.

**15. (1)** The evidence in any proceedings under this Act shall be taken in the presence of the respondent or, when the personal attendance of the respondent is dispensed with, in the presence of

2 of 1974.

his pleader, and shall be recorded in the manner prescribed for summons -cases in the Code of Criminal Procedure, 1973 :

Provided that, if the Court is satisfied that the respondent is willfully avoiding service of notice, or willfully neglecting to attend the Court, the Court may proceed to hear and determine the petition *ex-parte*.

Power of Court to pass interim relief order.

**16.** If at any stage of the proceedings under this Act, the Court is satisfied that the circumstances require immediate intervention of the Court, it may, pass such interim relief order as it may deem fit.

Power of the Court to impose additional conditions.

**17.** When the order under sections 7, 8, 9 or 16 is passed by the Court, the Court may, impose upon the respondent such additional conditions, including execution of bond of good behaviour, as it may deem fit.

Copy of the order to be served on the Protection officer and the police station.

**18.(1)** A copy of the order under sections 7, 8, 9 or 16, as the case may be, shall be forwarded to the concerned Protection Officer. (2) When the order under sections 7, 8, 9 or 16, as the case may be, is passed by the Court *ex parte*, a copy of the same shall be forwarded by the Court to the concerned police station within whose jurisdiction the respondent resides. It shall be the duty of the Officer in charge of the said Police Station to serve the order upon the respondent immediately.

Custody of children.

**19.** The Court may, at any stage of the hearing of an application under sections 7, 8 or 9 grant temporary custody of any child or children to the aggrieved woman, if so requested by her. Such order

may, if necessary, specify the arrangement for visits by the respondent.

Application by next friend.

**20.** Notwithstanding anything contained in any other law for the time being in force, an application under this Act may be filed before the Court, on behalf of the aggrieved woman, by her next friend or any relative, with the written consent of such woman :

Provided that, such written consent shall not be necessary in the circumstances where the applicant is an Accredited Service Provider or the Protection Officer or Police Officer, or where the aggrieved woman is, for any reason incapable of giving such consent.

Duration of operation of orders and alteration, modification, variation or revocation thereof.

**21 .(1)** Any order made under sections 7,8,9 or, as the case may be 16, shall be operative for a period of two years from the date of passing of such order and may, on application by the aggrieved woman, be extended for a further period of not more than six months at a time, for the reasons to be recorded:

Provided that the total period shall not exceed three years.

**(2)** Any order passed under sections 7, 8, 9 or, as the case may be 16 may, for reasons to be recorded, be altered, modified, varied or revoked by the Court on an application being made in that behalf by the respondent:

Provided that, no such order under this sub-section, shall be passed by the Court unless a reasonable opportunity of being heard is given to the other party.

Proceedings  
to be held *in*  
*camera*.

**22.** (1) Every proceeding under this Act may be conducted *in camera* and it shall not be lawful for any person to publish any matter in relation to any such proceeding, held in camera, except with the previous permission of the Court.

(2) The Protection Officer or an Accredited Service Provider may be permitted to attend the proceedings and during the proceeding the aggrieved woman may be accompanied by her relatives or friends in and her advocate in the Court.

Appeals.

**23.** Any person aggrieved by an order of the Court under this Act, may prefer an appeal against such order to the Court of Sessions within thirty days from the date of such order :

Provided that, when a Family Court established under the Family Courts Act, 1984, is notified as a Women's Protection Magistrate under section 5 , the appeal shall lie to the High Court.

66 of  
1984.

Right to legal  
representa-  
tion.

**24.** Notwithstanding anything contained in any law, no party to a suit or proceeding before a Womens' Protection Magistrate shall be entitled, as of right, to be represented by a legal practitioner:

Provided that, if the Womens' Protection Magistrate, Considers it necessary in the interest of justice, it may seek the assistance of a legal expert as *amicus curie*.

## CHAPTER VII

## PROTECTION OFFICERS AND MAHILA DAKSHATA SAMITI

Protection  
officer.

25. (1) The State Government may, by notification in the *Official Gazette*, appoint such number of Protection Officers in each district as it considers necessary and shall notify the area within which a Protection Officer shall exercise the powers and perform the duties under this Act:

Provided that, as far as possible women shall be appointed as Protection Officers.

(2) The qualifications for appointment as Protection Officer and the remuneration and allowances to be paid and other terms and conditions of service of such Protection Officer shall be such as may be prescribed.

Powers,  
functions and  
duties of  
Protection  
Officer.

26. (1) The powers, functions and duties of the Protection Officer shall be as follows, namely:-

(a) to detect and prevent the contravention of the provisions of this Act;

(b) to make a Domestic Incident Report in the prescribed Form upon receipt of a complaint of domestic violence to the Court at the earliest;

(c) to inform the aggrieved woman of her right to file an application to the court for an order or other reliefs under the provisions of this Act and assist her in that behalf;

(d) to co-ordinate the activities of the accredited service providers operating in his jurisdiction;

(g) to inform the nearest police station *suo moto* or on receiving reliable information or on receiving a complaint about commission of offence of domestic violence or on reasonable apprehension of commission of such offence against a woman; and

(h) to discharge such other functions as may be assigned to such Officer, by the State Government.

(2) In the discharge of his powers and duties, a Protection Officer shall have power to summon attendance of any person before him.

(3) The other powers, functions and duties of the Protection Officer shall be such as may be prescribed.

Information to Protection Officer and exclusion from liability.

27. (1) Any person who has reason to believe that an act of domestic violence has been or is being, or is likely to be committed, may give information to the Protection Officer.

(2) No liability, civil or criminal, shall be incurred by any person for information given in good faith for the purpose of sub-section (1).

*Mahila Dakshata Samiti.*

28. (1) There shall be a *Mahila Dakshata Samiti* appointed by the Government for every district and for every Commissionerate area.

(2) The *Mahila Dakshata Samiti* shall consist of such number of members as specified by the Government by order issued in this behalf, in consultation with the Maharashtra State Women's Commission constituted under the Maharashtra State Commission



for Women Act, 1993 to assist the Police in implementing the provisions of this Act.

(3) The members of the *Mahila Dakshata Samiti* shall be paid such fees and allowances as may be prescribed.

## CHAPTER VIII

### OFFENCES AND PENALTIES

Offences and penalties.

**29.** Any contravention, violation or non compliance of the provisions of this Act or rules made thereunder or orders passed by the Court under this Act shall constitute an offence under this Act and the offender shall on conviction be punished with imprisonment which may extend to three years or with fine which may extend to twenty thousand rupees, or with both.

Penalty for publication of proceedings in contravention of section 22.

**30.** Any person who prints or publishes any matter in contravention of the provisions contained in section 22, shall be punished with fine which may extend to one thousand rupees.

## CHAPTER IX

### MISCELLANEOUS

Other reliefs not barred.

**31.** (1) The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

(2) Nothing in this Act shall debar any person from claiming any relief under any other law for the time being in force merely, on the ground that such person has claimed the reliefs under this Act or that the proceedings under this Act are pending.

Mandatory  
Counselling

32. The Court may, at any stage of proceedings under this Act direct the aggrieved woman and the respondent to undergo, either singly or jointly, a counselling with the accredited service provider.

Protection  
officer and  
member of  
Mahila  
Dakshata  
Samiti to be  
of public  
servants.

45  
1860.

33. The Protection officer and every member of the Mahila Dakshata Samiti while acting or purporting to act under this Act shall be deemed to be a public servants within the meaning of section 21 of the Indian Penal Code.

Protection of  
action taken  
in good faith.

34. No suit, prosecution or other legal proceedings shall lie against any accredited service provider or a Protection Officer or a Police Officer or the Officer of the Government or a member of a Mahila Dakshata Samiti for any thing in good faith done or intended to be done under this Act or the rules made thereunder.

Power to  
make rules.

35. (1) The State Government may, by notification, in the *Official Gazette*, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall, from the date of such notification, have effect only, in such modified form or be of no effect as the case may be; so, however, that, any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

power to  
remove  
difficulty.

**36.** If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purposes of removing the difficulty:

Provided that, no order shall be made after the expiry of a period of two years from the date of commencement of this Act.

## STATEMENT OF OBJECTS AND REASONS

After Fifty-two years of independence, the women folk of our country which contributes equally in the national building activities is still receiving secondary treatment in the day - to- day life in the society. The women are most of the times kept in the disadvantage in all walks of life. Atrocities and violence against women are on the increase inspite of several laws enacted by the Government to curb this undesirable events.

2. Presently, there is no special law to deal with this serious problem and effective machinery to deliver quick redressal to the women who are victims of domestic violence or sexual harassment at work places.

The year 2002 was declared as 'Women Empowerment Year' by the Government of India. Therefore, the Government of Maharashtra has decided to make a special law for effectively and expeditiously curbing this element in the society, and for betterment of woman folk, to recognise their right to live with dignity and to protect them against domestic violence or sexual harassment in work places, etc., to impose duty on every societal structure and societal unit to provide protection to women against sexual harassment.

3. The Bill is intended to achieve the above objectives.

Mumbai,  
Dated the

2002.

Minister for Women and  
Child Development.

ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಯ ವಿರುದ್ಧ  
ನಾಗರೀಕ ಕಾನೂನಿಗಾಗಿ ಆಂದೋಲನ - 2002

ಸಂಕ್ಷಿಪ್ತ ಟಿಪ್ಪಣಿ

ಲಾಯರ್ಸ್ ಕಲೆಕ್ಟಿವ್

ಮಹಿಳೆಯರ ಹಕ್ಕುಗಳ ವೇದಿಕೆ

ಓರ್ವ ಜರ್ಜರಿತ ಪತ್ನಿಯ ಜೀವನವು ಭಯಂಕರವಾದುದಾಗಿದ್ದು ಅದು ಆಕೆಯ ಜೀವನವನ್ನು ನಾಶಮಾಡುತ್ತದೆ. ಮದುವೆಯು ಆಕೆಯನ್ನು ಬಂಧಿಸಿಟ್ಟಿದೆ. ಕಾನೂನು, ಸಾಮಾಜಿಕ ಕಟ್ಟುಪಾಡುಗಳು ಮತ್ತು ಆರ್ಥಿಕ ಅನಿವಾರ್ಯತೆಯು ಆಕೆಯನ್ನು ಸುತ್ತುಗಟ್ಟಿದೆ. ವಿಷವರ್ತುಲದಲ್ಲಿ ಬಂಧಿಸಲ್ಪಟ್ಟಿದ್ದಾಳೆ. ಆಕೆಯ ಹೆಮ್ಮೆಯ ಕುಟುಂಬ ಮತ್ತು ಸ್ನೇಹಿತರ ನಡುವಿನಲ್ಲಿ ಆಕೆಯು ಅನುಭವಿಸುವ ತೃಪ್ತಿಯನ್ನು ಅವಲಂಭಿಸಿದೆ. ಆಕೆಯ ಹೆಮ್ಮೆಯ ತನ್ನ ಗಂಡನು ತನಗೆ ನಿಷ್ಠೆಯಿಂದಿದ್ದಾನೆ ಎಂಬುದನ್ನು ಅವಲಂಭಿಸಿದೆ ಮತ್ತು ಅದು ಇನ್ನು ಮುಂದೆ ಅಸಾಧ್ಯ ಎನಿಸಿದಾಗ ಆಕೆಯ ಗಂಡನು ಕೊಡುವ ಹಿಂಸೆಯನ್ನು ಒಪ್ಪಿಕೊಳ್ಳುವಂತೆ ಮನವೊಲಿಸಲಾಗುತ್ತದೆ.

ಆಕೆಯ ಗಂಡನ ಹಿಂಸೆಯು ಆಕೆಯು ತನ್ನ ಜೀವನ ಮದುವೆ, ಪ್ರೀತಿ ಮತ್ತು ಕುಟುಂಬದ ಭದ್ರತೆಯ ಕುರಿತು ಹೊಂದಿರುವ ಭಾವನೆಗಳನ್ನು ನಾಶ ಮಾಡುತ್ತದೆ.

ಆಂಡ್ರ್ಯೂ ಪ್ಯಾರ್ಸನ್

ಜರ್ಜರಿತ ಮಹಿಳೆಯರು ಉಳಿಯುತ್ತಾರೆ

ಪರಿವಿಡಿ

ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಯ ವಿರುದ್ಧ  
ನಾಗರೀಕ ಕಾನೂನಿಗಾಗಿ ಆಂದೋಲನ - 2002

ಸಂಕ್ಷಿಪ್ತ ಟಿಪ್ಪಣಿ

ಲೋಕಸಭೆಯಲ್ಲಿ ಸರ್ಕಾರದ ವಿಧೇಯಕ

ಲಾಯರ್ಸ್ ಕಲೆಕ್ಟಿವ್, ಮಹಿಳೆಯ ಹಕ್ಕುಗಳ ವೇದಿಕೆಯ ಪ್ರಸ್ತಾವನೆ.

ಮಹಿಳೆಯರ ವಿರುದ್ಧ ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಯನ್ನು (ತಡೆಗಟ್ಟುವ) ವಿಧೇಯಕ, 2001

ಮನೆಯೊಳಗೆ ಮಹಿಳೆಯ ಮೇಲಿನ ಹಿಂಸೆಯ ವಿರುದ್ಧ

ನಾಗರೀಕ ಕಾನೂನಿಗಾಗಿ ಜನಜಾಗೃತಿಯ ಕುರಿತು ಸಂಕ್ಷಿಪ್ತ ಟಿಪ್ಪಣಿ

ಮನೆಯೊಳಗೆ ಹಿಂಸೆಯ ವಿರುದ್ಧ ಒಂದು ಹೊಸ ನಾಗರೀಕ ಕಾನೂನಿಗಾಗಿ ಜನಸಂಘಟನೆಯ ಹಿನ್ನೆಲೆ :-

ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಯ ವಿರುದ್ಧ ಹೊಸ ನಾಗರೀಕ ಕಾಯ್ದೆಗಾಗಿ ನಮ್ಮ ಜನಪರ ಹೋರಾಟವು ಈಗ ನಿರ್ಣಾಯಕ ಮತ್ತು ಪ್ರಾಮುಖ್ಯ ಹಂತದಲ್ಲಿದೆ. ದಿನಾಂಕ 11 ಡಿಸೆಂಬರ್ 2001ರಂದು ಭಾರತ ಸರ್ಕಾರವು ಮಾನವ ಸಂಪನ್ಮೂಲ ಅಭಿವೃದ್ಧಿ ಮಂತ್ರಾಲಯದ ಮುಖಾಂತರ ಒಂದು ವಿಧೇಯಕವನ್ನು ಪ್ರಕಟಿಸಿತು ಮತ್ತು ವಿತರಿಸಿ ಲೋಕಸಭೆಯ ಮುಂದಿಟ್ಟಿತ್ತು ಮತ್ತು ಅದಕ್ಕೆ ವಿಧೇಯಕ ಸಂಖ್ಯೆ 2001ರ 133 ಎಂದು ಹೆಸರಿಸಲಾಯಿತು.

ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಯಿಂದ ರಕ್ಷಣೆ ವಿಧೇಯಕ, 2001

ಈ ವಿಧೇಯಕ (ಇನ್ನು ಮುಂದೆ ಭಾರತ ಸರ್ಕಾರದ ವಿಧೇಯಕ ಎಂದು ಕರೆಯಲಾಗುವುದು ಜಿ01) ಇನ್ನೂ ಸಹ ಸಂಸತ್ತಿನಲ್ಲಿ ಮಂಡಿಸಲ್ಪಟ್ಟಿಲ್ಲ. ನಮಗೆಲ್ಲಾ ತಿಳಿದಿರುವಂತೆ ಡಿಸೆಂಬರ್ 13 ರಂದು ಸಂಸತ್ತಿನ ಮೇಲೆ ನಡೆದ ಧಾಳಿಯ ನಂತರ ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳನ್ನು ಬದಿಗಿಡಲಾಗಿತ್ತು. ಇದರಿಂದಾಗಿ ಸಂಸತ್ತಿನ ಚಳಿಗಾಲದ ಅಧಿವೇಶನದಲ್ಲಿ ಜಿ01 ವಿಧೇಯಕವನ್ನು ಮಂಡಿಸಲಾಗಿಲ್ಲ. ಇದು ಈಗ ನಡೆಯುವ ಬಜೆಟ್ ಅಧಿವೇಶನದಲ್ಲಿ ಮಂಡಿಸಲ್ಪಡಬಹುದಾಗಿದೆ. ಈ ವಿಳಂಬವು ನಮಗೆ ನಿಜವಾಗಿಯೂ ಒಂದು ಅತ್ಯುತ್ತಮ ಅವಕಾಶವಾಗಿದ್ದು, ನಮಗೆ ಇದರ ಬಗ್ಗೆ ಸಾಕಷ್ಟು ಚರ್ಚೆ ನಡೆಸಿ ವಿಧೇಯಕದ ಸಾಧಕ ಬಾಧಕಗಳನ್ನು ಕುರಿತು ಚರ್ಚಿಸಲು ಸಹಾಯಕವಾಗಿದೆ.

ಜಿ01 ವಿಧೇಯಕದ ಒಂದು ಪ್ರತಿಯನ್ನು ಲಗತ್ತಿಸಲಾಗಿದೆ. ನಿಮಗೆಲ್ಲಾ ತಿಳಿದಿರುವಂತೆ ಲಾಯರ್ಸ್ ಕರೆಕ್ಟಿವ್‌ನ ಮಹಿಳೆಯರ ಹಕ್ಕುಗಳ ವೇದಿಕೆಯು (ಎಲ್‌ಸಿಡಬ್ಲ್ಯೂಆರ್‌ಐ) ಡಿಸೆಂಬರ್ 1999ರಲ್ಲಿ ಮಹಿಳೆಯರ ವಿರುದ್ಧದ ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಯ ವಿರುದ್ಧ ಒಂದು ಹೊಸ ನಾಗರಿಕ ಕಾನೂನನ್ನು ರೂಪಿಸುವ ನಿಟ್ಟಿನಲ್ಲಿ ವ್ಯಾಪಕ ಪ್ರಚಾರವನ್ನು ಪ್ರಾರಂಭಿಸಿತು. ಇದರ ನಂತರ ದೇಶದಾದ್ಯಂತ ನಿರಂತರವಾಗಿ ಅನೇಕ ಮಹಿಳಾ ಗುಂಪುಗಳೊಂದಿಗೆ ಚರ್ಚೆ, ಮಾತುಕತೆಗಳನ್ನು ಈ ನಮ್ಮ ವಿಧೇಯಕದ ಪ್ರಸ್ತಾವನೆಯನ್ನು ಕುರಿತು ನಡೆಸಲಾಯಿತು. ಇದಕ್ಕೆ ಪ್ರತಿಕ್ರಿಯೆಯು ಅತ್ಯುತ್ತಮವಾಗಿತ್ತು. ಒಂದು ನಾಗರಿಕ ಕಾಯ್ದೆಯೊಂದರ ಅವಶ್ಯಕತೆ ಇರುವುದನ್ನು ಎಲ್ಲರೂ ಒತ್ತಿ ಹೇಳಿದರು. ಚರ್ಚೆ ಮತ್ತು ಮಾತುಕತೆಯ ನಂತರ ಎಲ್‌ಸಿಡಬ್ಲ್ಯೂಆರ್‌ಐ ವಿಧೇಯಕವನ್ನು ಪುನರ್ ನವೀಕರಿಸಿರುವುದನ್ನು ಇನ್ನು ಮುಂದೆ ಇದನ್ನು ಎಲ್‌ಸಿಡಬ್ಲ್ಯೂಆರ್‌ಐ ವಿಧೇಯಕವೆಂದು ಕರೆಯಲಾಗುವುದು.

ಲಗತ್ತಿಸಲಾಗಿದೆ.

ಜಿ01 ವಿಧೇಯಕ ಮತ್ತು ಎಲ್‌ಸಿಡಬ್ಲ್ಯೂಆರ್‌ಐ ವಿಧೇಯಕ ಹೋಲಿಕೆ

ಎರಡು ವಿಧೇಯಕಗಳ ಹೋಲಿಕೆಯ ನಂತರ ನಾವು ಸರ್ಕಾರದ ವಿಧೇಯಕವು ನಮ್ಮ ನಿರೀಕ್ಷೆಯ ಮಟ್ಟದಲ್ಲಿರದೆ ಇರುವುದನ್ನು ಮತ್ತು ನಿಜವಾಗಿಯೂ ಏನು ಇರಬೇಕಾಗಿತ್ತೋ ಅದನ್ನು ಹೊಂದಿಲ್ಲದೇ ಇರುವುದನ್ನು, ಅದರ ಇದನ್ನು ಜಾರಿಗೆ ತರುವಾಗ ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಗೆ ಬಲಿಪಶುಗಳಾದ ಮಹಿಳೆಯರಿಗೆ ಅಪಾಯಕಾರಿಯಾಗಿ ಪರಿಣಮಿಸುವ ಅಪಾಯ ಇರುವುದನ್ನು ಗಮನಿಸಿದ್ದೇವೆ. ಸಂತೋಷವೆಂದರೆ, ಸರ್ಕಾರವು ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಯ ವಿರುದ್ಧ ಕಾನೂನಿನ ರಕ್ಷಣೆಯ ಅಗತ್ಯವನ್ನು ಮನಗಂಡು ಆ ನಿಟ್ಟಿನಲ್ಲಿ ಕಾರ್ಯಪ್ರವೃತ್ತವಾಗಿರುವುದಾಗಿದೆ. ಈ ವಿಧೇಯಕವನ್ನು ಸಿದ್ಧಪಡಿಸುವಲ್ಲಿ ರಾಜಕೀಯ ಬದ್ಧತೆ ಸಹ ಅಗತ್ಯವಾಗಿತ್ತು. ಮಹಿಳೆಯರ ಮೇಲೆ ಮನೆಗಳಲ್ಲಿ ಹಿಂಸೆ ಆಗುತ್ತದೆ ಎಂಬುದನ್ನು ಪ್ರಜ್ಞಾಪೂರ್ವಕವಾಗಿ ತಳ್ಳಿಹಾಕಲಾಗುತ್ತಿತ್ತು. ಇಂತಹ ಸಂದರ್ಭದಲ್ಲಿ ವಿಧೇಯಕ ಸಿದ್ಧವಾಗಿರುವುದು ನಮ್ಮ ವಿಜಯವಾಗಿದೆ. ಸರ್ಕಾರವು ಮನೆಗಳಲ್ಲಿನ ಹಿಂಸೆಯನ್ನು ಗಂಭೀರವಾಗಿ ತೆಗೆದುಕೊಂಡಿರುವುದು ಸಂತೋಷವಾದರೂ ಸರ್ಕಾರವು ಸಲ್ಲಿಸಿರುವ ಕಾನೂನಿನ ಪ್ರಸ್ತಾವನೆಯು ನಮಗೆ ತೀವ್ರ ಬೇಸರವನ್ನುಂಟುಮಾಡಿದೆ. ಈ ಟಿಪ್ಪಣಿಯಲ್ಲಿ ಅದನ್ನು ನಿಮ್ಮೊಂದಿಗೆ ಹಂಚಿಕೊಳ್ಳುತ್ತಿದ್ದೇವೆ.

ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯ ಕಾನೂನಿನ ಹಿಂದಿರುವ ವಿಚಾರಗಳು

ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯ ಸಂದರ್ಭದಲ್ಲಿ ಯಾವುದೇ ಕಾನೂನು ನಿರ್ವಹಿಸುವ ಪಾತ್ರವನ್ನು ಸಂಕ್ಷಿಪ್ತವಾಗಿ ವಿವರಿಸುವುದು ಅಗತ್ಯವಾಗುತ್ತದೆ. ಸರಳವಾಗಿ ಹೇಳಬೇಕೆಂದರೆ ಮನೆಯಲ್ಲಿ ಮಹಿಳೆಯರ ಮೇಲೆ ನಡೆಯುವ ಹಿಂಸೆಯನ್ನು ತಡೆಯುವ ಕಾನೂನುಗಳು ಆಕೆಯಿರುವ ಸಂದರ್ಭಗಳಲ್ಲಿ ನಡೆಯುವ ಹಿಂಸೆಯನ್ನು ತಡೆಗಟ್ಟಬೇಕಾಗುತ್ತದೆ. ಈ ಮಹಿಳೆಯರು ಕೂಡ ಕುಟುಂಬದಲ್ಲಿದ್ದಾಗ ಈ ರೀತಿಯ ಹಿಂಸೆಗಳು ನಡೆಯುತ್ತವೆ. ವಿವಾಹಿತ ಮಹಿಳೆಯರಿರುವ ಮನೆಯನ್ನು "ವೈವಾಹಿಕ ಮನೆ" ಎಂದು ಪರಿಗಣಿಸಲಾಗುತ್ತದೆ. ಮನೆಯು ಆಕೆಯ ಗಂಡನ ಸ್ವಾಧೀನದಲ್ಲಿರಬಹುದು, ಗಂಡನ ಪೋಷಕರದ್ದಾಗಿರಬಹುದು,

ಆಕೆಯ ಮತ್ತು ಗಂಡನ ಹೆಸರಿನಲ್ಲಿ ಜಂಟಿಯಾಗಿರಬಹುದು, ಸಂಪೂರ್ಣವಾಗಿ ಆಕೆಯದಾಗಿರಬಹುದು ಅಥವಾ ಬಾಡಿಗೆಯದಾಗಿರಬಹುದು. ವೈವಾಹಿಕ ಜೀವನದಲ್ಲಿ ಮನೆಯ ಒಡೆತನವು ಯಾರದು ಎಂಬುದು ಪ್ರಾಮುಖ್ಯವಲ್ಲ. ಬದಲಾಗಿ ದಾಂಪತ್ಯ ಪ್ರೇಮ ಮತ್ತು ಕೌಟುಂಬಿಕ ಸಂಬಂಧಗಳು ವಿವಾಹಿತ ಮಹಿಳೆಯ ಪರಿಸ್ಥಿತಿಯನ್ನು ನಿರ್ಧರಿಸುತ್ತದೆ. ಅನೇಕ ಮಹಿಳೆಯರಿಗೆ ಮನೆಯೂ ಹಿಂಸೆಯ ತಾಣವಾಗಿದೆ. ಮನೆಯೊಂದಿಗಿನ ಸಂಬಂಧವು ಆಕೆಯನ್ನು ಅಲ್ಲಿಯೇ ಬಂಧಿಸಿಟ್ಟಿರುತ್ತದೆ.

ಮಹಿಳೆಯು ಮನೆಯಲ್ಲಿ ಒತ್ತೆಯಾಳಿನಂತೆ ಇರುತ್ತಾಳೆ ಮತ್ತು ಬಾಂಧವ್ಯವನ್ನು ಮುಂದು ಮಾಡಿ ಆಕೆಯ ಮೇಲೆ ಬಂಧೀಖಾನೆಯಲ್ಲಿ ನೀಡುವಂತೆ ಹಿಂಸೆಯನ್ನು ನೀಡಲಾಗುತ್ತದೆ. ಒಂದು ರೀತಿಯಲ್ಲಿ ಅಸಮಾನತೆಯಿಂದ ಕೂಡಿದ ಬಲವಂತದ ಸಂಬಂಧಗಳಿರುತ್ತವೆ. ಈ ಸಂದರ್ಭಗಳಲ್ಲಿ ಮಹಿಳೆಗೆ ಸಮಾಜದ ಯಾವುದೇ ರೀತಿಯ ಬೆಂಬಲವೂ ಇರುವುದಿಲ್ಲ ಮತ್ತು ಸಂಬಂಧಿಕರಲ್ಲಿ ಹೇಳಿಕೊಳ್ಳಲಾಗದೆ ಹಿಂಸೆಯನ್ನು ಅನುಭವಿಸಬೇಕಾಗುತ್ತದೆ. ಮಹಿಳೆಗೆ ಇರುವ ಏಕೈಕ ಬೆಂಬಲವೆಂದರೆ ಆಕೆಯ ಪೋಷಕರು ಮತ್ತು ಅವರೊಂದಿಗೆ ಮಾತ್ರ ತನ್ನ ಭಯಾನಕ ಪರಿಸ್ಥಿತಿಯನ್ನು ವಿವರಿಸಿಕೊಳ್ಳಲು ಸಾಧ್ಯವಿದೆ. ಆದರೆ ಸಮಾಜವು ಆಕೆಯು ಕಡ್ಡಾಯವಾಗಿ ತನ್ನ ಗಂಡನ ಮನೆಯಲ್ಲೇ ಉಳಿಯಬೇಕೆಂದು ಹೇಳುತ್ತದೆ. ಆಕೆಯ ಪೋಷಕರು ಸಹ ಆಕೆಗೆ ಹಿಂಸಾತ್ಮಕ ವೈವಾಹಿಕ ಜೀವನದಿಂದ ಹೊರಬರಲು ಸಹಾಯ ಮಾಡದೇ, ಹಿಂತಿರುಗಿ ಗಂಡನ ಮನೆಗಳಿಗೆ ಅಟ್ಟುತ್ತಾರೆ. ಸಮಾಜದಲ್ಲಿ ಆಕೆಗೆ ಯಾವ ಭದ್ರತೆಯೂ ಇಲ್ಲ. ಇಂತಹ ಮಹಿಳೆಯರಿಗಾಗಿ ಇರುವ ವಸತಿ ಗೃಹಗಳು ಸೆರೆಮನೆಗಳಿಗಿಂತ ಏನೂ ಭಿನ್ನವಾಗಿಲ್ಲ. ಈ ಮನೆಗಳ ಬಹುದೊಡ್ಡ ಸಮಸ್ಯೆಯೆಂದರೆ ಈ ಮಹಿಳೆಯರ ಮಕ್ಕಳಿಗೆ ಅಲ್ಲಿ ಉಳಿಯಲು ಅವಕಾಶವಿರುವುದಿಲ್ಲ. ಮದುವೆಯ ಹಿಂಸಾತ್ಮಕ ಬಂಧನದಿಂದ ಹೊರಬಂದ ಮಹಿಳೆಯನ್ನು ಸಮಾಜದಲ್ಲಿ ಕೇಳಿರಿಮೆಯಿಂದ ಕಾಣಲಾಗುತ್ತಿದೆ ಮತ್ತು ಆಕೆಯನ್ನು ಕುಟುಂಬ ಮುರಿದ ಹೊಣೆಗಾರ್ತಿಯನ್ನಾಗಿ ಮಾಡಲಾಗುತ್ತಿದೆ. ಕೆಟ್ಟ ವೈವಾಹಿಕ ಜೀವನದಿಂದ ಹೊರಬಂದ ಮಹಿಳೆಯನ್ನು ನೀತಿಗಟ್ಟವಳು ಎಂದು ಸಮಾಜವು ಪರಿಗಣಿಸುತ್ತಿರುವುದರಿಂದ ಆಕೆಯು ಅದರಿಂದ ಹೊರಬರಲು ಹಿಂಜರಿಯುತ್ತಾಳೆ.

ಆಕೆಯನ್ನು ನಿಂದಿಸುವವರು ಆಕೆಯು ಜೀವಿಸಲು ಸಾಧ್ಯವಾಗದಷ್ಟು ಕೆಟ್ಟದ್ದಾಗಿ ನಡೆದುಕೊಳ್ಳುತ್ತಾರೆ. ಮಹಿಳೆಯ ಮೇಲಿನ ಹಿಂಸೆಯು ಮುಖ್ಯವಾಗಿ ಈ ರೀತಿಯಲ್ಲಿರುತ್ತದೆ.

1. ದೈಹಿಕ ದಂಡನೆ
2. ಮಾನಸಿಕ ದಂಡನೆ
3. ಮಾನಸಿಕ ನಿಂದನೆ
4. ಲೈಂಗಿಕ ಹಿಂಸೆ
5. ಹಿಂಸೆ ನೀಡುವ ಬೆದರಿಕೆ
6. ಆಹಾರ ಮತ್ತು ಇತರ ಅವಶ್ಯಕತೆಗಳ ನಿರಾಕರಣೆ
7. ಮಕ್ಕಳನ್ನು ಮುಂದಿಟ್ಟುಕೊಂಡು ಬೆದರಿಸುವುದು ಮುಂತಾದವು.

ಈ ರೀತಿಯ ಅನೇಕ ಹಿಂಸೆಗಳನ್ನು ಅನುಭವಿಸುತ್ತಿದ್ದರೂ ನ್ಯಾಯಾಲಯದ ಮೊರೆ ಹೋಗುವುದು ಅಸಾಧ್ಯದ ಮಾತಾಗಿದೆ. ನಮ್ಮ ವಿಳಂಬಿತ ನ್ಯಾಯನೀತಿಯು ಒಂದು ದೊಡ್ಡ ತೊಡಕಾಗಿದೆ. (ನ್ಯಾಯಾಲಯವು ಕೂಡ ಆಕೆಯನ್ನು ಬಲಿಪಶುವನ್ನಾಗಿ ನೋಡದೆ ಅಪರಾಧಿಯನ್ನಾಗಿ ನೋಡುತ್ತದೆ). ನ್ಯಾಯಾಲಯದ ಮೊರೆ ಹೋಗುವುದು ತೀರಾ ದುಬಾರಿಯಾಗಿರುವುದು ಸಹ ಒಂದು ದೊಡ್ಡ ತೊಡಕಾಗಿದೆ. ಮತ್ತೊಂದು ಅತೀ ಸಾಮಾನ್ಯ ಹಿಂಸೆಯ ವಿಧಾನವೆಂದರೆ ಎರಡನೆಯ ಪತ್ನಿಯನ್ನು ಹೊಂದುವುದಾಗಿದೆ. ಈಗಲೂ ಕೂಡ ಅನೇಕ ಪುರುಷರು ಅಪರಾಧವೆಂದು ಗೊತ್ತಿದ್ದರೂ ಸಹ ವಿವಾಹೇತರ ಲೈಂಗಿಕ ಸಂಬಂಧವನ್ನು ಹೊಂದುತ್ತಿದ್ದಾರೆ.

ಅಂಕಿಅಂಶಗಳ ಪ್ರಕಾರ ಈ ದೇಶದಲ್ಲಿ ಬಹುತೇಕ ಮಹಿಳೆಯರು ಯಾವುದೇ ಆಸ್ತಿಯನ್ನು ಹೊಂದಿಲ್ಲ ಮತ್ತು ವಿವಾಹದ ನಂತರ ವಾಸ ಮಾಡುವ ಮನೆಯು ಒಂದೋ ಗಂಡನ ಹೆಸರಿನಲ್ಲಿ ಅಥವಾ ಆತನ ಕುಟುಂಬದ ಹೆಸರಿನಲ್ಲಿ

ಇರುತ್ತದೆ. ಪುರುಷರು ನಿಜವಾಗಿಯೂ ಕುಟುಂಬದ ಒಡೆಯನಾಗಿರುತ್ತಾರೆ. ಈ ಸಂಬಂಧದ ಅಂಕಿ ಸಂಖ್ಯೆಗಳು ಪುಟ ..... ರಲ್ಲಿದೆ.

ಇದುವರೆಗೆ ನಾವು ಕೇವಲ ವಿವಾಹಿತ ಮಹಿಳೆಯರ ಸಮಸ್ಯೆಗಳ ಕುರಿತು ಮಾತ್ರ ಚರ್ಚಿಸಿರುತ್ತೇವೆ. ಆದರೆ ಕೌಟುಂಬಿಕ ಸಂಬಂಧಗಳಲ್ಲಿ ಬಂಧಿಸಲ್ಪಟ್ಟಿರುವ ಇತರ ಮಹಿಳೆಯರು ಸಹ ಹಿಂಸೆಯ ಸಾಧ್ಯತೆಯನ್ನು ಹೊಂದಿರುತ್ತಾರೆ. ಹೆಣ್ಣು ಮಕ್ಕಳನ್ನು ಕುಟುಂಬದ ಹೊರಗಿನವರೆಂದೇ ಪರಿಗಣಿಸಲಾಗುತ್ತಿದೆ ಮತ್ತು ಅವರಿಗೆ ಅತೀಕಡಿಮೆ ಅಥವಾ ಯಾವುದೇ ಹಕ್ಕುಗಳಿರುವುದಿಲ್ಲ. ಮದುವೆ ಮಾಡಿ ಹೊರಹಾಕುವ ದೃಷ್ಟಿಯಿಂದ ಹೆಣ್ಣು ಮಕ್ಕಳನ್ನು ನೋಡಲಾಗುತ್ತಿರುತ್ತದೆ. ಗಂಡನ ಸಾವಿನ ನಂತರ ವಿಧವೆಯರು ಗಂಡನ ಮನೆಯಲ್ಲಿ ಉಳಿಯುವ ಯಾವ ಅಧಿಕಾರವನ್ನೂ ಹೊಂದಿರುವುದಿಲ್ಲ. ವಯಸ್ಸಾದ ಮಹಿಳೆಯರು, ಈ ರೀತಿಯ ಸಂಕಷ್ಟಕ್ಕೊಳಗಾದವರನ್ನು ಒಂದು ಅನಿವಾರ್ಯ ಕರ್ಮ ಎಂಬಂತೆ ನೋಡಲಾಗುತ್ತಿದೆ. ಮತ್ತೊಂದು ಸಮಸ್ಯೆಯೆಂದರೆ ಒಂದು ಬಾರಿ ಮದುವೆಯಾದ ನಂತರ ಆಕೆಯ ಮದುವೆಯು ಮುರಿದುಬಿದ್ದರೆ ಆಕೆ ಮತ್ತೆ ಮದುವೆಯಾಗುವಂತಿಲ್ಲ ಮತ್ತು ಮದುವೆಯಾದರೂ ಮದುವೆಯ ಯಾವ ಸಾಂಪ್ರದಾಯಿಕ ಕಟ್ಟುಪಾಡುಗಳನ್ನು ಎರಡನೆಯ ಮದುವೆಯಲ್ಲಿ ಅನುಸರಿಸುವಂತಿಲ್ಲ. ಮದುವೆಯಾಗದೆ ಅನೇಕ ವರ್ಷಗಳ ಕಾಲ ಒಟ್ಟಿಗೆ ಜೀವಿಸುತ್ತಿರುವಂತಹ ಸಂದರ್ಭದಲ್ಲಿಯೂ ಸಹ ಮಹಿಳೆಯು ಹಿಂಸೆಯನ್ನು ಅನುಭವಿಸುತ್ತಿರುವುದನ್ನು ನಾವು ಕಾಣಬಹುದಾಗಿದೆ. ಆದುದರಿಂದ ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯ ವಿರುದ್ಧ ರೂಪಿತವಾಗುವ ಕಾನೂನು ಅಗತ್ಯವಾಗಿ ಈ ಮೇಲೆ ಹೇಳಿದ ಎಲ್ಲಾ ವಿಷಯಗಳನ್ನೂ ಪ್ರತಿಬಿಂಬಿಸಬೇಕಾಗುತ್ತದೆ. ಮೂಲಭೂತವಾಗಿ ಈ ಎಲ್ಲಾ ತೊಂದರೆಗಳತ್ತ ಗಮನಹರಿಸಬೇಕಾಗಿರುವುದಲ್ಲದೆ, ಹಿಂಸೆಯನ್ನು ತಡೆಗಟ್ಟುವಲ್ಲಿ ಸಹಾಯಕವಾಗಬೇಕು ಮತ್ತು ಹಕ್ಕುಗಳನ್ನು ರಕ್ಷಿಸುವಲ್ಲಿ ಸಹಾಯವಾಗುವುದಲ್ಲದೆ ಸರಿಸಮನಾದ ಹಕ್ಕುಗಳನ್ನು ಪಡೆಯಲು ಸಹಾಯವಾಗಬೇಕು. ಮನೆಯಲ್ಲಿ ಸಮಾನವಾದ ಅವಕಾಶವಿರಬೇಕು. ವಿವಾಹದ ಹೊರತಾಗಿಯೂ ಸಹ ಸಂಬಂಧಗಳನ್ನು ರಕ್ಷಿಸುವ ದೃಷ್ಟಿಯಿಂದ ಮನೆಯ ಅಧಿಕಾರವು ಹೆಣ್ಣು ಮತ್ತು ಗಂಡಿನ ನಡುವೆ ಸರಿಸಮನಾಗಿ ಹಂಚಿಕೆಯಾಗಬೇಕಾಗಿದೆ. ಗಂಡು ಮತ್ತು ಹೆಣ್ಣು ಒಂದೇ ಸಮಾನ ಅವಕಾಶಗಳ ಅಡಿಯಲ್ಲಿ ಜೀವನ ಮಾಡುವುದು ಮಹಿಳೆಯ ಮೇಲೆ ಹಿಂಸೆ ನಡೆಯಲು ಕಾರಣವಾಗುತ್ತದೆ.

ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯ ವಿರುದ್ಧದ ಕಾನೂನು ಯಶಸ್ವಿಯಾಗಲು ಇರಬೇಕಾದ ಅಂಶಗಳು

ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯ ವಿರುದ್ಧದ ಯಾವುದೇ ಕಾನೂನು ಯಶಸ್ವಿಯಾಗಬೇಕಾದರೆ ಈ ಕೆಳಗಿನ ಅಂಶಗಳನ್ನು ಅತ್ಯಂತ ಪ್ರಮುಖವಾಗಿ ಅವಲಂಬಿಸಿರುತ್ತದೆ ಎಂಬುದು ಸ್ಪಷ್ಟವಾಗಿರಬೇಕು.

1. ಒಂದು ತರ್ಕಬದ್ಧವಾದ ಘೋಷಣೆ ಇರಬೇಕು. ಉದಾಹರಣೆಗೆ ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಯನ್ನು ತಡೆಗಟ್ಟುವ ಉದ್ದೇಶ.
2. ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯ ವಿರುದ್ಧ ಇರುವ ಹಕ್ಕಿನ ಕುರಿತು ಮತ್ತು ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯು ಮಹಿಳೆಯರ ಮಾನವ ಹಕ್ಕುಗಳ ಉಲ್ಲಂಘನೆ ಎಂಬುದರ ಕುರಿತು ಯಾವುದೇ ಸಂದೇಹಕ್ಕೆಡೆ ಮಾಡದಂತಹ ಮತ್ತು ಸ್ಪಷ್ಟವಾದ ಘೋಷಣೆ ಇರಬೇಕು.
3. ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯ ವ್ಯಾಖ್ಯಾನವು ಹಿಂಸೆ ಅನುಭವಿಸಿದ ಮಹಿಳೆಯರ ಅನುಭವವನ್ನು ಆಧರಿಸಿ ಮಾಡಿದುದಾಗಿರಬೇಕು.
4. ಸಮಾನ ಹಂಚಿಕೆಯ ಮನೆ ಎಂಬುದಕ್ಕೆ ಸರಿಯಾದ ವ್ಯಾಖ್ಯಾನ ನೀಡಬೇಕು. ಅದು ಮಹಿಳೆಯ ಹಕ್ಕನ್ನು ರಕ್ಷಿಸುವಂತಹದ್ದಾಗಿರಬೇಕು.
5. ಹಿಂಸೆಯಿಂದ ಮಹಿಳೆಯನ್ನು ರಕ್ಷಿಸುವುದಕ್ಕೆ ಪರಿಹಾರ ಸೂಚಿಸಿರಬೇಕು.



6. ಹಿಂಸೆಗೆ ಬಲಿಪಶುವಾದ ಮಹಿಳೆಯರಿಗೆ ಸಹಾಯ ಒದಗಿಸಲು ಸಮರ್ಥವಾದ ಸೌಕರ್ಯಗಳನ್ನು ಒದಗಿಸಬೇಕು.
7. ನ್ಯಾಯಾಲಯದ ಕಾರ್ಯಾಚರಣೆಯು ಸ್ಪಷ್ಟವೂ, ಸರಳವೂ ಆಗಿರಬೇಕು.
8. ಕಾನೂನಿನ ಮೇಲ್ವಿಚಾರಣೆಯು ಉದ್ದೇಶದ ಈಡೇರಿಕೆಯನ್ನು ಪರಿಣಾಮಕಾರಿಯಾಗಿ ನೋಡುವಂತಹದ್ದಾಗಿರಬೇಕು.
9. ಹಿಂಸೆಯನ್ನು ತಡೆಗಟ್ಟುವ ನಿಟ್ಟಿನಲ್ಲಿ ಸ್ವಯಂಸೇವಾ ಸಂಸ್ಥೆಗಳು, ವೈದ್ಯಕೀಯ ವ್ಯಕ್ತಿಗಳು, ಪರಿಹಾರ ವಸತಿ ಗೃಹಗಳು ಮತ್ತು ಪೊಲೀಸರ ನಡುವೆ ಒಳ್ಳೆಯ ಸಹಕಾರ ಮೂಡಿಸುವಂತಿರಬೇಕು.
10. ಈ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಸೂಕ್ಷ್ಮವಾಗಿ ಪರಿಶೀಲಿಸಲಾಗಿ ಜಿ01ದ ವಿಧೇಯಕವು ಈ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಸರಿದೂಗಿಸುವಲ್ಲಿ ವಿಫಲವಾಗಿದೆ ಮತ್ತು ಮಹಿಳೆಯರ ಸಮಸ್ಯೆಗಳನ್ನು ಮತ್ತಷ್ಟು ಜಟಿಲಗೊಳಿಸುವಂತಹದ್ದಾಗಿದೆ.

ಅನುಭವಗಳ ಪ್ರಕಾರ ರಾಜ್ಯದ ಎಲ್ಲಾ ಅಂಗಗಳು ಮಹಿಳೆಯರ ವಿರುದ್ಧ ಪೂರ್ವಾಗೃಹ ಪೀಡಿತವಾಗಿರುವುದು ಮಹಿಳೆಯರ ಸಮಸ್ಯೆಗಳನ್ನು ಪರಿಹರಿಸುವ ದಿಕ್ಕಿನಲ್ಲಿ ಬಹುದೊಡ್ಡ ತೊಡಕಾಗಿದೆ. ಸರ್ಕಾರವು ಮಹಿಳೆಯು ಮನೆಯಲ್ಲಿ ಎದುರಿಸುವ ಹಿಂಸೆಯು ಸರ್ವೇಸಾಮಾನ್ಯ ಎಂಬಂತೆ ನೋಡುತ್ತದೆ. ಮಹಿಳೆಯು ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯಿಂದ ಮುಕ್ತವಾಗಿ ಬದುಕುವ ಹಕ್ಕನ್ನು ಹೊಂದಿದ್ದಾಳೆ ಎಂಬುದನ್ನು ಒಪ್ಪಿಕೊಳ್ಳಲಾಗುತ್ತಿಲ್ಲ. ಈ ಎಲ್ಲಾ ಅಂಶಗಳು ಆಕೆಯ ಪೋಷಕರ ಹಿಂಸೆಯಿಂದ ಆಕೆಯನ್ನು ರಕ್ಷಿಸುವಲ್ಲಿ ತಡೆಯೊಡ್ಡುತ್ತಿವೆ ಮತ್ತು ದೀರ್ಘ ಸಮಯದ ಈ ನರಕ ಸದೃಶ್ಯ ಹಿಂಸೆಯಿಂದ ಹೊರಬಂದು ಮುಕ್ತ ಜೀವನ ನಡೆಸಲು ಆಕೆಯನ್ನು ಹಿಂಜರಿಯುವಂತೆ ಮಾಡುತ್ತಿವೆ ಮತ್ತು ಮತ್ತೆ ಮತ್ತೆ ಹಿಂಸಾತ್ಮಕ ಜೀವನವನ್ನೇ ಒಪ್ಪಿಕೊಳ್ಳುವಂತೆ ಒತ್ತಾಯಿಸುತ್ತಿವೆ ಮತ್ತು ಈ ಹಿಂಸಾತ್ಮಕ ಜೀವನದ ಹೊರತು ಬೇರೆ ಜೀವನವಿಲ್ಲ ಎಂಬುದನ್ನು ಬಲವಂತವಾಗಿ ಹೇರಲಾಗುತ್ತಿದೆ.

ಕಾನೂನು ಮಾಡುವವರು ಮತ್ತು ಕಾನೂನನ್ನು ಜಾರಿಗೆ ತರುವವರಿಗೆ ಈ ನಿಯಮಗಳಿಂದ ಹೊರಬರಲು ಸಾಧ್ಯವಾಗುತ್ತಿಲ್ಲ ಮತ್ತು ಅವರಿಗೆ ಹಕ್ಕುಗಳನ್ನು ರಕ್ಷಿಸುವುದಕ್ಕಿಂತಲೂ ಮುಖ್ಯವಾಗಿ ಈ ರೀತಿಯ ನಿಯಮಗಳು ಮತ್ತು ದೇಶದ ಸಂವಿಧಾನದ ಮೌಲ್ಯಗಳನ್ನು ರಕ್ಷಿಸುವುದೇ ಮುಖ್ಯವಾಗಿರುತ್ತದೆ. ಮಹಿಳೆಯರು ಭಾವನಾತ್ಮಕ ಕೌಟುಂಬಿಕ ಸಂಬಂಧವನ್ನು ಹೊಂದುವುದು ಆಕೆಯ ಹಕ್ಕಾಗಿದ್ದು, ಅದು ಹಿಂಸೆಯಿಂದ ಮುಕ್ತವಾಗಿರಬೇಕು ಎಂಬುದನ್ನು ಯಾವುದೇ ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯ ಕಾನೂನು ಸ್ಪಷ್ಟವಾಗಿ ಮತ್ತು ಸಂದೇಹಕ್ಕೆ ಎಡೆ ಇಲ್ಲದಂತೆ ಹೇಳಬೇಕು. ಮತ್ತು ಈ ಸ್ಪಷ್ಟತೆಯು ಮಹಿಳೆಯನ್ನು ಹಿಂಸೆಯಿಂದ ಮುಕ್ತಗೊಳಿಸುವಲ್ಲಿ ಮತ್ತು ಪರಿಹಾರ ಒದಗಿಸುವಲ್ಲಿ ಸಹಾಯವಾಗುವಂತಿರಬೇಕು.

ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯ ಕಾನೂನುಗಳು ಮದುವೆಯ ಕಾನೂನುಗಳಲ್ಲ ಎಂಬುದು ಸ್ಪಷ್ಟವಾಗಿ ಅರಿಯಬೇಕಾಗಿದೆ. ಇದು ಮದುವೆಯ ಸಂಬಂಧವನ್ನು ಉತ್ತಮ ಪಡಿಸುವ ಕಾನೂನಲ್ಲ. ಮದುವೆಯ ಕಾನೂನುಗಳು ವಿವಿಧ ರೀತಿಯಲ್ಲಿ ಮದುವೆಯು ಮುರಿದು ಬೀಳುವ ಪರಿಸ್ಥಿತಿಗಳೊಳಗೆ ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಯನ್ನು ನೆಪವಾಗಿ ಸೇರಿಸಿಕೊಂಡುಬಿಡುತ್ತದೆ. ಅನೇಕ ಪ್ರಕರಣಗಳಲ್ಲಿ ವೈವಾಹಿಕ ಸಂಬಂಧವು ಮುರಿದು ಬಿದ್ದಿರುತ್ತದೆ ಮತ್ತು ಮಹಿಳೆಯು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ತನ್ನ ಜೀವದ ರಕ್ಷಣೆಗಾಗಿ ಮೊರೆಯಿಡುತ್ತಾಳೆ ಮತ್ತು ಹಿಂಸೆಯಿಂದ ಮುಕ್ತಿಯನ್ನು ಬಯಸುತ್ತಾಳೆ ಎಂಬುದನ್ನು ಕಾನೂನು ತಯಾರಕರು ಅರಿತುಕೊಳ್ಳಬೇಕಾಗಿದೆ. ಮದುವೆಯು ಯಾವುದೇ ಕಾರಣಕ್ಕೂ ಮುರಿದು ಬೀಳಬಾರದು ಎಂಬುದೇ ಮುಖ್ಯ ನಿಯಮವಾದಾಗ ಮಹಿಳೆಗೆ ನ್ಯಾಯ ದೊರೆಯುವುದು ಸಾಧ್ಯವೆ? ಮತ್ತು ಇದು ಮಹಿಳೆಯನ್ನು ಮತ್ತೆ ಮತ್ತೆ ಬಲಿಪಶುವನ್ನಾಗಿ ಮಾಡುತ್ತದೆ.

ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆಯನ್ನು ತಡೆಗಟ್ಟುವ ಕಾನೂನು ಮದುವೆಯ ಕಾನೂನಿಗಿಂತ ಭಿನ್ನವಾಗಿ ಕೆಲಸ ಮಾಡಬೇಕಾಗಿದೆ. ಮದುವೆಯ ಕಾನೂನು ಮದುವೆಯ ಜೀವನಕ್ಕೆ ಕಾಲಿಡುವುದರ ವಿಧಾನವನ್ನು ವ್ಯಾಖ್ಯಾನಿಸಿದೆ. ಮದುವೆ ವಿಧಾನವಲ್ಲದೆ

ದಿನಂಪ್ರತಿ ಹಲ್ಲೆ ಮಾಡುವುದು ಅಥವಾ ತೊಂದರೆಗೀಡಾಗಿರುವ ವ್ಯಕ್ತಿಯ ಜೀವನವನ್ನು ಕ್ರೂರವಾಗಿ ಕ್ರೌರ್ಯದ ನಡವಳಿಕೆಯಿಂದ ದುಸ್ಥಿತಿಗೆ ತರುವುದು, ಇಲ್ಲಿ ಕ್ರೌರ್ಯ ದೈಹಿಕ ಹಿಂಸೆಯಾಗಿಲ್ಲದಿರಬಹುದು.

ತೊಂದರೆಗೀಡಾಗಿರುವ ವ್ಯಕ್ತಿಯನ್ನು ಅನೈತಿಕ ಚಟುವಟಿಕೆಗಳಲ್ಲಿ ತೊಡಗುವಂತೆ ಬಲಾತ್ಕಾರ ಮಾಡುವುದು ಅಥವಾ ತೊಂದರೆಗೀಡಾದ ವ್ಯಕ್ತಿಗೆ ಬೇರೆ ರೀತಿಯಲ್ಲಿ ಗಾಯವನ್ನುಂಟುಮಾಡುವುದು ಅಥವಾ ಅಪಾಯವನ್ನುಂಟುಮಾಡುವುದು.

2. ಉಪ ಪ್ರಕರಣ (1) ರಲ್ಲಿನ ವಿಭಾಗ(ಸಿ)ಯಲ್ಲಿರುವುದು, ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಗೆ ಸಂಬಂಧಿಸಿದ ವ್ಯಕ್ತಿಯು ತನ್ನ ಪ್ರಾಣರಕ್ಷಣೆಗೆ ಅಥವಾ ತನ್ನ ಅಥವಾ ಯಾರದ್ದಾದರೂ ಆಸ್ತಿಯ ರಕ್ಷಣೆಗಾಗಿ ಹಿಂಸೆ ಮಾಡಿದಾಗ ಅದನ್ನು ಮನೆಯೊಳಗಿನ ಹಿಂಸೆಯಾಗಿ ಪರಿಗಣಿಸಲಾಗುವುದಿಲ್ಲ.

ಕಿರುತ ಉಕ್ತ ಸಂಸ್ಥೆಯ ಮನೆಹಿಂಸೆಯ ಮಾದರಿ ಕಾನೂನು ಹೀಗಿದೆ :

ಲಿಂಗದ ಆಧಾರದ ಮೇಲೆ ನಡೆಯುವ ಯಾವುದೇ ರೀತಿಯ ದೈಹಿಕ, ಮಾನಸಿಕ ಹಿಂಸೆ, ನಿಂದಿಸುವಿಕೆಯು ಕುಟುಂಬದ ಯಾವುದೇ ಸದಸ್ಯರಿಂದ ಮಹಿಳೆಯ ಮೇಲೆ ನಡೆದರೆ, ಹಲ್ಲೆಯ ಮುಖಾಂತರ ದೈಹಿಕವಾಗಿ ತೊಂದರೆಗೀಡುಮಾಡುವುದು, ಪಾಯವನ್ನುಂಟುಮಾಡುವುದು, ಅಪಹರಣದ ಬೆದರಿಕೆ, ಭಯ ಹುಟ್ಟಿಸುವುದು, ಬಲಪ್ರಯೋಗ ನಡೆಸುವುದು, ನಿಂದಿಸುವುದು, ಕಾನೂನು ಬಾಹಿರವಾಗಿ ಪ್ರವೇಶಿಸುವುದು, ಬೆಂಕಿ ಹಚ್ಚುವುದು. ಆಸ್ತಿಯನ್ನು ಕಿತ್ತುಕೊಳ್ಳುವುದು, ಲೈಂಗಿಕ ಹಿಂಸೆ, ಅತ್ಯಾಚಾರ ಮಾಡುವುದು, ವರದಕ್ಷಿಣೆ ಮತ್ತು ಸಂಬಂಧಿಸಿದ ಹಿಂಸೆ, ಸ್ತ್ರೀಯರ ಲೈಂಗಿಕ ಅಂಗಗಳನ್ನು ಊನಗೊಳಿಸುವುದು, ವೇಶ್ಯಾವಾಟಿಕೆಗೆ ತಳ್ಳುವುದರ ಮೂಲಕ ಹಿಂಸಿಸಿ ರೋಧಿಸುವುದು. ಮನೆಕೆಲಸದವರ ವಿರುದ್ಧದ ಹಿಂಸೆ ಮತ್ತು ಈ ರೀತಿಯ ಕೃತ್ಯ ನಡೆಸಲು ಪ್ರಯತ್ನಿಸುವುದನ್ನು ಮನೆಯಲ್ಲಿನ ಹಿಂಸೆ ಎಂಬುದಾಗಿ ಕರೆಯಲಾಗಿದೆ.

ನಾವು ಸಿಇಡಿಎಡಬ್ಲ್ಯೂ ಸೀಡಾದ ಸಹಬಾಗಿದಾರರಾಗಿ ಮತ್ತು ಬೀಜಿಂಗ್ ಸಮ್ಮೇಳನದ ಪಾಲುದಾರರಾಗಿ ಈ ಕೆಳಗಿನ ಹಿಂಸೆಯ ವ್ಯಾಖ್ಯೆಯನ್ನು ಒಪ್ಪಿಕೊಂಡಿದ್ದೇವೆ.

ಮಹಿಳೆಯರ ಮೇಲಿನ ಹಿಂಸೆಯೆಂದರೆ ಲಿಂಗದ ಆಧಾರದ ಮೇಲೆ ನಡೆಯುವ ಯಾವುದೇ ಹಿಂಸಾತ್ಮಕ ಕ್ರಿಯೆಯು ಈ ಮುಂದಿನ ಫಲಿತಾಂಶಕ್ಕೆ ಕಾರಣವಾದರೆ ಅಥವಾ ದೈಹಿಕವಾಗಿ, ಲೈಂಗಿಕವಾಗಿ, ಮಾನಸಿಕವಾಗಿ ಅಥವಾ ಬೆಂಕಿಯಿಡುವ, ಬಂಧಿಸಿಡುವ ಬೆದರಿಕೆಯೊಡ್ಡುವುದು, ಜೀವಿಸುವ ಸ್ವಾತಂತ್ರ್ಯವನ್ನು ಕಸಿದುಕೊಳ್ಳುವುದು.

ಮಹಿಳೆಯರ ಮೇಲಿನ ಹಿಂಸೆಯು ಈ ಕೆಳಗಿನವುಗಳನ್ನು ಒಳಗೊಂಡಿದ್ದರೂ

ಎ. ದೈಹಿಕ, ಲೈಂಗಿಕ ಮತ್ತು ಮಾನಸಿಕವಾಗಿ ಕುಟುಂಬದೊಳಗೆ ಹಿಂಸೆ ನೀಡುವುದು, ಬೆದರಿಸುವುದು, ಮನೆಯೊಳಗೆ ಹೆಣ್ಣು ಮಕ್ಕಳನ್ನು ಲೈಂಗಿಕವಾಗಿ ಹಿಂಸಿಸುವುದು, ವರದಕ್ಷಿಣೆ ಸಂಬಂಧಿ ಹಿಂಸೆ, ಮದುವೆಯೊಳಗಿನ ಅತ್ಯಾಚಾರ, ಸ್ತ್ರೀಯರ ಲೈಂಗಿಕ ಅಂಗಗಳನ್ನು ಊನಗೊಳಿಸುವುದು, ಮತ್ತಿತರ ಸಾಂಪ್ರದಾಯಿಕ ಆಚರಣೆಗಳ ಮುಖಾಂತರ ಮಹಿಳೆಗೆ ಅಪಾಯವನ್ನುಂಟುಮಾಡುವುದು ದಾಂಪತ್ಯಕ್ಕೆ ಹೊರತಾದ ಹಿಂಸೆ ಮತ್ತು ತೋಷಣೆಗೆ ಸಂಬಂಧಿಸಿದ ಹಿಂಸೆ.

ಬಿ. ಸಾಮಾನ್ಯ ಸಮುದಾಯದೊಳಗೆ ದೈಹಿಕ, ಲೈಂಗಿಕ ಮತ್ತು ಮಾನಸಿಕ ಹಿಂಸೆಯನ್ನೊಳಗೊಂಡಂತೆ ಅತ್ಯಾಚಾರ, ಲೈಂಗಿಕ ಕಿರುಕುಳ, ಲೈಂಗಿಕ ಹಿಂಸೆ, ಕೆಲಸದ ಸ್ಥಳಗಳಾದ ಶೈಕ್ಷಣಿಕ ಸಂಸ್ಥೆಗಳು ಮುಂತಾದೆಡೆಗಳಲ್ಲಿ ತೊಂದರೆ ನೀಡುವುದು. ವೇಶ್ಯಾವಾಟಿಕೆಗಾಗಿ ಮಹಿಳೆಯನ್ನು ಸಾಗಾಣಿಕೆ ಮಾಡುವುದು.

ಸಿ. ರಾಜ್ಯವು ಯಾವುದೇ ರೀತಿಯಲ್ಲಿ ದೈಹಿಕವಾಗಿ, ಲೈಂಗಿಕವಾಗಿ ಮತ್ತು ಮಾನಸಿಕವಾಗಿ ಮಹಿಳೆಯರ ಮೇಲೆ ನಡೆಸುವ ಹಿಂಸೆ.

ಸಿಇಡಿಎಡಬ್ಲ್ಯೂ ಮತ್ತು ಬೀಜಿಂಗ್ ಘೋಷಣೆಗಳ ರೀತಿಯಲ್ಲಿಯೇ ವಿಶ್ವಸಂಸ್ಥೆಯ ಸಾಮಾನ್ಯ ಸಭೆಯು ಒಂದು ನಿರ್ಣಯವನ್ನು ಅಂಗೀಕರಿಸಿದೆ. (A/RES/48/104, 20 December 1993)

ಎಲ್‌ಸಿಡಬ್ಲ್ಯೂಆರ್‌ಐ ಯ ಪ್ರಸ್ತಾವನೆಯು ಮನೆ ಹಿಂಸೆಯ ಈ ರೀತಿಯಲ್ಲಿ ವ್ಯಾಖ್ಯಾನಿಸಿದೆ. ಮನೆಯ ಹಿಂಸೆಯೆಂದರೆ ಯಾವುದಾದರೂ ಕ್ರಿಯೆಯು ಅಪಾಯವನ್ನುಂಟುಮಾಡುವುದು, ಗಾಯಗೊಳಿಸುವುದೂ, ಆರೋಗ್ಯಕ್ಕೆ ಅಪಾಯವನ್ನುಂಟುಮಾಡುವುದೂ, ತೊಂದರೆಯಲ್ಲಿರುವ ಯಾವುದೇ ವ್ಯಕ್ತಿ ಅಥವಾ ಯಾವುದೇ ಮಗುವಿಗೆ ಅಪಾಯ ತರುವುದು ಅಥವಾ ಯಾವುದೇ ರೀತಿಯ ಸಂಬಂಧವನ್ನು ಪಯೋಗಿಸಿಕೊಂಡು ದೈಹಿಕ ಹಿಂಸೆ, ಲೈಂಗಿಕ ಹಿಂಸೆ, ದೂಷಣೆ, ಮಾನಸಿಕ ಹಿಂಸೆ ಮತ್ತು ಆರ್ಥಿಕ ಹಿಂಸೆ ನೀಡುವುದು.

ವಿವರಣೆ :-

1. ದೈಹಿಕ ಹಿಂಸೆಯು ಯಾವುದೇ ಕ್ರಿಯೆಯು ತನ್ನ ಸ್ವರೂಪದಲ್ಲಿ ದೈಹಿಕವಾಗಿ ನೋವುಂಟುಮಾಡುವಂತಿದ್ದರೆ, ದೇಹಕ್ಕೆ, ಜೀವಕ್ಕೆ ಅಪಾಯವನ್ನುಂಟುಮಾಡುವಂತಿದ್ದರೆ, ಆರೋಗ್ಯಕ್ಕೆ ಅಪಾಯಕಾರಿಯಾಗಿದ್ದರೆ ಅಥವಾ ಯಾವುದೇ ವ್ಯಕ್ತಿಯ ಬೆಳವಣಿಗೆಗೆ ತೊಂದರೆಯನ್ನುಂಟುಮಾಡುತ್ತಿದ್ದರೆ ಮತ್ತು ಯಾವುದೇ ರೀತಿಯ ಹಲ್ಲೆ ಅಪರಾಧೀ ಪ್ರಕೃತಿಯ ಮಧ್ಯ ಪ್ರವೇಶ ಮತ್ತು ಅಪರಾಧೀ ಸ್ವರೂಪದ ಬಲಾತ್ಕಾರ.
2. ಯಾವುದೇ ಕ್ರಿಯೆಯು ಸ್ವರೂಪದಲ್ಲಿ ಲೈಂಗಿಕ ಹಿಂಸೆಯನ್ನು ಯಾವುದೇ ರೀತಿಯಲ್ಲಿ ಅಪಾಯಕಾರಿಯಾದುದ್ದೂ, ಅಮಾನವೀಯವಾದುದ್ದೂ, ಆತ್ಮಗೌರವಕ್ಕೆ ಧಕ್ಕೆಯಾಗುವಂತಹದ್ದೂ, ಕೀಳು ಪ್ರವೃತ್ತಿಯದ್ದೂ ಆಗಿದ್ದು ಅದು ಬಪ್ಪಿಗೆಯಲ್ಲದೆ ಯಾವುದೇ ರೀತಿಯ ಸಂಭೋಗ ಅಥವಾ ಬೆದರಿಕೆಯೊಡ್ಡಿ ಲೈಂಗಿಕವಾಗಿ ಬಳಸಿಕೊಂಡಾಗ ಅದು ಲೈಂಗಿಕ ಹಿಂಸೆ ಎಂದೆನಿಸುತ್ತದೆ. ಇದಲ್ಲದೆ ಯಾವುದೇ ಸ್ತ್ರೀಯು 16 ವಯಸ್ಸಿಗಿಂತಲೂ ಕಡಿಮೆ ವಯಸ್ಸಿನಲ್ಲಿದ್ದಾಗ ಒಪ್ಪಿಗೆ ಇರಲಿ ಅಥವಾ ಬಿಡಲಿ ನಡೆಸುವ ಸಂಭೋಗವು ಲೈಂಗಿಕ ಹಿಂಸೆ ಅನಿಸಿಕೊಳ್ಳುತ್ತದೆ.
3. ಮಕ್ಕಳ ಮೇಲಿನ ಲೈಂಗಿಕ ಕಿರುಕುಳವೆಂದರೆ, ಯಾವುದೇ ಕ್ರಿಯೆಯು ಲೈಂಗಿಕ ಸ್ವರೂಪದ್ದಾಗಿದ್ದು, ಅದು ಕಿರುಕುಳವಾಗಿದ್ದು ಅಪಾಯವನ್ನುಂಟುಮಾಡುವಂತದ್ದಾಗಿದ್ದು ಆ ಮಗುವಿನ ಕೌಟುಂಬಿಕ ಸಂಬಂಧವನ್ನು ಹಾಳುಮಾಡುವಂತದ್ದಾಗಿರುವುದು.
4. ಮಾತಿನ ಮತ್ತು ಮಾನಸಿಕ ಕಿರುಕುಳವು ಅಪಮಾನ, ಕುಚೋದ್ಯ, ತೇಜೋವಧೆ, ಕೀಳುತನದಿಂದ ಕಾಣುವುದು ಅಥವಾ ಹೆಸರಿಡಿದು ಕರೆಯುವುದು, ಬಂಜೆಯೆಂದು ಜರಿಯುವುದು, ಗಂಡು ಮಗು ಪಡೆಯಲಿಲ್ಲವೆಂದು ಜರಿಯುವುದು ಮುಂತಾದವುಗಳನ್ನು ಒಳಗೊಂಡಿರುತ್ತದೆ.
5. ಆರ್ಥಿಕ ಕಿರುಕುಳವು ಈ ಕೆಳಗಿನವುಗಳನ್ನು ಒಳಗೊಂಡಿರುತ್ತದೆ.

ಎ. ಯಾವುದೇ ಆರ್ಥಿಕ, ಹಣಕಾಸಿನ ಮೂಲಗಳನ್ನು ನಾಶಗೊಳಿಸುವುದು. ಅದು ವ್ಯಕ್ತಿಗೆ ಯಾವುದೇ ರೀತಿಯ ಬಂದಿದ್ದಾಗಿದ್ದರೂ, ಆ ವ್ಯಕ್ತಿಯು ಅದನ್ನು ತೀವ್ರವಾಗಿ ಅವಲಂಬಿಸಿದ್ದರೆ ಮತ್ತು ಆ ಸ್ವತ್ತು ಆಕೆಯ ಮಕ್ಕಳಿಗೆ ಮತ್ತು ಆಕೆಗೆ ಆಧಾರವಾಗಿದ್ದರೆ ಮತ್ತು ಆ ಸ್ವತ್ತು ಆಕೆಗೆ ಮಕ್ಕಳಿಂದ ಬಂದಿರಬಹುದು, ಆಕೆಯ ಪೋಷಕರಿಂದ ಬಂದಿರಬಹುದು.

ಬಿ. ಯಾವುದೇ ಚರ, ಸ್ಥಿರ ಆಸ್ತಿಗಳು, ಮೌಲ್ಯಯುತ ವಸ್ತುಗಳಾದ ಶೇರುಗಳು, ಡಿಬೆಂಚರುಗಳು, ಬಾಂಡ್‌ಗಳು ಮುಂತಾದವುಗಳ ನಾಶ ಅಥವಾ ಯಾವುದೇ ಆಸ್ತಿಯು ವೈವಾಹಿಕ ಸಂಬಂಧದಿಂದ ಬಂದಿದ್ದದ್ದಾಗಿದ್ದರೂ, ಸ್ತ್ರೀ ಧನವಾಗಿ ಬಂದಿದ್ದರೂ, ಆಕೆಯ ಮಕ್ಕಳಿಂದ ಬಂದಿದ್ದರೂ, ಉಡುಗೊರೆಯ ಮೂಲಕ ಬಂದಿದ್ದಾಗಿದ್ದರೂ, ಅದನ್ನು ಕಸಿದುಕೊಂಡರೆ ಅಥವಾ

ಸಿ. ಕುಟುಂಬದೊಳಗಿನಲ್ಲಿರುವ ಅಥವಾ ಆಕೆಯ ಸ್ವಂತ ಆಸ್ತಿಯನ್ನು ಅನುಭವಿಸುವ ಹಕ್ಕನ್ನು ಕಸಿದುಕೊಳ್ಳುವುದು ಅಥವಾ ಅನುಭವಿಸುವುದನ್ನು ನಿಷೇಧಿಸುವುದು.

ಹೇಗಿದ್ದರೂ ಸಹ ಸರ್ಕಾರವು ಅರ್ಥರಹಿತವಾದ ವ್ಯಾಖ್ಯಾನವನ್ನು ಅಂಗೀಕರಿಸಿದ್ದಾದರೂ ಏಕೆ? ಸರ್ಕಾರದ ವಿಧೇಯಕದಲ್ಲಿರುವ ವ್ಯಾಖ್ಯಾನವು ಮಹಿಳೆಯ ಮೇಲೆ ಹಿಂಸೆಯನ್ನು ತಗ್ಗಿಸುವಲ್ಲಿ ಸಹಾಯವಾಗುವುದೇ? ಸರ್ಕಾರವು ತನ್ನ ವಿಧೇಯಕದಲ್ಲಿನ ಸೆಕ್ಷನ್ ಸಿ(1)(ಸಿ)ಯಲ್ಲಿ ಎಲ್ಲಾ ರೀತಿಯ ಹಿಂಸೆಯೂ ಒಳಗೊಂಡಿರುವುದೆಂದು ಹೇಳಿದೆ. ಹಿಂಸೆ ಎಂದರೆ ಏನು ಎಂಬುದನ್ನು ಸರಿಯಾಗಿ ಈ ವಿಧೇಯಕದಲ್ಲಿ ಹೇಳದೇ ಇರುವುದರಿಂದ ನ್ಯಾಯಾಧೀಶರು ಮತ್ತು ಯಾರು ಬೇಕಾದರೂ ಹಿಂಸೆಯನ್ನು ತಮಗಿಷ್ಟ ಬಂದಂತೆ ಕಲ್ಪಿಸಿಕೊಳ್ಳಬಹುದು. ಕಾನೂನಿನ ಉದ್ದೇಶವು ಯಾವಾಗಲೂ ನ್ಯಾಯಾಧೀಶರು ನಿಷ್ಪಕ್ಷ ಪಾತವಾದ ತೀರ್ಪು ನೀಡುವಲ್ಲಿ ಅವರಿಗೆ ಮಾರ್ಗದರ್ಶನ ನೀಡುವುದಾಗಿದೆ ಮತ್ತು ಇದು ಆಧುನಿಕ ಕಾನೂನು ನಿರ್ಮಾಣದ ಪದ್ಧತಿಯಾಗಿದೆ. ಮನೆ ಹಿಂಸೆಯ ಕಾನೂನು ಅತ್ಯಂತ ಸ್ಪಷ್ಟವಾಗಿ ಮನೆ ಹಿಂಸೆ ಎಂಬುದನ್ನು ಎಲ್ಲ ರೀತಿಯಿಂದಲೂ ಗುರಿಸಬೇಕಾಗುತ್ತದೆ ಮತ್ತು ಈ ಕಾನೂನು ಯಾವ ಉದ್ದೇಶಕ್ಕಾಗಿ ಇದೆ ಎಂಬುದು ಅದರ ಮೂಲದಲ್ಲಿಯೇ ಸ್ಪಷ್ಟವಾಗಿರುವುದು ಪ್ರತಿಯೊಂದು ಕಾನೂನು ತಯಾರಿಕೆಯಲ್ಲಿ ಗಮನಿಸುವ ಅಂಶವಾಗಿದೆ. ಜಿ01ದ ವಿಧೇಯಕವು ಈ ಎಲ್ಲ ಅಂಶಗಳನ್ನು ಪೂರೈಸುವಲ್ಲಿ ವಿಫಲವಾಗಿದೆ ಎಂದೇ ಹೇಳಬೇಕಾಗಿದೆ.

ಜಿ01ದ ವಿಧೇಯಕವು ಮನೆಯ ಹಿಂಸೆ ಏನು ಎಂಬುದನ್ನು ವ್ಯಾಖ್ಯಾನಿಸುವಲ್ಲಿ ವಿಫಲವಾಗಿ ಆ ಕೆಲಸವನ್ನು ನ್ಯಾಯಾಧೀಶರ ವಿವೇಚನೆಗೆ ಬಿಟ್ಟು ತನ್ನ ಕೈ ತೊಳೆದುಕೊಂಡಿದೆ. ಇದು ನ್ಯಾಯಾಧೀಶರಿಗೆ ಹೆಚ್ಚಿನ ಅಧಿಕಾರವನ್ನು ನೀಡಿ, ನೊಂದ ವ್ಯಕ್ತಿಯು ಅತೀ ಕಡಿಮೆ ಹಕ್ಕುಗಳನ್ನು ಹೊಂದಿ ನ್ಯಾಯಾಧೀಶರನ್ನು ಅವಲಂಬಿಸುವಂತೆ ಮಾಡಿದೆ. ಭಾರತ ಸರ್ಕಾರದ ವಿಧೇಯಕವು ಕೊನೆಗೆ ಕ್ರೂರತ್ವ ಎಂದರೇನು ಎಂಬುದನ್ನೇ ವ್ಯಾಖ್ಯಾನಿಸಿಲ್ಲ.

ಎಲ್‌ಸಿಡಬ್ಲ್ಯೂಆರ್‌ಐ ದ ವಿಧೇಯಕದ ವ್ಯಾಖ್ಯಾನವನ್ನು ವಿಶ್ಲೇಷಣೆ ಮಾಡಿದಾಗ ಅದು ಅಂತರಾಷ್ಟ್ರೀಯ ಕಾನೂನುಗಳನ್ನು ವಿಶ್ವಸಂಸ್ಥೆಯ ಚೌಕಟ್ಟನ್ನು ಮತ್ತು ಸಿಇಡಿಎಡಬ್ಲ್ಯೂದ ವ್ಯಾಖ್ಯಾನಗಳನ್ನು ಆಧಾರವಾಗಿಟ್ಟುಕೊಂಡಿರುವುದು ಕಂಡುಬರುತ್ತದೆ. ಭಾರತದ ಸರ್ಕಾರದ ವಿಧೇಯಕದಲ್ಲಿ ಮನೆಯ ಹಿಂಸೆಯು ಅಸ್ತಿತ್ವದಲ್ಲಿದೆ ಮತ್ತು ಅದು ವಿವಿಧ ರೂಪದಲ್ಲಿ ಪ್ರಕಟಗೊಳ್ಳುತ್ತದೆ ಎಂಬುದನ್ನು ಒಪ್ಪಿಕೊಳ್ಳುವ ಮನೋಬಾವನೆಯು ಇರುವುದನ್ನು ಗುರಿಸಬಹುದು. ಈ ವ್ಯಾಖ್ಯಾನವು (ಸರ್ಕಾರದ) ಅಗತ್ಯವಿರುವಂತಹ ಕಾನೂನಿನ ಉದ್ದೇಶವನ್ನು ಹಾಳುಗಡುವುದಲ್ಲದೆ ಮಹಿಳೆಯರ ಪಾಲಿಗೆ ನಿಷ್ಪ್ರಯೋಜಕವಾಗಲಿದೆ ಮತ್ತು ಅವರ ಪರಿಸ್ಥಿತಿಯ ಮೇಲೆ ಕೆಟ್ಟ ಪರಿಣಾಮವನ್ನುಂಟುಮಾಡಲಿದೆ. ಸರ್ಕಾರದ ವಿಧೇಯಕವು ಲೈಂಗಿಕ ಕಿರುಕುಳ, ಆರ್ಥಿಕ ಕಿರುಕುಳ, ಮಕ್ಕಳ ಮೇಲಿನ ಲೈಂಗಿಕ ಕಿರುಕುಳಗಳು ಮನೆ ಹಿಂಸೆಯ ವಿವಿಧ ವಿಧಗಳು ಎಂಬ ವಾದದಿಂದ ಬಹುದೂರದಲ್ಲಿದೆ. ಇದರ ಪ್ರಕಾರ ಓರ್ವ ಮಹಿಳೆಯ ಪರವಾಗಿ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ವಾದ ಮಾಡುವವರು ನ್ಯಾಯಾಧೀಶರಿಗೆ ಮನೆ ಹಿಂಸೆಯ ವಿವಿಧ ಮುಖಗಳ ಕುರಿತು ಮನದಟ್ಟು ಮಾಡಿಕೊಡಲು ತನ್ನ ಯುಕ್ತಿ, ಶಕ್ತಿಯನ್ನೆಲ್ಲಾ ವ್ಯಯಿಸಬೇಕಾಗುತ್ತದೆ. ಮನವರಿಕೆ ಮಾಡಿಕೊಟ್ಟ ನಂತರವೂ ನ್ಯಾಯಾಧೀಶರು ಮದುವೆಯನ್ನು ರಕ್ಷಿಸುವುದು ತಮ್ಮ ಕರ್ತವ್ಯವೆಂದು ಭಾವಿಸಬಹುದು. ಓರ್ವ ನ್ಯಾಯಾಧೀಶರು ಅಥವಾ ಕಾನೂನಿನ ಯಶಸ್ಸು ಎಂಬುದು ಮದುವೆಯ ಬಂಧನವನ್ನು ಉಳಿಸಿದೆ ಎಂಬುದರ ಆಧಾರದಲ್ಲಿ ನಿರ್ಧರಿಸಲ್ಪಡುತ್ತದೆ ಮತ್ತು ಇದರ ಹಂತ ಗಂಡ ಮತ್ತು ಹೆಂಡತಿ ತಕ್ಕ ಣದಿಂದ ಹಿಂಸೆಯನ್ನು ಬಿಟ್ಟುಬಿಡುತ್ತಾರೆ ಎಂಬುದಾಗಿ ಭಾವಿಸಲಾಗುತ್ತದೆ. ಹಿಂಸೆಯ ಮೂಲಕಾರಣವನ್ನು ನೋಡಲು ಪ್ರಯತ್ನಿಸುವುದಾಗಲೀ, ಅದರ ಬಗ್ಗೆ ಚಿಂತಿಸುವುದಾಗಲೀ ಮಾಡುವುದಿಲ್ಲ. ಅನೇಕ ವೇಳೆ ನಾನು ಪತಿಯು ತನ್ನ ಪತ್ನಿಯನ್ನು ಹಿಂದಕ್ಕೆ ಕರೆದುಕೊಂಡು ಹೋಗುವಂತೆ ಮಾಡುವಲ್ಲಿ ಯಶಸ್ವಿಯಾಗಿದೆ ಎಂದು ನ್ಯಾಯಾಧೀಶರು ಹೇಳುವುದನ್ನು ನೋಡಿದ್ದೇವೆ. ಇವರಲ್ಲಿ ಎಷ್ಟು ಜನ ಹಿಂದಕ್ಕೆ ಮನೆಗೆ ಹೋದ ಮೇಲೆ ಈ ಮಹಿಳೆಗೇನಾಯಿತು ಎಂಬುದನ್ನು ಪರಿಶೀಲಿಸಿದ್ದಾರೆಯೇ? ಇವರಲ್ಲಿ ಎಷ್ಟು ಜನರಿಗೆ ಹಿಂಸೆಯನ್ನು ನಿರ್ಲಕ್ಷಿಸುವುದು ಮತ್ತಷ್ಟು ಹಿಂಸೆಗೆ ಕಾರಣವಾಗುತ್ತದೆ ಎಂಬುದು ಗೊತ್ತು? ಈ ರೀತಿಯಲ್ಲಿ ಹಿಂಸೆಯನ್ನು ನಿರ್ಲಕ್ಷ್ಯ ಮಾಡುವುದರಿಂದ ಮತ್ತಷ್ಟು ಮಹಿಳೆಯ ಮೇಲೆ ಹಿಂಸೆ ಅಧಿಕವಾಗಿ ಅದು ಸಾವಿನಲ್ಲಿ ಪರ್ಯವಸಾನಗೊಂಡಿತೆಂಬುದು ಎಷ್ಟು ಜನ ನ್ಯಾಯಾಧೀಶರಿಗೆ ಗೊತ್ತು?

ಕಾನೂನಿನ ಪಾತ್ರವೆಂದರೆ ಮನೆ ಹಿಂಸೆಯನ್ನು ಯಾವುದೇ ರೂಪದಲ್ಲಿದ್ದರೂ ಪೂರ್ವಗ್ರಹವಿಲ್ಲದೆ ಖಂಡಿಸುವುದಾಗಿದೆ.

ಕಾನೂನು ತಯಾರಕರು ಅರಿತುಕೊಳ್ಳಬೇಕಾಗಿರುವುದೇನೆಂದರೆ ಯಶಸ್ವೀ ಮದುವೆಯ ಖಾರಿಯು ಹಿಂಸೆಯನ್ನು ಷರತ್ತುರಹಿತವಾಗಿ ಖಂಡಿಸುವುದರಲ್ಲಿ ಮತ್ತು ಎಲ್ಲ ರೂಪದ ಹಿಂಸೆಯ ಸಂಗತಿಯು ವಿಮುಕ್ತವಾಗಿ ಜೀವಿಸುವ ಹಕ್ಕನ್ನು ಪಡೆಯುವುದರಲ್ಲಿದೆ ಎಂಬುದನ್ನು ಭಾರತದ ಸರ್ಕಾರದ ವಿಧೇಯಕದ ವ್ಯಾಖ್ಯಾನವು ಈ ನಿಟ್ಟಿನಲ್ಲಿ ವಿಫಲವಾಗಿದೆ.

ಸಂಬಂಧಿ ಎಂಬುದರ ಬಗ್ಗೆ ವ್ಯಾಖ್ಯಾನವಿಲ್ಲದಿರುವುದು

ಭಾರತ ಸರ್ಕಾರದ ವಿಧೇಯಕವು ಸಂಬಂಧಿಯ ವಿರುದ್ಧ ದೂರು ದಾಖಲು ಮಾಡಲು ಅವಕಾಶ ಮಾಡಿಕೊಡುತ್ತದೆ. ಇದರರ್ಥ ಸಹೋದರಿಯರು, ಹೆಣ್ಣು ಮಗಳು, ತಾಯಂದಿರು ಕಿರುಕುಳಕ್ಕೊಳಗಾದವರ ಪರ ದೂರು ದಾಖಲಿಸಬಹುದಾಗಿದೆ. ಚರ್ಚೆ ಇರುವುದೆಂದರೆ ಕಿರುಕುಳಕ್ಕೊಳಗಾದ ಮಹಿಳೆಯು ಓರ್ವ ಪುರುಷನನ್ನು ಮದುವೆಯಾಗಿದ್ದಾಳೆ ಎಂಬುದಾಗಿ ನಂಬಲಾಗುತ್ತದೆ. ಆದರೆ ಕಾನೂನು ಕಾರ್ಯಗತವಾಗಲು ಕಾನೂನಿನಂತೆ ಅಥವಾ ಸಂಪ್ರದಾಯದಂತೆ ಮದುವೆಯಾಗಬೇಕಾಗುತ್ತದೆ. ಸಂಪ್ರದಾಯದಂತೆ ಮದುವೆಯಾಗದಿದ್ದಾಗ ಸಂಬಂಧಿಯು ದೂರು ದಾಖಲಿಸಲು ಸಾಧ್ಯವಾಗುವುದಿಲ್ಲ. ಪುರುಷನು ಎರಡನೆಯ ಮದುವೆಯಾಗಿದ್ದಾಗ ಅದು ಕಾನೂನು ಬಾಹಿರವಾಗಿರುವುದರಿಂದ ಆಕೆಯ ಸಂಬಂಧಿಗಳು ಪರಿಗಣಿಸಲ್ಪಡುವುದಿಲ್ಲ. ಇಂತಹ ಸಂದರ್ಭದಲ್ಲಿ ಮಹಿಳೆಯ ಮೇಲೆ ಕಿರುಕುಳವು ಅಧಿಕವಾಗುವ ಸಂಭವವೇ ಅಧಿಕ.

ಭಾರತ ಸರ್ಕಾರದ ವಿಧೇಯಕದಲ್ಲಿ ಸೆಕ್ಷನ್ 4(2)ರಲ್ಲಿ ಪುರುಷನು ಕಿರುಕುಳದ ಆರೋಪವನ್ನು ಎದುರಿಸುತ್ತಿದ್ದಾಗ ಸ್ವರಕ್ಷಣೆಯ ಅವಕಾಶವನ್ನು ಪಡೆಯುತ್ತಾನೆ. ಈ ಅವಕಾಶವು ಪುರುಷನಿಗೆ ತಪ್ಪಿಸಿಕೊಳ್ಳುವ ಎಲ್ಲ ಅವಕಾಶವನ್ನು ನೀಡಿದೆ. ಆತನು ತಾನು ಪಾಪಕೂಪದಿಂದ ಹೊರಬರಲು ಪ್ರಯತ್ನಿಸುವುದಾಗಿ ಸಾಧಿಸಲು ಅವಕಾಶ ಮಾಡಿಕೊಟ್ಟಂತಾಗಿದೆ. ಪುರುಷನು ಆತನ ತಾಯಿ ಅಥವಾ ಹೆಂಡತಿಯೊಂದಿಗೆ ಮಾರಾಮಾರಿಯಾದಾಗ ಅವರಿಗೆ ಗಾಯವಾದರೆ ಅದನ್ನು ಆತನು ಆತ್ಮರಕ್ಷಣೆಗೆ ಪ್ರಯತ್ನಿಸುವಾಗ ಉಂಟಾದದ್ದು ಎಂದು ಸಾಧಿಸಬಹುದಾಗಿದೆ. ಈ ರೀತಿಯ ಅವಕಾಶಗಳನ್ನು ಅನೇಕ ದೇಶಗಳಲ್ಲಿ ಮಹಿಳೆಯ ವಿರುದ್ಧ ವ್ಯವಸ್ಥಿತವಾಗಿ ಉಪಯೋಗಿಸಿಕೊಳ್ಳಲಾಗುತ್ತದೆ. ಭಾರತದ ಅಪರಾಧ ಕಾನೂನಿನಡಿಯಲ್ಲಿ ಯಾವುದೇ ಹಿಂಸೆಯ ಪ್ರಕರಣ ವರದಿಯಾದಾಗ ಪೊಲೀಸರು ಹಿಂಸೆ ಅನುಭವಿಸಿದ ಮಹಿಳೆ ಮತ್ತು ಪುರುಷರಿಬ್ಬರನ್ನೂ ಬಂಧಿಸುತ್ತಾರೆ ಮತ್ತು ಇಬ್ಬರೂ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಹೋರಾಡಲು ಅವಕಾಶ ಮಾಡಿಕೊಡುತ್ತಾರೆ. ಈ ಅವಕಾಶವನ್ನು ತಕ್ಷಣದಿಂದ ಕೈಬಿಡಬೇಕಾಗಿದೆ. ಇದು ಮಹಿಳೆಯರನ್ನು ಹಿಂಸೆಯಿಂದ ರಕ್ಷಿಸಲು ಅತ್ಯವಶ್ಯವಾಗಿದೆ.

ಜಿ01 ವಿಧೇಯಕ ಬಿಟ್ಟಿರುವಂತಹದು

ಈ ವಿಧೇಯಕದಲ್ಲಿ ಹಕ್ಕುಗಳ ಬಗ್ಗೆ ಯಾವ ಘೋಷಣೆಯೂ ಇಲ್ಲ. ವಿಧೇಯಕದ ಯಾವ ಸೆಕ್ಷನ್‌ನಲ್ಲಿಯೂ ಸಹ ಕೌಟುಂಬಿಕ ಸಂಬಂಧದಲ್ಲಿ ಮಹಿಳೆಗೆ ಮನೆಯಲ್ಲಿ ಸಮನಾದ ಹಕ್ಕುಗಳಿವೆ ಎಂಬುದನ್ನು ಹೇಳಿಲ್ಲ. ಈ ರೀತಿಯಲ್ಲಿ ಹಕ್ಕುಗಳ ನಿರಾಕರಣೆಯು ಸಂಪೂರ್ಣ ಕಾಯ್ದೆಯ ಚಟುವಟಿಕೆಯು ನಮ್ಮ ಕಣ್ಣಿಗೆ ಮಣ್ಣೆರಚುವಂತೆ ಕಾಣುತ್ತಿದೆಯೆಂದೂ ಮುಸ್ಲಿಂ, ಕ್ರೈಸ್ತ ಹಾಗೂ ಪಾರ್ಸಿ ಮುಂತಾದ ಯಾವ ಕಾನೂನಿನಲ್ಲಿಯೂ ಮದುವೆಯಲ್ಲಿ ಮಹಿಳೆಯ ಹಕ್ಕಿನ ಕುರಿತು ಸ್ಪಷ್ಟವಾಗಿ ಹೇಳಿಲ್ಲ. ಈ ಮುಂಚೆ ಹೇಳಿದಂತೆ ಇದು ಮಹಿಳೆಯು ಹಿಂಸೆ ಅನುಭವಿಸುವ ಸಾಧ್ಯತೆಯನ್ನು ಹೆಚ್ಚಿಸುತ್ತದೆ. ಮದುವೆಯ ಜೀವನದಲ್ಲಿ ಮಹಿಳೆಗೆ ಹಕ್ಕಿಲ್ಲದಿರುವುದರಿಂದ ಆಕೆಯು ಬೀದಿಯಲ್ಲಿ ನಿಲ್ಲಬೇಕಾದ ಪರಿಸ್ಥಿತಿ ಸಿಕ್ಕಿಸುತ್ತಿದೆ. ಇಂದಿನ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ ನ್ಯಾಯಾಲಯವು ಮಹಿಳೆಗೆ ಶಿಫಾರಸ್ಸು ಮಾಡುವ ನಿರ್ಣಯವು ಆಕೆಯನ್ನು ಹಿಂಸೆಯ ಕೂಪವಾಗಿರುವ ಗಂಡನ ಮನೆಗೆ ಹಿಂತಿರುಗುವಂತೆ ಹಿಂಸೆಯನ್ನು ಒಪ್ಪಿಕೊಳ್ಳುವಂತೆ ಅಥವಾ ತನ್ನೆಲ್ಲಾ ಆಸ್ತಿಯನ್ನೂ ಗಂಡನಿಗೆ ಬಿಟ್ಟುಕೊಟ್ಟು ವಿಚ್ಛೇದನ ಪಡೆಯುವಂತೆ ಅಥವಾ ಗೌರವಯುತ ಜೀವನಾಂಶ ಪಡೆಯುವಂತೆ ಒತ್ತಾಯಿಸುತ್ತಿದೆ. ಮಹಿಳೆಯು ತನ್ನ ಮನೆಯಿಂದ ಉಡುಗೊರೆಯಾಗಿ ಪಡೆದ ವಸ್ತುಗಳು ಮತ್ತು ಸ್ತ್ರೀಧನವನ್ನು ಬಿಟ್ಟುಕೊಡುವಂತೆ ಅನೇಕ ಭಾರಿ ಒತ್ತಾಯಿಸಲಾಗುತ್ತಿದೆ. ಜೀವನಾಂಶವನ್ನು ತಿಂಗಳ ಕಂತುಗಳಲ್ಲಿ ನೀಡುವಂತೆ ತೀರ್ಪು ನೀಡುತ್ತಿರುವುದು ಅತ್ಯಂತ ಕೆಟ್ಟ ಸಂಪ್ರದಾಯವಾಗಿದೆ. ಇದು ಮಹಿಳೆಯು ಮತ್ತೆ ಪುರುಷನನ್ನು ಅವಲಂಬಿಸುವಂತೆ ಮಾಡುತ್ತಿದೆ. ವಿಚ್ಛೇದಿತ ಮಹಿಳೆಯು

ವ್ಯಭಿಚಾರ ಮಾಡದೆ ಇದ್ದರೆ ಮಾತ್ರ ಆಕೆಗೆ ಜೀವನಾಂಶ ದೊರೆಯುತ್ತದೆ ಎಂಬುದು ಸಹ ಅಮಾನವೀಯ ಮತ್ತು ಆಕೆಯು ಮರುಮದುವೆಯಾಗಬಾರದು ಎಂಬುದು ಕೂಡ ಅತ್ಯಂತ ನೀಚವಾದ ನಿಯಮವಾಗಿದೆ.

ಇದನ್ನು ತಡೆಯಲು ತರುವ ಮಾರ್ಗವೆಂದರೆ ಮಹಿಳೆಗೆ ಮನೆಯಲ್ಲಿ ಸಮನಾದ ಪಾಲಿದೆ ಎಂಬುದನ್ನು ಸಂಶಯಕ್ಕೆಡೆಯಾಗದಂತೆ ಪೋಷಿಸಬೇಕಾಗುತ್ತದೆ. ನಾವು ಸಹಾಯಧನದ ಕಟ್ಟುಪಾಡುಗಳಡಿಯಲ್ಲಿ ಜೀವಿಸುತ್ತಿದ್ದೇವೆ. ಸಂವಿಧಾನವು ಸ್ವಾತಂತ್ರ್ಯದ ಹಕ್ಕು ಮತ್ತು ಜೀವಿಸುವ ಹಕ್ಕನ್ನು ಖಾತರಿಪಡಿಸಿದೆ ಮತ್ತು ವ್ಯಕ್ತಿಗತ ಹಕ್ಕಿಗೆ ಮಹತ್ವವನ್ನು ನೀಡಿದೆ. ಯಾವುದೇ ದೇಶವು ಹಕ್ಕುಗಳನ್ನು ನಿರಾಕರಿಸುವುದು ನಾಗರಿಕರತೆ ಎಂದು ಪರಿಗಣಿಸಲ್ಪಡುವುದಿಲ್ಲ. ಒಂದು ವೇಳೆ ಭಾರತ ಸರ್ಕಾರದ ವಿದೇಯಕವು ಮಹಿಳೆಗೆ ಸ್ವಾತಂತ್ರ್ಯ ಮತ್ತು ಬದುಕುವ ಹಕ್ಕುಗಳನ್ನು ನೀಡುವ ಸೂಚನೆಯನ್ನು ಹೊಂದಿಲ್ಲವೆಂದಾದಲ್ಲಿ ಅದು ಮಹಿಳೆಯರ ಬದುಕಿನ ಖಾತರಿಯ ಬಗ್ಗೆ ಖಾತರಿಯನ್ನು ಹೊಂದಿಲ್ಲವೆಂದಾಗುತ್ತದೆ.

ಬಹುತೇಕ ಮಹಿಳೆಯರಿಗೆ ಮದುವೆಯಾಗಿ ಹೋದ ಮನೆಯಲ್ಲಿಯೇ ಜೀವನವಿರುತ್ತದೆ. ಸಾವಿಗೆ ಕೂಡ ಇದೇ ಮನೆ ಕಾರಣವಾಗುತ್ತಿರುವುದು ವಿಪರ್ಯಾಸವಾಗಿದೆ. ಈ ದೇಶದ ಅತೀ ಹೆಚ್ಚಿನ ಸಂಖ್ಯೆಯ ಮಹಿಳೆಯರ ಜೀವನಕ್ಕೆ ಅಪಾಯವು ಮತ್ತು ಸ್ವಾತಂತ್ರ್ಯಕ್ಕೆ ದಕ್ಕೆಯು ಮದುವೆಯಿಂದಲೇ ಉಂಟಾಗಿರುತ್ತದೆ. ಪ್ರಪಂಚದಾದ್ಯಂತ ಇರುವಂತಹ ಮನೆ ಹಿಂಸೆ ವಿರುದ್ಧದ ಕಾನೂನುಗಳು ಇದರ ಆಧಾರದಲ್ಲಿಯೇ ಇದೆ. ಮಹಿಳೆಯ ಮೇಲಾಗುವಂತಹ ಹಿಂಸೆಯನ್ನು ತಡೆಗಟ್ಟುವಲ್ಲಿ ಆಕೆಗೆ ತನ್ನ ಗಂಡನ ಮತ್ತು ತಂದೆಯ ಮನೆಯ ಆಸ್ತಿಯಲ್ಲಿ ಸಮಾನ ಹಕ್ಕುಗಳನ್ನು ಖಾತರಿಪಡಿಸುವುದು ಮಹತ್ತರ ಪಾತ್ರವನ್ನು ವಹಿಸುತ್ತದೆ. ಇದು ಕಾನೂನಿನಲ್ಲಿ ಇರಲೇಬೇಕು ಮತ್ತು ಇದನ್ನು ಒಳಗೊಳ್ಳದ ಕಾನೂನನ್ನು ಮಹಿಳಾ ಚಳುವಳಿಗಳು ತಿರಸ್ಕರಿಸಲೇಬೇಕಾಗಿದೆ.

ಸಮ್ಪ್ರತಾಹ ಪರಿಹಾರಗಳು

ಕಾಯ್ದೆ ರಚಿಸುವವರನ್ನು ಮನೆ ಹಿಂಸೆಯಿಂದ ಬಲಿಪಶುಗಳಾದವರಿಗೆ ನಿಖರವಾದ ಹಕ್ಕುಗಳನ್ನು ನೀಡುವಂತೆ ಒತ್ತಾಯಿಸಿದಾಗ, ಪರಿಹಾರವನ್ನು ನಿರ್ವಹಿಸುವ ಸೆಕ್ಸನ್‌ನಲ್ಲಿ ಅವಕಾಶ ಕಲ್ಪಿಸಲಾಯಿತು.

ಭಾರತ ಸರ್ಕಾರದ ವಿದೇಯಕದ ಸೆಕ್ಸನ್ 14 ರಕ್ಷಣೆಯ ಆದೇಶಗಳನ್ನು ವ್ಯವಹರಿಸುತ್ತದೆ ಮತ್ತು ನ್ಯಾಯಾಧೀಶರಿಗೆ 3ರೀತಿಯ ಆದೇಶಗಳನ್ನು ಆರೋಪಿಯ ವಿರುದ್ಧ ಹೊರಡಿಸಲು ಅವಕಾಶ ನೀಡುತ್ತದೆ.

1. ಮನೆ ಹಿಂಸೆಯ ಯಾವುದೇ ಕ್ರಿಯೆಯನ್ನು ತಡೆಗಟ್ಟುವುದು.
2. ನ್ಯಾಯಾಧೀಶರಿಗೆ ಸರಿ ಎನಿಸಿದಷ್ಟು ಹಣದ ರೂಪದ ಪರಿಹಾರ ಗೊತ್ತುಪಡಿಸುವುದು ಮತ್ತು
3. ಅವಶ್ಯಕತೆ ಇರುವ ಇತರೆ ನಿರ್ದೇಶನಗಳನ್ನು ಹೊರಡಿಸುವುದು.

ಯಾವುದಾದರೂ ಕಾನೂನು ಸಂಕ್ಷಿಪ್ತವಾಗಿರಬೇಕೆಂದಿದ್ದಲ್ಲಿ, ಈ ರಚನೆಗೆ ಸಂಪೂರ್ಣ ಅಂಕಗಳು ದೊರೆಯುತ್ತದೆ. ಇದು ನ್ಯಾಯಾಧೀಶರಿಗೆ ಸರಿಯಾಗಿ ನಿರ್ಣಯ ಕೊಡುವ ಯೋಗ್ಯತೆ ಇದ್ದಾಗ ಮಾತ್ರ ನಿರ್ಣಯ ಕೊಡುವಂತೆ ಹೇಳುತ್ತದೆ.

ಇದರ ವಿರುದ್ಧ ಎಲ್‌ಸಿಡಬ್ಲ್ಯೂಆರ್‌ಐ ವಿದೇಯಕವು ಈ ಕೆಳಗಿನ ಪ್ರಸ್ತಾವನೆಗಳನ್ನು ಮಾಡಿದೆ.

ರಕ್ಷಣೆಯ ಆದೇಶ

ಎ. ನ್ಯಾಯಾಲಯವು ಈ ಕೆಳಗಿನವುಗಳ ವಿರುದ್ಧ ರಕ್ಷಣೆಯ ಆದೇಶಗಳನ್ನು ನೀಡಬಹುದು.

ಮನೆ ಹಿಂಸೆಯ ಯಾವುದೇ ಕ್ರಿಯೆಯನ್ನು ಮಾಡುವುದು.

ಮನೆ ಹಿಂಸೆಯ ಕೃತ್ಯಕ್ಕೆ ಪ್ರೋತ್ಸಾಹ ಮತ್ತು ನೆರವು ನೀಡುವುದು.

ಅನ್ಯಾಯಕ್ಕೊಳಗಾದವರ ಕೆಲಸದ ಸ್ಥಳಕ್ಕೆ ಪ್ರವೇಶಿಸುವುದು ಅಥವಾ ಆಕೆಯ ಮಗುವಿನ ಶಾಲೆಗೆ ಪ್ರವೇಶಿಸಿ ತೊಂದರೆ ನೀಡುವುದು ಅಥವಾ ಆಕೆಯು ಇರುವ ಯಾವುದೇ ಸ್ಥಳಕ್ಕೆ ಆಗಾಗ್ಗೆ ಪ್ರವೇಶಿಸಿ ತೊಂದರೆ ನೀಡುವುದು.

ಅನ್ಯಾಯಕ್ಕೊಳಗಾಗಿರುವಂತವಳ ವಾಸದ ಸ್ಥಳಕ್ಕೆ ಪ್ರವೇಶಿಸುವುದು.

ಅನ್ಯಾಯಕ್ಕೊಳಗಾದವಳನ್ನು ಯಾವುದೇ ರೀತಿಯ ಮಾತಿನ ಮೂಲಕ, ಬರಹದ ಮುಖಾಂತರ, ವಿದ್ಯುನ್ಮಾನ ಅಥವಾ ದೂರವಾಣಿಯ ಮುಖಾಂತರ ಸಂಪರ್ಕಿಸಲು ಪ್ರಯತ್ನಿಸುವುದು.

ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆಗೆ ಸೇರಿದ, ಬ್ಯಾಂಕ್ ಲಾಕರ್‌ಗಳು ಅಥವಾ ಬ್ಯಾಂಕ್ ಖಾತೆಗಳನ್ನು ಉಪಯೋಗಿಸುವುದು, ವಶಪಡಿಸಿಕೊಳ್ಳುವುದು, ಅದು ಆಕೆಯ ಹೆಸರಿನಲ್ಲಿರಬಹುದು, ಜಂಟಿ ಖಾತೆಯಲ್ಲಿರಬಹುದು. ಆಕೆಯ ಸ್ತ್ರೀಧನವನ್ನಾಗಲೀ ಅಥವಾ ಯಾವುದೇ ಆಸ್ತಿಯು ಆಕೆಯ ಹೆಸರಿನಲ್ಲಿ ಅಥವಾ ಜಂಟಿ ಹೆಸರಿಲ್ಲಾಗಲೀ ಇದ್ದಲ್ಲಿ ಅದನ್ನು ವಶಪಡಿಸಿಕೊಳ್ಳಲು ಅಥವಾ ಆಕ್ರಮಿಸಿಕೊಳ್ಳಲು ಪ್ರಯತ್ನಿಸುವುದು.

ಹಿಂಸೆಯಿಂದ ಅನ್ಯಾಯಕ್ಕೊಳಗಾಗಿರುವವರಿಗೆ ಆಸರೆ ನೀಡುವವರಿಗೆ ತೊಂದರೆ ನೀಡುವುದು, ಆಸೆ ನೀಡಿದವರ ಸಂಬಂಧಿಕರಿಗೆ, ಆಶ್ರಿತರಿಗೆ ಹಿಂಸೆ ನೀಡುವುದು ಅಥವಾ ಬೆದರಿಕೆ ಒಡ್ಡುವುದು ಮುಂತಾದವುಗಳು.

ನ್ಯಾಯಾಲಯವು ಅಗತ್ಯ ಸಂದರ್ಭದಲ್ಲಿ ಅನ್ಯಾಯಕ್ಕೊಳಗಾಗಿರುವ ಮಹಿಳೆ ಅಥವಾ ಮಗುವಿನ ರಕ್ಷಣೆಗೆ ಸರಿ ಎನಿಸುವಂತಹ ಆದೇಶಗಳನ್ನು ಷರತ್ತುಗಳನ್ನು ವಿಧಿಸಬಹುದು.

ಸೆಕ್ಷನ್ 5(ಎ)(ಸಿ) ಅಡಿಯಲ್ಲಿ ಆದೇಶಗಳನ್ನು ಹೊರಡಿಸುವಾಗ ನ್ಯಾಯಾಲಯವು ಪೊಲೀಸರಿಗೆ ಅನ್ಯಾಯಕ್ಕೊಳಗಾಗಿರುವವರಿಗೆ ರಕ್ಷಣೆಯನ್ನು ಒದಗಿಸುವಂತೆ ಅಥವಾ ಆಕೆಯ ಸಹಾಯ ಮಾಡುವಂತೆ ಅಥವಾ ಆದೇಶಗಳನ್ನು ಜಾರಿಗೊಳಿಸುವಂತೆ ನಿರ್ದೇಶನ ನೀಡಬೇಕು.

ನ್ಯಾಯಾಲಯವು ಆರೋಪಿಗೆ ಅನ್ಯಾಯಕ್ಕೊಳಗಾಗಿರುವ ಮಹಿಳೆಯ ಸ್ತ್ರೀಧನ ಅಥವಾ ಯಾವುದೇ ರೂಪದ ಆಸ್ತಿ ಅಥವಾ ಯಾವುದೇ ರೀತಿಯಲ್ಲಿರುವಂತಹ ಅಮೂಲ್ಯ ವಸ್ತುಗಳು ಅದು ಆಕೆಯ ಹೆಸರಿನಲ್ಲಿ ಅಥವಾ ಜಂಟಿಯಾಗಿರಲಿ ಅದನ್ನು ವಶಪಡಿಸಿಕೊಂಡಿದ್ದರೆ ತಕ್ಷಣ ಹಿಂತಿರುಗಿಸುವಂತೆ ಆದೇಶಿಸಬೇಕು.

ನ್ಯಾಯಾಲಯವು ರಕ್ಷಣಾ ಅಧಿಕಾರಿ ಅಥವಾ ಯಾವುದೇ ಅಧಿಕಾರ ಹೊಂದಿರುವವರಿಗೆ ಅನ್ಯಾಯಕ್ಕೊಳಗಾಗಿರುವ ಮಹಿಳೆಯನ್ನು ಸೇವಾ ಮನೋಭಾವನೆಯನ್ನು ಹೊಂದಿರುವವರು ನಡೆಸುವ ಅಲ್ಪಕಾಲೀನ ಮನೆಗೆ ಅಥವಾ ಇತರ ಸುರಕ್ಷಿತ ಸ್ಥಳಕ್ಕೆ ವರ್ಗಾಯಿಸುವಂತೆ ಆದೇಶ ನೀಡಬಹುದು.

ಈ ಸೆಕ್ಷನ್‌ನ ಅಡಿಯಲ್ಲಿ ನ್ಯಾಯಾಲಯವು ಎಲ್ಲ ಪ್ರಕರಣಗಳಲ್ಲಿಯೂ ನ್ಯಾಯಾಲಯವು ರಕ್ಷಣಾ ಆದೇಶಗಳನ್ನು ಹೊರಡಿಸಬಹುದು. ಆದೇಶದ ಒಂದು ಪ್ರತಿಯನ್ನು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗೆ ನೀಡಬೇಕು ಅಥವಾ ನ್ಯಾಯಾಲಯದ ಕಾರ್ಯಕ್ಷೇತ್ರದಲ್ಲಿ ಬರುವ ಯಾವುದೇ ಅಧಿಕಾರಿಗೆ ನೀಡಬಹುದು.

ಹಣಕಾಸಿನ ಪರಿಹಾರ

ನ್ಯಾಯಾಲಯವು ಆರೋಪಿಯು ಮನೆಯ ಹಿಂಸೆಯಿಂದ ಅನ್ಯಾಯಕ್ಕೊಳಗಾಗಿರುವ ಮಹಿಳೆಗೆ ಅಥವಾ ಯಾವುದೇ ಮಗುವಿಗೆ ಉಂಟಾದ ಹಾನಿಯ ಖರ್ಚನ್ನು ನೀಡುವಂತೆ ಆದೇಶಿಸಬಹುದು. ಅದು ಈ ಕೆಳಗಿನವುಗಳನ್ನು ಒಳಗೊಂಡಿರಬಹುದಾದರೂ ಅದಕ್ಕೆ ಸೀಮಿತವಾಗಬಾರದು.

ಗಳಿಕೆಯಲ್ಲಿನ ನಷ್ಟ

ವೈದ್ಯಕೀಯ ವೆಚ್ಚಗಳು

ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ವ್ಯಕ್ತಿಗೆ ಸೇರಿದಯಾವುದೇ ಆಸ್ತಿಯ ಮೇಲಿನ ಹಕ್ಕನ್ನು ಕಸಿದುಕೊಂಡಿದ್ದಕ್ಕಾಗಿ ನಾಶ ಮಾಡಿದ್ದಕ್ಕಾಗಿ ಅಥವಾ ನಷ್ಟವನ್ನುಂಟುಮಾಡಿದ್ದಕ್ಕಾಗಿ.

ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆ ಮತ್ತುವಳ ಮಕ್ಕಳ ಜೀವನದ ನಿರ್ವಹಣೆಯ ವೆಚ್ಚ

ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆಗೆ ಅನ್ಯಾಯವುಂಟಾಗಿದ್ದಕ್ಕಾಗಿ ಪರಿಹಾರ ಹಣ.

ಈ ಆದೇಶಗಳ ಪ್ರತಿಯನ್ನು ನ್ಯಾಯಾಲಯವು ಸಂಬಂಧಪಟ್ಟ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗೆ ಮತ್ತು ನ್ಯಾಯಾಲಯದ ಕಾರ್ಯಕ್ಷೇತ್ರಕ್ಕೆ ಬರುವ ಪೊಲೀಸ್ ಠಾಣೆಗೆ ಮುಂದಿನ ಕ್ರಮಕ್ಕಾಗಿ ನೀಡಬೇಕು.

ಆರೋಪಿಯು ಹಣಕಾಸಿನ ಪರಿಹಾರವನ್ನು ನಿಗದಿಪಡಿಸುವ ದಿನಾಂಕದೊಳಗೆ ನ್ಯಾಯಾಲಯವು ನೀಡಿದ ಆದೇಶದನುಸಾರ ಮತ್ತು ಷರತ್ತುಗಳ ಪ್ರಕಾರ ಉಪಸೆಕ್ಸ್‌ನ್(ಸಿ)ಯ ಅಡಿಯಲ್ಲಿ ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆಗೆ ನೀಡಬೇಕು.

ಒಂದು ವೇಳೆ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಉಪಸೆಕ್ಸ್‌ನ್(1)ಯ ಅಡಿಯಲ್ಲಿನ ಷರತ್ತುಗಳ ಪ್ರಕಾರ ಪರಿಹಾರ ಕೊಡಿಸಲು ವಿಫಲನಾದಲ್ಲಿ, ನ್ಯಾಯಾಲಯವು ಒಂದು ಆದೇಶವನ್ನು ಹೊರಡಿಸಿ ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ವ್ಯಕ್ತಿಗೆ ಪರಿಹಾರವನ್ನು ನೇರವಾಗಿ ಒದಗಿಸುವಂತೆ ಅಥವಾ ಆತನ ಆಸ್ತಿ ಅಥವಾ ಸಂಬಳದಿಂದ ಸೂಕ್ತಮೊತ್ತವನ್ನು ವಶಪಡಿಸಿಕೊಳ್ಳುವಂತೆ ಸೂಚಿಸಬಹುದು ಮತ್ತು ಆ ಹಣವನ್ನು ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ವ್ಯಕ್ತಿಯ ಹೆಸರಿನಲ್ಲಿ ಠೇವಣಿ ಇಡಬಹುದು.

ವಸತಿಯ ಆದೇಶ

ವಸತಿಯ ಸಂಬಂಧದಲ್ಲಿ ನ್ಯಾಯಾಲಯವು ಈ ಕೆಳಗಿನಂತೆ ಆದೇಶಿಸಬಹುದು.

ಮನೆಯನ್ನು ಬೇರೆಯವರಿಗೆ ವರ್ಗಾಯಿಸುವುದನ್ನು ಪ್ರತಿಬಂಧಿಸುವುದು ಅಥವಾ ಕಿತ್ತುಕೊಳ್ಳುವುದು ಅಥವಾ ಪ್ರತಿಬಿಂಬಿಸುವುದು.

ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆಯನ್ನು ಹೊರತುಪಡಿಸಿ ಮನೆ ಮತ್ತು ಆಸ್ತಿಯ ಮೇಲೆ ತನ್ನ ಹಕ್ಕನ್ನು ಪುನಃಸ್ಥಾಪಿಸುವುದನ್ನು ಪ್ರತಿಬಂಧಿಸುವುದು.

ಮನೆಯನ್ನು ಪ್ರವೇಶಿಸುವ ಅಥವಾ ಮನೆಯ ಒಂದು ಭಾಗದಲ್ಲಿ ಇರುವ ಅವಕಾಶವನ್ನು ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆಗೆ ಮಾಡಿಕೊಡುವುದು.

ದೌರ್ಜನ್ಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆಯನ್ನು ಹೊರತುಪಡಿಸಿ ಮನೆಯನ್ನು ಆರೋಪಿಯು ಆಕ್ರಮಿಸಿಕೊಳ್ಳುವುದನ್ನು ನಿಷೇಧಿಸುವುದು, ತಡೆಯಿಡಿಯುವುದು ಅಥವಾ ಪ್ರತಿಬಂಧಿಸುವುದು.

ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆಯನ್ನು ಮನೆಯಿಂದ ಹೊರಹಾಕುವುದನ್ನು ಪ್ರತಿಬಂಧಿಸುವುದು.

ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆಗೆ ಬೇರೆ ವಾಸದ ವ್ಯವಸ್ಥೆಯನ್ನು ಮಾಡುವಂತೆ ಅಥವಾ ಬಾಡಿಗೆ ಮನೆಯನ್ನು ಕಲ್ಪಿಸುವಂತೆ ನಿರ್ದೇಶಿಸುವುದು ಮುಂತಾದವುಗಳನ್ನು ಕೋರ್ಟಿಗೆ ದೌರ್ಜನ್ಯಕ್ಕೊಳಗಾಗಿ ಮಹಿಳೆಯು ತನ್ನ ಗಂಡನೊಂದಿಗೆ ಮಾತಾಡುವುದು ಅಪಾಯವೆಂದೆನಿಸಿದಾಗ ಆ ಆದೇಶ ಹೊರಡಿಸಬಹುದು.



ಈ ಸೆಕ್ಸನ್ ಅಡಿಯಲ್ಲಿ ಆದೇಶಗಳನ್ನು ನೀಡುವಾಗ ನ್ಯಾಯಾಲಯವು ಆರೋಪಿಗೆ ಆತನ ಹಣಕಾಸಿನ ಸ್ಥಿತಿಗಳಿಗನುಸಾರವಾಗಿ ಬಾಡಿಗೆ ಅಥವಾ ಇತರೇ ಸಂದಾಯವನ್ನು ಮಾಡುವಂತೆ ಕಡ್ಡಾಯಗೊಳಿಸಬಹುದಾಗಿದೆ.

ಪಾಲನೆಯ ಆದೇಶ : ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಯಾವುದೇ ಕಾನೂನಿನಲ್ಲಿ ಏನೇ ಇದ್ದರೂ ನ್ಯಾಯಾಲಯವು ಪ್ರಕರಣವನ್ನು ಪರಿಶೀಲಿಸಿ ರಕ್ಷಣೆಯ ಆದೇಶ ಅಥವಾ ತಾತ್ಕಾಲಿಕ ಪಾಲನೆಯ (ಯಾವುದೇ ಮಗು ಅಥವಾ ಮಕ್ಕಳು) ಅವಕಾಶವನ್ನು ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆಯ ಪ್ರಕರಣ ದಾಖಲು ಮಾಡಿದವರ ನಿರ್ದಿಷ್ಟ ವ್ಯಕ್ತಿಯ ಸುಪರ್ದಿಗೆ ಒಪ್ಪಿಸಬೇಕು. ಅಗತ್ಯವಿದ್ದಲ್ಲಿ ಆರೋಪಿಯು ಮಕ್ಕಳನ್ನು ಭೇಟಿ ನೀಡಲು ಅವಕಾಶ ಕಲ್ಪಿಸಬಹುದು.

ಯಾವುದೇ ಪ್ರಕರಣದಲ್ಲಿ ಲೈಂಗಿಕ ಕಿರುಕುಳದ ಆರೋಪವು ಬಂದಲ್ಲಿ ಮತ್ತು ಅದು ನಿಜವೆಂದು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಕಂಡುಬಂದಲ್ಲಿ ನ್ಯಾಯಾಲಯವು ದೌರ್ಜನ್ಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆಯ ಅಥವಾ ಪ್ರಕರಣದ ದಾಖಲಿಸಿದ ವ್ಯಕ್ತಿಯ ಸುಪರ್ದಿಗೆ ಮಕ್ಕಳನ್ನು ಒಪ್ಪಿಸಬಹುದು ಮತ್ತು ಆರೋಪಿಯು ಮಕ್ಕಳನ್ನು ಭೇಟಿ ಮಾಡುವುದನ್ನು ನಿಷೇಧಿಸಬಹುದು.

ನಷ್ಟ ಪರಿಹಾರದ ಆದೇಶಗಳು

ಈ ಕಾಯ್ದೆಯ ಪರಿಹಾರ ಆದೇಶಗಳ ಹೊರತಾಗಿ ಅನ್ಯಾಯಕ್ಕೊಳಗಾದ ವ್ಯಕ್ತಿಯು ನಷ್ಟ ಪರಿಹಾರಕ್ಕೆ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಬಹುದು. ನ್ಯಾಯಾಲಯವು ಆರೋಪಿಗೆ ನಷ್ಟ ಪರಿಹಾರ ಒದಗಿಸುವಂತೆ ಮತ್ತು ಹಿಂಸೆ ಮಾಡಿದ್ದಕ್ಕಾಗಿ ಆಗ ಜಖಂಗೆ ಪರಿಹಾರವನ್ನು ಒದಗಿಸುವಂತೆ ಆದೇಶ ನೀಡಬಹುದು.

ತೊಂದರೆಗೊಳಗಾದ ವ್ಯಕ್ತಿಯು ಯಾವುದೇ ಪೂರ್ವಾಗ್ರಹವಿಲ್ಲದೆ ನ್ಯಾಯಾಲಯಕ್ಕೆ ನಷ್ಟಪರಿಹಾರಕ್ಕೆ ಮತ್ತು ಜಖಂ ಪರಿಹಾರಕ್ಕೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಬಹುದು ಮತ್ತು ಹಾಗೇ ಅರ್ಜಿ ಸಲ್ಲಿಸುವುದು ಸಂಬಂಧಪಟ್ಟ ವ್ಯಕ್ತಿಯ ಹಕ್ಕಾಗಿರುತ್ತದೆ ಎಂಬುದಾಗಿ ಈ ಸೆಕ್ಸನ್‌ನಲ್ಲಿ ಹೇಳಲಾಗಿದೆ.

ಈ ಕಾನೂನಿನಡಿಯಲ್ಲಿ ನಷ್ಟ ಪರಿಹಾರ ಮತ್ತು ಜಖಂ ಪರಿಹಾರ ಮೊತ್ತವನ್ನು ನೀಡಬೇಕಾಗಿರುವಂತಹ ವ್ಯಕ್ತಿಯು ನ್ಯಾಯಾಲಯದ ಆದೇಶಕ್ಕನುಗುಣವಾಗಿ ಪರಿಹಾರದ ಮೊತ್ತವನ್ನು ನೀಡಬೇಕಾಗುತ್ತದೆ. ಈ ಸಂದರ್ಭದಲ್ಲಿ 1908ರ (1908ರ5) ನಾಗರೀಕ ಸಂಹಿತೆಯ ನಿಯಮಾವಳಿಗಾಗಲೀ ಅಥವಾ ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಯಾವುದೇ ಕಾನೂನು ಯಾವ ನಿಯಮಗಳೂ ಪರಿಹಾರ ಮೊತ್ತ ನೀಡುವಲ್ಲಿ ಮಧ್ಯ ಪ್ರವೇಶಿಸಬಾರದು. ಇವೆಲ್ಲವೂ ಮನೆ ಹಿಂಸೆಯ ಬಗೆಗಿರುವ ಪ್ರಪಂಚದ ಅನೇಕ ಕಾನೂನುಗಳಲ್ಲಿರುವ ಸಾಮಾನ್ಯ ಲಕ್ಷಣಗಳಾಗಿವೆ. ಈ ಅವಕಾಶಗಳು ಇಲ್ಲದಿರುವುದು ಉದ್ದೇಶ್ಯ ಪೂರ್ವಕವಾಗಿಯೇ ಕೈಬಿಟ್ಟಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ ಎನ್ನುವ ತೀರ್ಮಾನಕ್ಕೆ ನಾವು ಬರಬೇಕಾಗಿದೆ.

ಈ ಮನೆಹಿಂಸೆಯ ಕಾನೂನು ತುರ್ತು ಪರಿಸ್ಥಿತಿಯ ಶಾಸನದಂತೆ ಇರಬೇಕಾಗುತ್ತದೆ ಮತ್ತು ಇದು ಹಿಂಸೆಯಿಂದ ತಕ್ಷಣ ಮುಕ್ತಿಯನ್ನು ನೀಡುವಂತದ್ದಾಗಿರಬೇಕು. ಅನೇಕ ಬಾರಿ ಹಿಂಸೆಯು ಕೇವಲ ಆ ಮಹಿಳೆಗೆ ಮಾತ್ರ ಸೀಮಿತವಾಗಿರದೆ, ಆಕೆಯ ಎಲ್ಲಾ ಬೆಂಬಲದ ವ್ಯವಸ್ಥೆಗಳನ್ನು ಮುರಿದುಬಿಡುವಷ್ಟು ಕ್ರೂರವಾಗಿರುತ್ತದೆ ಮತ್ತು ಆಕೆಯ ಆಸ್ತಿಗಳನ್ನು ಕಸಿದುಕೊಳ್ಳುವುದೂ, ಆಕೆಯ ಮಕ್ಕಳನ್ನು ಮುಂದಿಟ್ಟುಕೊಂಡು ಬೆದರಿಸುವುದೂ ಸೇರಿರುತ್ತದೆ. ಮಹಿಳೆಯನ್ನು ಸೋಲಿಸಲು ಮಾಡುವ ಹೆಚ್ಚು ಪ್ರಚಲಿತದಲ್ಲಿರುವ ಕೃತ್ಯವೆಂದರೆ ಆಕೆಯನ್ನು ಮನೆಯಿಂದ ಹೊರಹಾಕುವುದಾಗಿದೆ. ನಷ್ಟ ಪರಿಹಾರ ದೊರಕಿಸಿ ಕೊಡಲಾಗದ ಅಥವಾ ನಿರುಪಯುಕ್ತ ದಾಂಪತ್ಯವನ್ನು ಕಿತ್ತೊಗೆಯಲು ಸಾಧ್ಯವಾಗದ ಕಾನೂನುಗಳು ಇರಬೇಕಾದ ಯಾವ ಅವಶ್ಯಕತೆಯೂ ಇಲ್ಲ. ಹೇಗಿದ್ದರೂ ನ್ಯಾಯಾಧೀಶರುಗಳು ನಿರ್ದಿಷ್ಟ ಅವಕಾಶಗಳಿಲ್ಲದಿದ್ದರೂ ಸಹ ಸಕರಾತ್ಮಕ ತೀರ್ಪು ನೀಡಬಹುದು ಎನ್ನುವಂತಹ ವಾದವನ್ನು ಮಂಡಿಸಬಹುದು. ಅವಶ್ಯಕತೆ ಇದ್ದಾಗ ಯಾವುದೇ ಇತರ ನಿರ್ದೇಶನ ಹೊರಡಿಸಬಹುದು ಎನ್ನುವ ಅವಕಾಶವು ಈ ರೀತಿಯ ಆದೇಶ ಹೊರಡಿಸಲು ಸಾಧ್ಯವಾಗುತ್ತದೆ ಎನ್ನುವ ವಾದವೂ ಇದೆ. ಇಲ್ಲಿ ಅವಶ್ಯಕತೆ ಎನ್ನುವುದು ಯಾರಿಗೆ ಸಂಬಂಧಪಟ್ಟದ್ದು ಎಂಬುದು ಸ್ಪಷ್ಟವಾಗಬೇಕು. ಮನೆ ಹಿಂಸೆಯನ್ನು ಅನುಭವಿಸುವ ಮಹಿಳೆಯ ಅವಶ್ಯಕತೆ ಏನು ಎಂಬುದರ ಅರಿವು ನಮಗಿದೆ. ಹೀಗಿರುವಾಗ ಮಹಿಳೆಯ ಅವಶ್ಯಕತೆಗಳನ್ನು ಯಾಕೆ ಪರಿಗಣಿಸಲಾಗುತ್ತಿಲ್ಲ? ಇವೆಲ್ಲವನ್ನೂ ಜಾರಿಗೆ ತರುವಲ್ಲಿ ಸರ್ಕಾರಕ್ಕೆ ಏಕೆ ಮನಸ್ಸಿಲ್ಲವೆಂಬುದು ಯಕ್ಷಪ್ರಶ್ನೆ ಯಾಗಿದೆ.

ಮಹಿಳೆಯನ್ನು ಮತ್ತೆ ಹಿಂತಿರುಗಿ ಮದುವೆಯಾದ ಮನೆಗೆ ಕಳುಹಿಸುವ ಕಾನೂನನ್ನು ಮಾಡುತ್ತಿರುವುದನ್ನು ಮಹಿಳೆಯು ಮನೆ ಹಿಂಸೆಯನ್ನು ಅನುಭವಿಸಿದ ನಂತರ ಹಿಂತಿರುಗಿ ಮದುವೆಯ ಮನೆಗೆ ಹೋಗಲು ಇಚ್ಛಿಸುವುದಿಲ್ಲ ಎಂಬುದರ ಆಧಾರದ ಮೇಲೆ ಎಂಬುದಾಗಿ ಸಮರ್ಥಿಸಿಕೊಳ್ಳಲಾಗುತ್ತಿದೆ. ಯಾವುದೋ ಒಂದು ಹಳೆಯ ಶೋಷಣೆಯ ಪ್ರಕರಣವನ್ನು ಮುಂದಿಟ್ಟುಕೊಂಡು ಮಹಿಳೆಯನ್ನು ಮತ್ತಷ್ಟು ಬಲಿಪತುವನ್ನಾಗಿ ಮಾಡುವ ಹುನ್ನಾರವನ್ನು ಕಾಣಬಹುದು. ಹಿಂಸೆಯನ್ನು ಅನುಭವಿಸುತ್ತಿರುವಂತಹ ಯಾವ ಮಹಿಳೆಯೂ ಹಿಂಸೆಯ ಕಾರಣದಿಂದಾಗಿ ಮನೆಗೆ ಹಿಂತಿರುಗುವುದಿಲ್ಲ. ಆಕೆಯು ಮನೆಯಿಂದ ಹೊರಗಿರುವುದನ್ನು ಇಷ್ಟಪಡುವುದಿಲ್ಲ ಬದಲಾಗಿ ಆಕೆಯು ಹಿಂಸೆಯಿಂದ ಮುಕ್ತವಾದ ತನ್ನ ಮನೆಗೆ ಹಿಂತಿರುಗಲು ಇಚ್ಛಿಸುತ್ತಾಳೆ. ಅದು ಆಕೆಯ ಹಕ್ಕಾಗಿದೆ. ಆದರೆ ಸರ್ಕಾರದ ಈ ಕಾನೂನುಗಳಿಂದ ಆಕೆಯು ಪುನಃ ತನ್ನ ಗಂಡನ ಮನೆಗೆ ಹಿಂದಿರುಗುವ ಖಾತರಿ ಏನೆಂಬುದು ಪ್ರಶ್ನೆಯಾಗಿದೆ. ಒಂದು ಕಾನೂನಿನ ಮೂಲಕ ಓರ್ವ ಮಹಿಳೆಯನ್ನು ಮತ್ತೆ ಗಂಡನ ಮನೆಗೆ ಹಿಂತಿರುಗಿಸಬಹುದೆಂಬುದು ಭ್ರಮೆಯಾಗಿದೆ ಮತ್ತು ಕಾನೂನಿನ ಮೂಲಕ ಗಂಡನ ಮನೆಯನ್ನು ಸೇರುವುದು ಆಕೆಯ ಮೇಲಿನ ಹಿಂಸೆಯನ್ನು ತಡೆಗಟ್ಟುವಲ್ಲಿ ನೆರವಾಗದು. ಇದಕ್ಕಿರುವ ಉತ್ತರವೆಂದರೆ ಕಿರುಕುಳಕೊಡುವ ವ್ಯಕ್ತಿಯು ಮಹಿಳೆಗೆ ಸಹ ತನ್ನ ಮನೆಯಲ್ಲಿರುವ ಹಕ್ಕಿದೆ ಎಂಬುದನ್ನು ಕಂಡುಕೊಂಡಲ್ಲಿ, ಆವ್ಯಕ್ತಿಗೆ ತಾನು ಮುಂದೆ ಸಹ ಹಿಂಸೆ ನೀಡಲು ಸಾಧ್ಯವಾಗದಿರಬಹುದು ಎಂದು ಮನದಟ್ಟಾಗುತ್ತದೆ ಗಂಡನಿಗೆ ಈ ರೀತಿಯ ಭಾವನೆಯುಂಟಾಗುವುದು ಮಹಿಳೆಗೆ ಹಕ್ಕಿದೆ ಎಂಬುದರ ಪ್ರಾಥಮಿಕ ಖಾತರಿಯಾಗಿದೆ. ಹೀಗಿರುವಾಗ ನಿರಂತರ ಹಿಂಸೆ ನೀಡುವ ಪತಿಯನ್ನೇ ಮನೆ ಬಿಡುವಂತೆ ಏಕೆ ನಿರ್ದೇಶನವನ್ನು ನೀಡಬಾರದು? ಆದರೆ ನಮ್ಮಲ್ಲಿ ಗಂಡು ಶ್ರೇಷ್ಠ ಎಂದು ಹೇಳಲಾಗಿದೆ ಮತ್ತು ಯಾವುದೇ ಆಸ್ತಿಯ ಮೇಲಿನ ಅಧಿಕಾರವು ಗಂಡನದ್ದಾಗಿದೆ. ಹೆಣ್ಣಿನ ಜೀವಕ್ಕಿಂತಲೂ ಇದು ಮುಕ್ಯವಾದದ್ದೆಂದು ಹೇಳಲಾಗುತ್ತದೆ. ಈ ಕಾನೂನಿನ ಮೂಲಕ ಮಹಿಳಾ ಚಳುವಳಿಗಳು ಕೇವಲ ಗಂಡನಿಂದ ಹೆಣ್ಣಿಗೆ ಆಸ್ತಿಯ ಹಕ್ಕು ವರ್ಗಾವಣೆಯಾಗುವುದನ್ನು ನೋಡಿಕೊಂಡರೆ ಸಾಲದು, ಬದಲಾಗಿ ಕೌಟುಂಬಿಕ ಸ್ಥಿತಿ ಮತ್ತು ಮಹಿಳೆಯು ಹಿಂಸೆಯಿಂದ ಮುಕ್ತವಾಗಿ ಬದುಕುವ ಖಾತರಿಯನ್ನು ನೀಡಬೇಕಾಗಿದೆ. ಆಕೆಯ ದೀರ್ಘಾವಧಿಯ ಹಕ್ಕುಗಳ ಕುರಿತ ಖಾತರಿಯನ್ನು ಮದುವೆಯ ಕಾನೂನಿನಲ್ಲಿಯೇ ಸೇರಿಸಬೇಕು ಮತ್ತು ಎಲ್ಲ ಹಕ್ಕುಗಳೂ ಆಕೆಯು ಮದುವೆಯಾದಾಗಿನಿಂದಲೇ ಆಕೆಗೆ ಬರಬೇಕು. ದೇಶದ ಯಾವ ಮದುವೆಯ ಕಾನೂನುಗಳೂ ಮದುವೆಯು ಮುರಿದುಬಿದ್ದಾಗ ಆಸ್ತಿಯು ಗಂಡ ಹೆಂಡತಿಯು ಸಮನಾದ ಹಂಚಿಕೆಯ ಹಕ್ಕನ್ನು ನೀಡಿಲ್ಲದಿರುವುದನ್ನು ಸೂಕ್ಷ್ಮವಾಗಿ ಗಮನಿಸಬೇಕಾಗಿದೆ. ನಮ್ಮ ಸಮಾಜದಲ್ಲಿ ಮದುವೆಯು ಮುರಿದುಬಿತ್ತೆಂದರೆ ಹೆಣ್ಣನ್ನು ಗುರಿಯಾಗಿ ಮಾಡಿ ಆಕೆಯು ಸತ್ತಂತೆ ಎಂಬುದಾಗಿ ಪರಿಗಣಿಸಲಾಗುತ್ತಿದೆ. ಅನೇಕ ವೇಳೆ ಆಕೆಗೆ ಮಕ್ಕಳನ್ನು ಬೆಳೆಸುವ ಜವಾಬ್ದಾರಿ ಕೂಡ ಇರುತ್ತದೆ ಮತ್ತು ಆಕೆಯ ಮಕ್ಕಳು ದೊಡ್ಡವರಾದ ಮೇಲೆ ತಮ್ಮ ಹಕ್ಕನ್ನು ಪಡೆಯುತ್ತಾರೆ ಎಂಬ ಯಾವ ಖಾತರಿಯೂ ಇರುವುದಿಲ್ಲ. ಆಕೆಯ ಮಕ್ಕಳಿಗೆ ಹುಟ್ಟಿನಿಂದ ಯಾವ ಹಕ್ಕೂ ಇರುವುದಿಲ್ಲ (ಹಿಂದೂ ಕೂಡ ಕುಟುಂಬದಲ್ಲಿ ಜನಿಸಿದ ಮಗುವನ್ನು ಹೊರತುಪಡಿಸಿ) ಮತ್ತು ವಿವಾಹದ ವಿವಾದವು ಮಕ್ಕಳಿಗೆ ಪಿತ್ರಾರ್ಜಿತ ಆಸ್ತಿಯು ಕೈ ತಪ್ಪಿ ಹೋಗುವುದಕ್ಕೆ ಕಾರಣವಾಗಬಹುದು. ಮಕ್ಕಳು ದೊಡ್ಡವರಾದಂತೆ ಅವರ ಎಲ್ಲಾ ಬೆಳೆಯುವ ಬೇಡಿಕೆಗಳನ್ನು ಆಕೆಯೇ ಪೂರೈಸಬೇಕಾಗುತ್ತದೆ. ನಾಗರಿಕ ಸಾವು ಮತ್ತು ಹಿಂಸೆಯ ನಡುವಿನ ಆಯ್ಕೆಯಾಗಿದೆ. ಈ ಪ್ರಕರಣಗಳು ನಮ್ಮ ಮದುವೆಯ ಕಾನೂನುಗಳು ಬದಲಾಗಬೇಕೆಂಬುದಕ್ಕೆ ಮತ್ತು ಅದು ಮದುವೆಯಲ್ಲಿನ ಆಸ್ತಿಯ ಹಕ್ಕಿನ ಕಾನೂನಾಗಬೇಕು ಎಂಬುದಕ್ಕೆ ಅತ್ಯಂತ ಪ್ರಬಲವಾದ ಸಾಕ್ಷಿಯಾಗಿವೆ.

ಆದರೆ ಸದ್ಯದ ಅನುಭವಗಳ ಪ್ರಕಾರ ಪ್ರಸಕ್ತ ಮನೆ ಹಿಂಸೆಯ ಕಾನೂನು ರಚನೆಯ ಪ್ರಕ್ರಿಯೆಗಳನ್ನು ನೋಡಿದಾಗ ಸದ್ಯದ ಭವಿಷ್ಯದಲ್ಲಿ ಇದು ಸಾಧ್ಯವಾಗುವ ಲಕ್ಷಣಗಳಿಲ್ಲ. ಮದುವೆಯ ಸಂಬಂಧದಲ್ಲಿನ ಆಸ್ತಿಯ ಹಕ್ಕಿನ ಕುರಿತ ಸರಿಯಾದ ಕಾನೂನಿಲ್ಲದ ಕಾರಣ ಮನೆ ಹಿಂಸೆಯ ವಿವಾದ ಪರಿಹಾರಕ್ಕಿಂದು ಒಂದು ಸರಿಯಾದ ಕಾನೂನಿರಬಹುದು ಅತ್ಯಂತ ಅವಶ್ಯಕವಾಗಿದೆ.

ಪ್ರಸಕ್ತ ಕಾನೂನು ಮಹಿಳೆಯರ ಹಕ್ಕನ್ನು ಸಂಪೂರ್ಣವಾಗಿ ನಿರ್ಲಕ್ಷಿಸಿದೆ. ನಾವು ಸರ್ಕಾರಕ್ಕೆ ಒತ್ತಾಯಿಸುವುದೇನೆಂದರೆ, ಸಂವಿಧಾನದ ಅಡಿಯಲ್ಲಿ ಪ್ರತಿಯೊಬ್ಬ ವ್ಯಕ್ತಿಗೂ ಕನಿಷ್ಠ ಬದುಕುವ ಹಕ್ಕನ್ನು

ಕೊಡಮಾಡಿರುವಾಗ, ಆ ಹಕ್ಕುಗಳನ್ನು ರಕ್ಷಿಸಬೇಕಾದುದು ಸರ್ಕಾರದ ಮೂಲಭೂತವಾದ ಕರ್ತವ್ಯವಾಗಿದೆ. ಸರ್ಕಾರವು ಸಂವಿಧಾನದ ಮತ್ತು ಅಂತರಾಷ್ಟ್ರೀಯ ಒಪ್ಪಂದಗಳ ಘನತೆಯನ್ನು ಎತ್ತಿಹಿಡಿಯಬೇಕಾಗಿದೆ.

ರಕ್ಷಣಾಧಿಕಾರಿಗಳು ಮತ್ತು ವರ ಜವಾಬ್ದಾರಿ

ಭಾರತ ಸರ್ಕಾರದ ವಿದೇಯಕವು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳನ್ನು ನೇಮಕ ಮಾಡುವ ಅವಕಾಶ ನೀಡಿದೆ. ಅವರಿಗೆ ಅತಿ ಮುಖ್ಯವಾದ ಜವಾಬ್ದಾರಿಯನ್ನು ವಹಿಸಲಾಗಿದೆ. ಈ ಕಾನೂನಿನಡಿಯಲ್ಲಿ ಮಹಿಳೆಯ ಹಕ್ಕುಗಳನ್ನು ರಕ್ಷಿಸಬೇಕಾದುದು ಮತ್ತು ಅವರಿಗೆ ತಮ್ಮ ಹಕ್ಕುಗಳ ಕುರಿತು ತಿಳಿಹೇಳಬೇಕಾದುದು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ಕರ್ತವ್ಯವಾಗಿದೆ. ಮಹಿಳೆಯು ಹಕ್ಕುಗಳ ಕುರಿತು ತಿಳುವಳಿಕೆಯನ್ನು ಪಡೆಯದ ಹೊರತು ಎಷ್ಟು ರಕ್ಷಣಾ ಕಾನೂನುಗಳನ್ನು ಮಾಡಿದರೂ ವ್ಯರ್ಥವಾಗುತ್ತದೆ. ಸಾಮಾನ್ಯವಾಗಿ ಕೆಲವು ಮಹಿಳೆಯು ಮದುವೆಯಾಗುವಾಗ ತಮ್ಮ ಹಕ್ಕುಗಳನ್ನು ತಿಳಿದುಕೊಳ್ಳಲು ಪ್ರಯತ್ನಿಸುತ್ತಾರೆ. ಸಾಮಾನ್ಯವಾಗಿ ಮಹಿಳೆಯರು ಮದುವೆಯಲ್ಲಿ ತೊಂದರೆಗಳು ಪ್ರಾರಂಭವಾದಾಗ ತಮ್ಮ ಹಕ್ಕುಗಳನ್ನು ತಿಳಿದುಕೊಳ್ಳಲು ಪ್ರಯತ್ನಿಸುತ್ತಾರೆ. ಮಹಿಳೆಯರು ಕಾನೂನಿನ ಹೋರಾಟದಲ್ಲಿ ತಮ್ಮದೇ ಸಂಪನ್ಮೂಲಗಳನ್ನು ಅವಲಂಬಿಸಬೇಕಾಗುತ್ತದೆ. ಖಾಸಗೀ ನ್ಯಾಯವಾದಿಗಳನ್ನು ಅವಲಂಬಿಸಬೇಕಾಗಿರುತ್ತದೆ. ಕಳೆದ ಕೆಲವು ವರ್ಷಗಳಿಂದ ಸರ್ಕಾರೇತರ ಸ್ವಯಂ ಸೇವಾ ಸಂಸ್ಥೆಗಳು ಮಹತ್ತರವಾದ ಪಾತ್ರವನ್ನು ವಹಿಸುತ್ತಿವೆ. ಆದರೆ ಸಮಸ್ಯೆಯನ್ನು ದೊಡ್ಡದಾಗಿಸಿದ್ದರಲ್ಲದೆ ಎಲ್ಲಾ ಅವಶ್ಯಕತೆಯನ್ನು ಅವರಿಗೆ ತುಂಬಲು ಸಾಧ್ಯವಾಗುತ್ತಿಲ್ಲ. ಸಂಕಷ್ಟದಲ್ಲಿರುವ ಮಹಿಳೆಯ ಅವಶ್ಯಕತೆಗಳನ್ನು ಪೂರೈಸುವುದು ಸರ್ಕಾರದ ಕರ್ತವ್ಯವಾಗಿದೆ. ಪ್ರಕರಣ ದಾಖಲು ಮಾಡುವುದರಿಂದ ಹಿಡಿದು ಸಂಬಂಧಪಟ್ಟ ಎಲ್ಲಾ ಸಹಾಯ ಮಾಡುವುದು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ಕರ್ತವ್ಯವಾಗಿದೆ. ಕಿರುಕುಳಕ್ಕೊಳಗಾದ ಮಹಿಳೆಯ ಕೋರಿಕೆಯ ಮೇರೆಗೆ ಒಂದು ಒಪ್ಪಂದಕ್ಕೆ ಬರುವಲ್ಲಿ ಸಹ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಪಾತ್ರವಹಿಸಬೇಕಾಗಿದೆ ಪರಿಹಾರವು ಮತ್ತೆ ನಿರ್ದಿಷ್ಟ ಅಧಿಕಾರಿಯ ಪರಿಹಾರದ ಬಗ್ಗೆ ಗಿನ ಭಾವನೆಗಳನ್ನು ಅವಲಂಬಿಸಿದೆ.

ಭಾರತ ಸರ್ಕಾರದ ವಿದೇಯಕದಲ್ಲಿರುವ ಒಂದು ಸ್ವಾಗತಾರ್ಹ ಲಕ್ಷಣವೆಂದರೆ ಅದು ಸೆಕ್ಸನ್ 10ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ನೋಟೀಸಿನ ಸೇವೆ ಇದರ ಪ್ರಕಾರ ಕೋರ್ಟ್ ನೋಟೀಸಿನಂತೆ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ನೊಂದ ಮಹಿಳೆಗೆ ಸಾಧ್ಯವಿರುವ ಎಲ್ಲಾ ಸಂದಾಯ ಮತ್ತು ಆರೋಪಿಯಿಂದ ರಕ್ಷಣೆಯನ್ನು ನೀಡಬೇಕು.

ವಿದೇಯಕದ ಇತರೇ ಲಕ್ಷಣಗಳು

ಕಡ್ಡಾಯ ಆಪ್ತ ಸಲಹೆ

ವಿದೇಯಕದ ಸೆಕ್ಸನ್ 11 ಮಹಿಳೆಯರ ಪಾಲಿಕೆ ಅಪಾಯಕಾರಿಯಾದ ಒಂದು ವ್ಯವಸ್ಥೆಯನ್ನು ನೀಡಿದೆ. ಅದಂದರೆ ಕಿರುಕುಳ ನೀಡುತ್ತಿರುವಂತಹ ವ್ಯಕ್ತಿಯೊಂದಿಗೆ, ನೊಂದ ಮಹಿಳೆಯು ಕಡ್ಡಾಯವಾಗಿ ಆಪ್ತಸಲಹೆಯ (ಕೌನ್ಸಿಲಿಂಗ್)ಲ್ಲಿ ಪಾಲ್ಗೊಳ್ಳಲೇ ಬೇಕು. ಇದು ಆಪ್ತ ಸಲಹೆ ಯ ಎಲ್ಲ ತತ್ವಗಳ ವಿರುದ್ಧವಾದುದಾಗಿದೆ. ಬಲಿಪಶು ಮತ್ತು ಕಿರುಕುಳ ನೀಡಿದವನು ಯಾವತ್ತೂ ಅಪಮಾನ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿರುವುದರಿಂದ ಒಟ್ಟಿಗೆ ಆಪ್ತ ಸಲಹೆಯು ಅಸಾಧ್ಯವಾದ ಕಾರ್ಯವಾಗಿದೆ. ಈ ರೀತಿಯ ಸಲಹೆಯು ಆಕೆಯನ್ನು ಮತ್ತೊಮ್ಮೆ ಅಸಮರ್ಥತೆಗೆ ದೂಡುತ್ತದೆ. ಕಡ್ಡಾಯ ಆಪ್ತ ಸಲಹೆಯು ಕಿರುಕುಳ ನೀಡುವವನನ್ನು ಸರಿಪಡಿಸಲು ಇದೆ. ಆದರೆ ಅದನ್ನು ನ್ಯಾಯಾಧೀಶರು ನೊಂದ ಮಹಿಳೆಯು ಪಡೆಯುವಂತೆ ಒತ್ತಾಯಿಸುವುದು ಹಾಸ್ಯಪ್ರದ ವಿಚಾರವಾಗಿದೆ. ಈ ರೀತಿಯ ಆಪ್ತ ಸಲಹೆಯು ಆಕೆಯನ್ನು ತನ್ನ ಅಸಮರ್ಥತೆಯನ್ನು ಸಾಮಾನ್ಯವೆಂದು ಒಪ್ಪಿಕೊಂಡು ಮತ್ತೆ ಅದೇ ಹಿಂಸೆಯ ಮದುವೆಯ ಸಂಬಂಧಕ್ಕೆ ಹಿಂದಿರುಗುವಂತೆ ಒತ್ತಾಯಪಡಿಸುತ್ತದೆ. ಮುಗ್ಧರನ್ನು ಆಪ್ತ ಸಲಹೆಗೊಳಪಡಿಸುವುದು ಆಕೆಯ ಇಚ್ಛೆಯನ್ನವಲಂಬಿಸಿರಬೇಕು. ಸದ್ಯದ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ ಇದು ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಕಾನೂನುಗಳಡಿಯಲ್ಲಿ ಅಪಾಯಕಾರಿಯಾದುದಾಗಿದೆ. ನ್ಯಾಯಾಧೀಶರು, ಪೊಲೀಸರು ಮುಂತಾದವರು ನೊಂದ ಮಹಿಳೆಯರನ್ನು ಮೈತ್ರಿ ಸಂಧಾನಕ್ಕೆ ಒತ್ತಾಯಿಸಲು ಪ್ರಯತ್ನಿಸುತ್ತಾರೆ ಮತ್ತು ಆಕೆಯನ್ನು ಒಂದು ಒಪ್ಪಂದಕ್ಕೆ ಬರುವಂತ ಒಪ್ಪಿಸಲು ಪ್ರಯತ್ನಿಸುತ್ತಿದ್ದಾರೆ.

ವಿದೇಯಕದ ಸೆಕ್ಸನ್ 1ರಲ್ಲಿ ತಜ್ಜರ ಸಹಾಯಕ್ಕೆ ಅವಕಾಶ ಕಲ್ಪಿಸಲಾಗಿದೆ. ಇದೊಂದು ಸ್ವಾಗತಾರ್ಹ ಅವಕಾಶವಾಗಿದೆ. ಹಾಗೆಯೇ ಈ ಸೆಕ್ಸನ್ ತಜ್ಜರು ಕೌಟುಂಬಿಕ ಕಲ್ಯಾಣಕ್ಕಾಗಿ ದುಡಿಯುತ್ತಿರುವವರು ಎನ್ನುವುದನ್ನು ಕಡ್ಡಾಯವಾಗಿ ಕೈಬಿಡಬೇಕಾಗಿದೆ. ಕೌಟುಂಬಿಕ ಕಲ್ಯಾಣದ ಕೆಸರಲ್ಲಿ ಪರಿಸ್ಥಿತಿಯು ನೊಂದ ಮಹಿಳೆಯ ಕಲ್ಯಾಣದಲ್ಲಿ ಸಹಾಯವಾಗುವ ಸಂಭವವಿಲ್ಲ. ಇದು ಮಹಿಳೆಯು ಯಾವ ಬೆಲೆ ತೆತ್ತಾದರೂ ಮತ್ತೆ ಗಂಡನ ಕುಟುಂಬವನ್ನು ಸೇರಲೇಬೇಕು ಎಂಬ ಸರ್ಕಾರದ ನಿಲುವನ್ನು ಸ್ಪಷ್ಟಪಡಿಸುತ್ತದೆ.

ಸೇವೆ ಒದಗಿಸುವವರು

ಈ ವಿದೇಯಕದ ಸ್ವಾಗತಾರ್ಹ ಕ್ರಮವೆಂದರೆ ಸ್ವಯಂ ಸೇವಾ ಸಂಸ್ಥೆಗಳನ್ನು ಸೇವೆ ಒದಗಿಸುವವರು ಎಂದು ಪರಿಗಣಿಸಿರುವುದು ಮತ್ತು ಯಾವುದೇ ಸಂದರ್ಭದಲ್ಲಿ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳು ಸೇವೆ ಒದಗಿಸುವವರ ಸಹಾಯ ಪಡೆಯಬಹುದು ಅಥವಾ ಸೇವೆ ಒದಗಿಸುವವರು ನಡೆಸುವ ವೈದ್ಯಕೀಯ ಸೇವೆ ಮತ್ತು ವಸತಿ ವ್ಯವಸ್ಥೆಯ ಪ್ರಯೋಜನವನ್ನು ನೊಂದ ಮಹಿಳೆಗೆ ಒದಗಿಸಿಕೊಡಬಹುದೆಂದು ಅವಕಾಶ ಕಲ್ಪಿಸಲಾಗಿದೆ. ತಮ್ಮ ಕಾರ್ಯನಿರ್ವಹಣೆಯು ಸುಗಮವಾಗುವಂತೆ ಸೇವೆ ಒದಗಿಸುವವರ ಸಹಾಯ ಪಡೆಯಬಹುದೆಂದು ಹೇಳಲಾಗಿದೆ. ಇದಲ್ಲದೆ ಮನೆ ಹಿಂಸೆಯ ಘಟನೆಯ ಕುರಿತು ಮಾಹಿತಿ ಇರುವ ಯಾರು ಬೇಕಾದರೂ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗೆ ಮಾಹಿತಿ ನೀಡಬಹುದು.

ಅಪರಾಧ ಮತ್ತು ದಂಡ

ಸೆಕ್ಸನ್ 18ರ ಅಡಿಯಲ್ಲಿ ರಕ್ಷಣಾ ಅವಕಾಶವನ್ನು ಉಲ್ಲಂಘಿಸುವ ವ್ಯಕ್ತಿಗೆ ಆ ಅಪರಾಧಕ್ಕಾಗಿ ಒಂದು ವರ್ಷದ ಕಾರಾಗೃಹವಾಸ ಅಥವಾ 20,000 ಅಥವಾ ಎರಡನ್ನೂ ವಿಧಿಸಬಹುದಾಗಿದೆ. ಇದು ಯಾವುದೇ ಅಸ್ತಿತ್ವದಲ್ಲಿರುವ ಕಾನೂನಿಗೆ ಹೆಚ್ಚುವರಿಯಾಗಿಲ್ಲ ಎಂಬುದನ್ನು ಅರ್ಥಮಾಡಿಕೊಳ್ಳಬೇಕಾಗಿದೆ ಮತ್ತು ಭಾರತೀಯ ದಂಡ ಸಂಹಿತೆಯ 498ಎ ಸೆಕ್ಸನ್ ಹಾಗೆಯೇ ಮುಂದುವರಿಯುತ್ತದೆ ಎಂಬುದರ ಅರ್ಥವಾಗಿದೆ.

ಎಲ್‌ಸಿಡಬ್ಲ್ಯೂಆರ್‌ಐ ವಿದೇಯಕದ ಸೆಕ್ಸನ್‌ನ ಅಡಿಯಲ್ಲಿ ರಕ್ಷಣೆಯ ಆದೇಶವನ್ನು ನೀಡುವಾಗಲೇ ಬಂಧನದ ಆದೇಶ ಹೊರಡಿಸಿರುವ ಅವಕಾಶ ಕಲ್ಪಿಸಲಾಗಿದೆ. ಆದರೆ ಈ ಬಂಧನದ ಆದೇಶವನ್ನು ತಾತ್ಕಾಲಿಕವಾಗಿ ತಡೆಹಿಡಿಯಲಾಗಿರುತ್ತದೆ. ಒಂದು ವೇಳೆ ಆದೇಶದ ಸಂದರ್ಭದಲ್ಲಿ ಹೇಳಲಾದ ಷರತ್ತುಗಳನ್ನು ಉಲ್ಲಂಘಿಸುವಲ್ಲಿ ಬಂಧನದ ಆದೇಶವನ್ನು ಜಾರಿಗೆ ತರಲಾಗುತ್ತದೆ. ಷರತ್ತುಗಳನ್ನು ಉಲ್ಲಂಘಿಸಲಾಗಿದೆಯೆಂದು ಸಂಬಂಧಪಟ್ಟ ಮಹಿಳೆಯು ಗೂರನ್ನಿತ್ತಲ್ಲಿ ಪೊಲೀಸ್ ಅಧಿಕಾರಿಯು ತಕ್ಷಣ ಬಂಧನದ ಆದೇಶವನ್ನು ಜಾರಿಗೆ ತರಬಹುದಾಗಿದೆ. ಈ ಅವಕಾಶವು ಮಹಿಳೆಯು ಮತ್ತೆ ಮತ್ತೆ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಬರುವುದನ್ನು ತಡೆಗಟ್ಟುತ್ತದೆ. ಭಾರತ ಸರ್ಕಾರದ ವಿದೇಯಕದಲ್ಲಿ ಸೆಕ್ಸನ್ 18ರ ಅಡಿಯಲ್ಲಿ ನಡೆಯುವ ತಪ್ಪನ್ನು (ಆದೇಶವನ್ನು ಉಲ್ಲಂಘಿಸುವುದನ್ನು) ಪರಿಶೀಲಿಸಲು ಯಾವ ಅವಕಾಶ ಇಲ್ಲ. ಇದನ್ನು ಅತ್ಯಂತ ಗಂಭೀರವಾಗಿ ತೆಗೆದುಕೊಳ್ಳಬೇಕಾಗಿದೆ. ತೀರಾ ಅಗತ್ಯವಾಗಿ ಸೆಕ್ಸನ್ 18ರ ಉಲ್ಲಂಘನೆಯು ಬಂಧನದ ಆದೇಶವಾಗಿರುತ್ತದೆ ಮತ್ತು ಜಾಮೀನುದಾರಹಿತವಾಗಿರುತ್ತದೆ ಎಂಬುದನ್ನು ಸರ್ಕಾರದ ವಿದೇಯಕಲ್ಲಿ ಸೇರಿಸಲಾಗಿದೆ. ರಕ್ಷಣಾ ಆದೇಶವನ್ನು ಉಲ್ಲಂಘಿಸಿದುದರ ಕುರಿತು ಓರ್ವ ಮಹಿಳೆಯು ಪೊಲೀಸ್ ಠಾಣೆಯನ್ನು ಸಂಪರ್ಕಿಸುವ ಅವಕಾಶ ಮತ್ತು ಅಪರಾಧಿಯನ್ನು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಹಾಜರಿಪಡಿಸಲು ಪೊಲೀಸರಿಗೆ ಅವಕಾಶ ಕಲ್ಪಿಸಬೇಕು. ಈ ಅವಕಾಶವಿಲ್ಲದಿದ್ದಲ್ಲಿ ಪುರುಷನು ಪ್ರಜ್ಞಾಪೂರ್ವಕವಾಗಿಯೇ ಆದೇಶವನ್ನು ಉಲ್ಲಂಘಿಸಬಹುದು ಮತ್ತು ಮತ್ತೆ ತಕ್ಷಣದ ಕ್ರಮಕೈಗೊಳ್ಳುವ ಭಯವಿಲ್ಲದಿರುವುದರಿಂದ ತಪ್ಪುಗಳನ್ನು ಪುನರಾವರ್ತಿಸಬಹುದಾಗಿದೆ.

ನ್ಯಾಯಾಧೀಶರ ಕಾರ್ಯಕ್ಷೇತ್ರ : ಎಲ್‌ಸಿಡಬ್ಲ್ಯೂಆರ್‌ಐ ವಿದೇಯಕವು ದೂರನ್ನು ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ನೀಡುವ ಅವಕಾಶ ನೀಡಿದ್ದರೆ, ಸರ್ಕಾರದ ವಿದೇಯಕವು ಮ್ಯಾಜಿಸ್ಟ್ರೇಟರ್ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ದೂರು ದಾಖಲಿಸುವುದು ಸುಲಭವೆಂದು ಶಿಪಾರಸ್ಸು ಮಾಡಿದೆ. ಆದರೆ ವೈವಾಹಿಕ ಪ್ರಕರಣಗಳು ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಇತ್ಯರ್ಥವಾಗುವುದರಿಂದ

ಮನೆ ಹಿಂಸೆಯ ಪ್ರಕರಣವನ್ನು ಸಹ ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಒಪ್ಪಿಸುವುದು. ಸೂಕ್ತವೆನ್ನುವುದು ಅಷ್ಟೊಂದು ಸರಿಯಾದ ಅಭಿಪ್ರಾಯವಲ್ಲ. ಎಲ್‌ಸಿಡಬ್ಲ್ಯೂಆರ್‌ಐ ವಿಧೇಯಕವು ಈ ಮನೆ ಹಿಂಸೆಯ ಕಾನೂನಿನ ಅಡಿಯಲ್ಲಿ ಕೊಡುವ ಪರಿಹಾರವು ಯಾವುದೇ ಇತರ ಮಹಿಳೆಗೆ ಸಮಾಧಾನಕವಾದ ವಿಧಾನದಲ್ಲಿ ನೀಡಬೇಕೆಂದು ಸಲಹೆ ಮಾಡುತ್ತದೆ. ಉದಾಹರಣೆಗೆ ಓರ್ವ ಮಹಿಳೆಯು ಜಂಟಿ ಮಾಲೀಕತ್ವದಲ್ಲಿರುವ ಆಸ್ತಿಯನ್ನು ಭಾಗ ಮಾಡಲು ಅಥವಾ ವಿಚ್ಛೇದನಕ್ಕೆ ಅಥವಾ ಬೇರ್ಪಡುವುದಕ್ಕೆ ಆಕೆಯು ಮನೆ ಹಿಂಸೆ ಕಾನೂನಿನಲ್ಲಿ ಪರಿಹಾರವನ್ನು ಪಡೆಯಬಹುದು. ಅದೇ ರೀತಿ ಅಪರಾಧ ದಂಡ ಸಂಹಿತೆಯ 498ಎ ಯ ಅಡಿಯಲ್ಲಿ ಸಹ ಮನೆ ಹಿಂಸೆ ಗೆ ಪರಿಹಾರವನ್ನು ಒದಗಿಸಬಹುದು. ಭಾರತ ಸರ್ಕಾರದ ವಿಧೇಯಕದಲ್ಲಿ ಎರಡು ವಿಧದಲ್ಲಿ ವಿಚಾರಣೆ ಇರುವುದರಿಂದ ಇದು ಮಹಿಳೆಯರಿಗೆ ಒಂದು ಹೊರೆಯಾಗಿದೆ. ಈ ಸಮಸ್ಯೆಯನ್ನು ಪರಿಹರಿಸಿದರೂ ಸಹ ನ್ಯಾಯಾಧೀಶರ ಕಾರ್ಯಕ್ಷೇತ್ರವನ್ನು ಸರಿಯಾಗಿ ಗುರ್ತಿಸಬೇಕಾಗುತ್ತದೆ. ಭಾರತ ಸರ್ಕಾರದ ವಿಧೇಯಕವು ನ್ಯಾಯಾಧೀಶರ ಸ್ಥಳೀಯ ಕಾರ್ಯಕ್ಷೇತ್ರವನ್ನು ಸರಿಯಾಗಿ ಗುರ್ತಿಸಿದಲ್ಲಿ ಭಾರತ ಸರ್ಕಾರದ ವಿಧೇಯಕವು ಮಹಿಳೆಯು ತನ್ನ ವಾಸಸ್ಥಳದಲ್ಲಿನ ನ್ಯಾಯಾಧೀಶರಿಗೆ ದೂರಕೊಡಬೇಕೋ ಅಥವಾ ಆರೋಪಿಯು ವಾಸಮಾಡುವ ಸ್ಥಳದಲ್ಲಿ ದೂರಕೊಡಬೇಕೋ ಎಂಬುದು ಸ್ಪಷ್ಟವಾಗಿಲ್ಲ.

ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ರಕ್ಷಣೆ

ಭಾರತ ಸರ್ಕಾರದ ವಿಧೇಯಕದ ಸೆಕ್ಷನ್ 21ರಲ್ಲಿ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ವಿರುದ್ಧ ಸಿವಿಲ್ ಅಥವಾ ಅಪರಾಧೀ ಪ್ರಕರಣಗಳಿಂದ ರಕ್ಷಣೆ ನೀಡಲಾಗಿದೆ. ಈ ರಕ್ಷಣೆಯನ್ನು ಸೇವೆ ನೀಡುವವರಿಗೆ ಸಹ ವಿಸ್ತರಿಸಬೇಕಾಗಿದೆ. ಅನೇಕ ಮಹಿಳಾ ಸಂಘಟನೆಗಳ ಮೇಲೆ ಅಪಹರಣದಂತಹ ಪ್ರಕರಣಗಳನ್ನು ದಾಖಲು ಮಾಡಲಾಗುತ್ತಿದೆ. ನೊಂದ ಮಹಿಳೆಯನ್ನು ಬಂಧನದಿಂದ ಬಿಡಿಸುವ ಸಂದರ್ಭದಲ್ಲಿ ಅಥವಾ ಮಕ್ಕಳನ್ನು ನಿರ್ಬಂಧದಿಂದ ಬಿಡಿಸುವಾಗ ಸಾಮಾಜಿಕ ಕಾರ್ಯಕರ್ತರ ಮೇಲೆ ಕ್ರಿಮಿನಲ್ ಪ್ರಕರಣಗಳನ್ನು ದಾಖಲು ಮಾಡಿದ ಉದಾಹರಣೆಗಳಿವೆ. ಇಂತಹ ಅಮೂಲ್ಯ ಸೇವೆ ಸಲ್ಲಿಸುತ್ತಿರುವ ಸಂಘಟನೆಗಳನ್ನು ಕಾನೂನಿನ ತೋಷಣೆಯಿಂದ ರಕ್ಷಿಸಲೇ ಬೇಕಾಗಿದೆ. ಸಹಾಯ ಮಾಡುವವರ ಮೇಲೆ ಸುಳ್ಳು ಆರೋಪ ಹೊರಿಸುವುದರ ಮೂಲಕ ಕಿರುಕುಳಕೊಡುವವರು ಕಾನೂನಿನ ಕೈಯಿಂದ ತಪ್ಪಿಸಿಕೊಳ್ಳುತ್ತಿದ್ದಾರೆ.

ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ನೇಮಕದಲ್ಲಿರುವಂತಹ ಬಹುದೊಡ್ಡ ಸಮಸ್ಯೆಯೆಂದರೆ ಅಭ್ಯರ್ಥಿಗಳ ಆಯ್ಕೆಯ ಅರ್ಹತೆಗಳು ಮತ್ತು ಆಯ್ಕೆಯ ವಿಧಾನಗಳು. ಸರ್ಕಾರದ ವಿಧೇಯಕದ ನುರಿತ ಹಿಂದಿನ ಮಾತುಕತೆಗಳಲ್ಲಿ ಆಯ್ಕೆಯ ಸಂದರ್ಭದಲ್ಲಿ ಯಾವ ಪಕ್ಷ ಅಧಿಕಾರಿದಲ್ಲಿರುತ್ತದೆಯೋ ಆ ಪಕ್ಷದ ಸದಸ್ಯರು ಅಥವಾ ಬೆಂಬಲಿಗರನ್ನು ಅಥವಾ ಯಾವುದೇ ವಿಧಾನದಿಂದ ಇಷ್ಟಬಂದವರನ್ನು ಆಯ್ಕೆ ಮಾಡಬಹುದೆಂದು ಚರ್ಚಿಸಲಾಗುತ್ತಿತ್ತು. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ಪಾತ್ರವು ಅತ್ಯಂತ ಮಹತ್ವವಾಗಿರುವುದರಿಂದ, ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳು ಮತ್ತೆಂದು ಅಧಿಕಾರದಾಹಿಯಾಗಬಾರದು ಎಂಬ ಭಯವನ್ನು ವ್ಯಕ್ತಪಡಿಸಲಾಯಿತು. ಇದನ್ನು ತಡೆಯಲು ಏನಾದರೂ ಕಟ್ಟುಪಾಡುಗಳಿರಬೇಕಾದುದು ಅತ್ಯವಶ್ಯಕವಾದುದು. ನಾವು ನೀಡಿದ ಒಂದು ಸಲಹೆಯೆಂದರೆ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳು ನ್ಯಾಯಾಲಯದ ಅಧೀನದಲ್ಲಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸುವುದು ಒಳಿತು ಎಂಬುದು.

ಭಾರತ ಸರ್ಕಾರದ ವಿಧೇಯಕದ ಸೆಕ್ಷನ್ 19ರಲ್ಲಿ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ಕರ್ತವ್ಯ ಲೋಪ ಮಾಡಿದಲ್ಲಿ ಅವರನ್ನು ವಿಚಾರಣೆಗೆ ಗುರಿಪಡಿಸುವ ಅವಕಾಶವನ್ನು ನೀಡಿದೆ. ಆದರೆ ಇದನ್ನು ಕಾಯ್ದೆಯಲ್ಲಿ ನಿರ್ದೇಶಿಸಿರುವಂತಹ ಕೆಲಸಗಳನ್ನು ಎಂಬುದಾಗಿ ಬದಲಾಯಿಸಬೇಕಾಗಿದೆ. ನಾವು ಎರಡು ತುಂಬಾ ಪ್ರಮುಖವಾದ ರಕ್ಷಣಾ ತಂತ್ರಗಳನ್ನು ಸಲಹೆ ಮಾಡಿದ್ದೇವೆ. ಮೊದಲನೆಯದಾಗಿ ಯಾರು ಬೇಕಾದರೂ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯಾಗುವ ಅವಕಾಶ ಕಲ್ಪಿಸಬೇಕು ಮತ್ತು ನೇಮಕಾತಿಯ ಪ್ರಕ್ರಿಯೆಯು ಪಾರದರ್ಶಕವಾಗಿರಬೇಕು. ಇದು ಜಾಯರಾತಿನ ಮುಖಾಂತರ ಅರ್ಜಿ ಆಹ್ವಾನಿಸಿ ಆಯ್ಕೆ ಮಾಡುವಾಗ ಅತ್ಯಂತ ಅವಶ್ಯಕವಾದುದು. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳು ಮಹಿಳೆಯರಿಗೆ ಅವರ ಹಕ್ಕುಗಳ ಕುರಿತು ತಿಳಿ ಹೇಳಬೇಕಾಗಿರುವುದರಿಂದ ಮತ್ತು ಅವರು ಹಿಂಸೆಯ ವಿರುದ್ಧ ಹೊಂದಿರುವ ಹಕ್ಕುಗಳ ಕುರಿತು ಮತ್ತು ಅವರು ಹೊಂದಿರುವಂತಹ ಸೇವೆಗಳು ಮತ್ತು

ಕಾನೂನಿನ ಸಹಾಯಕ ಕುರಿತು ಮನವರಿಕೆ ಮಾಡಿ ಕೊಡಬೇಕಾಗಿರುವುದರಿಂದ ಅವರು ಅರ್ಹರಾಗಿರಲೇಬೇಕಾಗುತ್ತದೆ. ಹೀಗಿರುವಾಗ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ಅರ್ಹತೆಗಳೇನು ಎಂಬುದು ಪ್ರಶ್ನೆಯಾಗುತ್ತದೆ. ಒಂದು ದೃಷ್ಟಿಕೋನವೆಂದರೆ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳು ಸಮಾಜಸೇವಕರಾಗಿರಬೇಕು ಎಂಬುದು. ಅನೇಕ ಸಂದರ್ಭಗಳಲ್ಲಿ ಸಮಾಜ ಸೇವಕರು ಲಭ್ಯವಿಲ್ಲದಿರುವಂತ ಸಂದರ್ಭದಲ್ಲಿ ಮುಖ್ಯವಾಗಿ ಹಳ್ಳಿಗಾಡಿನ ಸಂದರ್ಭಗಳಲ್ಲಿ ನಿರ್ದಿಷ್ಟ ವರ್ಷಗಳ ಅನುಭವವಿರುವ ಮಹಿಳೆಯರನ್ನು ನೇಮಕ ಮಾಡುವುದು ಸೂಕ್ತ ಎಂಬುದು ಒಂದು ಅಭಿಪ್ರಾಯವಾಗಿತ್ತು. ಕೆಲವರು ಮಹಿಳಾ ಪರಪಂಚರು ಈ ಜವಾಬ್ದಾರಿಯನ್ನು ಹೊರಬಹುದು ಎಂಬುದಾಗಿ ಅಭಿಪ್ರಾಯಪಟ್ಟರು. ಸಾಮಾನ್ಯ ಅಭಿಪ್ರಾಯವೆಂದರೆ ರಾಜ್ಯ ಸರ್ಕಾರಗಳು ಅರ್ಹತೆಯನ್ನು ಪರಿಸ್ಥಿತಿಗಳಿಗನುಗುಣವಾಗಿ ನಿರ್ಧರಿಸಬೇಕು ಎಂಬುದಾಗಿತ್ತು. ಅತ್ಯುತ್ತಮ ಸಲಹೆಯೆಂದರೆ ಲಭ್ಯವಿರುವಲ್ಲಿ ಅರ್ಹ ಸಮಾಜ ಸೇವಕರನ್ನು ಅಥವಾ ಲಭ್ಯವಿಲ್ಲದಿದ್ದಲ್ಲಿ ಮಹಿಳಾ ಪರ ಸಂಘಟನೆಗಳಲ್ಲಿ ನಿರ್ದಿಷ್ಟ ಅವಧಿಗೆ ಕೆಲಸ ಮಾಡಿ ಅನುಭವವಿರುವವರನ್ನು ನೇಮಕಮಾಡಿಕೊಳ್ಳಬಹುದೆಂಬುದು. ಅರ್ಹತೆ ಏನೇ ಇದ್ದರೂ ಸಹ ಸರ್ಕಾರದ ವಿದೇಯಕದಲ್ಲಿ ಸ್ಪಷ್ಟವಾಗಿ ಸಾರ್ವಜನಿಕ ಜಾಹೀರಾತಿನ ಮುಖಾಂತರ ಪ್ರಚಾರಕೊಟ್ಟ ನಂತರ, ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ ಅರ್ಹ ವ್ಯಕ್ತಿಯನ್ನು ಆಯ್ಕೆ ಮಾಡುವುದನ್ನು ಸ್ಪಷ್ಟಪಡಿಸಬೇಕು.

ಕಾನೂನು ಜಾರಿಯ ವಿಧಾನಗಳು

ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಹುದ್ದೆಯನ್ನು ಸೃಷ್ಟಿಸುವ ನಿರ್ಧಾರವು ಸರ್ಕಾರಕ್ಕೆ ಈ ಕಾನೂನನ್ನು ಯಶಸ್ವೀಗೊಳಿಸುವಂತಹ ಬದ್ಧತೆ ಇದೆಯೆಂಬುದು ಮನದಟ್ಟಾಗುತ್ತದೆ. ಆದರೆ ಈ ಕಾನೂನಿನಲ್ಲಿ ಅಂತಹ ಯಾವ ಬದ್ಧತೆಯ ಲಕ್ಷಣವೂ ಇಲ್ಲ. ಈ ಕಾನೂನಿನಲ್ಲಿ ಯಾವ ಆರ್ಥಿಕ ವಿಷಯಗಳೂ ಅಡಕವಾಗಿಲ್ಲ. ಹೀಗಿರುವಾಗ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳು ಎಲ್ಲಿರುತ್ತಾರೆ? ಅವರನ್ನು ಯಾರು ನೇಮಕ ಮಾಡುತ್ತಾರೆ? ಅವರ ವೇತನ ಮತ್ತು ಖರ್ಚನ್ನು ಯಾರು ಭರಿಸುತ್ತಾರೆ? ಅವರು ಮಹಿಳೆಯರಿಗೆ ಹೇಗೆ ಸಹಾಯ ಮಾಡುತ್ತಾರೆ? ಅವರು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಸಲ್ಲಿಸಬೇಕಾಗಿರುವ ಅರ್ಜಿಗಳು ಮತ್ತು ದಾಖಲೆಗಳ ಖರ್ಚನ್ನು ಭರಿಸುವವರಾರು? ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ಪ್ರಯಾಣ ಭತ್ಯೆ ಭರಿಸುವವರಾರು? ಅಥವಾ ಮಹಿಳೆಯನ್ನು ಸುರಕ್ಷಿತ ಸ್ಥಳಕ್ಕೆ ಮುಟ್ಟಿಸುವ ವೆಚ್ಚವನ್ನು ಭರಿಸುವವರಾರು?

ಉಸ್ತುವಾರಿ

ಸರ್ಕಾರವು ವಾಸ್ತವತೆಯನ್ನು ಅರ್ಥಮಾಡಿಕೊಳ್ಳದೆ ಕಾನೂನನ್ನು ರಚಿಸುವಂತಹ ತಪ್ಪನ್ನು ಪದೇ ಪದೇ ಮಾಡುತ್ತಲೇ ಇದೆ. ಕಾನೂನಿನ ಉಸ್ತುವಾರಿಯು ಕ್ಲಿಷ್ಟತೆಯು ಕಾನೂನಿನ ಮೂಲದಲ್ಲಿಯೇ ಇದೆ. ಇದಕ್ಕಾಗಿ ನಾವು ಉಸ್ತುವಾರಿಗಾಗಿ ಓರ್ವ ಸಂಯೋಜಕರನ್ನು ನೇಮಿಸಲು ಸಲಹೆ ಮಾಡಿದೆವು. ಕಾನೂನಿನ ಪರಿಣಾಮಕಾರಿಯಾದ ಜಾರಿಯನ್ನು ಉಸ್ತುವಾರಿ ಮಾಡುವುದು ಇವರ ಕೆಲಸವಾಗಿದೆ. ವಾರ್ಷಿಕ ವರದಿಗಳನ್ನು ತಯಾರಿಸುವುದು, ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಕಾನೂನನ್ನು ವಿಮರ್ಶಿಸುವುದು, ತರಭೇತಿ ಮಾಡುವುದು ಅವರ ಜವಾಬ್ದಾರಿ.

ನಮ್ಮ ದೇಶದಲ್ಲಿ ಕಾನೂನುಗಳು ಸಾಕಷ್ಟಿವೆ ಎಂದು ಆಗಾಗ್ಗೆ ಹೇಳಲಾಗುತ್ತಿದೆ. ಈ ಕಾನೂನುಗಳನ್ನು ಜಾರಿಗೆ ತರುವಲ್ಲಿ ಇರುವ ಸಮಸ್ಯೆಯಾದರೂ ಏನು? ಜಾರಿಗೆ ತರುವ ಇಚ್ಛಾಶಕ್ತಿಯ ಕೊರತೆ ಇದೆ. ಮನೆ ಹಿಂಸೆಯ ಸಮಸ್ಯೆಯನ್ನು ಎತ್ತಿ ತೋರಿಸುವಂತಹ ಇಚ್ಛಾಶಕ್ತಿಯ ಜೊತೆ ಇರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದಲೇ ಇಲ್ಲಿಯವರೆಗೆ ಮನೆ ಹಿಂಸೆಯ ಕಾನೂನುಗಳು ಜಾರಿಗೆ ಬಂದಿಲ್ಲ. ನಾವು ಇಂತಹ ಒಂದು ಕಾನೂನನ್ನು ಜಾರಿಗೆ ತರುವ ಪ್ರಯತ್ನದಲ್ಲಿದ್ದೇವೆ. ಯಾವುದೇ ರೀತಿಯ ಕಾನೂನು ಬಂದರೂ ಅದರ ಮೂಲದಲ್ಲಿಯೇ ಜಾರಿಗೆ ತರುವ ವಿಧಾನಗಳು ಮತ್ತು ಉಸ್ತುವಾರಿಯ ವಿಧಾನಗಳಿರಬೇಕು.

ಮುಂದಿರುವ ದಾರಿ

ಪ್ರಜಾಪ್ರಭುತ್ವದ ದೇಶದಲ್ಲಿ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ನೇಮಕವು ಅತ್ಯಗತ್ಯವಾಗಿರುತ್ತದೆ ಮತ್ತು ಆತನು ಕಾನೂನಿನ ಜಾರಿಗೆ ಎಲ್ಲ ಪ್ರಯತ್ನವನ್ನೂ ಪ್ರಜಾಪ್ರಭುತ್ವದ ತತ್ವಗಳಡಿಯಲ್ಲಿ ಮಾಡಬೇಕಾಗುತ್ತದೆ ಮತ್ತು ಇದರಿಂದ ಮಹಿಳೆಯ

ಹಕ್ಕುಗಳ ರಕ್ಷಣೆಯಾಗಬೇಕು. ನಮ್ಮ ಮಹಿಳೆಯರ ಸಾಕಷ್ಟು ಸಹಾಯವಿಲ್ಲದೆ ತಮ್ಮ ಹಕ್ಕುಗಳಿಗಾಗಿ ಹೋರಾಟ ನಡೆಸುವ ಸ್ಥಿತಿಯಲ್ಲಿಲ್ಲ ಎಂಬುದನ್ನು ಕಾನೂನು ಅರ್ಥಮಾಡಿಕೊಳ್ಳಬೇಕಾಗಿದೆ. ಕಾನೂನನ್ನು ತಿರಸ್ಕರಿಸುವುದು ಅಪರಾಧವೆಂದು ಹೇಳಲಾಗಿದೆ. ಹೇಗಿರುವಾಗ ಕಾನೂನನ್ನು ಎಲ್ಲರಿಗೂ ತಿಳಿಯುವಂತೆ ಪ್ರಚುರಪಡಿಸಬೇಕಾದುದು ಸರ್ಕಾರದ ಕರ್ತವ್ಯವಾಗಿದೆ ಮತ್ತು ತನ್ಮೂಲಕ ಮನೆಹಿಂಸೆಯನ್ನು ಸಹಿಸಿಕೊಳ್ಳಲು ಸಾಧ್ಯವಿಲ್ಲವೆಂದು ತಿಳಿಹೇಳಬೇಕಾಗಿದೆ. ಪ್ರತಿಯೊಬ್ಬ ಮಹಿಳೆಯರಿಗೂ ತಮ್ಮ ಹಕ್ಕುಗಳ ಅರಿವು ಮೂಡಿಸಬೇಕಾಗಿದೆ. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳು ಕಾನೂನಿನ ಪರಿಣಾಮಕಾರಿಯಾಗಿ ಜಾರಿಗೆ ತರುವಲ್ಲಿ ಪ್ರಮುಖ ಜವಾಬ್ದಾರಿ ವಹಿಸಬೇಕಾಗಿದೆ. ಕಿರುಕುಳ ನೀಡುವವರು ಸಾಕಷ್ಟು ಬಲಿಷ್ಠರಾಗಿದ್ದಲ್ಲಿ ಸಾಕಷ್ಟು ಶಕ್ತಿಯುತವಾದ ಕಾನೂನಿನ ಅವಶ್ಯಕತೆ ಇದೆ.

ಕಾನೂನು ರಚನೆಕಾರರ ಮನಸ್ಸು ಪರಿವರ್ತನೆಯಾಗಬೇಕಾಗಿದೆ. ಕೇವಲ ಕಾನೂನಿನ ಜಾರಿಯಾದರೆ ಸಾಲದು, ಅದನ್ನು ಉಸ್ತುವಾರಿ ಮಾಡಬೇಕಾದುದು ಅತ್ಯಂತ ಅವಶ್ಯಕ. ಕಾನೂನಿನ ಪ್ರತಿಯೊಂದು ಅಂಶವು ಕೂಡ ಮಾಧ್ಯಮಗಳಲ್ಲಿ ಪ್ರಸಾರವಾಗಿ ಪ್ರತಿಯೊಬ್ಬ ಸಾರ್ವಜನಿಕರಿಗೂ ಅರ್ಥವಾಗಬೇಕಾಗಿದೆ. ತರಬೇತಿಯು ಅತ್ಯಂತ ಅವಶ್ಯಕವಾದುದಾಗಿದೆ. ಇದು ಕೇವಲ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳಿಗಲ್ಲದೆ ನ್ಯಾಯಾಧೀಶರಿಗೂ ತರಬೇತಿ ನೀಡಬೇಕಾಗಿದೆ. ಕಾನೂನು ಮಾಡುವವರು ಆಯವ್ಯಯದ ಅವಕಾಶಗಳನ್ನೂ ಕಲ್ಪಿಸಬೇಕಾಗಿದೆ. ಹೀಗೆ ಮಾಡಿದಲ್ಲಿ ಕಾನೂನಿನ ಜಾರಿಯಲ್ಲಿ ಸರ್ಕಾರದ ಬದ್ಧತೆ ಇದೆ ಎಂಬುದನ್ನು ತೋರಿಸುತ್ತದೆ. ಅತ್ಯುತ್ತಮವಾದ ಮನೆ ಹಿಂಸೆಯ ವಿರುದ್ಧದ ಕಾನೂನುಗಳಿರುವ ಅನೇಕ ಉದಾಹರಣೆಗಳಿವೆ. 1994ರಲ್ಲಿ ಕ್ಲಿಂಟನ್ ಆಡಳಿತವು ಜಾರಿಗೆ ತಂದ ಕಾನೂನಿನಲ್ಲಿ ಸಾಕಷ್ಟು ಹಣಕಾಸಿನ ಸೌಲಭ್ಯ ನೀಡಿ ಪರಿಣಾಮಕಾರಿಯನ್ನಾಗಿ ಮಾಡಿತು. ಈ ಕಾನೂನಿನಲ್ಲಿ ಒದಗಿಸಲಾದ ನಿಧಿಯನ್ನು ಸಮಾಜ ಸೇವಕರಿಗೆ ಒದಗಿಸಲು ಸಂಕೋದನೆ ಮತ್ತು ದಾಖಲೆ ಸಂಗ್ರಹಣೆಗೆ, ತರಬೇತಿಗೆ, ಪ್ರತ್ಯೇಕ ವಸತಿ ಗೃಹಗಳ ನಿರ್ಮಾಣಕ್ಕೆ, ಸಾರ್ವಜನಿಕ ಶಿಕ್ಷಣ ಚಳುವಳಿ, ಪೊಲೀಸರಿಗೆ ತರಬೇತಿ ಮತ್ತು ಇತರೇ ಅನೇಕ ಸಂಬಂಧಿ ಉದ್ದೇಶ್ಯಗಳಿಗಾಗಿ ವ್ಯಯಿಸಲಾಗುತ್ತಿದೆ.

ನಾವು ಮಹಿಳಾ ಚಳುವಳಿಗಳು ಮುಂದೆ ಸುದೀರ್ಘ ಸಂಘರ್ಷಕ್ಕೆ ಸಿದ್ಧವಾಗಬೇಕಾಗಿದೆ. ಸರ್ಕಾರವು ರಾಜಕೀಯ ಬದ್ಧತೆಯಿಂದ ಒಂದು ಮನೆ ಹಿಂಸೆಯ ವಿರುದ್ಧದ ಕಾನೂನನ್ನು ಜಾರಿಗೆ ತರುತ್ತಿರುವುದು ನಮ್ಮ ವಿಜಯವೆಂದೇ ಪರಿಗಣಿಸಬೇಕು ಆದರೆ ಅದು ಅಪೂರ್ಣವಾದುದಾಗಿದೆ.

ಪ್ರಜಾಪ್ರಭುತ್ವ ರಾಷ್ಟ್ರದಲ್ಲಿ ನಾಗರಿಕರಿಗೆ ಕಾನೂನು ರಚಿಸುವ ಪ್ರಕ್ರಿಯೆಯಲ್ಲಿ ಪಾಲ್ಗೊಳ್ಳುವ ಹಕ್ಕಿದೆ.

ಈ ಕೆಳಗಿನಂತೆ ನಾವು ಒತ್ತಾಯಿಸುತ್ತೇವೆ.

ಮನೆ ಹಿಂಸೆಯ ವ್ಯಾಖ್ಯಾನವು ವಿಶ್ವ ಸಂಸ್ಥೆಯ ಮನೆ ಹಿಂಸೆಯ ವ್ಯಾಖ್ಯಾನದ ಚೌಕಟ್ಟಿನಲ್ಲಿರಬೇಕು.

ಮನೆ ಪಂಚಕೆಯು ಈ ಕೆಳಗಿನವುಗಳನ್ನು ಒಳಗೊಂಡಿರಲೇಬೇಕು.

1. ನ್ಯಾಯಾಧೀಶರು ವಸತಿಯ, ಬಲವಂತವಾಗಿ ನಿರ್ದಿಷ್ಟದಲ್ಲಿ ಟ್ಟಿರುವುದರ ಮತ್ತು ಪುನರ್ವಾಸಪಡಿಸಿಕೊಳ್ಳುವುದರ ಬಗ್ಗೆ ಸರಿಯಾಗಿ ತೀರ್ಪುಕೊಡುವಂತಾಗಬೇಕು.
2. ಕಾನೂನು ಹಣಕಾಸಿನ ಪರಿಪಾಲ, ಸುಪರ್ದಿ ಮತ್ತು ನಷ್ಟ ಪರಿಹಾರವನ್ನು ಒದಗಿಸಲು ಶಕ್ತಿಯಾಗಬೇಕು.
3. ಕಡ್ಡಾಯವಾಗಿ ಮಹಿಳೆಯು ಆಪ್ತಸಲಹೆಯನ್ನು ಪಡೆಯುವ ನಿಯಮವನ್ನು ಕೈ ಬಿಡಬೇಕು.
4. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳನ್ನು ಮುಕ್ತವಾಗಿ ಅರ್ಜಿಗಳನ್ನು ಆಹ್ವಾನಿಸಿ ಅರ್ಹವ್ಯಕ್ತಿಯನ್ನು ಪಾರದರ್ಶಕತೆಯಿಂದ ಆಯ್ಕೆ ಮಾಡಬೇಕು.
5. ಸತ್ಯಾಂಕ ಅಮಾನತ್ತಿಡಬಹುದಾದ ಬಂಧನದ ಆದೇಶವನ್ನು ರಕ್ಷಣೆಯ ಆದೇಶದಲ್ಲಿ ಸೇರಿಸಬೇಕು ಅಥವಾ ಪರ್ಯಾಯ ಒದಗಿಸಬೇಕು. ರಕ್ಷಣಾ ಆದೇಶದ ಉಲ್ಲಂಘನೆಯು ಶಿಕ್ಷಾರ್ಹ ಮತ್ತು ಜಾಮೀನುರಹಿತವಾಗಿರಬೇಕು.

6. ಕಾನೂನಿನ ಪರಿಣಾಮಕಾರಿ ಜಾರಿಗೆ ಮತ್ತು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ನೇಮಕ ಮತ್ತು ನಿರ್ವಹಣೆಗೆ ಸರ್ಕಾರವು ಸಾಕಷ್ಟು ನಿಧಿಯನ್ನು ಒದಗಿಸಬೇಕು.
7. ಕಾನೂನಿನ ಮಾಹಿತಿಯನ್ನು ಅಸಾಧ್ಯವಿರುವೆಲ್ಲೆಡೆ ಪ್ರಚಾರ ಮಾಡಬೇಕು.
8. ಸರ್ಕಾರವು ಕಾನೂನು ಜಾರಿ ಯಂತ್ರಕ್ಕೆ ಸಾಕಷ್ಟು ತರಭೇತಿ ಒದಗಿಸಬೇಕು.
9. ಓರ್ವ ಸಂಯೋಜಕರನ್ನು ಮನೆಹಿಂಸೆಯನ್ನು ತಡೆಗಟ್ಟಲು ನೇಮಿಸಿಕೊಳ್ಳಬೇಕು.
10. ಮನೆಹಿಂಸೆಯ ಬಲಿಪಶುಗಳಿಗೆ ಯಾವಾಗಲೂ ಕಾನೂನಿನ ನೆರವು ಲಭ್ಯವಾಗುವಂತಿರಬೇಕು.

ಇಂದಿರಾ ಜಯಸಿಂಗ್  
ಲಾಯರ್ಸ್ ಕಲೆಕ್ಟಿವ್  
ಮಹಿಳೆಯರ ಹಕ್ಕುಗಳ ವೇದಿಕೆ

ಮನೆ ಹಿಂಸೆ

ಎನ್.ಸಿ.ಆರ್.ಟಿ. ಗೃಹ ಮಂತ್ರಾಲಯದ ಅಂಕಿಸಂಖ್ಯೆಗಳು

ವರದಕ್ಷಿಣೆಯ ಸಾವುಗಳು : ಕಳೆದ ವರ್ಷಕ್ಕಿಂತ ವರದಿಯಾದ ವರದಕ್ಷಿಣೆ ಸಾವಿನಲ್ಲಿ ಶೇ. 39% ರಷ್ಟು ಇಳಿಕೆಯಾಗಿದೆ. ರಾಷ್ಟ್ರೀಯ ಮಟ್ಟದಲ್ಲಿನ ಒಟ್ಟು ಸಂಖ್ಯೆಯ 31.2%ರಷ್ಟು ಉತ್ತರ ಪ್ರದೇಶದಿಂದಲೂ ನಂತರ 15.2% ರಷ್ಟು ಬಿಹಾರದಿಂದಲೂ ವರದಿಯಾಗಿದೆ. ಅತೀ ಹೆಚ್ಚಿನ ಪ್ರಮಾಣದ ಅಪರಾಧ (1.2%) ಸಹ ಉತ್ತರ ಪ್ರದೇಶದಿಂದ ವರಿದಾಯಾಗಿದೆ.

ನಗರಗಳಲ್ಲಿ ಮಹಿಳೆಯರ ವಿರುದ್ಧದ ಅಪರಾಧೋಟ್ಟು 16,807 ಪ್ರಕರಣಗಳು 23 ಮಹಾನಗರಗಳಿಂದ ವರದಿಯಾಗಿದೆ. ಇವುಗಳು ಒಟ್ಟು ರಾಷ್ಟ್ರೀಯ ಪ್ರಕರಣಗಳ ಶೇ 12.4%ರಷ್ಟು ಯನ್ನು ಹೊಂದಿದೆ. 23 ನಗರಗಳಲ್ಲಿ ಚೆನ್ನೈ 21.2% ನಂತರ ದೆಹಲಿ 12%, ವಿಶಾಖಪಟ್ಟಣದಲ್ಲಿ 55.1, ಚೆನ್ನೈಗಿಂತಲೂ 54.0% ಮತ್ತು 23 ನಗರಗಳ ರಾಷ್ಟ್ರೀಯ ಸರಾಸರಿ 32.9% ಅತ್ಯಾಚಾರ ಪ್ರಕರಣಗಳು, 43.2% ಅಪಹರಣದ ಮತ್ತು ನಿರ್ಬಂಧದ ಪ್ರಕರಣಗಳು, 17.4% ರಷ್ಟು ವರದಕ್ಷಿಣೆಯ ಸಾವುಗಳು ಮತ್ತು 23.3% ರಷ್ಟು ಆಕ್ರಮಣದ ಪ್ರಕರಣಗಳು ದಾಖಲಾಗಿವೆ.

ಇಡೀ ಭಾರತದಲ್ಲಿ ಮಹಿಳೆಯ ವಿರುದ್ಧದ ಅಪರಾಧಗಳು (1997-99)

ಅಪರಾಧ	ವರ್ಷ			ಪ್ರತಿಶತ 1998ಕ್ಕಿಂತ 99ರಲ್ಲಿ
	1997	1998	1999	
ವರದಕ್ಷಿಣೆ ಸಾವು	6006	6975	6699	- 3.9%
ಪತ್ನಿಗೆ ಹಿಂಸೆ	36,592	41,367	43,823	5.9%



1999ರಲ್ಲಿ ನ್ಯಾಯಾಲಯವು ಇತ್ಯರ್ಥ ಪಡಿಸಿದ ಪ್ರಕರಣಗಳು.

ಅಪರಾಧ ಪ್ರಕರಣ	ವಿಚಾರಣಾ ಪ್ರಕರಣ ಸಂಖ್ಯೆ ಬಾಕಿ ಸೇರಿ	ಸರ್ಕಾರ ಹಿಂಪಡೆದ ಪ್ರಕರಣಗಳು		ಒಟ್ಟು ಪ್ರಕರಣಗಳು			
		ಹಿಂಪಡೆದ ಪ್ರಕರಣಗಳು	ರಾಜಿ ಅಥವಾ ಹಿಂಪಡೆದದ್ದು	ಶಿಕ್ಷೆ	ನರಪರಾಧಿಯೆಂದು ಘೋಷಣೆ, ತಿರಸ್ಕರಣೆ	ಒಟ್ಟು ಬಾಕಿ	
ವರದಕ್ಷಿಣೆಯ ಸಾವು	24,534	0	209	1,338	2,648	3,986	20,339
ಗಂಡ ಮತ್ತು ಸಂಬಂಧಿಕರಿಂದ ಹಿಂಸೆ	1,42,575	0	3,681	3,416	14,556	17,972	1,20,922

ನ್ಯಾಯಾಲಯದ ಇತ್ಯರ್ಥ ಶೇಕಡಾವಾರು

ಅಪರಾಧ ಪ್ರಕರಣ	ಇತ್ಯರ್ಥ	ಬಾಕಿ
ವರದಕ್ಷಿಣೆ ಸಾವು	17%	82.9%
ಕಿರುಕುಳ	15.2%	84.8%

ಲೋಕಸಭೆಯಲ್ಲಿ ಸರ್ಕಾರದ ವಿದೇಯಕ

ಕುಟುಂಬದೊಳಗೆ ನಡೆಯಲು ಯಾವುದೇ ತರಹದ ಹಿಂಸೆಯಿಂದ ಬಲಿಪಶುವಾದ ಮಹಿಳೆಯ ಹಕ್ಕುಗಳನ್ನು ರಕ್ಷಿಸಲು ಮತ್ತು ಘಟನೆಯ ಸಂಬಂಧಿ ರಕ್ಷಣೆ ಒದಗಿಸಲು ವಿದೇಯಕ.

(ಡಾ. ಮುರಳೀ ಮನೋಹರ ಜೋಶಿ, ಮಾನವ ಸಂಪನ್ಮೂಲ ಅಭಿವೃದ್ಧಿ ಸಚಿವರಿಂದ) ಲೋಕಸಭೆಯಲ್ಲಿ ಮಂಡನೆಗಾಗಿ ವಿದೇಯಕ ಸಂಖ್ಯೆ 2001ರ 133

ಮನೆಹಿಂಸೆಯಿಂದ ರಕ್ಷಣೆಯ ವಿದೇಯಕ 2001

ಯಾವುದೇ ರೀತಿಯ ಮನೆ ಹಿಂಸೆಯಿಂದ ಬಲಿಪಶುಗಳಾದ ಮಹಿಳೆಯರ ಹಕ್ಕುಗಳನ್ನು ರಕ್ಷಿಸಲು ಮತ್ತು ಸಾಧ್ಯವಾದ ಎಲ್ಲ ನೆರವನ್ನು ನೀಡಲು ಒಂದು ವಿದೇಯಕ.

ಭಾರತವು ಗಣರಾಜ್ಯವಾದ 52ನೆಯ ವರ್ಷದ ಸಂದರ್ಭದಲ್ಲಿ ಇದನ್ನು ಈ ಕೆಳಗಿನಂತೆ ಸಂಸತ್ತಿನಲ್ಲಿ ಮಂಡಿಸಲಾಗಿದೆ.

ಭಾಗ 1

1. ಸಂಕ್ಷಿಪ್ತ ಹೆಸರು, ವಿಸ್ತಾರ ಮತ್ತು ಜಾರಿಗೆ ಬರುವುದು

1. ಈ ಕಾಯ್ದೆಯನ್ನು 2001ರ ಮನೆಹಿಂಸೆಯಿಂದ ರಕ್ಷಣಾ ಕಾಯ್ದೆ ಎಂದು ಕರೆಯಲಾಗುವುದು.
2. ಜಮ್ಮು ಮತ್ತು ಕಾಶ್ಮೀರಕ್ಕೆ ಹೊರತುಪಡಿಸಿ ಇಡೀ ಭಾರತದಲ್ಲಿ ಇದು ಕಾರ್ಯಾಚರಿಸುತ್ತದೆ.
3. ಕೇಂದ್ರ ಸರ್ಕಾರವು ಅಧಿಕೃತ ಗೆಜೆಟ್‌ನಲ್ಲಿ ಸೇರಿಸಿದ ದಿನದಿಂದ ಇದು ಜಾರಿಗೆ ಬರುತ್ತದೆ.

2. ವ್ಯಾಖ್ಯೆಗಳು

- ಎ. ತೊಂದರೆಗೊಳಗಾದ ವ್ಯಕ್ತಿ ಎಂದರೆ ಯಾವುದೇ ಮಹಿಳೆ ಮನೆಹಿಂಸೆಯ ಆರೋಪ ಹೊತ್ತಂತಹ ವ್ಯಕ್ತಿಯ ಸಂಬಂಧಿ ಅಥವಾ ಸಂಬಂಧಿಕಳಾಗಿದ್ದವಳು.

ಬಿ. ಮನೆ ಹಿಂಸೆ ಸೆಕ್ಸನ್ 4 ರಲ್ಲಿರುವಂತಹ ಅದೇ ಅರ್ಥ.

ಸಿ. ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್ ಎಂದರೆ ಮೊದಲನೆಯ ದರ್ಜೆಯ ಜುಡೀಶಿಯಲ್ ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್ ಅಥವಾ ಮೆಟ್ರೋಪಾಲಿಟನ್ ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್ 1973ರ ಅಪರಾಧಿ ದಂಡ ಸಂಹಿತೆಯ ಅಡಿಯಲ್ಲಿ ನೊಂದ ವ್ಯಕ್ತಿಯ ವಾಸ ಸ್ಥಳದ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಕಾರ್ಯಾಚರಿಸುತ್ತಿರುವವರು.

ಡಿ. ಹಣಕಾಸಿನ ಪರಿಹಾರ ವೆಂದರೆ ರಕ್ಷಣಾ ಆದೇಶಕ್ಕಾಗಿ ಅರ್ಜಿ ಸಲ್ಲಿಸಿರುವಂತಹ ಸಂದರ್ಭದಲ್ಲಿನ ವಿಚಾರಣೆ ಪರಿಹಾರಕ್ಕಾಗಿ ನ್ಯಾಯಾಧೀಶರು ಹೊರಡಿಸುವ ಯಾವುದೇ ಆದೇಶ ಮತ್ತು ಖರ್ಚನ್ನು ಭರಿಸಲು ಮತ್ತು ಮನೆ ಹಿಂಸೆಯ ಕಾರಣದಿಂದ ನೊಂದ ವ್ಯಕ್ತಿಗಾದ ನಷ್ಟದ ಪರಿಹಾರ.

ಇ. ನೋಟಿಫಿಕೇಷನ್ ಎಂದರೆ ಅಧಿಕೃತ ಗೆಜಟಿನಲ್ಲಿ ಪ್ರಕಟಿಸಿದ ಯಾವುದೇ ನೋಟಿಫಿಕೇಷನ್.

ಎಫ್. ಅನುಶಾಸನ ಎಂದರೆ ಈ ಕಾಯ್ದೆಯ ಅಡಿಯಲ್ಲಿ ಮಾಡಿದ ನಿಯಮಗಳನ್ನು ಅನುಶಾಸನಗೊಳಿಸು.

ಜಿ. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯೆಂದರೆ ಸೆಕ್ಸನ್ 5 ರ ಅಡಿಯಲ್ಲಿ ಸರ್ಕಾರವು ನೇಮಕ ಮಾಡಿದ ಓರ್ವ ಅಧಿಕಾರಿ.

ಹೆಚ್. ರಕ್ಷಣಾ ಆದೇಶವೆಂದರೆ ಸೆಕ್ಸನ್ 14ರ ಅಡಿಯಲ್ಲಿ ಮಾಡಿದ ಆದೇಶ.

ಐ. ಸಂಬಂಧಿ ಎಂದರೆ, ಯಾವುದೇ ವ್ಯಕ್ತಿಯು ರಕ್ತಸಂಬಂಧದಿಂದ ಮದುವೆಯಿಂದ ಅಥವಾ ದತ್ತು ಪಡೆಯುವಿಕೆಯಿಂದ ಮತ್ತು ಒಟ್ಟಿಗೆ ವಾಸಿಸುತ್ತಿರುವುದನ್ನು ಸಂಬಂಧ ಎಂದು ಕರೆಯಲಾಗಿದೆ.

ಜಿ. ಆರೋಪಿ ಎಂದರೆ ಯಾವುದೇ ವ್ಯಕ್ತಿಯು ನೊಂದ ವ್ಯಕ್ತಿಯ ಸಂಬಂಧಿ ಅಥವಾ ಸಂಬಂಧಿಯಾಗಿದ್ದರಿಂದ ಮತ್ತು ನೊಂದ ವ್ಯಕ್ತಿಯು ಯಾರ ವಿರುದ್ಧ ಪರಿಹಾರಕ್ಕಾಗಿ ಒತ್ತಾಯಿಸುತ್ತಿದ್ದಳೋ ಅಥವಾ ರಕ್ಷಣಾ ಆದೇಶಕ್ಕಾಗಿ ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್‌ರನ್ನು ಕೇಳಿಕೊಂಡಿದ್ದಳೋ ಅಥವಾ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಬಳಿ ಯಾವುದೇ ಪ್ರಕರಣವನ್ನು ದಾಖಲು ಮಾಡಿದ್ದಲ್ಲಿ ಸಂಬಂಧಪಟ್ಟ ವ್ಯಕ್ತಿಯನ್ನು ಆರೋಪಿ ಎಂದು ಕರೆಯಾಗಿದೆ.

ಕೆ. ಸೇವೆ ಒದಗಿಸುವವರೆಂದರೆ ಸ್ವಯಂ ಸೇವಾ ಸಂಸ್ಥೆಗಳು ಯಾವುದೇ ಕಾನೂನಿನಡಿಯಲ್ಲಿ ನೋಂದಾಯಿತವಾದುವು ಅಥವಾ 1956ರ ಕಂಪೆ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ನೋಂದಾಯಿತವಾಗಿರುವಂತಹ ಮಹಿಳೆಯರ ಹಕ್ಕುಗಳ ರಕ್ಷಣೆಗಾಗಿ ಮತ್ತು ಅವರಿಗೆ ಕಾನೂನಿನ ನೆರವು, ವೈದ್ಯಕೀಯ, ಹಣಕಾಸಿನ ಮತ್ತಿತರ ಸಹಾಯ ನೀಡುತ್ತಿರುವ ಸಂಸ್ಥೆಗಳು.

3. ಕಾಯ್ದೆಯು ಯಾವುದೇ ಕಾನೂನಿನ ವ್ಯಾಪ್ತಿಯನ್ನು ಚ್ಯುತಿಗೊಳಿಸುವುದಿಲ್ಲ.

ಈ ಕಾಯ್ದೆಯ ಯಾವುದೇ ಅವಕಾಶಗಳು ಯಾವುದೇ ಕಾನೂನಿಗೆ ಹೆಚ್ಚು ವಿಧಗಳಾಗಿರುತ್ತದೆ ಮತ್ತು ಯಾವುದೇ ಕಾನೂನಿನ ಅವಕಾಶಗಳನ್ನು ಚ್ಯುತಿಗೊಳಿಸುವುದಿಲ್ಲ.

ಭಾಗ ಎರಡು

ಮನೆ ಹಿಂಸೆ

4. ಮನೆ ಹಿಂಸೆ

1. ಈ ಕಾಯ್ದೆಯ ಉದ್ದೇಶದಂತೆ ಆರೋಪಿಯು ನಡೆಸುವ ಯಾವುದೇ ಮನೆಹಿಂಸೆಯ ಕೃತ್ಯವು

ಎ. ಯಾವುದೇ ಹಲ್ಲೆ ಅಥವಾ ನೊಂದ ವ್ಯಕ್ತಿಯ ಜೀವನವನ್ನು ಕ್ರೂರವಾಗಿ ತೊಂದರೆಗೀಡು ಮಾಡುವುದು ಈ ರೀತಿಯ ಹಲ್ಲೆಯು ದೈಹಿಕವಾಗಿಲ್ಲವಾದರೂ ಅಥವಾ

ಬಿ. ನೊಂದ ವ್ಯಕ್ತಿಯನ್ನು ಅನೈತಿಕ ಜೀವನ ನಡೆಸುವಂತೆ ಒತ್ತಾಯಿಸುವುದು ಅಥವಾ

ಸಿ. ನೊಂದ ವ್ಯಕ್ತಿಯನ್ನು ಗಾಯಗೊಳಿಸುವುದು ಅಥವಾ ಅಪಾಯವನ್ನುಂಟುಮಾಡುವುದು.

2. ಉಪಸೆಕ್ಸನ್(1)ರ ವಿಭಾಗ (ಸಿ)ಯಲ್ಲಿ ಇಲ್ಲದೇ ಇರುವ ರೀತಿಯಲ್ಲಿ ಮನೆ ಹಿಂಸೆಯನ್ನು ಆರೋಪಿಯು ತನ್ನ ಸ್ವರಕ್ಷಣೆಗಾಗಿ ಅಥವಾ ತನ್ನ ಅಥವಾ ತನ್ನವರ ಆಸ್ತಿಯ ರಕ್ಷಣೆಗಾಗಿ ಮಾಡಿದ್ದರೆ ಅದು ಮತಿ ಹಿಂಸೆಯಲ್ಲ

ಭಾಗ ಮೂರು

ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ನೇಮಕ

1. ರಾಜ್ಯ ಸರ್ಕಾರವು ಅಧಿಕೃತ ಗೆಜೆಟ್‌ನಲ್ಲಿ ಪ್ರಕಟಣೆ ಹೊರಡಿಸಿ ಪ್ರತಿ ಜಿಲ್ಲೆಯಲ್ಲಿ ಎಷ್ಟು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ಅವಶ್ಯಕತೆ ಇದೆಯೋ ಅಷ್ಟು ಜನರನ್ನು ನೇಮಕ ಮಾಡಿಕೊಳ್ಳಬಹುದು ಮತ್ತು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಕಾರ್ಯಾಚರಿಸುವ ಕ್ಷೇತ್ರವನ್ನು ಮತ್ತು ಕೆಲಸ ಕಾರ್ಯ ವಿಧಾನ ಮತ್ತು ಇತಿ ಮಿತಿಗಳನ್ನು ಗುರ್ತಿಸಬೇಕು.

2. ವಿಧಿಸಿರುವಂತಹ ಅರ್ಹತೆಯನ್ನು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಹೊಂದಿರಬೇಕಾಗುತ್ತದೆ.

3. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಮತ್ತು ಇತರ ಅಧೀನ ಅಧಿಕಾರಿಗಳ ಸೇವೆಯ ಮೇಲೆ ನೀತಿ, ನಿಯಮಗಳನ್ನು ವಿಧಿಸಬಹುದಾಗಿದೆ.

6. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಕರ್ತವ್ಯಗಳು :-

1. ತನಿಖೆಯ ನಂತರ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಯಾರಿಂದಲಾದರೂ ಪಡೆದ ಮಾಹಿತಿಯನ್ನು ಸರಿಯೆಂದು ಕಂಡುಬಂದಲ್ಲಿ ಸೆಕ್ಷನ್ 8ರ ಉಪಸೆಕ್ಷನ್ (8)ರ ಅಡಿಯಲ್ಲಿ ಮಾಡಬೇಕಾದ ಕಾರ್ಯಗಳೆಂದರೆ,

ಎ. ನೊಂದ ವ್ಯಕ್ತಿಗೆ ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ರಕ್ಷಣಾ ಆದೇಶಕ್ಕೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಲು ಇರುವ ಹಕ್ಕಿನ ಕುರಿತು ತಿಳಿಸುವುದು.

ಬಿ. ನೊಂದ ಮಹಿಳೆಯು ವಾಸವಿರುವ ಸ್ಥಳದಲ್ಲಿ ಸಿಗುವ ಸ್ವಯಂ ಸೇವಾ ಸಂಸ್ಥೆಯ ಸೇವೆಯ ಕುರಿತು ಮಾಹಿತಿ ನೀಡುವುದು ಮತ್ತು ಅವರಿಂದ ಸಹಾಯ ಪಡೆಯಲು ಸಹಾಯ ಒದಗಿಸುವುದು.

ಸಿ. 1987ರ ಕಾನೂನು ಸೇವೆಗಳ ಪ್ರಾಧಿಕಾರದ ಕಾಯ್ದೆಯ ಅಡಿಯಲ್ಲಿ ಕಾನೂನಿನ ಸೇವೆಯನ್ನು ನೊಂದ ವ್ಯಕ್ತಿಯು ಪಡೆಯಬಹುದೆಂದು ತಿಳಿಹೇಳಬೇಕು.

ಡಿ. ಕಾಯ್ದೆಯಲ್ಲಿ ವಿಧಿಸಿರುವ ಅಥವಾ ನ್ಯಾಯಾಧೀಶರು ಆದೇಶಿಸಿದ ಕಾರ್ಯವನ್ನು ನಿರ್ವಹಿಸುವುದು.

2. ಈ ಕಾನೂನಿನ ಅವಕಾಶಗಳ ಪ್ರಕಾರ ನೊಂದ ಮಹಿಳೆಯು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳಿಗೆ ನೀಡಿದ ಅಥವಾ ಇತರ ಯಾವುದೇ ಸಂಬಂಧಪಟ್ಟ ವ್ಯಕ್ತಿಯು ಸಲ್ಲಿಸಿದ ಅರ್ಜಿಯನ್ನು ಪರಿಗಣಿಸುವುದು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಕರ್ತವ್ಯ.

3. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಕಾಯ್ದೆಯ ಉಪ-ಸೆಕ್ಷನ್(2)ರ ಪ್ರಕಾರ ಸಲ್ಲಿಸಿದ ಅರ್ಜಿಯನ್ನು ಸ್ವೀಕರಿಸಿ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದವರು ಅಥವಾ ಆಕೆಯ ಪರವಾಗಿ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದವರಿಗೆ ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಪರಿಹಾರ ಕಂಡು ಹಿಡಿಯುವಲ್ಲಿ ಸಹಾಯ ನೀಡಬೇಕು.

4. ಕಾಯ್ದೆಯ ಉಪ ಸೆಕ್ಷನ್ (3)ರ ಅಡಿಯಲ್ಲಿ ಪರಿಹಾರ ಸಾಧ್ಯವಾಗಲಿಲ್ಲವೆಂದಾದಲ್ಲಿ, ಅರ್ಜಿದಾರರ ನಿಚ್ಚಿಯ ಮೇರೆಗೆ ನ್ಯಾಯಾಧೀಶರಿಗೆ ದೂರನ್ನು ಸಲ್ಲಿಸಬಹುದು.

7: ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಅಧಿಕಾರಗಳು :-

1. ಯಾವ ಕಾರ್ಯಕ್ಕಾಗಿ ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯನ್ನು ನೇಮಿಸಲಾಗಿದೆಯೋ ಅದರ ಅನುಷ್ಠಾನಕ್ಕಾಗಿ ಸಾಕಷ್ಟು ಅಧಿಕಾರವನ್ನು ನೀಡಲಾಗಿದೆ.
2. ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುವಾಗ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಯಾರ ಸಹಾಯವನ್ನು ಬೇಕಾದರೂ ಪಡೆಯಬಹುದು.
3. ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುವಾಗ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ತನ್ನ ಕಾರ್ಯಗಳನ್ನು ಸಿವಿಲ್-ನ್ಯಾಯಾಲಯದ ಮೂಲಕ ಮಾಡುತ್ತಿದ್ದಾನೆಂದು ಪರಿಗಣಿಸಬೇಕು.

8. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗೆ ಮಾಹಿತಿ ಮತ್ತು ಹೊಣೆಯಿಂದ ಮುಕ್ತಿ

1. ಯಾವುದೇ ವ್ಯಕ್ತಿಯು ಯಾವುದೇ ರೀತಿಯಲ್ಲಿ ನಡೆಯುತ್ತಿರುವಂತಹ ಮನೆ ಹಿಂಸೆಯ ಕುರಿತು, ನಡೆದ ಹಿಂಸೆಯ ಕುರಿತು ಅತವಾ ನಡೆಯುವಂತಹ ಸಂಭವದ ಕುರಿತು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗೆ ಮಾಹಿತಿಯನ್ನು ನೀಡಬಹುದು.
2. ಸೆಕ್ಸನ್ (1)ರಲ್ಲಿನ ಒಳ್ಳೆಯ ಉದ್ದೇಶಕ್ಕಾಗಿ ನೀಡಿದ ಮಾಹಿತಿಯ ಕಾರಣಕ್ಕಾಗಿ ಸಿವಿಲ್ ಅಥವಾ ಕ್ರಿಮಿನಲ್ ಅಪರಾಧಗಳನ್ನಾಗಿ ಪರಿಗಣಿಸಲಾಗುವುದು.

ಭಾಗ ನಾಲ್ಕು

ರಕ್ಷಣಾ ಆದೇಶವನ್ನು ಪಡೆಯುವ ವಿಧಾನಗಳು

9. ನ್ಯಾಯಾಧೀಶರಿಗೆ ಅರ್ಜಿ

1. ಬಲಿಪಶುವಾದ ನೊಂದ ಮಹಿಳೆಯು ಅಥವಾ ಆಕೆಯ ಪರವಾಗಿ ಯಾರಾದರೂ ಅಥವಾ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ದೂರು ಅರ್ಜಿಯನ್ನು ಸೆಕ್ಸನ್ 14ರ ಅಡಿಯಲ್ಲಿ ನ್ಯಾಯಾಧೀಶರಿಗೆ ಸಲ್ಲಿಸಬಹುದು.
2. ಉಪ-ಸೆಕ್ಸನ್(1)ರ ಅಡಿಯಲ್ಲಿರುವ ವಿವರಣೆಯಂತೆ ಅಥವಾ ಅದಕ್ಕೆ ಸರಿಹೊಂದುವಂತೆ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಬಹುದು.
3. ನ್ಯಾಯಾಧೀಶರು ಅರ್ಜಿಯನ್ನು ಪರಿಗಣಿಸಿದ ನಂತರ ಅರ್ಜಿಯನ್ನು ಸ್ವೀಕರಿಸಿದ ಹದಿನೈದು ದಿನಗಳ ಒಳಗಾಗಿ ಮೊದಲ ಅಹವಾಲಿನ ದಿನಾಂಕವನ್ನು ನಿಗದಿಪಡಿಸಬೇಕು.

10. ಸೇವೆಯ ಪ್ರಕಟಣೆ

1. ಸೆಕ್ಸನ್ 9 ರ ಅಡಿಯಲ್ಲಿ ದಿನಾಂಕ ನಿಗದಿಪಡಿಸಿ ನ್ಯಾಯಾಧೀಶರು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗೆ ನೀಡಿದ ನಂತರ ಅದರಲ್ಲಿ ಹೇಳಿರುವಂತೆ ಅದನ್ನು ಆರೋಪಿಗೆ ನೀಡಬೇಕು ಮತ್ತು ನ್ಯಾಯಾಲಯವು ಹೇಳಿದ ಯಾವುದೇ ವ್ಯಕ್ತಿಗೆ ನೀಡಬೇಕು.
2. ಆರೋಪಿಗೆ ಅಥವಾ ನ್ಯಾಯಾಧೀಶರು ಸೂಚಿಸಿದವರಿಗೆ ನೋಟೀಸನ್ನು ತಲುಪಿಸಬೇಕು ಮತ್ತು ಅದರ ಕುರಿತು ಘೋಷಣೆಯನ್ನು ಹೊರಡಿಸಬೇಕು.

11. ಆಪ್ತ ಸಲಹೆ

1. ಈ ಕಾಯ್ದೆಯ ಪ್ರಕ್ರಿಯೆಯು ಸಂದರ್ಭದಲ್ಲಿನ ಯಾವುದೇ ಹಂತದಲ್ಲಿ ಆರೋಪಿಗೆ ಅಥವಾ ನೊಂದವರಿಗೆ,

ಏಕಾಂಗಿಯಾಗಿ ಅಥವಾ ಜಂಟಿಯಾಗಿ ಕಡ್ಡಾಯ ಆಪ್ತಸಲಹೆಯನ್ನು ಯಾವುದೇ ಸ್ವಯಂ ಸೇವಕರಿಂದ ಪಡೆಯುವಂತೆ ನ್ಯಾಯಾಧೀಶರು ನಿರ್ದೇಶಿಸಬಹುದು.

2. ಈ ಉಪಸೆಕ್ಷನ್ (1)ರ ಅಡಿಯಲ್ಲಿ ನೀಡಿದ ನಿರ್ದೇಶನದಂತೆ ನ್ಯಾಯಾಧೀಶರು ಮುಂದಿನ ಅಹವಾಲು ದಿನಾಂಕವನ್ನು ಮುಂದಿನ ಎರಡು ತಿಂಗಳೊಳಗಾಗಿ ನಿಗದಿಪಡಿಸಬಹುದು.

12. ಕಲ್ಯಾಣ ತಜ್ಞರ ಸಹಾಯ

ಈ ಕಾಯ್ದೆಯ ಯಾವುದೇ ಪ್ರಕ್ರಿಯೆಯ ಸಂದರ್ಭದಲ್ಲಿ ನ್ಯಾಯಾಧೀಶರು ಸಂಬಂಧಿ ಅಥವಾ ಅಲ್ಲದಿರಲಿ ಸಾಮಾಜಿಕ ಕಲ್ಯಾಣದಲ್ಲಿ ನಿರತವಾಗಿರುವ, ಯೋಗ್ಯರೆನಿಸುವವರನ್ನು ನ್ಯಾಯಾಧೀಶರ ಕೆಲಸದ ಉದ್ದೇಶ ಸಾಧನೆಗಾಗಿ ಸಹಾಯವನ್ನು ಪಡೆಯಬಹುದು.

13. ಕಾರ್ಯರೂಪಗಳನ್ನು ಕ್ಯಾಮೆರಾದಲ್ಲಿ ಸೆರೆಹಿಡಿಯುವುದು.

ನ್ಯಾಯಾಧೀಶರಿಗೆ ತೀರಾ ಅವಶ್ಯಕತೆ ಇದೆ ಎಂದೆನಿಸಿದ ನ್ಯಾಯಾಲಯದ ಕಾರ್ಯರೂಪಗಳನ್ನು ಕ್ಯಾಮೆರಾದಲ್ಲಿ ಸೆರೆಹಿಡಿಯಬಹುದು.

14. ರಕ್ಷಣಾ ಆದೇಶವನ್ನು ಹೊರಡಿಸುವುದು

1. ನ್ಯಾಯಾಧೀಶರು ಉಭಯ ಪಕ್ಷಗಳ ವಾದವಿವಾದಗಳನ್ನು ಆಲಿಸಿದ ನಂತರ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ ವ್ಯಕ್ತಿಯು ಮನೆ ಹಿಂಸೆಗೆ ಗುರಿಯಾಗಿದ್ದರೆ ಎಂಬುದಾಗಿ ಮನವರಿಕೆಯಾದಲ್ಲಿ, ನೊಂದ ವ್ಯಕ್ತಿಯ ಪರವಾಗಿ ರಕ್ಷಣಾ ಆದೇಶವನ್ನು ಆರೋಪಿಗೆ ನಿರ್ದೇಶನ ಹೊರಡಿಸಬಹುದು.

ಎ. ಮನೆ ಹಿಂಸೆಯನ್ನು ತಕ್ಷಣ ನಿಲ್ಲಿಸುವಂತೆ ಅಥವಾ

ಬಿ. ನ್ಯಾಯಾಧೀಶರು ತೀರ್ಮಾನಿಸಿದಷ್ಟು ಹಣಕಾಸಿನ ಪರಿಹಾರವನ್ನು ನಿಗದಿಪಡಿಸಿದ ರಕ್ಷಣಾ ಆದೇಶದ ಅವಧಿಯೊಳಗೆ ನೊಂದ ವ್ಯಕ್ತಿಗೆ ಸಂದಾಯಮಾಡಬೇಕು. ಅಥವಾ

ಸಿ. ಅವಶ್ಯಕವೆನಿಸಿದ ಇತರ ಯಾವುದೇ ನಿರ್ದೇಶನಗಳನ್ನು ಹೊರಡಿಸಬಹುದು.

2. ಸೆಕ್ಷನ್ 11ಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ನ್ಯಾಯಾಧೀಶರು ಅರ್ಜಿದರರ ಅಹವಾಲನ್ನು ಆಲಿಸಿ ಅರ್ಜಿ ಸ್ವೀಕರಿಸಿದ 3 ತಿಂಗಳೊಳಗೆ ಪ್ರತಿಯೊಂದು ನಿರ್ದೇಶನವನ್ನು ನೀಡಬೇಕು.

3. ಕಾರ್ಯಕಲಾಪಗಳ ಸಂದರ್ಭದಲ್ಲಿ ಹಾಜರಿಪಡಿಸಲಾಗುವ ಸಾಕ್ಷಿಗಳನ್ನು ಆರೋಪಿಯ ಎದುರಿನಲ್ಲಿಯೇ ವಿಚಾರಿಸಬೇಕು. ಅಥವಾ ಆರೋಪಿಯ ಪರ ಇರುವ ಯಾವ ವ್ಯಕ್ತಿಯ ಎದುರಿನಲ್ಲಿ ವಿಚಾರಿಸಬೇಕು ಮತ್ತು ಅಪರಾಧಿ ದಂಡ ಸಂಹಿತೆ 1973ರಲ್ಲಿ ಇರುವಂತೆ ಸಮನ್ಸ್‌ನ್ನು ಹೊರಡಿಸಬಹುದು.

ಆರೋಪಿಯು ಉದ್ದೇಶ್ಯಪೂರ್ವಕವಾಗಿ ಕೋರ್ಟಿನ ಆದೇಶವನ್ನು ತಿರಸ್ಕರಿಸುತ್ತಿದ್ದಾಗ

ಉದ್ದೇಶ್ಯಪೂರ್ವಕವಾಗಿ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಹಾಜರಾಗದೇ ಇದ್ದಾಗ, ನ್ಯಾಯಾಧೀಶರು ಆರೋಪಿಯ ಅನುಪಸ್ಥಿತಿಯಲ್ಲಿ ವಿಚಾರಣೆ ಮುಂದುವರಿಸಬಹುದು.

4. ರಕ್ಷಣಾ ಆದೇಶದ ಪ್ರತಿಗಳನ್ನು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳು ಮತ್ತು ಅರ್ಜಿಯಲ್ಲಿ ಸೂಚಿಸಿದ ಪಾರ್ಟಿಗಳಿಗೆ ನೀಡಬೇಕು.

5. ನ್ಯಾಯಾಧೀಶರಿಗೆ ಸೆಕ್ಷನ್ 9ರ ಅಡಿಯಲ್ಲಿ ಸಲ್ಲಿಸಲಾದ ಅರ್ಜಿಯನ್ನು ಅವರು ಪರಿಶೀಲಿಸಿದ ನಂತರ ತುರ್ತು

ಮಧ್ಯಪ್ರವೇಶದ ಪರಿಸ್ಥಿತಿ ಇದೆಯೆಂಬುದು ಮನವರಿಕೆಯಾದಲ್ಲಿ ಮತ್ತೆ ಮನೆ ಹಿಂಸೆಯಾಗುವುದನ್ನು ತಡೆಗಟ್ಟಲು ಮಧ್ಯಂತರ ರಕ್ಷಣಾ ಆದೇಶವನ್ನು ಹೊರಡಿಸಿ ಆರೋಪಿಯು ಮುಂದೆ ಯಾವುದೇ ಮನೆ ಹಿಂಸೆಯನ್ನು ಮಾಡದಂತೆ ಆದೇಶ ಹೊರಡಿಸಬಹುದು ಮತ್ತು ನ್ಯಾಯಾಧೀಶರು ಆರೋಪಿಗೆ ಇದರ ಬಗ್ಗೆ ಖಾತರಿಯನ್ನು ನೀಡುವಂತೆ ಆದೇಶ ನೀಡಬಹುದು (ಸೂರಿಟಿ ಬಾಂಡ್)

15. ರಕ್ಷಣಾ ಆದೇಶದ ಕಾಲಾವಧಿ ಮತ್ತು ತಿದ್ದುಪಡಿಗಳು

1. ಸೆಕ್ಷನ್ 14ರ ಅಡಿಯಲ್ಲಿ ಹೊರಡಿಸಿದ ರಕ್ಷಣಾ ಆದೇಶದ ಅವಧಿಯನ್ನು ನ್ಯಾಯಾಧೀಶರು ನಿರ್ಧರಿಸಬಹುದು ಆದರೆ ಅದು ಎರಡು ವರ್ಷಕ್ಕೆ ಮಿಕ್ಕಿರಬಾರದು.
2. ರಕ್ಷಣಾ ಆದೇಶವನ್ನು ಅರ್ಜಿದಾರರಾದ ನೊಂದವರು ಅಥವಾ ಆರೋಪಿಗಳು ಸಲ್ಲಿಸಿದ ಮನವಿಯನ್ನು ಆಲಿಸಿ, ಪರಿಸ್ಥಿತಿಯು ಬದಲಾಯಿಸಿ ಎಂಬುದಾಗಿ ನ್ಯಾಯಾಧೀಶರಿಗೆ ಮನವರಿಕೆಯಾದಾಗ ಅವರು ಬರವಣಿಗೆಯ ರೂಪದಲ್ಲಿರುವಂತಹ ಆದೇಶವನ್ನು ತಿದ್ದಬಹುದು, ನವೀಕರಿಸಬಹುದು, ಬದಲಾವಣೆ ಮಾಡಬಹುದು ಅಥವಾ ಪುನಹ ದೃಢೀಕರಿಸಬಹುದು.

ಭಾಗ 5

ಇತರೇ

16. ಅಫೀಲು (ಮನವಿ)

ಯಾವುದೇ ಪ್ರಕರಣವಿದ್ದರೂ ನ್ಯಾಯಾಧೀಶರ ಆದೇಶ ಹೊರಬಿದ್ದ 30 ದಿನಗಳ ಅವಧಿಯಲ್ಲಿ ಅರ್ಜಿದಾರರಾದ ನೊಂದ ವ್ಯಕ್ತಿ ಅಥವಾ ಆರೋಪಿಯು ಆದೇಶದ ವಿರುದ್ಧ ಮನವಿ ಸಲ್ಲಿಸಬಹುದು.

17. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಸಾರ್ವಜನಿಕ ಸೇವಕನಾಗಿರಬೇಕು. ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುವ ಯಾವುದೇ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಭಾರತೀಯ ದಂಡ ಸಂಹಿತೆಯಡಿಯಲ್ಲಿನ ಸೆಕ್ಷನ್ 21ರ ಪ್ರಕಾರ ಜನಸೇವಕನೆಂದು ಪರಿಗಣಿಸಲ್ಪಡುತ್ತಾನೆ.

18. ಆರೋಪಿಯು ರಕ್ಷಣಾ ಆದೇಶವನ್ನು ತಿರಸ್ಕರಿಸುವುದಾಗಲಿ ಅಥವಾ ಆರೋಪಿಯು ರಕ್ಷಣಾ ಆದೇಶವನ್ನು ಉಲ್ಲಂಘಿಸುವುದಾಗಲಿ ಅಥವಾ ಪಾಲಿಸದೇ ಇರುವುದಾಗಲಿ ಮಾಡಿದಲ್ಲಿ ಅದು ಅಪರಾಧವಾಗುತ್ತದೆ ಮತ್ತು ಅದಕ್ಕಾಗಿ ಒಂದು ವರ್ಷದವರೆಗೆ ಕಾರಾಗೃಹ ವಾಸ ಅಥವಾ ರೂ. 20,000 ದವರೆಗೆ ದಂಡ ಅಥವಾ ಎರಡನ್ನೂ ವಿಧಿಸಬಹುದು.

19. ಕರ್ತವ್ಯ ನಿರ್ಲಕ್ಷಿಸುವ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗೆ ಶಿಕ್ಷೆ  
ಯಾವುದೇ ನಿರ್ದಿಷ್ಟ ಕಾರಣವಿಲ್ಲದೆ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ತನ್ನ ಕರ್ತವ್ಯವನ್ನು ನಿರ್ವಹಿಸುವಲ್ಲಿ ವಿಫಲನಾದಲ್ಲಿ ಅಥವಾ ನಿರಾಕರಿಸಿದಲ್ಲಿ ಆತನಿಗೆ ಒಂದು ವರ್ಷದ ಕಾರಾಗೃಹ ಶಿಕ್ಷೆ ಅಥವಾ ರೂ. 20,000 ದಂಡ ಅಥವಾ ಎರಡನ್ನೂ ವಿಧಿಸಬಹುದು.

20. ಅಧಿಕಾರಯುತ ಅಧಿಕಾರಿ ಅಥವಾ ರಾಜ್ಯ ಸರ್ಕಾರದ ಅನುಮತಿ ಇಲ್ಲದೆ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ವಿರುದ್ಧ ಯಾವುದೇ ಕಾನೂನಿನ ವಿಧಿಗಳನ್ನು ಕೈಗೊಳ್ಳುವಂತಿಲ್ಲ ಯಾವುದೇ ದೂರನ್ನು ರಾಜ್ಯ ಸರ್ಕಾರದ ಪೂರ್ವಾನುಮತಿಯಿಂದ ಮಾತ್ರ ಸಲ್ಲಿಸಬೇಕು.

21. ಒಳ್ಳೆಯ ಉದ್ದೇಶ್ಯದಿಂದ ಮಾಡಿದ ಕಾರ್ಯದ ರಕ್ಷಣೆ

ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಕಾನೂನಿನ ಕಾರ್ಯಾಚರಣೆಯ ಸಂದರ್ಭದಲ್ಲಿ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಒಳ್ಳೆಯ ಉದ್ದೇಶ್ಯದಿಂದ ಕಾಯ್ದೆಯ ಸರಿಯಾದ ಜಾರಿಯ ಉದ್ದೇಶ್ಯದಿಂದ ಮಾಡಿದ ಕೃತ್ಯದ ವಿರುದ್ಧ ದೂರುಗಳು ಬಂದಲ್ಲಿ ಅದನ್ನು ಪರಿಗಣಿಸಬಾರದು.

## 22. ನಿಯಮಗಳನ್ನು ಮಾಡುವ ಅಧಿಕಾರ

1. ಈ ಕಾಯ್ದೆಯ ಚಟುವಟಿಕೆಗಳನ್ನು ನೋಡಿಕೊಳ್ಳಲು ಕೇಂದ್ರ ಸರ್ಕಾರವು ಅಧಿಕೃತ ಗೆಜೆಟ್ಟಿನ ಮುಖಾಂತರ ಪ್ರಕಟಣೆ ಹೊರಡಿಸಿ ನಿಯಮಗಳನ್ನು ಮಾಡಬಹುದು.

2. ನಿಖರವಾಗಿ ಈ ರೀತಿಯ ನಿಯಮಗಳು ಈ ಕೆಳಗಿನ ವಿಷಯಗಳಿಗೆ ಅನ್ವಯಿಸಬಹುದು.

ಎ. ಅರ್ಜಿ ಸಲ್ಲಿಸುವ ನಮೂನೆಯ ವಿಧಾನ

ಬಿ. ರಕ್ಷಣಾ ಅಧಿಕಾರಿ, ಅದೀನ ಸಿಬ್ಬಂದಿ ಮತ್ತು ಅವರ ಕೆಲಸ ಕಾರ್ಯಗಳ ಮತ್ತು ಅವರ ನೇಮಕಾತಿಯ ಅರ್ಹತೆಗಳಿಗೆ, ಷರತ್ತುಗಳಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ

ಸಿ. ಈ ಕಾಯ್ದೆಗೆ ಸಂಬಂಧಪಟ್ಟ ಇತರೆ ಯಾವುದೇ ವಿಷಯಗಳು.

3. ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಮಾಡಿದ ಯಾವುದೇ ನಿಯಮಗಳನ್ನು ಆದಷ್ಟು ಬೇಗ ಸಂಸತ್ತಿನ ಮುಂದೆ ತರಬೇಕು ಮತ್ತು ಕಲಾಪ ನಡೆದ 30 ದಿನಗಳೊಳಗೆ ಒಂದು ಅಥವಾ ಎರಡು ಯಶಸ್ವೀ ಸದನದಲ್ಲಿ ಚರ್ಚೆಗೆ ತರಬೇಕು. ನಿಯಮಗಳನ್ನು ಎರಡೂ ಸದನಗಳು ಅಂಗೀಕರಿಸಬೇಕು ಅಥವಾ ತಿರಸ್ಕರಿಸಬೇಕು. ಸಂಸತ್ತಿನ ಒಪ್ಪಿಗೆ ಸಿಕ್ಕ ನಂತರವೇ ಇದು ಪರಿಣಾಮಕಾರಿಯಾಗಿರುತ್ತದೆ. ಹಾಗಾಗದೆ ಯಾವುದೇ ಬದಲಾವಣೆಯು ಸ್ಥಿರವಾಗುವುದಿಲ್ಲ.

## ತಕರಾರು ಮತ್ತು ಕಾರಣಗಳ ವಿವರ

1. ಮನೆಹಿಂಸೆಯು ನಿಸ್ಸಂಶಯವಾಗಿ ಮಾನವ ಹಕ್ಕುಗಳ ವಿಷಯವಾಗಿದೆ ಮತ್ತು ಇದು ಬೆಳವಣಿಗೆಗೆ ಮಾರಕವಾಗಿದೆ. 1994ರ ವಿಯೆನ್ನಾ ಒಪ್ಪಂದ ಮತ್ತು ಬೀಜಿಂಗ್ ನಿರೂಪಣೆಯ ಕಾಯ್ದೆ (1995) ಗಳೆರಡೂ ಇದನ್ನು ದೃಢಪಡಿಸಿದೆ. ವಿಶ್ವಸಂಸ್ಥೆಯ ಸಿಇಡಿಎಡಬ್ಲ್ಯೂ (ಮಹಿಳೆಯರ ವಿರುದ್ಧದ ತಾರತಮ್ಯದ ನಿವಾಹಣೆಗಾಗಿ ಇರುವ ಎಲ್ಲ ವೇದಿಕೆಗಳ ಸಮ್ಮೇಳನ) ಮತ್ತದರ ಸಾಮಾನ್ಯ ಶಿಫಾರಸ್ಸು ಸಂಖ್ಯೆ ಎಕ್ಸ್11(1989) ಯಲ್ಲಿ ಮಹಿಳೆಯರ ವಿರುದ್ಧದ ಹಿಂಸೆಯಿಂದ ಆಕೆಯನ್ನು ರಕ್ಷಿಸಬೇಕಾದುದು ರಾಜ್ಯದ ಕರ್ತವ್ಯವಾಗಿದೆ.

2. ಮನೆ ಹಿಂಸೆಯು ವ್ಯಾಪಕವಾಗಿ ಬಳಕೆಯಲ್ಲಿರುವುದನ್ನು ಕಾಣುತ್ತಿದ್ದೇವೆ. ಆದರೆ ಸಮಾಜದಲ್ಲಿ ಮೇಲ್ಮೂಲಕ್ಕೆ ಅಷ್ಟಾಗಿ ಕಂಡುಬರುತ್ತಿಲ್ಲ. ಪ್ರಸ್ತುತ 1860ರ ಭಾರತದ ದಂಡ ಸಂಹಿತೆಯ ಸೆಕ್ಷನ್ 498ಎಯ ಅಡಿಯಲ್ಲಿ ಮಹಿಳೆಯನ್ನು ಗಂಡ ಅಥವಾ ಆತನ ಸಂಬಂಧಿಕರು ಕ್ರೂರವಾಗಿ ನಡೆಸಿಕೊಂಡಲ್ಲಿ ಅದು ಅಪರಾಧವಾಗಿದೆ. ಸಿವಿಲ್ ಕಾನೂನು ಇದನ್ನು ಪರಿಗಣಿಸುತ್ತಿಲ್ಲ.

3. ಸಿವಿಲ್ ಕಾನೂನು ಕುಟುಂಬವನ್ನು ಸುರಕ್ಷಿತವಾಗಿರುವ ಸಂಕಲ್ಪವನ್ನು ಹೊಂದಿದೆ ಎಂಬ ದೃಷ್ಟಿಕೋನದಿಂದ, ಇದರೊಂದಿಗೆ ಮನೆ ಹಿಂಸೆಯಿಂದ ನೊಂದ ಮಹಿಳೆಗೆ ರಕ್ಷಣೆ ನೀಡುವ ಕೆಲಸವನ್ನು ನಿರ್ವಹಿಸಬಹುದೆಂಬ ಪ್ರಸ್ತಾವನೆ ಮಂಡಿಸಲಾಗಿದೆ. ವಿದೇಯಕವು ಒಳಗೊಂಡಿರುವಂತಹ ಪ್ರಮುಖ ಲಕ್ಷಣಗಳು ಹೀಗಿವೆ.

1. ನೊಂದ ಮಹಿಳೆಯ ಯಾವುದೇ ಸಂಬಂಧಿಯ ನಡತೆಯು ಆಕೆಯ ಮೇಲೆ ಹಲ್ಲೆಗೆ, ಜೀವನ ದುಸ್ತರವಾಗುವುದಕ್ಕೆ, ಗಾಯವಾದರೆ ಅಥವಾ ಅಪಾಯವಾದರೆ ಅಥವಾ ಆಕೆಯನ್ನು ಅನೈತಿಕ ಜೀವನ ನಡೆಸುವಂತೆ ಒತ್ತಾಯಿಸಿದರೆ ಅದನ್ನು ಮನೆ ಹಿಂಸೆ ಎಂದು ಪರಿಗಣಿಸಲಾಗುತ್ತದೆ.

2. ಮೊದಲ ದರ್ಜೆಯ ನ್ಯಾಯಕ ದಂಡಾಧಿಕಾರಿಗಳು ಅಥವಾ ಮಟ್ರೋಪಾಲಿಟನ್ ನ್ಯಾಯಾಧೀಶರು ಮನೆ ಹಿಂಸೆಯ ನಿವಾರಣೆಯನ್ನು ಕೈಗೆತ್ತಿಕೊಳ್ಳಬಹುದು ಮತ್ತು ಮಹಿಳೆಯ ಸಂಬಂಧಿಯಿಂದ ಹಿಂಸೆಯಿಂದ ರಕ್ಷಣೆಗೆ ಆದೇಶ ಹೊರಡಿಸಬಹುದು ಅಥವಾ ಹಣದ ಪರಿಹಾರ ಒದಗಿಸುವಂತೆ ಸಂದರ್ಭವನ್ನು ಪರಿಶೀಲಿಸಿ ಅಥವಾ ನ್ಯಾಯವೆಂದು ತೋರುವ ಯಾವುದೇ ನಿರ್ದೇಶನವನ್ನು ನೀಡಬಹುದು.
3. ಮನೆಯಲ್ಲಿ ಶಾಂತಿಯನ್ನು ಕಾಪಾಡುವುದಕ್ಕಾಗಿ ನ್ಯಾಯಾಧೀಶರು ಅವಶ್ಯವಿದ್ದಾಗ, ಖಾತರಿಗಾಗಿ ಸೆಕ್ಯೂರಿಟಿ ಖಂಡಗಳನ್ನು ತುರ್ತಾಗಿ ಅಪರಾಧಿಯಿಂದ ಪಡೆಯಬಹುದು.
4. ನ್ಯಾಯಾಧೀಶರು ಹೊರಡಿಸಿದ ಆದೇಶವನ್ನು ಉಲ್ಲಂಘಿಸುವಲ್ಲಿ ನ್ಯಾಯಾಧೀಶರು ಆರೋಪಿಗೆ ಒಂದು ವರ್ಷದವರೆಗೆ ಸೆರೆಮನೆವಾಸ ಅಥವಾ ದಂಡ ಅಥವಾ ಎರಡನ್ನೂ ವಿಧಿಸಬಹುದು.
5. ಮಹಿಳೆಗೆ ಸಹಾಯ ಮಾಡಲು ಮತ್ತು ಆಕೆಗೆ ಇತರ ಕಾನೂನಿನ ಹಕ್ಕುಗಳನ್ನು ಖಾತರಿಪಡಿಸಲು ನ್ಯಾಯಾಧೀಶರಿಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯನ್ನು ನೇಮಿಸಬಹುದು.
6. ರಾಜ್ಯ ಸರ್ಕಾರವು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯನ್ನು ನೇಮಕ ಮಾಡುವ ಅವಕಾಶವನ್ನು ಕಲ್ಪಿಸಲಾಗಿದೆ ಮತ್ತು ಕೇಂದ್ರ ಸರ್ಕಾರವು ನಿಗದಿಪಡಿಸಿದ ಅರ್ಹತೆಗಳನ್ನು ಪರಿಗಣಿಸಲು ರಾಜ್ಯ ಸರ್ಕಾರವು ಬದ್ಧವಾಗಿರಬೇಕಾಗುತ್ತದೆ.
7. 1860 ಭಾರತದ ದಂಡ ಸಂಹಿತೆ (ಐಪಿಸಿ) ಯ ವಿಭಾಗ 21ರ ಅರ್ಥದಲ್ಲಿ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಸಾರ್ವಜನಿಕ ಸೇವಕವಾಗಿರುತ್ತಾಳೆ/ನೆ. ಮತ್ತು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ನ್ಯಾಯಾಧೀಶರು ನಿರ್ದೇಶಿಸಿದ ಕರ್ತವ್ಯಗಳನ್ನು ನಿರ್ವಹಿಸಲು ವಿಫಲವಾದರೆ ಅಥವಾ ನಿರಾಕರಿಸಿದರೆ ಆತನ/ಳ ಕೃತ್ಯವು ಅಪರಾಧವಾಗುತ್ತದೆ ಮತ್ತು ಒಂದು ವರ್ಷದವರೆಗೆ ಜೈಲುವಾಸ ಅಥವಾ ದಂಡ ಅಥವಾ ಎರಡನ್ನೂ ಶಿಕ್ಷೆಯಾಗಿ ಅನುಭವಿಸಬೇಕಾಗುತ್ತದೆ.

4. ವಿದೇಯಕವು ಮೇಲಿನ ಉದ್ದೇಶಗಳನ್ನೂ ಸಾಧಿಸಲು ಬಯಸುತ್ತದೆ.

ಹೊಸ ದೆಹಲಿ

ಮರಳೇ ಮನೋಹರ ಜೋಷಿ

11 ಡಿಸೆಂಬರ್ 2001

ಕಾನೂನಿನ ಪ್ರಾತಿನಿಧಿತ್ವದ ಜ್ಞಾಪಕ ಪತ್ರ

1. ವಿಭಾಗ 5ರ ಉಪವಿಭಾಗ (2) ಮತ್ತು (3) ರಲ್ಲಿ ಕೇಂದ್ರ ಸರ್ಕಾರಕ್ಕೆ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯನ್ನು ಮತ್ತು ಅಧೀನ ಅಧಿಕಾರಿಯನ್ನು ನೇಮಿಸುವಾಗ ಅರ್ಹತೆ ಷರತ್ತು ಮತ್ತು ಕರಾರು ವಿಧಿಸುವ ಅಧಿಕಾರ ನೀಡಲಾಗಿದೆ. ವಿಭಾಗ (6)ದ ಉಪವಿಭಾಗ(1)ರಲ್ಲಿ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಕೇಂದ್ರ ಸರ್ಕಾರವು ವಿಧಿಸಿದ ಕರ್ತವ್ಯಗಳನ್ನು, ಅವರ ಅಧಿಕಾರಗಳನ್ನು ನೀಡಿದೆ. ವಿಭಾಗ 9ರ ಉಪವಿಭಾಗ(2)ರಲ್ಲಿ ನೊಂದ ವ್ಯಕ್ತಿಯು ನ್ಯಾಯಾಧೀಶರಿಗೆ ನೀಡಬೇಕಾದ ಅರ್ಜಿ ನಮೂನೆಯನ್ನು ಮಾಡುವ ಅಧಿಕಾರವನ್ನು ಕೇಂದ್ರ ಸರ್ಕಾರಕ್ಕೆ ನೀಡಲಾಗಿದೆ. ವಿಭಾಗ 10ರ ಉಪವಿಭಾಗಗಳಾದ (1) ಮತ್ತು (2)ರಲ್ಲಿ ಅಪರಾಧಿಯ ಮೇಲೆ ನೋಟೀಸ್ ಜಾರಿ ಮಾಡುವ ನಿಯಮ ರೂಪಿಸುವ ಅಧಿಕಾರವನ್ನು ಕೇಂದ್ರ ಸರ್ಕಾರಕ್ಕೆ ನೀಡಲಾಗಿದೆ. ವಿಭಾಗ 22 ಇತರ ವಿಷಯಗಳ ಜೊತೆಗೆ ಕೇಂದ್ರ ಸರ್ಕಾರಕ್ಕೆ ವಿದೇಯಕವನ್ನು ಮುನ್ನಡೆಸುವ ಉದ್ದೇಶಕ್ಕೆ ಬೇಕಾದ ನಿಯಮ ರೂಪಿಸುವ ಮತ್ತು ವಿದೇಯಕಕ್ಕೆ ಸಂಬಂಧಿಸಿರುವಂತಹ ಬೇರಾವುದೇ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಅಧಿಕಾರ ನೀಡಲಾಗಿದೆ.



2. ರಚಿಸುವ ಯಾವುದೇ ನಿಯಮಗಳು ಕಾರ್ಯಚಟುವಟಿಕೆಯ ಬಗ್ಗೆ ಸಾಮಾನ್ಯವಾಗಿ ಮತ್ತು ವಿವರವಾಗಿ ಸಂಬಂಧಪಟ್ಟಿರಬೇಕು. ಕಾನೂನಿನ ಪ್ರಾತಿನಿಧಿಕ ಅಧಿಕಾರವು ಲಕ್ಷಣದಲ್ಲಿ ಸಾಮಾನ್ಯವಾದುದಾಗಿದೆ.

ಮಹಿಳೆಯ ವಿರುದ್ಧ ಮನೆ ಹಿಂಸೆಯನ್ನು (ತಡೆಗಟ್ಟುವ) ವಿದೇಯಕ 2001

ಲಾಯರ್ಸ್ ಕಲೆಕ್ಟಿವ್, ಮಹಿಳಾ ಹಕ್ಕುಗಳ ಆಂದೋಲನದ ಪ್ರಸ್ತಾವನೆ

ಮಹಿಳೆಯ ಮೇಲಿನ ಮನೆ ಹಿಂಸೆ (ತಡೆಗಟ್ಟುವ) ಕಾಯ್ದೆ 2001

ಮನೆ ಹಿಂಸೆಯು ಹೆಚ್ಚುತ್ತಿರುವ ಪ್ರಕರಣಗಳನ್ನು ಗುರ್ತಿಸಲು ಮತ್ತು ಮನೆ ಹಿಂಸೆಯಿಂದ ನೊಂದ ಮಹಿಳೆಯ ಪರವಾಗಿ ರಕ್ಷಣಾ ಆದೇಶ ನೀಡುವುದಕ್ಕೆ ನ್ಯಾಯಾಧೀಶರಿಗೆ ಇನ್ನಷ್ಟು ಶಕ್ತಿ ನೀಡುವುದಕ್ಕಾಗಿ ಈ ಕಾಯ್ದೆ.

ಪೀಠಿಕೆ

ಭಾರತ ಗಣರಾಜ್ಯವು ಅನೇಕ ಅಂತರಾಷ್ಟ್ರೀಯ ಸಂಘಟನೆಗಳಾದ ಮಹಿಳೆಯರ ವಿರುದ್ಧದ ಭೇದಭಾವದ ವಿಮೋಚನೆಯ ಸಮ್ಮೇಳನಗಳಲ್ಲಿ ಭಾಗೀದಾರನಾಗಿರುವುದರಿಂದ ಮತ್ತು

ವಿಶ್ವಸಂಸ್ಥೆಯು 1993ರಲ್ಲಿ ಮಹಿಳೆಯರ ವಿರುದ್ಧ ಎಲ್ಲಾ ರೀತಿಯ ಹಿಂಸೆಯನ್ನು ತೊಡೆದುಹಾಕಬೇಕೆಂದು ಘೋಷಿಸಿರುವುದರಿಂದ ಮತ್ತು ಸಂವಿಧಾನದ ಅನುಚ್ಛೇದ ನಂ. 14ರ ಪ್ರಕಾರ ಭಾರತವು ಮಹಿಳೆಯರಿಗೆ ಕಾನೂನಿನ ಮುಂದೆ ಸಮಾನ ರಕ್ಷಣೆ ಮತ್ತು ಹಕ್ಕನ್ನು ನೀಡಿರುವುದರಿಂದ ಮತ್ತು ಅನುಚ್ಛೇದ 21ರಲ್ಲಿ ಮಹಿಳೆಯರಿಗೆ ಜೀವಿಸುವ ಹಕ್ಕು ಮತ್ತು ವೈಯಕ್ತಿಕ ಸ್ವಾತಂತ್ರ್ಯ ನೀಡಿರುವುದರಿಂದ ಮತ್ತು

ಮನೆ ಹಿಂಸೆಯು ಅನೇಕ ವಿಧದ ಪೀಡನೆಯಾಗಿ ಬೆಳೆಯುತ್ತಿರುವುದರಿಂದ ಮತ್ತು ಅದು ಅಪಾಯಕಾರಿ ರೀತಿಯಲ್ಲಿ ಹೆಚ್ಚುತ್ತಿರುವುದರಿಂದ ಅದು ಮಹಿಳೆಯರ ಮೂಲಭೂತ ಹಕ್ಕಿನ ಮೇಲೆ ತೀವ್ರ ಪರಿಣಾಮ ಬೀರುತ್ತಿರುವುದರಿಂದ ಮತ್ತು ಭಾರತದ ಸಂವಿಧಾನದ ಅನುಚ್ಛೇದ 15(3)ರಲ್ಲಿ ಮಹಿಳೆ ಮತ್ತು ಮಕ್ಕಳ ರಕ್ಷಣೆಗಾಗಿ ವಿಶೇಷ ಅವಕಾಶಗಳನ್ನು ಕಲ್ಪಿಸುವುದಕ್ಕೆ ಅನುಮತಿ ಇರುವುದರಿಂದ ಮಹಿಳೆಯರ ಹಕ್ಕುಗಳನ್ನು ರಕ್ಷಿಸಲು, ಮನೆ ಹಿಂಸೆಯಿಂದ ರಕ್ಷಣೆ ಒದಗಿಸಲು ಮತ್ತು ಮನೆಯಲ್ಲಿ ಸಮಾನ ಆಸ್ತಿಯ ಹಕ್ಕು ಇರಬೇಕಾಗಿರುವುದರಿಂದ ಮತ್ತು ಇದೆಲ್ಲವನ್ನು ಸರಿದೂಗಿಸಲು ಸಮಗ್ರ ಪರಿಣಾಮಕಾರಿಯಾದ ಪ್ರತಿಸ್ಪಂದನದ ಅವಶ್ಯಕತೆ ಇದೆ.

ಅಷ್ಟಾಗಿ ಸಂಪತ್ತು ಭಾರತ ಗಣರಾಜ್ಯವಾದ ನೇ ವರ್ಷದಲ್ಲಿ ಇದನ್ನು ಶಾಸನವನ್ನಾಗಿ ಮಾಡಿದೆ.

ಭಾಗ 1

ಪೀಠಿಕೆ

1. ಸಂಕ್ಷಿಪ್ತ ಹೆಸರು ಮತ್ತು ವಿಸ್ತರಣೆ

ಎ. ಈ ಕಾಯ್ದೆಯನ್ನು ಮಹಿಳೆಯರ ವಿರುದ್ಧದ ಮನೆಯ ಹಿಂಸೆಯನ್ನು ತಡೆಗಟ್ಟುವ ಕಾಯ್ದೆ 2001 ಎಂದು ಕರೆಯಲಾಗುವುದು.

ಬಿ. ಜಮ್ಮು ಮತ್ತು ಕಾಶ್ಮೀರವನ್ನುಳಿದು ಇಡೀ ಭಾರತದ ರಾಜ್ಯಕ್ಷೇತ್ರಕ್ಕೆ ಇದನ್ನು ವಿಸ್ತರಿಸಬಹುದು.

ವ್ಯಾಖ್ಯೆ

ಈ ಕಾಯ್ದೆ ಅನ್ವಯ

- ಎ. ಗೌರವಯುತವಾದ ಸೇವೆ ಒದಗಿಸುವವರೆಂದರೆ ಸರ್ಕಾರಿ, ಸರ್ಕಾರೇತರ, ಸ್ವಯಂ ಸೇವಾ ಮತ್ತು ಕಲ್ಯಾಣ ಸಂಸ್ಥೆಗಳು ಅಥವಾ ಮಹಿಳೆಯರ ಕಲ್ಯಾಣಕ್ಕಾಗಿ ಶ್ರಮಿಸುತ್ತಿರುವ ಸಮಾಜ ನೋಂದಣಿ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ನೋಂದಣಿ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ನೋಂದಣಿಯಾದ ಸಂಸ್ಥೆಗಳು ಸಲ್ಲಿಸುತ್ತಿರುವ ಸೇವೆಗಳಾದ ವೈದ್ಯಕೀಯ, ವಸತಿಯ, ಕಾನೂನಿನ ಮತ್ತು ಹಣಕಾಸಿನ ಅಥವಾ ಇತರೇ ಸಹಾಯಗಳನ್ನು ಮನೆ ಹಿಂಸೆಯಲ್ಲಿ ನೋಂದವರಿಗೆ ಸಲ್ಲಿಸುತ್ತಿದ್ದು, ಸರ್ಕಾರದಲ್ಲಿ ಈ ಕಾಯ್ದೆಯ ನಿಯಮಗಳಂತೆ ನೋಂದಣಿ ಮಾಡಿಸಿಕೊಂಡ ಸಂಸ್ಥೆಗಳು.
- ಬಿ. ನ್ಯಾಯಾಲಯವೆಂದರೆ 1984ರ ಕೌಟುಂಬಿಕ ನ್ಯಾಯಾಲಯಗಳ ಕಾಯ್ದೆ 1984ರ ಅವಕಾಶಗಳಡಿಯಲ್ಲಿ ಅಸ್ತಿತ್ವಕ್ಕೆ ಬಂದಂತಹ ನ್ಯಾಯಾಲಯಗಳು ಅಥವಾ ಎಲ್ಲಿ ಅಂತಹ ನ್ಯಾಯಾಲಯಗಳು ಅಸ್ತಿತ್ವದಲ್ಲಿಲ್ಲವೋ ಅಲ್ಲಿ ಕಾರ್ಯಕ್ಷೇತ್ರದಲ್ಲಿರುವ ಪ್ರಮುಖ ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯ ಅಥವಾ ಯಾವುದೇ ನ್ಯಾಯಾಲಯ ಅಥವಾ ಲೋಕ ಅದಾಲತ್ ಅಥವಾ ಯಾವುದೇ ಅಧಾರಟಿಯನ್ನು ರಾಜ್ಯ ಸರ್ಕಾರವು ಅಧಿಕೃತ ಗೆಜೆಟ್ಟಿನಲ್ಲಿ ಈ ಪ್ರಕರಣದ ವಿಚಾರಣೆಗಿಂದು ಘೋಷಿಸಿದ್ದರೆ ಅಥವಾ ಯಾವುದೇ ನಿಧಿಷ್ಟ ವಿಷಯಗಳಿಗಾಗಿ ಇರುವ ಯಾವುದೇ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಈ ಕಾಯ್ದೆಯ ವಿಭಾಗ 8ರಲ್ಲಿ ಸೂಚಿಸಿರುವಂತೆ ಮೊಕದ್ದಮೆ ವಿಚಾರಣೆಗೆ ಸಲ್ಲಿಸಿದ್ದರೆ.
- ಸಿ. ಮಗು ಎಂದರೆ ಯಾವುದೇ ದತ್ತುಪಡೆದ, ಮಲ ಅಥವಾ ಸಾಕುಮಗು ಅಥವಾ ಇನ್ಯಾವುದೇ ಅಪ್ರಾಪ್ತ ಅಂದರೆ 18 ವರ್ಷಕ್ಕೆ ಒಳಗೆ ಸಂಸಾರದ ಸಂಬಂಧದಲ್ಲಿ ಅಥವಾ ಹಂಚಿಕೊಂಡ ಮನೆಯಲ್ಲಿರುವ ವ್ಯಕ್ತಿ.
- ಡಿ. ಸಾಂಸಾರಿಕ ಸಂಬಂಧವೆಂದರೆ ಜೀವನದ ಯಾವುದೇ ಕಾಲಘಟ್ಟದಲ್ಲಿ ಒಟ್ಟಿಗೆ ಜೀವಿಸಿದ ಅಥವಾ ಇದ್ದ ಸಂಬಂಧಗಳು, ಹಂಚಿಕೊಂಡ ಮನೆಯಲ್ಲಿ ಈ ಕೆಳಗಿನಂತೆ ಯಾವುದೇ ವಿಧದಲ್ಲಿ ಜೀವಿಸಿದ್ದರೆ,
1. ಅವರು ಪರಸ್ಪರ ಯಾವುದೇ ಕಾನೂನು, ಸಂಪ್ರದಾಯ, ಧಾರ್ಮಿಕ ಅಥವಾ ಇನ್ಯಾವುದೇ ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಕಾನೂನಿನ ಸಮ್ಮತವಾಗುವ ರೀತಿಯಲ್ಲಿ ಮದುವೆಯಾಗಿದ್ದರೆ, ಇಲ್ಲವೆ
  2. ಮದುವೆಯಾಗದೆ ಜೊತೆಯಲ್ಲಿದ್ದರೆ ಅಥವಾ ಇದ್ದಿದ್ದರೆ
  3. ರಕ್ತ ಸಂಬಂಧದಿಂದ ಮದುವೆಯಿಂದ ಅಥವಾ ಮದುವೆಯ ಲಕ್ಷಣವುಳ್ಳ ಸಂಬಂಧದಿಂದ, ದತ್ತುಪಡೆದಿದ್ದರಿಂದ ಅಥವಾ ಕೂಡು ಕುಟುಂಬದ ಸದಸ್ಯರಾಗಿ ಒಟ್ಟಿಗೆ ಜೀವಿಸುತ್ತಿರುವುದರಿಂದಾದ ಸಂಬಂಧ.
- ಇ. ಮನೆಹಿಂಸೆಯೆಂದರೆ ಯಾವುದೇ ಕ್ರಿಯೆಯು ಅಪಾಯವಾಗುವ ಅಥವಾ ಗಾಯವಾಗುವ ಅಥವಾ ಅಪಾಯವಾಗುವ ಸಂಭವವಿರುವ ಅಥವಾ ಆರೋಗ್ಯಕ್ಕೆ ಅಪಾಯವಾಗುವ, ಸುರಕ್ಷತೆ ಅಥವಾ ಒಳ್ಳೆಯತನಕ್ಕೆ ಸಂಬಂಧದಲ್ಲಿರುವ ಮಹಿಳೆ ಅಥವಾ ಮಗುವಿಗೆ ಮೇಲೆ ಲೈಂಗಿಕ ಕಿರುಕುಳ, ದೈಹಿಕ ಕಿರುಕುಳ, ಮಾತಿನ ಕಿರುಕುಳ ಮಾನಸಿಕ ಕಿರುಕುಳ ಮತ್ತು ಆರ್ಥಿಕ ಕಿರುಕುಳಗಳು.

#### ವಿವರಣೆ

1. ದೈಹಿಕ ಕಿರುಕುಳವು ದೇಹಕ್ಕೆ ನೋವಾಗುವ ಅಪಾಯ ಮಾಡುವ ಅಥವಾ ಪ್ರಾಣಕ್ಕೆ ಅಪಾಯವನ್ನುಂಟುಮಾಡುವ, ಅಂಗಾಗಗಳಿಗೆ ನೋವನ್ನುಂಟುಮಾಡುವದಿದ್ದರೆ, ಆರೋಗ್ಯಕ್ಕೆ ಅಪಾಯಕಾರಿಯಾಗಿದ್ದರೆ, ಇದು ವ್ಯಕ್ತಿಯ ಬೆಳವಣಿಗೆಗೆ ತೊಂದರೆ ನೀಡುವಂತಿದ್ದರೆ ಮತ್ತು ಯಾವುದೇ ಹಲ್ಲೆ, ಕಾನೂನು ವಿರೋಧಿಯಾಗಿ ಬೆದರಿಕೆ ಹಾಕುವುದು ಮತ್ತು ಕಾನೂನುಭಾಹಿರವಾಗಿ ಒತ್ತಾಯ ಮಾಡುವ ಲಕ್ಷಣವುಳ್ಳ ಕೃತ್ಯವಾಗಿದೆ.
2. ಲೈಂಗಿಕ ಕಿರುಕುಳವು ಯಾವುದೇ ಲೈಂಗಿಕ ಲಕ್ಷಣವುಳ್ಳದಾಗಿದ್ದು, ಅದು ಕಿರುಕುಳದ್ದೂ, ನಿಂದನೆಯದ್ದೂ, ತೇಜೋವಧೆ ಮಾಡುವುದೂ ಅಥವಾ ಕೀಳರಿಣೆ ಉಂಟುಮಾಡುವಂತಹದ್ದು ಅತವಾ ಆತ್ಮಗೌರವಕ್ಕೆ ಧಕ್ಕೆ

ಮಾಡುವಂತಹ ಇಚ್ಛೆಗೆ ವಿರುದ್ಧವಾದ ಸಂಭೋಗ ಅಥವಾ ಅಗತ್ಯಬಿದ್ದಾಗ ವ್ಯಕ್ತಿಯ ಇಚ್ಛೆಗೆ ವಿರುದ್ಧವಾಗಿ ಗರ್ಭನಿರೋಧಕ ಬಳಸಲು ನಿರಾಕರಿಸುವುದನ್ನು ಒಳಗೊಂಡಿದೆ.

16 ವರ್ಷಕ್ಕಿಂತ ಕಡಿಮೆ ವಯಸ್ಸಿನ ವ್ಯಕ್ತಿಯನ್ನು ಆಕೆಯ ಇಚ್ಛೆ ಇದ್ದರೂ ಇಲ್ಲದಿದ್ದರೂ ಸಂಭೋಗಿಸುವುದು ಲೈಂಗಿಕ ಕಿರುಕುಳವೆಂದು ಪರಿಗಣಿಸಲ್ಪಡುತ್ತದೆ.

3. ಸಂಸಾರದ ಸಂಬಂಧದಲ್ಲಿ ಯಾವುದೇ ಮಗುವಿನ ಮೇಲೆ ಯಾವುದೇ ರೀತಿಯಲ್ಲಿ ಮಗುವಿಗೆ ಲೈಂಗಿಕವಾಗಿ ಕಿರುಕುಳ ಉಂಟಾಗುವಂತೆ, ಅಪಾಯ ಉಂಟಾಗುವಂತೆ ಇದ್ದು ಅದು ಕೌಟುಂಬಿಕ ಸಂಬಂಧವನ್ನು ಹಾಳುಗಡುವಂತೆ ಇದ್ದಲ್ಲಿ ಅದು ಮಗುವಿನ ಮೇಲೆ ಲೈಂಗಿಕ ಕಿರುಕುಳವೆನಿಸಿಕೊಳ್ಳುತ್ತದೆ.

4. ಎ. ಬಾಯಿ ಮಾತಿನ ಮತ್ತು ಮಾನಸಿಕ ಕಿರುಕುಳವು, ನಿಂದನೆ, ಕೀಳರಿಮೆ, ಪರಿಹಾಸ್ಯ ಅಥವಾ ಹೆಸರಿಡಿದು ಕೂಗುವುದು ಅಥವಾ ಮಕ್ಕಳಿಲ್ಲದವಳೆಂದು ಅಥವಾ ಗಂಡ ಮಗುವಿನಲ್ಲದವಳೆಂದು ಜರಿಯುವುದು ಅಥವಾ ಬಿ. ನೊಂದ ವ್ಯಕ್ತಿಯನ್ನು ಮತ್ತೆ ಮತ್ತೆ ದೈಹಿಕವಾಗಿ ತೊಂದರೆಯಾಗುವಂತೆ ನಿಂದಿಸುತ್ತಿರುವುದು.

5. ಆರ್ಥಿಕ ಕಿರುಕುಳವೆಂದರೆ

ಎ. ಕಾನೂನಿನ ಮುಖಾಂತರ, ಸಾಂಪ್ರದಾಯಿಕವಾಗಿ ನ್ಯಾಯಾಲಯದ ಮೂಲಕ, ಅಥವಾ ನೊಂದ ಮಹಿಳೆಗೆ ಅತ್ಯವಶ್ಯವಾಗಿ ಬೇಕಾಗಿರುವ, ಆಕೆಯು ತನ್ನ ಮನೆಯನ್ನು ನಿಭಾಯಿಸಲು, ತನ್ನ ಮಕ್ಕಳನ್ನು ಸಲಹಲು ಅವಲಂಬಿಸಿರುವಂತಹ ಮತ್ತು ಯಾವುದೇ ಸ್ತ್ರೀಧನ, ಆಸ್ತಿ, ಸ್ವಂತವಾಗಿ ಅಥವಾ ಜಂಟಿಯಾಗಿ ಮಾಲೀಕತ್ವಕ್ಕೆ ಒಳಪಟ್ಟಿದ್ದರೆ ಅಥವಾ ಹಂಚಿಕೆ ಮನೆಯ ಬಾಡಿಗೆಯ ಪಾವತಿ ಮತ್ತು ನಿರ್ವಹಣೆ ಮುಂತಾದವುಗಳನ್ನು ವಶಪಡಿಸಿಕೊಳ್ಳುವುದು.

ಬಿ. ಮಹಿಳೆಯು ಉಪಯೋಗಿಸುತ್ತಿರುವ, ಅತ್ಯವಶ್ಯವಾಗಿರುವ ಅವಳ ಮಕ್ಕಳ ಬದುಕಿಗೆ ಅತ್ಯಗತ್ಯವಾಗಿರುವ ಯಾವುದೇ ಆಸ್ತಿ, ಸ್ತ್ರೀಧನಗಳು ಸ್ವಂತ ಹೆಸರಿನಲ್ಲಿ ಅಥವಾ ಜಂಟಿ ಮಾಲೀಕತ್ವದಲ್ಲಿದ್ದರೆ ಅಥವಾ ಯಾವುದೇ ಚರ, ಸ್ಥಿರ, ಮೌಲ್ಯಯುತವಾದ ಶೇರುಗಳು, ಸೆಕ್ಯೂರಿಟಿಗಳು, ಬಾಂಡ್‌ಗಳು ಮುಂತಾದವು ನೊಂದ ಮಹಿಳೆಯ ಜೀವನಕ್ಕೆ ಅತ್ಯವಶ್ಯವಾಗಿ ಬೇಕಾಗಿದ್ದಲ್ಲಿ ಅದನ್ನು ಯಾವುದೇ ರೀತಿಯಲ್ಲಿ ಮಾರಾಟ ಮಾಡುವುದು ಅಥವಾ ಬಿಕ್ಕಿ ಮಾಡುವುದು.

ಸಿ. ಸಾಂಸಾರಿಕ ಸಂಬಂಧದಲ್ಲಿ ಅಥವಾ ಹಂಚಿಕೆಯ ಮನೆಯಲ್ಲಿರುವಂತಹ ಯಾವುದೇ ಸಂಪನ್ಮೂಲ ಅಥವಾ ಸೌಕರ್ಯಗಳನ್ನು ಉಪಯೋಗಿಸದಂತೆ ತಡೆಯುವುದು ಅಥವಾ ನಿಷೇಧಿಸುವುದು.

ಡಿ. ಹಣಕಾಸಿನ ಪರಿಹಾರವೆಂದರೆ ಸಿಕ್ಸ್ 6ರ ಅಡಿಯಲ್ಲಿ ನ್ಯಾಯಾಲಯವು ಆದೇಶಿಸಿದ ಹಣಕಾಸಿನ ಪರಿಹಾರ.

ಇ. ನೊಂದ ವ್ಯಕ್ತಿ ಎಂದರೆ ಯಾವುದೇ ಮಹಿಳೆ ಅಥವಾ ಮಗು ಮನೆ ಹಿಂಸೆಗೆ ಕಾರಣನಾದ ವ್ಯಕ್ತಿಯೊಂದಿಗೆ ಸಾಂಸಾರಿಕ ಸಂಬಂಧವನ್ನು ಹೊಂದಿರುವುದು.

ಎಫ್. ಅರ್ಜಿದಾರನೆಂದರೆ ಯಾವುದೇ ವ್ಯಕ್ತಿ ಈ ಕಾಯ್ದೆಯ ವಿಭಾಗ 8ರ ಅಡಿಯಲ್ಲಿ ಅರ್ಜಿ ಸಲ್ಲಿಸುವುದು.

ಜಿ. ವಿಧಿಸುವುದು ಎಂದರೆ ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಅಥವಾ ರೂಪಿಸಿದ ನಿಯಮಗಳಡಿಯಲ್ಲಿ ವಿಧಿಸಿರುವುದು.

ಹೆಚ್. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯೆಂದರೆ ವಿಭಾಗ 24ರ ಅಡಿಯಲ್ಲಿ ಈ ಕಾಯ್ದೆಯ ಉದ್ದೇಶ್ಯ ಈಡೇರಿಕೆಗಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರವು ನೇಮಿಸಿದ ಅಧಿಕಾರಿ.

ಐ. ರಕ್ಷಣಾ ಆದೇಶವೆಂದರೆ ವಿಭಾಗ 5ರಲ್ಲಿರುವಂತೆ ನೀಡಿದ ಆದೇಶ.

ಜೆ. ವಸತಿ ಆದೇಶವೆಂದರೆ ವಿಭಾಗ 7ರ ಅಡಿಯಲ್ಲಿ ದಯಪಾಲಿಸಿದ ಆದೇಶ.

ಕೆ. ಪ್ರತಿವಾದಿಯೆಂದರೆ ನೊಂದ ವ್ಯಕ್ತಿಯೊಂದಿಗೆ ಸಂಬಂಧ ಹೊಂದಿರುವ ವ್ಯಕ್ತಿ ಅಥವಾ ಯಾವುದೇ ಸಂಬಂಧದಲ್ಲಿರುವಂತಹ ವ್ಯಕ್ತಿಯು ಹಿಂಸೆ ನೀಡುತ್ತಿರುವುದು.

ಎಲ್. ಹಂಚಿಕೆಯ ಸಂಬಂಧವೆಂದರೆ ನೊಂದ ವ್ಯಕ್ತಿಯು ಯಾವುದೇ ಕಾಲದಲ್ಲಿ, ಯಾವುದೇ ಹಂತದಲ್ಲಿ ನೊಂದ ವ್ಯಕ್ತಿಯು ಕೌಟುಂಬಿಕ ಸಂಬಂಧದಲ್ಲಿ ಏಕಾಂಗಿಯಾಗಿ ಅಥವಾ ಪ್ರತಿವಾದಿಯೊಂದಿಗೆ ಏಕಾಂಗಿಯಾಗಿ ಅಥವಾ ಜಂಟಿಯಾಗಿ ಆಸ್ತಿಯ ಹೊಣೆಯೊಂದಿಗೆ, ಜೀವನ ಮಾಡುತ್ತಿದ್ದರೆ ಅದು ಹಂಚಿಕೆಯ ಕುಟುಂಬ.

## ಭಾಗ 2

ನೊಂದ ವ್ಯಕ್ತಿಯ ಹಕ್ಕುಗಳು

3. ಹಂಚಿತ ಮನೆಯಲ್ಲಿ ವಾಸ ಮಾಡುವ ಮತ್ತು ಮನೆ ಹಿಂಸೆಯಿಂದ ರಕ್ಷಣೆ ಪಡೆಯುವ ಹಕ್ಕು.

ಎ. ಜಾರಿಯಲ್ಲಿರುವ ಯಾವುದೇ ಕಾನೂನಿನ ವಿರೋಧವಿಲ್ಲದೆ ಪ್ರತೀ ಕೌಟುಂಬಿಕ ಸಂಬಂಧದಲ್ಲಿರುವ ಮಹಿಳೆಗೆ ಹಂಚಿತ ಮನೆಯಲ್ಲಿ ವಾಸ ಮಾಡುವ ಹಕ್ಕಿದೆ.

ಬಿ. ಹಂಚಿತ ಮನೆಯ ವ್ಯಕ್ತಿಯಿಂದ ಕೌಟುಂಬಿಕ ಸಂಬಂಧದಲ್ಲಿರುವ ಮಹಿಳೆಯು ಪ್ರತ್ಯೇಕಿಸಲ್ಪಡದ ಅಥವಾ ಹೊರಹಾಕಲ್ಪಡದೆ ಇರುವ ಹಕ್ಕಿದೆ. ಮನೆಯ ವ್ಯಕ್ತಿ ಅಥವಾ ಯಾವುದೇ ಕೆಲಸದಿಂದ ಸಂಬಂಧಿಸಿದ ಮಹಿಳೆಯನ್ನು ಪ್ರತಿವಾದಿಯು ದೂಡಲುಡುವಂತಿಲ್ಲ ಅಥವಾ ಪ್ರತ್ಯೇಕಿಸುವಂತಿಲ್ಲ.

ಸಿ. ಬಲಾತ್ಕಾರವಾಗಿ ಕೌಟುಂಬಿಕ ಸಂಬಂಧದಲ್ಲಿರುವ ಮಹಿಳೆಯನ್ನು ಹಂಚಿತ ಮನೆಯಿಂದ ಹೊರಹಾಕಿದಲ್ಲಿ ಅದನ್ನು ಪ್ರವೇಶಿಸುವ ಅಥವಾ ಬಲವಂತವಾಗಿ ಪ್ರವೇಶಿಸುವ ಹಕ್ಕು ಆಕೆಗಿದೆ.

ಡಿ. ಜಾರಿಯಲ್ಲಿರುವ ಯಾವುದೇ ಕಾನೂನಿನ ವಿರೋಧವಿಲ್ಲದೆ ಕಾಯ್ದೆಯ ಪ್ರಕಾರ ಪ್ರತಿಯೊಬ್ಬ ಮಹಿಳೆಗೂ ಮನೆ ಹಿಂಸೆಯಿಂದ ರಕ್ಷಣಾ ಆದೇಶದ ಮೂಲಕ ಮತ್ತು ಅಥವಾ ವಸತಿ ಆದೇಶ ಮತ್ತು ಅಥವಾ ಹಣಕಾಸಿನ ಹಕ್ಕಿದೆ.

4. ನೊಂದ ವ್ಯಕ್ತಿಗೆ ಆಕೆಯ ಹಕ್ಕುಗಳ ಕುರಿತು ಮಾಹಿತಿ ನೀಡಬೇಕಾದ ಕರ್ತವ್ಯ. ಮನೆ ಹಿಂಸೆಯ ದೂರನ್ನು ಪಡೆದ ಅಥವಾ ಮನೆ ಹಿಂಸೆಯ ಘಟನೆಯನ್ನು ನೋಡಿದ ಅಥವಾ ಮನೆ ಹಿಂಸೆಯ ವರದಿಯನ್ನು ಪಡೆದ ಯಾವುದೇ ಪೊಲೀಸ್ ಅಥವಾ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು...

ಎ. ನೊಂದ ವ್ಯಕ್ತಿಗೆ ಆಕೆಗೆ ಹಿಂಸೆಯ ವಿರುದ್ಧ ರಕ್ಷಣೆ ಪಡೆಯಲು ಅರ್ಜಿ ಸಲ್ಲಿಸಲು ಹಕ್ಕಿನ ಕುರಿತು, ಹಣಕಾಸಿನ ಪರಿಹಾರ ಮತ್ತು ವಸತಿ ಆದೇಶ ಪಡೆಯಲು ಈ ಕಾಯ್ದೆಯಲ್ಲಿ ಅವಕಾಶ ಇರುವ ಕುರಿತು ಮಾಹಿತಿ ನೀಡಬೇಕು.

ಬಿ. ಸೇವೆ ಒದಗಿಸುವವರ ಕುರಿತು ಮಾಹಿತಿ ನೀಡಬೇಕು ಮತ್ತು

ಸಿ. ಕಾನೂನು ಸೇವೆಗಳ ಪ್ರಾಧಿಕಾರ ಕಾಯ್ದೆ 1987ರ ಅಡಿಯಲ್ಲಿ ಉಚಿತ ಕಾನೂನಿನ ನೆರವು ಪಡೆಯುವ ಅವಕಾಶಗಳ ಕುರಿತು ಯೋಜನೆಯನ್ನು ನೀಡಬೇಕು.

5. ರಕ್ಷಣಾ ಆದೇಶ

ಎ. ಆರೋಪಿಯ ಮೇಲೆ ರಕ್ಷಣಾ ಆದೇಶವನ್ನು ಹೊರಡಿಸಿ ಈ ಕೆಳಗಿನವುಗಳನ್ನು ನಿಷೇಧಿಸಬಹುದು.

1. ಮನೆ ಹಿಂಸೆಗೆ ಕಾರಣವಾಗುವ ಯಾವುದೇ ಕೃತ್ಯವನ್ನು ಎಸಗುವುದು.
2. ಮನೆ ಹಿಂಸೆಯ ಆದೇಶವನ್ನು ಉದ್ದೇಶಕ ಪೂರ್ವಕವಾಗಿ ಗುರಿ ತಪ್ಪಿಸುವುದು.
3. ನೊಂದ ವ್ಯಕ್ತಿಯು ಇರುವ ಕೆಲಸದ ಸ್ಥಳವನ್ನು, ಮಗುವಿನ ಶಾಲೆಯನ್ನು ಅಥವಾ ಇನ್ಯಾವುದೇ ಬಳಕೆಯ ಸ್ಥಳವನ್ನು ಪ್ರವೇಶಿಸುವುದು.
4. ನೊಂದ ವ್ಯಕ್ತಿಯ ಮನೆಯನ್ನು ಪ್ರವೇಶಿಸುವುದು.
5. ವೈಯಕ್ತಿಕವಾಗಿ, ಭಯಮಾತಿನಲ್ಲಿ ಅಥವಾ ಬರಹದ ಮೂಲಕ ಅಥವಾ ವಿದ್ಯುನ್ಮಾನ ಅಥವಾ ದೂರವಾಣಿಯ ಮೂಲಕ ಯಾವುದೇ ರೀತಿಯಲ್ಲಿ ಸಂಪರ್ಕಿಸಲು ಪ್ರಯತ್ನಿಸುವುದು.
6. ರಕ್ಷಣಾ ಆದೇಶದಲ್ಲಿ ಉಲ್ಲೇಖಿಸಿರುವ ಇನ್ಯಾವುದೇ ಕೃತ್ಯವನ್ನು ಮಾಡುವುದು.
7. ಇಬ್ಬರೂ ವ್ಯಕ್ತಿಗಳು ಒಂಟಿಯಾಗಿ ಅಥವಾ ಜಂಟಿಯಾಗಿ ಅನುಭವಿಸುತ್ತಿರುವ ಯಾವುದೇ ಆಸ್ತಿ, ಬ್ಯಾಂಕ್ ಲಾಕರುಗಳು ಅಥವಾ ಬ್ಯಾಂಕ್ ಖಾತೆಗಳನ್ನು ಆಕೆಯ ಸ್ತ್ರೀಧನವನ್ನು ಅಥವಾ ಇತರ ಯಾವುದೇ ಆಸ್ತಿಯನ್ನು ಜಂಟಿಯಾಗಿ ಅಥವಾ ಒಂಟಿಯಾಗಿ ಹೊಂದಿರುವುದನ್ನು ವಶ ಮಾಡಲು ಪ್ರಯತ್ನಿಸುವುದು.
8. ಮನೆ ಹಿಂಸೆಯಿಂದ ನೊಂದ ಮಹಿಳೆಯ ಆಶ್ರಿತರಿಗೆ, ಸಂಬಂಧಿಕರು ಮತ್ತು ಸಹಾಯ ಮಾಡುತ್ತಿರುವ ಸಂಬಂಧಿಸಿದ ವ್ಯಕ್ತಿಗಳಿಗೆ ಹಿಂಸೆ ಮಾಡುವುದು ಅಥವಾ ತೊಂದರೆ ನೀಡುವುದು.

ಬಿ. ನೊಂದ ಮಹಿಳೆ ಅಥವಾ ಮಕ್ಕಳ ರಕ್ಷಣೆಯ ಹಿತದೃಷ್ಟಿಯಿಂದ ನ್ಯಾಯಾಧೀಶರು ಸರಿ ಮತ್ತು ಅವಶ್ಯವೆನಿಸುವ ಯಾವುದೇ ಷರತ್ತನ್ನು ವಿಧಿಸಬಹುದು.

ಸಿ. ವಿಭಾಗ 5(ಎ) ಅಥವಾ (ಬಿ) ಯಡಿಯಲ್ಲಿ ಆದೇಶ ಹೊರಡಿಸುವಾಗ ನ್ಯಾಯಾಧೀಶರು ಪೊಲೀಸರಿಗೆ ನೊಂದ ವ್ಯಕ್ತಿಗೆ ರಕ್ಷಣೆ ನೀಡುವಂತೆ ಅಥವಾ ಆದೇಶವನ್ನು ಜಾರಿಗೊಳಿಸುವಲ್ಲಿ ಸಹಾಯ ಮಾಡುವಂತೆ ನಿರ್ದೇಶನ ನೀಡಬಹುದು.

ಡಿ. ಆರೋಪಿಯು ವಶಪಡಿಸಿಕೊಂಡಿರುವ ಸ್ತ್ರೀಧನ, ಆಸ್ತಿ, ಮೌಲ್ಯಯುತ ವಸ್ತುಗಳು ನೊಂದ ವ್ಯಕ್ತಿಗೆ ಹಿಂತಿರುಗಿಸುವಂತೆ ನ್ಯಾಯಾಧೀಶರು ಆದೇಶಿಸಬಹುದು.

ಇ. ನೊಂದ ವ್ಯಕ್ತಿಯನ್ನು ಸುರಕ್ಷಿತ ಸ್ಥಳಕ್ಕೆ ಅಂದರೆ ಸೇವೆ ಒದಗಿಸುವ ಸಂಸ್ಥೆಗಳು ನಡೆಸುವ ವಸತಿ ನಿಲಯಗಳಿಗೆ ವರ್ಗಾಯಿಸುವಂತೆ ರಕ್ಷಣಾ ಅಧಿಕಾರಿ ಅಥವಾ ಇನ್ಯಾವುದೇ ಅಧಿಕಾರಿಗೆ ಆದೇಶಿಸಬಹುದು.

ಎಫ್. ನ್ಯಾಯಾಲಯವು ಆದೇಶಿಸಿರುವ ರಕ್ಷಣಾ ಆದೇಶದ ಪ್ರತಿಯನ್ನು ಆ ಪ್ರದೇಶದ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗೆ ಮತ್ತು ಸಮಾಜ ಸೇವಾ ಸಂಘಟನೆಗಳಿಗೆ ನ್ಯಾಯಾಲಯವು ನೀಡಬೇಕು.

## 6. ಹಣದ ಪರಿಹಾರ

ಎ. ಮನೆ ಹಿಂಸೆಯಿಂದ ನೊಂದಂತಹ ಮಹಿಳೆ ಮತ್ತು ಮಗುವಿಗೆ ಉಂಟಾದ ಖರ್ಚು ಮತ್ತು ನಷ್ಟವನ್ನು ತುಂಬಿಕೊಡುವಂತೆ ನ್ಯಾಯಾಲಯವು ಈ ಕೆಳಗಿನವುಗಳಿಗೆ ಸೀಮಿತವಾಗದಂತೆ ಆದೇಶ ನೀಡಬಹುದು.

1. ಗಳಿಯಲ್ಲಿನ ನಷ್ಟ

2. ವೈದ್ಯಕೀಯ ಖರ್ಚುಗಳು

3. ನಾಶ, ಜಖಂ ಅಥವಾ ಸ್ಥಳಾಂತರದಿಂದಾದ ಯಾವುದೇ ತರಹದ ನಷ್ಟವನ್ನು ತುಂಬಿಕೊಡುವುದು.

4. ನೊಂದ ಮಹಿಳೆಯ ಮತ್ತು ಆಕೆಯ ಮಕ್ಕಳ ಯಾವುದೇ ನಿರ್ವಹಣೆ.

5. ಮನೆ ಹಿಂಸೆಗೆ ಪಡೆದ ನಷ್ಟ ಪರಿಹಾರ.

ಬಿ. ನ್ಯಾಯಾಲಯದ ಕಾರ್ಯ ಕ್ಷೇತ್ರದಲ್ಲಿ ಬರುವಂತಹ ರಕ್ಷಣಾ ಅಧಿಕಾರಿ ಮತ್ತು ತಾಣಾಧಿಕಾರಿಗೆ ಹಣದ ಪರಿಹಾರಕ್ಕಾಗಿ ನೀಡಿದ ಆದೇಶದ ಪ್ರತಿಯನ್ನು ನ್ಯಾಯಾಲಯವು ನೀಡಬೇಕು.

ಸಿ. ಉಪ ವಿಭಾಗದ (ಎ) ಯಲ್ಲಿರುವ ಷರತ್ತುಗಳಿಗನುಸಾರವಾಗಿ ಆರೋಪಿಯು ನೊಂದ ವ್ಯಕ್ತಿಗೆ ನಿಗದಿಪಡಿಸಿದ ದಿನಾಂಕದೊಳಗೆ ಪರಿಹಾರ ಹಣವನ್ನು ನೀಡಬೇಕು.

ಡಿ. ಪರಿಹಾರದ ಹಣವನ್ನು ಆರೋಪಿಯು ಪಾವತಿ ಮಾಡುವಲ್ಲಿ ವಿಫಲನಾದ ಸಂದರ್ಭದಲ್ಲಿ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಉಪವಿಭಾಗ (ಸಿ)ಯ ಪ್ರಕಾರ. ಆರೋಪಿಯ ಮಾಲೀಕ ಅಥವಾ ಸಾಲಗಾರನಿಗೆ ನೇರವಾಗಿ ಅವರು ನೀಡಬೇಕಾಗಿರುವ ಸಂಬಳ, ಕೂಲಿ ಅಥವಾ ಸಾಲದ ಹಣವನ್ನು ನೊಂದ ವ್ಯಕ್ತಿಗೆ ನೀಡುವಂತೆ ಅಥವಾ ಜಮೆಯನ್ನು ಪರಿಹಾರ ಹಣಕ್ಕೆ ಸರಿಹೊಂದುವಂತೆ ನೀಡುವಂತೆ ಆದೇಶ ನೀಡಬಹುದು.

## 7. ವಸತಿಯ ಆದೇಶ

ಎ. ನ್ಯಾಯಾಲಯವು ಈ ಕೆಳಗಿನವುಗಳ ಮೇಲೆ ಆದೇಶವನ್ನು ಹೊರಡಿಸಬಹುದು.

1. ಹಂಚಿತ ಮನೆಯನ್ನು ನಾಶಗೊಳಿಸುವುದು, ತೆರವು ಗೊಳಿಸುವುದು, ವಶಪಡಿಸಿಕೊಳ್ಳುವುದು.

2. ಹಂಚಿತ ಮನೆಯ ಹಕ್ಕನ್ನು ನೊಂದ ವ್ಯಕ್ತಿಯನ್ನು ಹೊರತುಪಡಿಸಿ ಬೇರೆಯವರ ಹೆಸರಿಗೆ ಘೋಷಿಸುವುದನ್ನು ನಿಷೇಧಿಸುವುದು.

3. ಹಂಚಿತ ಮನೆಗೆ ಅಥವಾ ಅದರ ಭಾಗಕ್ಕೆ ನೊಂದ ವ್ಯಕ್ತಿಯು ಪ್ರವೇಶಿಸುವುದಕ್ಕೆ ಆರೋಪಿಯು ಅನುಮಾಡಿಕೊಡುವುದು.

4. ಹಂಚಿತ ಮನೆಯನ್ನು ಆರೋಪಿಯು ವಶಪಡಿಸಿಕೊಳ್ಳುವುದನ್ನು ನಿಷೇಧಿಸುವುದು, ತಡೆಹಿಡಿಯುವುದು ಅಥವಾ ಪ್ರತಿಬಂಧಿಸುವುದು.

5. ಆರೋಪಿಯು ನೊಂದ ವ್ಯಕ್ತಿಯು ಮನೆಯಲ್ಲಿ ವಾಸ ಮಾಡುವುದನ್ನು ತಡೆಯುವುದನ್ನು ಪ್ರತಿಬಂಧಿಸುವುದು.

6. ಆರೋಪಿಯು ನೊಂದ ಮಹಿಳೆಗೆ ಬೇರೆ ವಾಸದ ವ್ಯವಸ್ಥೆಯನ್ನು ಕಲ್ಪಿಸುವಂತೆ ಅಥವಾ ಬಾಡಿಗೆ ಒದಗಿಸುವಂತೆ, ನ್ಯಾಯಾಲಯವು ಸರಿಯಾದ ಕಾರಣಗಳಿದ್ದಾಗ ಮತ್ತು ಒಟ್ಟಿಗೆ ಇರುವುದು ನೊಂದ ವ್ಯಕ್ತಿಗೆ ಅಪಾಯಕಾರಿ ಎಂದು ನಿಸಿದಾಗ ಅನಿವಾರ್ಯ ಪರಿಸ್ಥಿತಿಯನ್ನು ಅರಿತು ನಿರ್ಧೇಶನವನ್ನು ನೀಡಬಹುದು.

ಬಿ. ಈ ವಿಭಾಗದಲ್ಲಿ ಆದೇಶಗಳನ್ನು ಹೊರಡಿಸುವಾಗ ನ್ಯಾಯಾಲಯವು ಆರೋಪಿಯ ಮತ್ತು ನೊಂದ ವ್ಯಕ್ತಿಯ ಹಣಕಾಸಿನ ಅವಶ್ಯಕತೆ ಮತ್ತು ಲಭ್ಯತೆಯನ್ನು ಪರಿಗಣಿಸಿ ಯಾವುದೇ ಪಾವತಿಯನ್ನು ನಿರ್ಧರಿಸಬೇಕು.

#### 8. ಪಾಲನೆಯ ಆದೇಶ

ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಯಾವುದೇ ಕಾನೂನಿನ ವಿರೋಧವಿಲ್ಲದೆ ನ್ಯಾಯಾಲಯವು ರಕ್ಷಣಾ ಆದೇಶದ ಅಹವಾಲಿನ ಯಾವುದೇ ಸಂದರ್ಭದಲ್ಲಿ, ಹಂತದಲ್ಲಿ ನೊಂದ ವ್ಯಕ್ತಿಯು ಅಥವಾ ಅರ್ಜಿದಾರರ ಮನವಿಯ ಮೇರೆಗೆ ಯಾವುದೇ ಮಗು ಅಥವಾ ಮಕ್ಕಳನ್ನು ನೊಂದ ವ್ಯಕ್ತಿ ಅಥವಾ ಅರ್ಜಿದಾರರು ಅಥವಾ ನಿರ್ದಿಷ್ಟ ವ್ಯಕ್ತಿಯ ಸುಪರ್ದಿಗೆ ತಾತ್ಕಾಲಿಕವಾಗಿ, ಪ್ರತಿವಾದಿಯು ಭೇಟಿ ನೀಡಲು ಅವಕಾಶವಿರುವಂತೆ ಆದೇಶ ಹೊರಡಿಸಬಹುದು.

ಯಾವುದೇ ಪ್ರಕರಣದಲ್ಲಿ ಮಗುವಿನ ಮೇಲೆ ಲೈಂಗಿಕ ಕಿರುಕುಳದ ಆರೋಪ ಬಂದಾಗ ಮತ್ತು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಆರೋಪವು ನಿಜವೆಂದು ಸಾಬೀತಾದಾಗ, ನ್ಯಾಯಾಲಯವು ನೊಂದ ವ್ಯಕ್ತಿ ಅಥವಾ ಅರ್ಜಿದಾರರ ಸುಪರ್ದಿಗೆ ಒಪ್ಪಿಸಬಹುದು ಮತ್ತು ಆರೋಪಿಯು ಭೇಟಿ ನೀಡುವ ಅವಕಾಶವನ್ನು ನಿರಾಕರಿಸಬಹುದು.

#### 9. ನಷ್ಟ ಪರಿಹಾರದ ಆದೇಶಗಳು

ಎ. ಈ ಕಾಯ್ದೆಯಲ್ಲಿನ ಇತರೇ ಪರಿಹಾರದ ಹೊರತಾಗಿ, ನ್ಯಾಯಾಲಯವು ನೊಂದ ವ್ಯಕ್ತಿಯ ಅರ್ಜಿಯನ್ನು ಪರಿಗಣಿಸಿ ಮನೆ ಹಿಂಸೆಯು ಸಂಭವಿಸಿದಾಗ ಗಾಯದಿಂದಾದ ಅಥವಾ ಇನ್ಯಾವುದೇ ನಷ್ಟಕ್ಕೆ ಪರಿಹಾರವನ್ನು ಒದಗಿಸುವಂತೆ ಆರೋಪಿಗೆ ಆದೇಶಿಸಬಹುದು.

ಬಿ. ಆರೋಪಿಯಿಂದಾದ ಮನೆ ಹಿಂಸೆಯ ಕಾರಣದಿಂದಾದ ಅನ್ಯಾಯಕ್ಕೆ ಯಾವುದೇ ಹಿಂಜರಿಕೆಯಿಲ್ಲದೆ ಪರಿಹಾರವನ್ನು ಒದಗಿಸಿಕೊಡುವಂತೆ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಬಹುದು.

ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಯಾವುದೇ ನ್ಯಾಯಾಲಯವು ನೊಂದ ವ್ಯಕ್ತಿಗೆ ನಷ್ಟ ಪರಿಹಾರವಾಗಿ ಪರಿಹಾರ ಧನವನ್ನು ಒದಗಿಸುವಂತೆ ಆದೇಶಿಸಿ ಗೊತ್ತುಪಡಿಸಿದ ಹಣದ ಮೊತ್ತವನ್ನು ನೀಡಿರುವ ಅಥವಾ ನೀಡಬೇಕಾಗಿರುವಂಥ ಸಂದರ್ಭದಲ್ಲಿ ಸಿವಿಲ್ ದಂಡ ಸಂಹಿತೆ 198 (1908ರ 5) ರಲ್ಲಿ ಅಥವಾ ಇನ್ಯಾವುದೇ ಕಾನೂನಿನಡಿಯಲ್ಲಿ ನೀಡದಂತೆ ತಡೆಹಿಡಿಯುವಂತಿಲ್ಲ.

ನಡವಳಿಕೆ ಮತ್ತು ಕಾರ್ಯವಿಧಾನ

#### 10. ಮೊಕದ್ದಮೆ

ನೊಂದ ಯಾವುದೇ ವ್ಯಕ್ತಿಯು ಮನೆ ಹಿಂಸೆಯ ವಿರುದ್ಧ ಸರಿಯಾದ ಪರಿಹಾರವನ್ನು ಕೋರಿ ನಿಗದಿಪಡಿಸಿದ ರೀತಿಯಲ್ಲಿ ಉಚಿತವಾಗಿ ಯಾವುದೇ ನ್ಯಾಯಾಲಯದಲ್ಲಿ, ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಅಥವಾ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯಲ್ಲಿ ದೂರು ಸಲ್ಲಿಸುವುದು.

#### 11. ಮೊಕದ್ದಮೆಯ ವಿವರಗಳು

ಸಾಮಾನ್ಯವಾಗಿ ಈ ಕೆಳಗಿನ ವಿವರಗಳನ್ನೊಳಗೊಂಡಂತೆ ಪ್ರಮಾಣ ಪತ್ರವನ್ನು ಸಲ್ಲಿಸಬೇಕು.

ಎ. ನೊಂದ ವ್ಯಕ್ತಿಯ ಮತ್ತು ಆರೋಪಿಯ ವಿವರಗಳು

ಬಿ. ಮೊಕದ್ದಮೆಯ ಕುರಿತ ಸತ್ಯಾಂಶಗಳು

ಸಿ. ಬಯಸುತ್ತಿರುವ ಪರಿಹಾರದ ವಿಧಗಳು, ರಕ್ಷಣಾ ಆದೇಶ, ವಸತಿ ಆದೇಶ ಮತ್ತು ಅಥವಾ ಧನ ಪರಿಹಾರಕ್ಕೆ ಆದೇಶ ಮತ್ತು

ಡಿ. ನೊಂದ ವ್ಯಕ್ತಿಯು ಸಂಪರ್ಕವಿಟ್ಟುಕೊಳ್ಳಬಯಸುವ ಪೊಲೀಸ್ ಠಾಣೆಯ ವಿವರ.

12. ಆತ್ಮೀಯ ಸ್ನೇಹಿತರು ಅಥವಾ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯಿಂದ ಮೊಕದ್ದಮೆ.

ಯಾವುದೇ ಕಾನೂನಿನಲ್ಲಿ ಯಾವುದೇ ಅವಕಾಶವಿದ್ದಾಗ್ಯೂ, ನೊಂದ ವ್ಯಕ್ತಿಯ ಪರವಾಗಿ ಯಾವುದೇ ಅನ್ಯ ವ್ಯಕ್ತಿಯು ನೊಂದ ವ್ಯಕ್ತಿಯ ಲಿಖಿತ ಒಪ್ಪಿಗೆಯೊಂದಿಗೆ ಮೊಕದ್ದಮೆ ದಾಖಲಿಸಬಹುದು.

ಇದಲ್ಲದೆ ನೊಂದ ವ್ಯಕ್ತಿಯು ಸೇವೆ ಒದಗಿಸುವವರ ಮೂಲಕ ಅಥವಾ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಮೂಲಕ ಅರ್ಜಿ ಸಲ್ಲಿಸುವಾಗ ನೊಂದ ವ್ಯಕ್ತಿಯಿಂದ ಲಿಖಿತ ಅನುಮತಿ ಪಡೆಯುವ ಅವಶ್ಯಕತೆ ಇಲ್ಲ ಅಥವಾ

ಎ. ಅಪ್ರಾಪ್ತ ವಯಸ್ಕರಾಗಿದ್ದಾಗ

ಬಿ. ಮಾನಸಿಕ ಅಸಮತೋಲನದಿಂದ ಬಳಲುತ್ತಿದ್ದು ಆಕೆಯು ದೂರು ನೀಡುವ ಸ್ಥಿತಿಯಲ್ಲಿಲ್ಲದಿದ್ದಾಗ

ಸಿ. ಮನೆ ಹಿಂಸೆಯಿಂದ ಪ್ರಜ್ಞಾಶೂನ್ಯಳಾಗಿದ್ದಾಗ ಅಥವಾ ದೈಹಿಕವಾಗಿ ಶಕ್ತಿಹೀನಳಾಗಿದ್ದಾಗ, ಸೇವೆ ಒದಗಿಸುವ ಸಂಸ್ಥೆಗಳು ಅಥವಾ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಆಕೆಯ ಪರವಾಗಿ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಹಾಜರಾಗಬಹುದು ಮತ್ತು ಮೊಕದ್ದಮೆ ದಾಖಲಿಸಬಹುದು.

13. ನ್ಯಾಯಾಲಯವು ವಿಶ್ರಾಂತಿಯಲ್ಲಿದ್ದಾಗ ಆದೇಶ

ಈ ಕಾಯ್ದೆಯ ವಿಭಾಗ 8ರ ಅಡಿಯಲ್ಲಿ ಅರ್ಜಿದಾರಳು ಯಾವುದೇ ಸಮಯದಲ್ಲಿ ಮೊಕದ್ದಮೆಯನ್ನು ನ್ಯಾಯಾಲಯದ ಸಮಯದ ನಂತರ ಅಥವಾ ನ್ಯಾಯಾಲಯದ ಕಲಾಪವಿಲ್ಲದಿರುವಂತಹ ದಿನ ಅಥವಾ ನ್ಯಾಯಾಲಯವು ರಜೆಯಲ್ಲಿದ್ದಾಗ, ಕರ್ತವ್ಯದಲ್ಲಿರುವ ನ್ಯಾಯಾಧೀಶರು ಈ ಕಾಯ್ದೆಯ ವಿಭಾಗ 5, 6 ಮತ್ತು 7 ರ ಅಡಿಯಲ್ಲಿ ಅವಶ್ಯವಿರುವ ರಕ್ಷಣಾ ಆದೇಶವನ್ನು ಯಾವುದೇ ಸಂದರ್ಭದಲ್ಲಿ ಹೊರಡಿಸಬಹುದು. ಮತ್ತು ಆ ಆದೇಶವನ್ನು 72 ಗಂಟೆಗಳೊಳಗಾಗಿ ದೃಢೀಕರಿಸಬೇಕು.

14. ಇತರೇ ಸಂದರ್ಭದಲ್ಲಿ ಪರಿಹಾರ ಮತ್ತು ಕಾನೂನಿನ ನಡಾವಳಿ

ಎ. ಈ ಕಾಯ್ದೆಯಲ್ಲಿ ಲಭ್ಯವಿರುವಂತಹ ಪರಿಹಾರವು ಈ ಕಾಯ್ದೆಯು ಅಸ್ತಿತ್ವಕ್ಕೆ ಬಂದ ನಂತರವಾಗಲೀ ಮೊದಲಾಗಲೀ ನಡೆದ ಸಿವಿಲ್ ಅಥವಾ ಕ್ರಿಮಿನಲ್ ನಡಾವಳಿಗಳಂತೆ ಜಾರಿಗೆ ಬರುತ್ತದೆ.

ಬಿ. ಈ ರೀತಿಯ ಆದೇಶದೊಂದಿಗೆ ಯಾವುದೇ ಇತರ ಪರಿಹಾರಕ್ಕಾಗಿ ಸಹ ನೊಂದ ವ್ಯಕ್ತಿಯು ಕಾನೂನಿನ ನಡಾವಳಿಗಳನ್ನು ಸಿವಿಲ್ ಅಥವಾ ಕ್ರಿಮಿನಲ್ ಕಾಯ್ದೆಗಳಡಿಯಲ್ಲಿ ನಡೆಸುವಂತೆ ಪ್ರಾರ್ಥಿಸಬಹುದು.

ಸಿ. ಶೆಡ್ಯೂಲ್ ಒಂದರಲ್ಲಿ ಸೂಚಿಸಿರುವಂತೆ ಅಪರಾಧದ ಕುರಿತ ತನಿಖೆಯು ಅಪೂರ್ಣವಾಗಿದ್ದಾಗ ನ್ಯಾಯಾಂಗ ನಿಂದನೆಯ ಮೊಕದ್ದಮೆಯನ್ನು ನೊಂದ ವ್ಯಕ್ತಿಯ ಪರವಾಗಿ ವಿಭಾಗ 5, 6 ಮತ್ತು 7ರಲ್ಲಿ ಆದೇಶಗಳನ್ನು ನೀಡುವಂತೆ ದಾಖಲಿಸಬಹುದು ಮತ್ತು ಪ್ರತಿವಾದಿಯನ್ನು ಜಾಮೀನಿನ ಮೇಲೆ ಬಿಡಬಹುದಾದ ಷರತ್ತಿನ ಮೇಲೆ ನ್ಯಾಯಾಂಗ ನಿಂದನೆಯ ಆರೋಪ ಹೊರಿಸಬಹುದು.

15. ಮಧ್ಯಂತರ ಮತ್ತು ಏಕಪಕ್ಷೀಯ ಆದೇಶ ಹೊರಡಿಸುವ ಅಧಿಕಾರ.

ಎ. ಈ ಕಾಯ್ದೆಯ ಯಾವುದೇ ಕಾರ್ಯಕಲಾಪದ ವೇಳೆಯಲ್ಲಿ ನ್ಯಾಯಾಲಯವು ನ್ಯಾಯಸಮ್ಮತವಾದ ಮತ್ತು ನಿಖರವಾದ ಮಧ್ಯಂತರ ಆದೇಶಗಳನ್ನು ಹೊರಡಿಸಬಹುದು.



ಬಿ. ನ್ಯಾಯಾಲಯಕ್ಕೆ ಮೊಕದ್ದಮೆ ಹೂಡಿದ ಸಂದರ್ಭದಲ್ಲಿ ಯಾವುದೇ ರೀತಿಯಲ್ಲಿ ಪ್ರತಿವಾದಿಯು ಅಪರಾಧ ಮಾಡಿದ್ದಾನೆಂದು ಖಾತರಿಯಾದಲ್ಲಿ ಅದು ವಿಭಾಗ 5, 6, 7, 8 ಅಥವಾ 9ರ ಅಡಿಯಲ್ಲಿ ಪ್ರತಿವಾದಿಯ ವಿರುದ್ಧ ಏಕಪಕ್ಷೀಯವಾಗಿ ನಿಯಮಾನುಸಾರ ಆದೇಶ ಹೊರಡಿಸಬಹುದು.

ಒಂದೇ ಕೃತ್ಯ ಮತ್ತು ಕ್ಷಮಾಪನೆ

16. ನ್ಯಾಯಾಲಯವು ಈ ಕೆಳಗಿನವುಗಳ ಆಧಾರದ ಮೇಲೆ ರಕ್ಷಣಾ ಆದೇಶ ನೀಡುವುದನ್ನು ನಿರಾಕರಿಸುವಂತಿಲ್ಲ.

ಎ. ಒಂದೇ ಒಂದು ಭಾರಿ ಮನೆ ಹಿಂಸೆಯು ನಡೆದಿದ್ದಾಗ ಅಥವಾ ಒಂದೇ ಭಾರಿ ಪ್ರತಿವಾದಿಯು ಬೆದರಿಕೆ ಒಡ್ಡಿದ್ದಾಗ ಅಥವಾ ಕೃತ್ಯದ ಆಧಾರದ ಮೇಲೆ ಅಥವಾ ಬೇರ್ಪಡಿಸುವ ದೃಷ್ಟಿಯಿಂದ ಬೆದರಿಕೆ ಒಡ್ಡಿದ್ದರೆ ಹಿಂಸೆಯು ತೀರಾ ಅಲ್ಪದ್ದಾಗಿದ್ದರೆ,

ಬಿ. ನೊಂದ ವ್ಯಕ್ತಿಯು ಮನೆ ಹಿಂಸೆಯ ಬಗ್ಗೆ ದೂರು ನೀಡದೇ ಇದ್ದಾಗ ಮತ್ತು ಕೃತ್ಯಕ್ಕೆ ಮಾಫಿ ಕೇಳಿದ್ದಾಗ

17. ಕಾರಣ ಕೇಳಿ ನೋಟೀಸು

ನ್ಯಾಯಾಲಯವು ಪ್ರತಿವಾದಿಗೆ ವಿಭಾಗ 5, 6, 7, 8 ಮತ್ತು 9ರಲ್ಲಿ ನೀಡಿದ ಆದೇಶವನ್ನು ನಿರ್ದಿಷ್ಟ ಸಮಯದೊಳಗೆ ಪಾಲಿಸಿಲ್ಲ ಅಥವಾ ಪಾಲಿಸಿದ್ದರೆ ವಿಭಾಗ 15 ರಂತೆ ದೃಢೀಕರಿಸಿಲ್ಲವೆಂದು ಕಾರಣ ಕೇಳಿ ನೋಟೀಸನ್ನು ಜಾರಿಗೊಳಿಸಬಹುದು.

18. ಆದೇಶವನ್ನು ದೃಢೀಕರಿಸುವುದು, ತಿದ್ದುಪಡಿ ಮಾಡುವುದು ಅಥವಾ ಕೈಬಿಡುವುದು.

ಎ. ವಿಭಾಗ 5, 6, 7, 8 ಮತ್ತು 9ರಲ್ಲಿ ನೀಡಲಾದ ಆದೇಶಗಳನ್ನು ಮೂರು ವರ್ಷಗಳವರೆಗೆ ಜಾರಿಯಲ್ಲಿಡಬಹುದು ಅಥವಾ ನೊಂದ ವ್ಯಕ್ತಿಯ ಕೋರಿಕೆಯ ಮೇರೆಗೆ ಇನ್ನೂ ಮುಂದುವರಿಸಬಹುದು.

ಬಿ. ಈ ವಿಭಾಗದಲ್ಲಿ ಹೊರಡಿಸಲಾದ ಆದೇಶಗಳನ್ನು ವಿರಳ ಸಂದರ್ಭಗಳಲ್ಲಿ ಬರವಣಿಗೆಯಲ್ಲಿ ದಾಖಲಿಸಬಹುದು, ತಿದ್ದುಪಡಿಮಾಡಬಹುದು, ಬದಲಾವಣೆ ಮಾಡಬಹುದು ಅಥವಾ ಕೈಬಿಡಬಹುದು. ಈ ಕೆಲಸವನ್ನು ನೊಂದ ವ್ಯಕ್ತಿ ಅಥವಾ ಆರೋಪಿಯು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಸಲ್ಲಿಸಿದ ಅರ್ಜಿಯನ್ನು ಪರಿಗಣಿಸಿ ಮಾಡಬಹುದು.

19. ಮೇಲ್ಮನವಿ

1908ರ ಸಿವಿಲ್ ದಂಡ ಸಂಹಿತೆ ಅಥವಾ 1973ರ ಅಪರಾಧದಂಡ ಸಂಹಿತೆಯಲ್ಲಿ ಅಥವಾ ಬೇರೆ ಯಾವುದೇ ಕಾನೂನಿನಲ್ಲಿ ಏನೇ ಇದ್ದಾಗ್ಯೂ ಕೂಡ, ನ್ಯಾಯಾಲಯವು ಹೊರಡಿಸಿದ ಯಾವುದೇ ಆದೇಶ ಅಥವಾ ತೀರ್ಪಿನ ವಿರುದ್ಧ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಮೇಲ್ಮನವಿ ಸಲ್ಲಿಸಬಹುದು.

ಭಾಗ 5 ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳು

20. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ವಿದ್ಯಾರ್ಹತೆ ಮತ್ತು ನೇಮಕ

ರಾಜ್ಯಸರ್ಕಾರವು ಪ್ರತೀ ಜಿಲ್ಲೆಯಲ್ಲಿ ಅವಶ್ಯಕತೆ ಇರುವಷ್ಟು ಜನ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳನ್ನು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಈ ಕಾಯ್ದೆ ಜಾರಿಗೊಳಿಸುವ ಉದ್ದೇಶಕ್ಕೆ ನೇರವಾಗಲು, ಅಧಿಕೃತ ಗೆಜೆಟ್‌ನಲ್ಲಿ ಆದೇಶ ಹೊರಡಿಸಿ ನೇಮಕ ಮಾಡಿಕೊಳ್ಳಬಹುದು.

ಇಷ್ಟೇ ಅಲ್ಲದೆ ರಾಜ್ಯ ಸರ್ಕಾರವು ನಿಗದಿಪಡಿಸಿದ ರೀತಿಯಲ್ಲಿ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳನ್ನು ನಿರ್ದಿಷ್ಟ ವಿದ್ಯಾರ್ಹತೆಯ ಮೇಲೆ ನೇಮಕ ಮಾಡಿಕೊಳ್ಳಬೇಕು.

21. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಕರ್ತವ್ಯ ಮತ್ತು ಕಾರ್ಯಚಟುವಟಿಕೆಗಳು

ಎ. ಮನೆ ಹಿಂಸೆಗೆ ಸಂಬಂಧಿಸಿದ ದೂರುಗಳನ್ನು ತನಿಖೆ ನಡೆಸಲು ನ್ಯಾಯಾಲಯಕ್ಕೆ ನೆರವಾಗುವುದು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಕರ್ತವ್ಯವಾಗಿದೆ.

ಬಿ. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ನ್ಯಾಯಾಲಯದ ಅಧೀನದಲ್ಲಿ, ಅದರ ಮತ್ತು ಈ ಕಾಯ್ದೆಯಲ್ಲಿ ಹೇಳಲಾದ ಕರ್ತವ್ಯಗಳನ್ನು ನಿರ್ವಹಿಸುತ್ತಾನೆ.

ಸಿ. ಈ ಮೇಲೆ ಹೇಳಿದವುಗಳಲ್ಲದೆ ಈ ಕೆಳಗಿನ ಕಾರ್ಯಗಳನ್ನು ಸಹ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಮಾಡಬೇಕಾಗುತ್ತದೆ.

1. ಮನೆಹಿಂಸೆಯ ಕುರಿತು ಸ್ವೀಕರಿಸಿದ ಅರ್ಜಿಯನ್ನು ಆಧರಿಸಿ ಮನೆಯಲ್ಲಿ ನಡೆದ ಘಟನೆಯ ಕುರಿತು ನಿರ್ದಿಷ್ಟ ಪಡಿಸಿದ ಫಾರಂನಲ್ಲಿ ವರದಿಯನ್ನು ತಯಾರಿಸಬೇಕು.
2. ಈ ಕಾಯ್ದೆಯ ಅವಕಾಶಗಳಡಿಯಲ್ಲಿ ನೊಂದ ವ್ಯಕ್ತಿಯ ಹಕ್ಕುಗಳಾದ ರಕ್ಷಣಾ ಆದೇಶ, ವಸತಿ ಆದೇಶ ಮತ್ತು ಪರಿಹಾರ ಧನದ ಕುರಿತು ಆಕೆಗೆ ಮಾಹಿತಿ ನೀಡಬೇಕು.
3. ನ್ಯಾಯಾಲಯದಿಂದ ರಕ್ಷಣಾ ಆದೇಶ ಪಡೆಯಲು ನೊಂದ ವ್ಯಕ್ತಿಗೆ ಸಹಾಯ ನೀಡುವುದು.
4. ಆರೋಪಿಯು ರೇವಣಿ ಮಾಡಿರುವ ಧನ ಪರಿಹಾರದ ಹಣವು ನೊಂದ ವ್ಯಕ್ತಿಗೆ ಸರಿಯಾಗಿ ಸಂದಾಯವಾಗುತ್ತಿದೆಯೇ ಎಂಬುದನ್ನು ನೋಡಿಕೊಳ್ಳಬೇಕು.

ಡಿ. ತನ್ನ ಕಾರ್ಯ ಕ್ಷೇತ್ರದಲ್ಲಿರುವ ಸ್ವಯಂ ಸೇವಾ ಸಂಸ್ಥೆಗಳು ನೊಂದ ವ್ಯಕ್ತಿಗೆ ನೀಡುತ್ತಿರುವ ಸಂದಾಯವು ಈ ಕೆಳಕಂಡಂತೆ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದೆಯೇ ಮತ್ತು ಪರಸ್ಪರ ಪೂರಕವಾಗಿ ಕೆಲಸ ಮಾಡುತ್ತಿವೆಯೇ ಎಂಬುದನ್ನು ನೋಡಿಕೊಳ್ಳಬೇಕು.

1. ಕಾರ್ಯಕ್ಷೇತ್ರದಲ್ಲಿರುವ ಸೇವೆ ಒದಗಿಸುವ ಸಂಸ್ಥೆಗಳಲ್ಲಿ ಲಭ್ಯವಿರುವಂತಹ ಎಲ್ಲಾ ರೀತಿಯ ಸೇವೆಗಳ ವಿವರವನ್ನು ಹೊಂದಿರಬೇಕು. ಅದು ನೊಂದ ವ್ಯಕ್ತಿಗೆ ಸುಲಭವಾಗಿ ದೊರಕುವಂತಿರಬೇಕು.
2. ನೊಂದ ಮಹಿಳೆಯು ಸುಲಭವಾಗಿ ಹೋಗಿ ಬರುವಂತಹ ಸುರಕ್ಷಿತ ಸ್ಥಳ ಅಥವಾ ಪರ್ಯಾಯ ವಸತಿಯ ವ್ಯವಸ್ಥೆ ಮಾಡಬೇಕು.
3. ಆಸ್ಪತ್ರೆ, ವೈದ್ಯಕೀಯ ಸಹಾಯದಂತಹವುಗಳನ್ನು ಪಡೆಯಲು ನೆರವಾಗುವಂತೆ, ಈ ಸೇವೆಗಳ ಲಭ್ಯತೆ ಇರಬೇಕು.
4. ಆಕೆಯ ವಸ್ತುಗಳಾದ ಸ್ತ್ರೀಧನ ಅಥವಾ ಇನ್ಯಾವುದೇ ಆಸ್ತಿಯನ್ನು ಆಕೆಯು ಮರಳಿ ಪಡೆಯುವಂತೆ ಸಹಾಯ ಮಾಡುವುದು, ನ್ಯಾಯಾಲಯದ ಆದೇಶವನ್ನು ಈ ಸಂಬಂಧ ಪಡೆಯುವುದು ಮುಂತಾದವುಗಳನ್ನು ಪೊಲೀಸರ ನೆರವಿನೊಂದಿಗೆ ಮಾಡುವುದು.
5. ನ್ಯಾಯಾಲಯದ ಆದೇಶವನ್ನು ಸುಲಭವಾಗಿ ಪಡೆಯುವಂತೆ ಮಾಡುವುದು.
6. ಈ ಕಾಯ್ದೆಯಲ್ಲಿ ನೊಂದಿಸಿದ ಯಾವುದೇ ಆದೇಶ ಮತ್ತು ವರದಕ್ಷಿಣೆಯ ಆದೇಶಗಳನ್ನು ಆರೋಪಿಯು ಪಾಲಿಸಲು ಸಾಧ್ಯವಾಗುವಂತೆ ಸಹಾಯವನ್ನು ನೀಡುವುದು.

ಇ. ಯಾವುದೇ ಕಾನೂನಿನಲ್ಲಿ ಏನೇ ಇದ್ದರೂ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ಈ ಕೆಳಗಿನ ಆದೇಶಗಳನ್ನು 48 ಗಂಟೆಗಳೊಳಗೆ ನ್ಯಾಯಾಲಯದಿಂದ ದೃಢೀಕರಿಸಬೇಕು.

1. ಯಾವುದೇ ಬ್ಯಾಂಕು ಹಣಕಾಸು ಸಂಸ್ಥೆಯಲ್ಲಿರುವ ವ್ಯವಹಾರ, ಖಾತೆ ಅಥವಾ ಲಾಕರನ್ನು ತಡೆಹಿಡಿಯುವುದು ಅಥವಾ
2. ಸಹಕಾರ-ಸಂಘ ಅಥವಾ ನೋಂದಣಿ ಅಥವಾ ಯಾವುದೇ ಪ್ರಾಧಿಕಾರ ಅಥವಾ ವ್ಯಕ್ತಿ ಅಥವಾ ಕಂಪನಿಯು ಯಾವುದೇ ಶೇರು, ಹಕ್ಕು ಅಥವಾ ಬಡ್ಡಿಯನ್ನು ಯಾವುದೇ ಸ್ಥಿರ ಅಥವಾ ಚರ ರೂಪದಲ್ಲಿ ವರ್ಗಾವಣೆ ಮಾಡುವುದನ್ನು ನಿಷೇಧಿಸುವುದು.

## ಭಾಗ 6

ಅಪರಾಧ ಮತ್ತು ದಂಡ

### 22. ಆದೇಶವನ್ನು ಮೀರುವುದು

ವಿಭಾಗ 5, 6, 7, 8, 9 ಮತ್ತು 15 ರಲ್ಲಿ ಹೊರಡಿಸಲಾದ ಯಾವುದೇ ಆದೇಶವನ್ನು ಉಲ್ಲಂಘಿಸುವುದು ಅಪರಾಧವಾಗುತ್ತದೆ ಮತ್ತು ಸದರಿ ಉಲ್ಲಂಘನೆಯು 3 ವರ್ಷಗಳವರೆಗೆ ವಿಸ್ತರಿಸಬಹುದಾದ ಸೆರೆಮನೆವಾಸ ಅಥವಾ ಇದರೊಂದಿಗೆ 20,000 ರೂಗಳವರೆಗೆ ದಂಡ ಅಥವಾ ಎರಡನ್ನೂ ವಿಧಿಸಬಹುದು.

### 23. ಷರತ್ತಿನ ಬಂಧನದ ಆದೇಶ :

ವಿಭಾಗ 5, 6, 7, 8, 9 ಅಥವಾ 9 ರ ಅಡಿಯಲ್ಲಿ ಆದೇಶಗಳನ್ನು ಹೊರಡಿಸುವಾಗ ನ್ಯಾಯಾಧೀಶರಿಗೆ ಆರೋಪಿಯು ಮನೆ ಹಿಂಸೆಯ ಕೃತ್ಯ ಮಾಡಿದ್ದಾನೆ ಎಂದು ದೃಢಪಟ್ಟಲ್ಲಿ ವಾರಂಟ್ ಇಲ್ಲದೆ ಬಂಧಿಸುವ ಆದೇಶವನ್ನು ಹೊರಡಿಸಬಹುದು ಮತ್ತು ಆದೇಶ ಉಲ್ಲಂಘನೆಯ ಬಗ್ಗೆಯೂ ಈ ಆದೇಶ ಹೊರಡಿಸಬಹುದು.

### 24. ವಾರಂಟ್‌ಗಳ ಪಾಲನೆ

ನೊಂದವ್ಯಕ್ತಿಯ ಅಹವಾಲನ್ನು ಆಲಿಸಿ, ಅಧಿಕಾರವುಳ್ಳ ಪೊಲೀಸ್ ಅಧಿಕಾರಿಯು ಸಂದರ್ಭವು ಗಂಭೀರವಾಗಿದೆಯೆಂದು ಅನಿಸಿದಾಗ ಆರೋಪಿಯನ್ನು ಬಂಧಿಸಲು ವಾರಂಟ್ ಹೊರಡಿಸಬಹುದು ಅಥವಾ ಬಂಧಿಸಬಹುದು.

### 25. ಪ್ರತ್ಯಕ್ಷ ದರ್ಶನ ಮತ್ತು ಸಾಕ್ಷಿ

ಎ. ವಿಭಾಗ 24ರ ಅಡಿಯಲ್ಲಿನ ಅಪರಾಧವು ವಿಚಾರಣೆಗೊಳಪಡುವ ಮತ್ತು ಜಾಮೀನುರಹಿತವಾಗಿರುತ್ತದೆ.

ಬಿ. ನ್ಯಾಯಾಲಯವು ಅಪರಾಧವು ನಡೆದಿರುವುದನ್ನು ವಿಭಾಗ 24ರ ಅಡಿಯಲ್ಲಿ ನೊಂದ ವ್ಯಕ್ತಿಯ ಏಕಮೇವ ಪುರಾವೆಯೊಂದನ್ನಿಟ್ಟುಕೊಂಡು ಅಪರಾಧ ನಡೆದಿದೆಯೆಂದು ತೀರ್ಮಾನಿಸಬಹುದು.

26. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಅಪರಾಧ :- ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯು ತನ್ನ ಕಾರ್ಯವನ್ನು ಯಾವುದೇ ಸರಿಯಾದ ಕಾರಣವಿಲ್ಲದೆ ನಿರ್ವಹಿಸಲು ವಿಫಲವಾದರೆ, ಕಾಯ್ದೆಯ ಅವಕಾಶಗಳನ್ನು ಪರಿಣಾಮಕಾರಿಯಾಗಿ ಜಾರಿಗೆ ತರಲು ನಿರಾಕರಿಸಿದರೆ ಅಥವಾ ನಿರಾಕರಿಸಿದರೆ, ನ್ಯಾಯಾಲಯವು ಒಂದು ವರ್ಷದವರೆಗೆ ಕಾರಾಗೃಹವಾಸ ಅಥವಾ ರೂ. 5,000 ರೂ. ದಂಡ ಅಥವಾ ಎರಡನ್ನೂ ವಿಧಿಸಬಹುದು.

ಯಾವುದೇ ನ್ಯಾಯಾಲಯವು ಸರ್ಕಾರದ ಪೂರ್ವಾನುಮತಿಯೊಂದಿಗೆ ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಅಪರಾಧದ ಪ್ರಕರಣವನ್ನು ವಿಚಾರಣೆಗೆ ಕೈಗೊಳ್ಳುವ ಅಧಿಕಾರವನ್ನು ಈ ವಿಭಾಗವು ನೀಡಿದೆ.

## ಭಾಗ 7

### 28. ಕಾರ್ಯಕ್ಷೇತ್ರ

ಎ. ರಕ್ಷಣಾ ಆದೇಶವನ್ನು ಹೊರಡಿಸುವ ಮತ್ತು / ಅಥವಾ ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಯಾವುದೇ ನ್ಯಾಯಾಲಯವು ಈ ಕೆಳಗಿನ ಕಾರ್ಯಕ್ಷೇತ್ರದಲ್ಲಿ ಅಪರಾಧವನ್ನು ತಡೆಯಬಹುದು.

1. ನೊಂದ ವ್ಯಕ್ತಿಯು ಖಾಯಂ ಆಗಿ ಅಥವಾ ತಾತ್ಕಾಲಿಕವಾಗಿ ವಾಸಿಸುತ್ತಿರುವ ಅಥವಾ ವ್ಯವಹಾರ ನಡೆಸುವ ಅಥವಾ ಉದ್ಯೋಗಿಯಾಗಿರುವ ಅಥವಾ
2. ಪ್ರತಿವಾದಿಯು ವಾಸಿಸುವ, ವ್ಯವಹಾರ ನಡೆಸುವ ಅಥವಾ ಉದ್ಯೋಗಿಯಾಗಿರುವ ಅಥವಾ
3. ಕೃತ್ಯ ನಡೆದಂತಹ ಪ್ರದೇಶ

ಬಿ. ಇದರಲ್ಲಿ ಹೊರಡಿಸಲಾದ ಆದೇಶವನ್ನು ಭಾರತದ ಯಾವುದೇ ಭಾಗದಲ್ಲಿ ಜಾರಿಗೆ ತರಲು ಸಾಧ್ಯವಿದೆ.

### 29. ಕಾರ್ಯರೂಪದಲ್ಲಿ ವಿಡಿಯೋದ ಬಳಗ

ಕಾರ್ಯರೂಪದ ಸಮಯದಲ್ಲಿ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಪ್ರತಿಕೂಲವಾದ ಪರಿಸ್ಥಿತಿ ಇದೆಯೆಂದೆನಿಸಿದಾಗ, ಕಾರ್ಯರೂಪವನ್ನು ಕ್ಯಾಮೆರಾದಲ್ಲಿ ಸೆರೆಹಿಡಿಯಬಹುದು. ಇದನ್ನು ನೋಡಲು ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗೆ ಅಥವಾ ಸ್ವಯಂ ಸೇವಾ ಸಂಸ್ಥೆಗಳಿಗೆ ಅವಕಾಶ ನೀಡಲಾಗಿದೆ.

### 30. ಹೇಳದೇ ಇರುವ ಭಾಗ :

ಈ ಕಾಯ್ದೆಯ ಅಡಿಯಲ್ಲಿ ಮಾಡಿದ ಯಾವುದೇ ನಿಯಮವು ಯಾವುದೇ ಕಾನೂನಿನಲ್ಲಿ ಏನೇ ಇದ್ದಾಗ್ಯೂ, ಏನೇ ವೈಪರಿತ್ಯಗಳಿಲ್ಲದಿದ್ದಾಗ್ಯೂ ಸಹ ಜಾರಿಯಲ್ಲಿ ಬರುವ ಅವಕಾಶ ಕಲ್ಪಿಸಲಾಗಿದೆ.

### 31. ಆಪ್ತ ಸಲಹೆ

ಅಹವಾಲು ಆಲಿಸುವತ್ತಿರುವಂತಹ ಯಾವುದೇ ಹಂತದಲ್ಲಿ ನ್ಯಾಯಾಲಯವು ಪ್ರತಿವಾದಿಗೆ ಒಂಟಿಯಾಗಿ ಅಥವಾ ನೊಂದ ವ್ಯಕ್ತಿಯೊಂದಿಗೆ ಜಂಟಿಯಾಗಿ ಕಡ್ಡಾಯವಾಗಿ ಯಾವುದೇ ಸ್ವಯಂ ಸೇವಕ ನಡೆಸುವ ಆಪ್ತ ಸಲಹೆಯಲ್ಲಿ ಪಾಲ್ಗೊಳ್ಳಲು ಆದೇಶಿಸಬಹುದು.

### 32. ಒಳ್ಳೆಯ ಉದ್ದೇಶದಿಂದ ಕೈಗೊಂಡ ನಿರ್ಣಯದ ರಕ್ಷಣೆ

ಯಾವುದೇ ರಕ್ಷಣಾಧಿಕಾರಿ ಅಥವಾ ಸಮಾಜ ಸೇವಾ ಸಂಸ್ಥೆ ಅಥವಾ ಪೊಲೀಸ್ ಅಧಿಕಾರಿಯು ಒಳ್ಳೆಯ ಉದ್ದೇಶದಿಂದ ಅಥವಾ ಈ ಕಾಯ್ದೆಯ ನಿಯಮಗಳ ಅಡಿಯಲ್ಲಿ ನಿರ್ಣಯ ತೆಗೆದುಕೊಂಡಿದ್ದಾಗ ಅವರ ನಿರ್ಣಯ ಅಥವಾ ಅವರ ವಿರುದ್ಧ ಸುಳ್ಳು ಆರೋಪಗಳನ್ನು ಪರಿಗಣಿಸಿ ಯಾವುದೇ ತೀರ್ಪು ಕ್ರಮ ಜರುಗಿಸುವುದು ಮಾಡುವಂತಿಲ್ಲ.

### 33. ಕಲಾಪಗಳು

ಎ. ಈ ಕಾಯ್ದೆಯಲ್ಲಿರುವುದನ್ನು ಹೊರತುಪಡಿಸಿ ಇತರೇ ಕಲಾಪ ನಡೆಸುವುದು ಅಥವಾ ಅಪರಾಧಗಳನ್ನು 1908ರ ಸಿವಿಲ್ ದಂಡ ಸಂಹಿತೆ ಮತ್ತು 1973 ಅಪರಾಧ ದಂಡ ಸಂಹಿತೆಯಡಿಯಲ್ಲಿ ಪರಿಗಣಿಸುವಂತಿಲ್ಲ.

ಬಿ. ಉಳಿವಿಭಾಗ (ಎ)ಯಲ್ಲಿರುವುದು ಯಾವುದೂ ನ್ಯಾಯಾಲಯವು ತನ್ನದೇ ಆದಕಾರ್ಯರೂಪವನ್ನು ನಡೆಸುವುದಕ್ಕೆ ಅಡ್ಡಿ ಪಡಿಸುವುದಿಲ್ಲ.

34. ಕಾಯ್ದೆಯ ಪರಿಣಾಮಕಾರೀ ಜಾರಿಗೊಳಿಸುವುದರಲ್ಲಿ ಸರ್ಕಾರದ ಕರ್ತವ್ಯ

1. ಭಾರತ ಸರ್ಕಾರವು ಅತ್ಯಂತ ಅರ್ಹ ವ್ಯಕ್ತಿಗಳನ್ನು ಮನೆಹಿಂಸೆ ತಡೆಗಟ್ಟಲು ಸಂಯೋಜಕರೆಂದು ನೇಮಿಸಬಹುದು. ಸದರೀ ಸಂಯೋಜಕರು ಕಾಯ್ದೆಯ ಜಾರಿ ಭಾರತದಲ್ಲಿ ಮನೆ ಹಿಂಸೆಯ ಪ್ರಕರಣಗಳು ಮುಂತಾದವುಗಳ ಕುರಿತು ಸರ್ಕಾರಕ್ಕೆ ವಾರ್ಷಿಕ ವರದಿ ನೀಡಬೇಕು ಮತ್ತು ದನ್ನು ಸಂಸ್ಥಿತನ ಎರಡೂ ಸದನಗಳ ಮುಂದೆ ಮಂಡಿಸಬೇಕು.
2. ಈ ವಿಭಾಗದ ಉಪ ವಿಭಾಗ(1)ರ ಅಡಿಯಲ್ಲಿ ಮನೆಹಿಂಸೆಯನ್ನು ತಡೆಗಟ್ಟಲು ನೇಮಿಸಲ್ಪಟ್ಟ ಸಂಯೋಜಕರು ಈ ಕೆಳಗಿನ ಎಲ್ಲಾ ಅಥವಾ ಯಾವುದಾದರೂ ಕೆಲಸ ಮಾಡಲು ಅಧಿಕಾರ ಹೊಂದಿರುತ್ತಾರೆ.
  - ಎ. ಮನೆ ಹಿಂಸೆಯ ತಡೆಗಟ್ಟುವಿಕೆಗೆ ಸಂಬಂಧಪಟ್ಟ ಎಲ್ಲಾ ವಿಷಯಗಳನ್ನು ಪರಿಶೀಲಿಸಲು ಮತ್ತು ತನಿಖೆ ಮಾಡುವ ಅಧಿಕಾರ.
  - ಬಿ. ಕಾಯ್ದೆಯ ಪರಿಣಾಮಕಾರೀ ಜಾರಿಗಾಗಿ ಅವಕಾಶಕ್ಕಾಗಿ ಕೇಂದ್ರ ಸರ್ಕಾರಕ್ಕೆ ವಾರ್ಷಿಕ ವರದಿಯಲ್ಲಿ ತಿಳಿಸುವ ಮಾಡುವ ಅಧಿಕಾರ.
  - ಸಿ. ಮನೆ ಹಿಂಸೆ ಕಾನೂನಿನ ಅವಕಾಶಗಳನ್ನು ಕಾಲಕಾಲಕ್ಕೆ ವಿಮರ್ಶಿಸುವ, ಪುನಃ ಪರಿಶೀಲಿಸುವ ಅಧಿಕಾರ.
  - ಡಿ. ಮನೆ ಹಿಂಸೆಯ ಕಾಯ್ದೆಯು ಸರಿಯಾಗಿ ಜಾರಿಯಾಗದಿರುವ ಕುರಿತು ಮತ್ತು ಮನೆ ಹಿಂಸೆಯ ಕುರಿತು ದೂರುಗಳನ್ನು ಪರಿಶೀಲಿಸುವ ಮತ್ತು ದೂರು ಪಡೆಯುವ ಅಧಿಕಾರ.
  - ಇ. ಮನೆ ಹಿಂಸೆಯ ಪ್ರಕರಣಗಳನ್ನು ಅಧ್ಯಯನ ಮಾಡಲು ಅಥವಾ ತನಿಖೆ ನಡೆಸಲು ಆದೇಶ ನೀಡುವುದು.
  - ಎಫ್. ಮನೆ ಹಿಂಸೆ ಮತ್ತು ಸುರಕ್ಷಿತ ಪರಿಸರ ಒದಗಿಸುವ ಪ್ರಕ್ರಿಯೆಯಲ್ಲಿ ಭಾಗವಹಿಸುವ ಮತ್ತು ಸಲಹೆ ನೀಡುವ ಅಧಿಕಾರ.
  - ಜಿ. ಮನೆ ಹಿಂಸೆಯ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಮಹಿಳೆಯ ಬೆಳವಣಿಗೆಯನ್ನು ವಿಮರ್ಶೆ ಮಾಡುವುದು.
3. ಭಾರತ ಸರ್ಕಾರ ಇಲ್ಲವೇ ರಾಜ್ಯ ಸರ್ಕಾರವು ಈ ಕೆಳಗಿನವುಗಳನ್ನು ಖಾತರೀಗೊಳಿಸಬಹುದು.
  - ಎ. ದೂರದರ್ಶನ, ರೇಡಿಯೋ ಮತ್ತು ಇತರ ಪತ್ರಿಕೆ ಮತ್ತು ಇತರ ಎಲ್ಲಾ ಮಾಧ್ಯಮಗಳಲ್ಲಿ ಕಾಯ್ದೆಯ ಕುರಿತು ಸಾಕಷ್ಟು ಪ್ರಚಾರ ನೀಡಬೇಕು.
  - ಬಿ. ಸರ್ಕಾರೀ ಅಧಿಕಾರಿಗಳು, ಪೊಲೀಸ್ ಮತ್ತು ನ್ಯಾಯಾಲಯದ ಸಿಬ್ಬಂದಿಗೆ ಸಾಕಷ್ಟು ತರಬೇತಿ ನೀಡಬೇಕು.
  - ಸಿ. ವಿವಿಧ ಮಂತ್ರಾಲಯಗಳಾದ ಆರೋಗ್ಯ, ಕಾನೂನು ಮತ್ತು ಕಲ್ಯಾಣ ಇಲಾಖೆಗಳಿಗೆ ಕಾಯ್ದೆಯ ಪರಿಣಾಮಕಾರೀ ಜಾರಿಗಾಗಿ ಸಹಾಯ ಪಡೆಯಬಹುದು ಮತ್ತು ಅವರ ಸಹಾಯವನ್ನು ಕಾಲಾನುಕಾಲಕ್ಕೆ ಪಡೆಯಬಹುದು.

35. ನಿಯಮ ರೂಪಿಸುವ ಅಧಿಕಾರ

- ಎ. ರಾಜ್ಯ ಸರ್ಕಾರವು ಅಧಿಕೃತ ಗೆಜೆಟ್ಟಿನಲ್ಲಿ ನೋಟೀಸ್‌ನಲ್ಲಿ ಹೊರಡಿಸುವ ಮೂಲಕ ಈ ಕಾಯ್ದೆಯ ಉದ್ದೇಶಕ್ಕೆ ಸಹಾಯಕವಾಗುವ ನಿಯಮಗಳನ್ನು ರೂಪಿಸಬಹುದು.
- ಬಿ. ಸಾಮಾನ್ಯವಾಗಿ ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಅಧಿಕಾರಕ್ಕೆ ಧಕ್ಕೆಯಾಗದಂತೆ ನಿಖರವಾಗಿ ಈ ಕೆಳಗಿನ ನಿಯಮಗಳನ್ನು ಹೊರಡಿಸಬಹುದು.

1. ಮೊಕದ್ದಮೆ, ಆದೇಶ, ನಿರ್ದೇಶನ ಮತ್ತು ವರದಿಗಳನ್ನು ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿ ಮಾಡುವುದಕ್ಕೆ ನಮೂನೆಗಳನ್ನು ಮಾಡುವುದು.
2. ಸೇವೆ ಒದಗಿಸುವವರ ಬಗ್ಗೆ ದಾಖಲೆ ಇಡುವುದಕ್ಕೆ
3. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳ ನೇಮಕ ಮತ್ತು ಸಂಯೋಜನೆಗೆ ಮತ್ತು ಅವರ ಕರ್ತವ್ಯಗಳು, ಕಾರ್ಯಗಳು ಮತ್ತು ಜವಾಬ್ದಾರಿಗಳನ್ನು ನಿರ್ಧರಿಸುವುದಕ್ಕೆ ನಿಯಮಗಳನ್ನು ರೂಪಿಸುವುದು.
4. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಯ ಅಧಿಕಾರಗಳು.
5. ರಕ್ಷಣಾ ಅಧಿಕಾರಿಗಳಿಗೆ ಸಹಾಯ ನೀಡುವುದಕ್ಕೆ ಅಧಿಕಾರಿಗಳನ್ನು ಸೇರಿಸಲು ನಿಯಮ ಮತ್ತು ವಿಧಾನವನ್ನು ರೂಪಿಸುವುದು.
6. ಧನ ಪರಿಹಾರದ ವಿಧಾನ ಮತ್ತು ಠೇವಣಿಯ ವಿಧಾನ, ವಸೂಲಿ ಮತ್ತು ಪಾವತಿಯ ನಿಯಮಗಳು.
7. ಈ ಕಾಯ್ದೆಯಡಿಯಲ್ಲಿನ ಕಾರ್ಯರೂಪ ನಡೆಸುವುದಕ್ಕೆ ನಿಯಮಗಳು.
8. ಈ ಕಾಯ್ದೆಗೆ ಸಂಬಂಧಿಸಿದ, ಸಂಬಂಧಿಸುವ ಬೇರೆ ಯಾವುದೇ ವಿಷಯದಲ್ಲಿ ನಿಯಮ ರೂಪಿಸುವುದು.

#### ಶೆಡ್ಯೂಲ್ - 1

1860ರ ಬಾರತೀಯ ದಂಡಸಂಹಿತೆಯಲ್ಲಿ ಅಪರಾಧಗಳು.

1. ವಿಭಾಗ 269 (ಉದ್ದೇಶ ಪೂರ್ವಕ ನಿರ್ಲಕ್ಷ್ಯದಿಂದ ಜೀವಕ್ಕೆ ಅಪಾಯಕಾರಿಯಾದ ರೋಗಗಳನ್ನು ಹರಡುವುದು) ವಿಭಾಗ 270 (ವೈರತ್ವದ ಕೃತ್ಯದಿಂದ ಜೀವಕ್ಕೆ ಅಪಾಯಕಾರಿಯಾದ ರೋಗಗಳನ್ನು ಹರಡುವುದು)
2. ಭಾಗ 16 (XVI)ರಲ್ಲಿ ಪಟ್ಟಿ ಮಾಡಿದ ಅಪರಾಧಗಳು (ಮಾನವ ದೇಹದ ಮೇಲೆ ದುಷ್ಪರಿಣಾಮ ಬೀರುವ ಅಪರಾಧಗಳು)
3. ವಿಭಾಗಗಳಾದ 383, 385, 386, 387, 388, 389 (ಸುಲಿಗೆಯನ್ನು ವ್ಯವಹರಿಸುವ ವಿಭಾಗಗಳು)
4. ವಿಭಾಗ 403 (ಅಪ್ರಮಾಣಿಕತೆಯಿಂದ ಆಸ್ತಿಯ ದುರುಪಯೋಗ) ವಿಭಾಗ 405 (ನಂಬಿಕೆ ದ್ರೋಹದ ಅಪರಾಧ)
5. ವಿಭಾಗ 441 (ಅತಿಕ್ರಮಣದ ಅಪರಾಧ)
6. ಭಾಗ 20ರಲ್ಲಿ ಪಟ್ಟಿಮಾಡಿದ ಅಪರಾಧಗಳು (ಮದುವೆಗೆ ಸಂಬಂಧಿಸಿದ ಅಪರಾಧಗಳು)
7. ವಿಭಾಗ 498ಎ
8. ವಿಭಾಗ 499 (ಮಾನನಷ್ಟ)
9. ವಿಭಾಗ 503 (ಉದ್ದೇಶಪೂರ್ವಕವಾಗಿ ಶಾಂತಿ ಭಂಗ ಮಾಡುವ ಉದ್ದೇಶದಿಂದ ಅವಮಾನ ಮಾಡುವುದು)
10. ವಿಭಾಗ 507 (ಅನಾಮಿಕ ಸಂಪರ್ಕದಿಂದ ಬೆದರಿಕೆ ಹಾಕುವ ಅಪರಾಧ)

11. ವಿಭಾಗ 509 (ಓರ್ವ ಮಹಿಳೆಯನ್ನು ಅವಮಾನಪಡಿಸುವ ಉದ್ದೇಶದಿಂದ ನಿಂಧಿಸುವುದು, ಮಾತನಾಡುವುದು ಅಥವಾ ನಡೆದುಕೊಳ್ಳುವುದು)

12. ಮೇಲಿನ ಯಾವುದೇ ಅಪರಾಧವನ್ನು ಎಸಗಲು ಪ್ರಯತ್ನಿಸುವುದು

ಇತರ ಕಾನೂನುಗಳು

1. 1961ರ ಫರದಕ್ಷಿಣೆ ನಿಷೇಧ ಕಾಯ್ದೆಯಲ್ಲಿ ಪಟ್ಟಿ ಮಾಡಿರುವ ಎಲ್ಲಾ ಅಪರಾಧಗಳು.

2. 1987ರ ಸತಿ ತಡೆ ಕಾಯ್ದೆಯ ವಿಭಾಗ 4 (ಸತಿಯಾಗಲು ಚಿತಾವಣೆ)

3. 1956ರ ಅನೈತಿಕ ಸಾಗಾಣಿಕೆ (ತಡೆಗಟ್ಟಲು ಕಾಯ್ದೆಯಲ್ಲಿ ಪಟ್ಟಿ ಮಾಡಿರುವ ಎಲ್ಲಾ ಕಾಯ್ದೆಗಳು)

4. 1994ರ ಪ್ರಸವಪೂರ್ವದ (ಪತ್ತೆ ಹಚ್ಚುವಿಕೆ ತಂತ್ರಗಳು ಕಾನೂನು ಬದ್ಧತೆ ಮತ್ತು ದುರುಪಯೋಗ ತಡೆಗಟ್ಟುವ) ರಲ್ಲಿನ ಅಪರಾಧಗಳು.

WH-17  
Original

**DOMESTIC VIOLENCE**  
**A study of organizational data**

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## INTRODUCTION

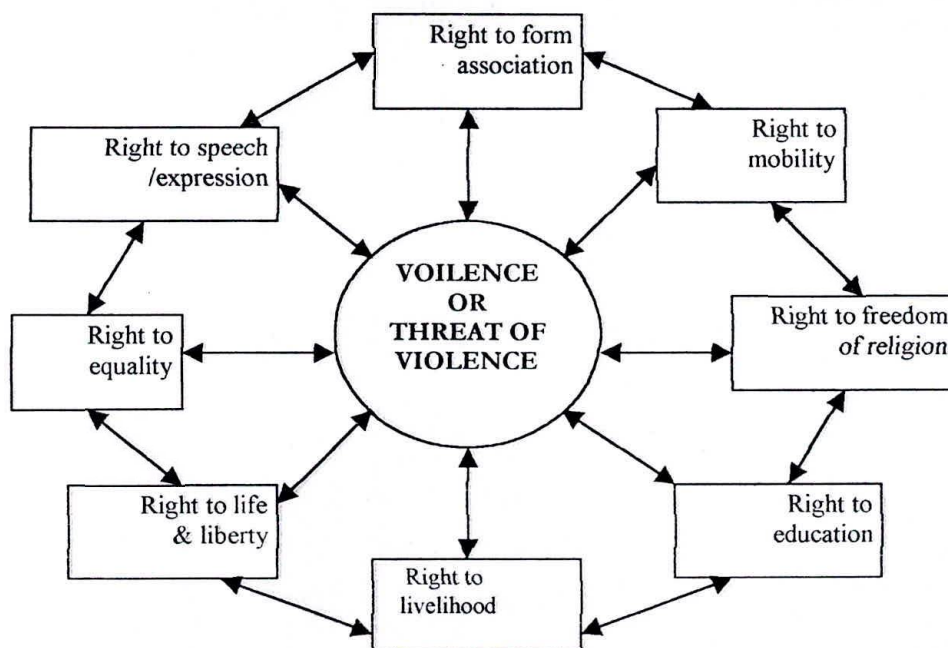
Hengasara Hakkinā Sangha (HHS) is an intermediary NGO. Our mandate is the empowerment of women through the knowledge and use of law and state legal systems to assert rights and access justice. We are an activist organization, located in the women's movement.

Training is a mode of our intervention. Our constituency is poor rural women of Karnataka. For long we have felt the need to actively engage in research. A study/research would strengthen our activism and our insights from training will enrich the research. Our premises and assumptions for the research come from our experience from the field. Our challenge has been to convince women that domestic violence is a rights violation particularly when participants in our programs tell us that the husband has a 'right' to beat his wife, that violence is an inevitable part of marriage. This and other instances, in turn guided our research questions.

Since we are an intermediary organization, we work in partnership with grassroots organizations. Our partner NGOs, working on different aspects of development, do not recognize domestic violence as a priority to be addressed. Though the women's groups were the first to identify and respond to the issue of domestic violence, many among them do not see domestic violence as a human rights violation. The advantage of a rights approach is that it identifies the different actors who are involved in the violation of the right and the State is obligated to take adequate measures to prevent it. By posing it as a social problem or as a criminal offence, the focus is on punishing the offender. While this is of importance, the limitation of this approach is that the woman often has no control over the process of the law (whom to call as witness, the evidence to be collected and produced etc) and it often disempowers the woman. Simultaneously, ' We need to develop a more comprehensive understanding of rights that exposes the limits of rights in struggles for social transformation. The question we need to ask ourselves is how to rely on law and rights without creating either a dependency on law, or the expectation that law will provide the solutions to our problems': Theory to Practice in Legal Literacy, Ratna Kapur in Legal Literacy Ed Margret Schuler & Sakuntala Kadirgamar-Rajasomgham, Women Law and Development, 1992.

## Why Rights

Insights gained from the field, make it clear that the human rights frame work is a powerful tool, to both address and redress the problems of women, including violence against women. We observe that the knowledge of rights gives women a good chance to assert rights. For instance, the knowledge that domestic violence is a rights violation helped women in a sangha (women's collective) to bring down domestic violence significantly. They did this by merely informing the men that they (the men) would be branded as criminals. Assertion of and access to rights cannot be either looked at as a linear process i.e. that rights are accessed one after the other. Rights form a web, each influencing other rights and, in turn being influenced by them.



From the above it can be seen that domestic violence or threat of violence, impacts women accessing and asserting other fundamental rights. For instance, violence or the threat of violence prevents women from accessing their right to mobility. This in turn restricts or denies them their right to education, livelihood and frequently to belong to support groups.

## **STAKEHOLDERS.**

At the beginning of the project we identified the stakeholders in the process of research and for moving forward with the findings of the research. We identified the organizations from whom we would collect data, the case workers in these organizations who work directly with the women, women who are survivors of violence, HHS as an organization, and the women who have worked on the project. Empowerment of the stakeholders was envisioned as integral to the agenda of the project.

Follow up action for the organizations that we worked with would be a part of the empowerment of the organizations. In addition, evolving of common norms and forums for discussion and growth would become part of the process of empowerment. The concept of empowerment also assumes that participatory research methods are based on research as a way of politicizing participants so that they can, subsequently, engage in actions which will challenge the conditions of the oppressor.

The insights HHS has gained from the empirical data and the findings will be useful in our advocacy and training programs.

An excerpt from the researchers:

All women face similar problems. I was under the impression that education and economic independence will empower women. Soon I came to know these are not at all true. Most women who came to NGO's for help as the last choice. 'Given the family structure women should maintain harmony in the family' is a view that we hear expressed often. Wife beating is accepted. Few women seek help because of domestic violence.

Type of violence one cannot even imagine. I started to rethink about all human relationships especially on fatherhood! Economy, education, modernization all changed men. But the same things did not help to accept women's change. Because of all these women are facing more pressure and more violence. Society is expecting more from women and it is giving more responsibilities to only women.

She is a wife that's why she gets beating!. Personally, I feel we should rethink about our marriage institution. Definitely it needs to be change.

## **METHODOLOGY**

This research studied the primary records available in the NGOs and GOs. Though they were primary records, they formed secondary data as they were collected for purposes other than the current research. Our sample was the records that were available for the years '96, '97, '98 in two NGOs and two GOs.

The NGO's: 1. Vimochana  
2. Janodaya

We selected Vimochana and Janodaya because they both have a long track record and are well known. Vimochana is a forum for women's rights engaging with issues of women's oppression for the past 20 years. Janodaya has been working in the areas of community development, slum development programs, women prisoner's rights, shelter and vocational training for women and counseling for women. The NGOs have been working to fill a void in the services that are available to women. It was important that we are able to study the data available in these NGOs to understand the needs of women who seek help for domestic violence.

The GO's: 1. Family counseling cell located at the Police Commissioners office  
2. Tilaknagar Police Station

The choice of the GO was very restricted. We wanted to study the data at Abhayashrama run by

the Karnataka State Social Welfare Advisory Board, unfortunately we were denied access to their records. We therefore looked at the data available at The Special Cell for Woman at the Police Commissioner's Office, which has been in existence for the past 5 years. The family counseling cell handles approximately 200-300 new cases of family disputes, which includes cases of domestic violence. In view of this it was important source of primary records. We looked at the data available at the Tilaknagar police station as it is located in a residential area close to a market and its jurisdiction includes all classes, castes and religious groups. We looked at the police station records to study the type of violence reported and to discern any difference in the system of record keeping.

### **Definition**

We realized that Domestic violence can't be strictly defined to mean violence perpetrated by husband/partner. We use the word Domestic violence to mean violence perpetrated in the marital home and by the husband/partner.

A list of variables was drawn that would help us construct questionnaire that help us locate domestic violence in the web of rights and to examine the inter links between domestic violence and the assertion / non assertion of other rights. These variables were broken down to clusters by the research team. This process of breaking down the broad questions into focussed questions took place over a period, during which the researchers were introduced to the Rights discourse. In addition the researchers were given inputs on ; purpose of empirical research, research methodologies in general and feminist research methodologies in particular and a literature review of domestic violence.

### ***Questionnaire:***

The questionnaire that emerged as the final product was the outcome of discussions among the researchers and the insights gained from the field in the HHS training programs. The process of involvement in the formation of the questionnaire for the researchers clarified a lot of questions about why we were asking the questions we were asking. Researchers could identify with the questionnaire because of the involvement in the process of evolving the questionnaire. We then

generated a Schedule for case worker interviews, to understand their perception of violence.

### **Data collection:**

We started the data collection at Vimochana and then moved on to Janodaya . The primary records available in these organizations were in the form of narratives written by the women seeking help or written on her behalf. The data was roughly segregated in chronological order. No record of intervention or consequent action after the complaint was available.

The data available at the Family counseling cell at the commissioners office was not different from the data available in the NGOs in terms of content. Here also the data primarily comprised narratives written by women who have sought help with additional observations by the case worker. The data at the Tilaknagar police station had narratives by the women appended to the FIR, this again was the source of information besides the format of the FIR.

The process of data collection was both frustrating and enriching at the same time. Frustrating because the data was too fragmented to form a coherent picture and enriching because we were privy to a part of women's lives that held an articulation of their feelings.

### **GAPS IN THE DATA**

One of the objectives of the research was to analyze patterns that emerge from the records of the NGO and other organizations. We hear the voices of many women when we are in the field. We wanted to explore the correlates between different variables through the study. Unfortunately we found broad gaps in the records of the organizations. The method of maintaining records in the organizations is in the narrative format. The woman who is seeking help gives a written statement to the organization. That is the only data available. A narrative emerges from this statement. Since there is no format for the statement crucial data is not available. Further, the follow up is not in the records. The mode of intervention, the course of action taken is not known.

The questions that need examination:

1. Is there a correlation between:
  - a. The age of the woman and the man and violence.
  - b. Years of marriage and violence
  - c. The number of children and violence
  - d. Sex of the children and violence

Data available

	Information Available	Information Not Available
	Number of Records -207	
Her age	67	140
His age	25	182
Number of years of marriage –	No data	
Number of children, their age, their sex their birth order.	116	91
Number of children		
Age of children		
Sex of children		
No. of Males	15	
No. of Females	49	
Birth order of children		

2. Keeping in mind the web of rights, we wanted to investigate the relationship between violence and :
  - a. right to livelihood

Data available

What are her formal skills? (certified)	9	198
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What are her informal skills?	No data	
Is she currently employed?	85	122
Yes	35	
No	48	

c. right to control of income and assets

This becomes particularly important in the light that many institutions, for e.g. banks, NGOs and government schemes are all advocating for income generation. This we argue is done without sufficiently scrutinizing whether the woman has control of the income and whether this income helps or hinders her assertion of other rights. For instance does violence decrease or increase with income?

Data available

Can she spend her own income -	23	184
If she spends her income without being accountable to anyone how does she spend it and under what circumstances does she choose to spend it on what she does?	No answers	
If she has to get permission to spend/use her income, whom does she get this permission from?	No answers	
Are there any occasions/emergencies where she can use her income without getting permission?	No answers	
If yes, what are these occasions/emergencies?	No answers	
Would she like to have more control over her earnings?	No answers	
Does she spend/use the income they get from their productive assets?	No data	
Does she have control over her own assets?	No data	

Example: Jewelry



d. We wanted to study the relationship between domestic violence and the right to mobility and from/belong to organizations/associations. We argue that the assertion or non assertion of the right to mobility impacts critical on other rights, for e.g. the right to education, health, livelihood and skills upgrading.

Data available

Is she allowed to go out ?	29	178
Yes	13	
No	18	
If she is allowed to go out, where is she allowed to go out?	No data	
Why is she not allowed to go out?	14	193
Who prevents her from going out?	15	192
If she is allowed to go out, does she have to take permission to go out?	No data	
Whose permission does she have to take to go out?	No data	

The gaps in the data make analysis difficult.

## FINDINGS

### PROFILE OF DOMESTIC VIOLENCE VICTIM SEEKING NGO/GO HELP

The following 3 cases drawn from a description of the women's written complaints may provide a general illustration and profile of the kinds of material recorded by the complaints, and the primary circumstances and obstacles faced by the women who seek help and the organizations who attempt to help her.

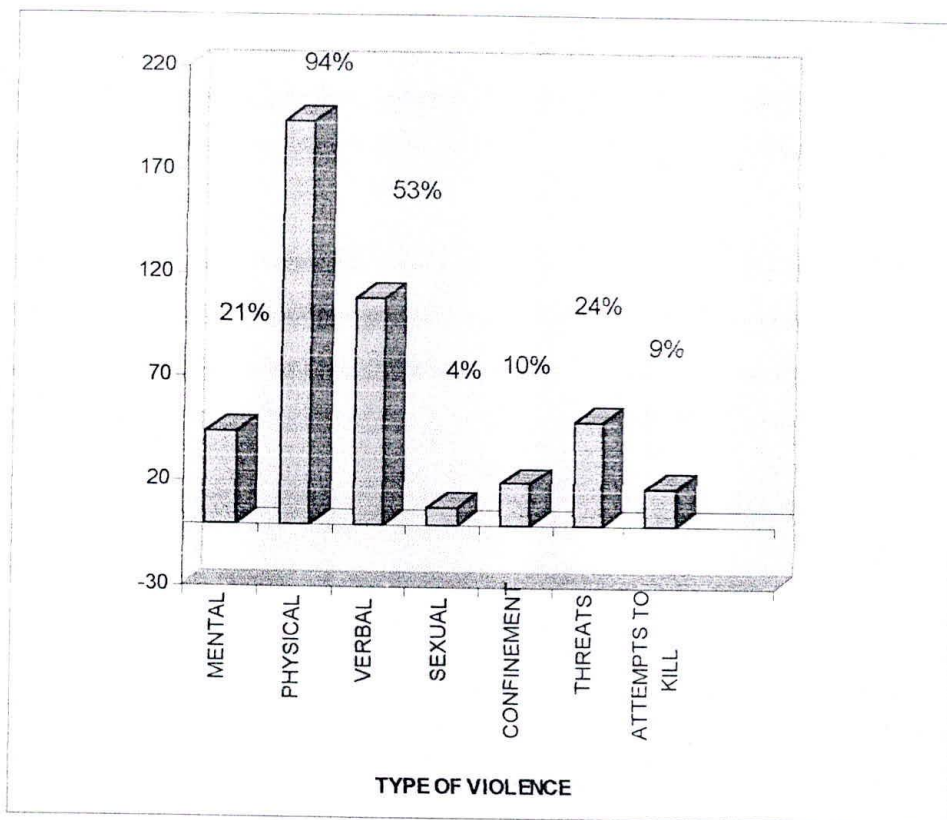
Case 1: A Middle-aged woman with teenage children. Violence. No money is given to run the house. She complains to the police, but police support the husband. She asks the NGO for maintenance and security. She says he will get someone to kill her and the children.

Case 2: She is a laborer. Forced to have intercourse with him. Now married to him. Husband's elders come to harass her, force her to have an abortion. Husband leaves her and marries again. She wants justice done.

Case 3: Married 6 or 7 months. Starts suspecting her fidelity after a month. Starts physically and mentally harassing her. Made police complaint. They reconcile them. Violence worse. Unable to bear it, tries to commit suicide. Hospitalized. Special cell also tries to reconcile, doesn't work. Now wants a divorce.

### **Type of violence**

<b>TYPE OF VIOLENCE</b>	<b>CASES</b>
MENTAL	44
PHYSICAL	194
VERBAL	109
SEXUAL	8
CONFINEMENT	20
THREATS	50
ATTEMPTS TO KILL	18



The percentages calculated for 207 cases.

We have broadly broken down the reported violence into seven categories.

**Mental cruelty/violence:** We have included this category because this is explicitly stated in the narratives of women. For ex, Beating for 21 years. Had to go to hospital 4-6 times. Beat daughter who tried to help. Treated like a slave. Starved. Physical and mental abuse.

**Physical violence:** This category includes beating with hands/fist, beating with rods sticks, Throwing her against the wall, kicking, hurling objects at her, burning, and other physical violence. Ex: Beats her, pours kerosene to set her ablaze, hits on her head when she is pregnant, beats her with a wooden log.

Verbal abuse: this category was included because all the women write about verbal abuse coupled with other forms of violence. This also includes the kannada equivalent of 'scolding' which frequently finds a mention in the narratives.

Sexual Violence: This category includes cases where the woman has stated she is undergoing sexual violence.

Confinement: We decided to include this category when we come across quite a few cases where women have complained that they haven't been allowed to go out of the houses, they were virtually imprisoned in their houses. This category also includes women who have complained that they have been denied food/starved. Ex: Kicking, beating, assaulted, Not allowing her to go out. Imprisoned in the house. Hitting her face with chappals.

Threats: This category includes any threat to the woman , her children and/or her family. Ex: Harassment, assault. Threatens to kill her and her family. Forced to have an abortion.

Attempts to kill: This category includes all the attempts to kill her and/or her children. Ex: Beating, beating with iron rod. Head injuries. Vomits blood. He tries to strangle her at her workplace. Tries to kill her while she is sleeping.

Mental torture is always accompanied by other forms of violence. 44 women have reported mental abuse/cruelty/violence.

There is an overwhelming presence of severe physical violence. We say severe physical violence because most women report violence only when it is severe/unendurable. 194 of the 207 narratives report physical violence.

Verbal abuse is usually accompanied by physical violence and other forms of violence.

Out of 207 cases 8 women have explicitly stated sexual violence. This could perhaps be an indication that sexual violence is not being reported rather than mean that it doesn't occur. It is interesting to note that in the case worker interviews, one case worker said that sexual violence is on the increase and it was attributed to modernization, urbanization, information explosion and readily available pornographic material.

There is an overwhelming presence of physical violence usually accompanied by mental and verbal abuse.

It is interesting to see that 20 women out of 207 report confinement and/ or starvation.

Confinement would cut off any support that she could have accessed if she had been able to go out. This is an indication that right to mobility is curtailed for many women besides those who have reported it. Women who have reported it have done so because they haven't been allowed to step out of the house, with additional curbs on using the telephone and contacting the natal family. Only extreme instances have been mentioned in the narratives, there could be many women whose mobility is being severely curtailed making it impossible for them to access any form of support.

Threats to kill: Women report being threatened by husbands and in 1/3 of the threats there is involvement of the marital family. The threats are directed at her and/or her children and her relatives. Threat of violence on her and children could make her vulnerable to further violence. Threat of violence in combination with other factors, like confinement is a debilitating experience for a battered woman, and it is a violation of the fundamental right to life and liberty.

### **Specific observations.**

The word torture in English and its Kannada equivalent repeatedly finds a mention in the narratives. It refers to both physical and mental violence and is used in most cases to mean unbearable violence.

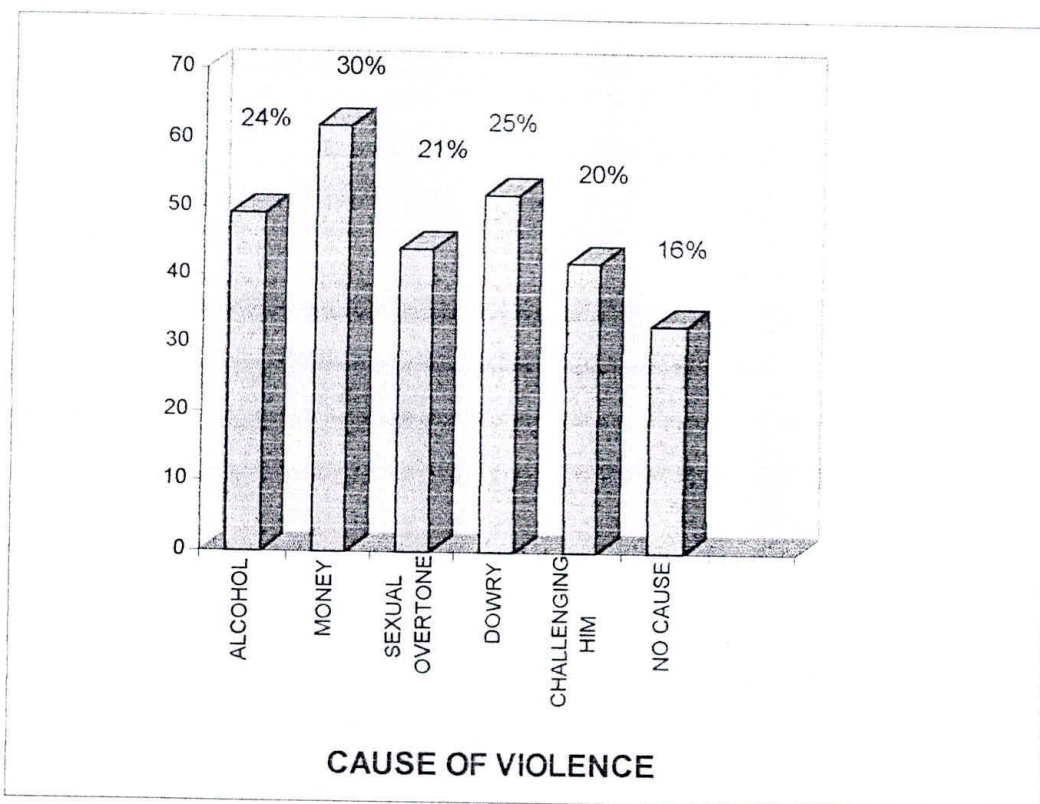
Another observation we made during our perusal of the narratives is that 'Kerosene' finds a mention in 31 narratives. Kerosene seems to be a handy and easily available material for violence and threats of violence.

Violence during pregnancy is mentioned in 8 cases. The women have come here not for this in particular but have found it important to write about it. This may mean that women are more vulnerable during pregnancy. In a few cases there is mention increase in violence after the birth of female children, but the data is very scanty to draw conclusions.

For a question on whether women should complain about the violence only when it escalates and not in the first instance, 3 case workers(out of a total of 6 interviews) have said yes women have to complain only after it escalates. There is one categorical No, one Yes but, and one No but to the same question. This reflects the case workers perception of violence as a continuum, where intervention /help is possible only after the violence has crossed a threshold. It is very clear that violence in any form/degree is not perceived as a rights violation.

### **Cause Of Violence**

<b>CAUSE OF VIOLENCE</b>	<b>CASES</b>
ALCOHOL	49
MONEY	62
SEXUAL OVERTONE	44
DOWRY	52
CHALLENGING HIM	42
NO CAUSE	33



The percentages calculated for 207 cases.

We have divided cause of violence into 6 broad categories. These categories reflect the apparent cause of violence as stated in the narratives of women who have sought help.

**Alcohol:** Consumption of alcohol and consequent violent behavior with an underlying cause for violence (as seen by the women) is included in this category.

**Dowry;** Refusal to give Dowry, dowry not sufficient, demands for more dowry, are seen as cause of violence by the women. This category includes only those narratives which specifically use the word Dowry while explaining the cause of violence.

**Money:** this category was included in addition to the category dowry because we needed to draw a distinction between demand for dowry and control over her income, control over her assets, refusal to give money for expenses. Ex: Alcoholic, spends all the money. Gives nothing for household expenses. When she questions him she is beaten.

Sexuality: This category includes references to his extramarital affair, his second marriage, her supposed infidelities and control over her sexuality. Ex: Violence happens when she refuses to have intercourse, when she questions him about other women, alcohol and work.

Challenging him: We included this category because a large number of women have reported violent behavior when they challenge authority of husband and the marital family. Ex: violence happens when she questions him about his illicit relationship with a relative.

No cause: this category includes narratives that state no apparent cause of violence.

The cause for violence as stated in the narratives could be the precipitatory factors for the violence rather than 'The Cause' for violence. For instance the alcohol finds a mention in 49 narratives, but it doesn't seem to be a problem in isolation, but goes with other causes mentioned in the narratives. The cause of violence overlap one another the categories for cause of violence are not exclusive, the causes overlap one another. The causes are combination of more than two causes.

Dowry as a cause for violence is the largest category. Demanding dowry seems to be a matter of right. Refusal to give in to dowry demands is stated as a cause for violence. There are instances where Dowry has been given to placate the marital family, which has in fact fuelled demands for more dowry, enmeshed in this is the cycle of violence where she is repeatedly subjected to violence when dowry is not forthcoming or used up. There many women who say their husbands married them just for the Dowry and that violence is a means to extract more dowry. Women don't even have access to their assets-dowry/jewelry let alone control over it.

Narratives which mention money as the cause of violence in 62 cases. This category includes instances where she is not given money to even run the house, and is not allowed to spend money on her own and instances where marital family/husband wants to control her earnings. It is interesting to compare the graph of 'What she wants' and 'Cause of Violence'. Money is the cause of violence in 62 cases and she wants the help of the NGO/GO to get back her



things/dowry in 22 cases and Maintenance in 36 cases. There seems to be an overwhelming need for financial support and security. It is an interesting implication to note that the woman is subject to violence when she earns, and the woman is subject to violence when she is not financially independent. An interesting implication is that it is more about control over money than money per se.

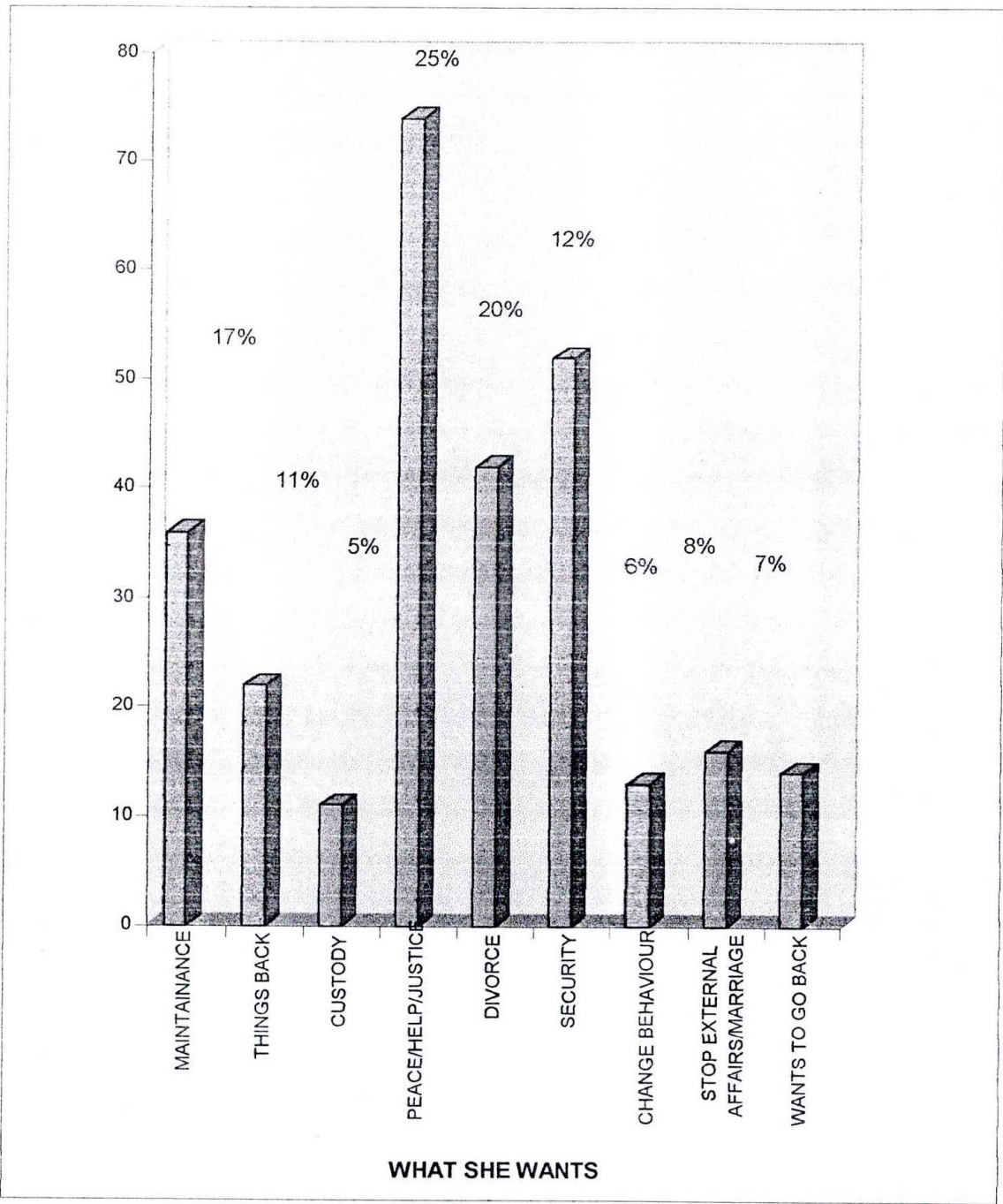
Sexual overtones/sexuality: We included this category because for many women have told in their narratives that a second marriage for their husbands/partners is used as a threat to subdue and perpetrate violence on them. When women question the extramarital affair violence increases. This category also includes cases in which women have said they were subject to violence allegedly because they were of 'impure character'. Some women have reported that they were forced to sleep with other men, otherwise they would be beaten. Though we don't have quantitative data on whether women have control over their reproduction and sexuality, this category is an indication that we need to look at this aspect to understand how control over sexuality and reproduction will impact on violence experienced by women.

Challenging him: This category includes all instances in the narratives which state that violence happened or increased after the women questioned the marital family or the husband/partner. When women questioned about money, extramarital affair, or just didn't do as they were told, they were abused to silence.

No cause: 33 women have not specified any cause for violence. This is very interesting because while we were studying the records/narratives we sensed that women were justifying their seeking help by stating reasons for violence. We felt that maybe it is easier for women if they specifically stated why they were being beaten up to get help. The underlying assumption being that there ought to be a reason to seek help, rather than the fact that she is being beaten up. It is imperative for Domestic violence to be recognized and treated as a rights violation

## **Her Needs**

<b>WHAT SHE WANTS</b>	<b>CASES</b>
MAINTAINANCE	36
THINGS BACK	22
CUSTODY	11
PEACE/HELP/JUSTICE	52
DIVORCE	42
SECURITY	52
CHANGE BEHAVIOUR	13
STOP EXTERNAL AFFAIRS/MARRIAGE	16
WANTS TO GO BACK	14



The percentages calculated for 207 cases.

The research identified interests identified by the women coming to the NGOs as documented in the written complaints. Repeated and consistent mention of particular desired needs were classified into nine broad categories under the heading of *'what she wants'* and/or *'why she has come'*. These headings were based on the terms used by the women in their written complaints and comprised: maintenance, things back, custody, divorce, security, change his behavior, stop extra marital affairs or stop his second marriage, help to go back, and three terms grouped together in one category: peace/help/justice. A closer analysis of these categories and their possible meanings and significance will provide further insight into the actual and perceived needs of women who seek justice.

Although each of the above categories obviously overlap and intersect in that women may seek more than one of these as outcomes, we sought to isolate these particular requests for because of their frequency, and to identify terms used by women in need. Specific and concrete requests for maintenance were found in 36 of the cases documented. Similarly, help to 'get her things back' was requested in 22 of the cases studied. This was understood to refer to situations in which she has been thrown out of the matrimonial home, or in which the husband has possession of her jewelry or other possessions on leaving her. Specific requests for help in obtaining custody of her children was found in 11 of the cases, presumably in cases where separation had occurred or was desired. In these headings, it is apparent the women in these cases may expect that the NGO can provide assistance in acquiring these.

In addition, however, many women seek less concrete outcomes that appear to involve a dramatic change in their circumstances. 52 cases explicitly request help for 'safety' or 'security' from violence. This may refer to assistance in restraining her husband or in-laws in some way, regular protection from some outside authority or an alternative shelter arrangement. The interest in finding help to change her fundamental circumstances is further evident in the higher number of specific requests for divorce and the relatively low frequency of requests for help in staying in the marriage. Finding help to stay in the marriage may depend on conditions specified by the women, as evident in requests for help in changing his behavior generally (13 cases), specific help to stop his extra martial affairs or his second marriage (16 cases), and the explicitly expressed interest in getting help to return to the marriage (only 14 cases). Requests for help in

curing his alcoholism or stopping his drinking were placed in the general category of changing his behavior and were occasionally cited as a condition for returning.

Alternatively, there were far more specific requests for help in getting a divorce (42 cases). Possible implications of these distinctions are that where women can receive help in, for example, changing his behavior and/or stopping his 2nd marriage or his affairs, they may consider a return to the marriage. However, if not, they prefer to live elsewhere in a safe or secure alternative shelter or simply to leave the marriage altogether. Of particular interest is the evidence, found in the data, that the women who report experiencing at least one attempt to kill them are all uniformly interested in leaving the marriage. This evidence comes as no surprise, but the question would be "why do women wait for such a drastic action before seeking help". This is a crucial in the light of the frequency of service providers who seek reconciliation of the husband and wife and urge the women to return to their husbands. Four of the six case workers interviewed stated unequivocally that a "reconciled marriage" is a successful intervention.

As with the general request for security, a predominant request and perhaps a still more abstract need found among all the cases was an interest in finding some form of what was termed either 'peace, help or justice'. These terms were used throughout the cases and often formed a summary, conclusion or an end to their complaint, as in 'I just need some help' or 'Please help me live in peace' or 'I want justice for this'. Although it is has not been possible to do a thorough empirical and ethnographic assessment of the precise meanings attributed to each of these terms and the different needs they point to, some speculation is possible. In particular, the use of the actual term 'justice' by women in their complaints is an important finding. In general, it refers to a direct interest in making him accountable in some way. Usually this appears to imply some form of compensation for a violation of his perceived responsibilities and duties. The violation may, in some cases, refer to his cruelty or his violence or more frequently, his failure to fulfil his duties and responsibilities as they are understood to be expected in marriage.

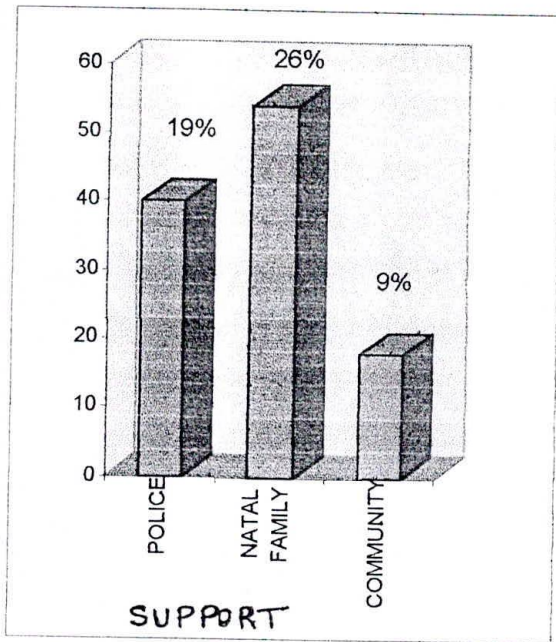
It is in the attention to these more abstract requests that further research can provide valuable insights. In order for a human rights framework to be effectively implemented among domestic violence service providers, it is essential to identify how rights and entitlements are currently

understood by women seeking help, those not seeking help and those providing help. This can determine when and why a woman may decide to speak out about her abuse, and when and why she is likely to receive support. If she believes that she must provide an account of a particular sort of violation--an attempt to kill, cruelty to her children, refusal to provide food or shelter--in order to receive help, then it is likely that she will resist claiming her human right to be free from violence unless or until these other violations occur. Likewise, if service providers do not have clear perception of these entitlements, it is unlikely that they will be able to provide the support she is entitled to.

Among caseworkers interviewed for the study, we noted that the needs of the women far exceed what the NGO can provide, particularly in isolation. For instance, it is may not be possible for the NGO to get back her jewelry or possessions without the active support of the police or the courts. Similarly in the case of child custody or being denied entry into the marital home. This is particularly difficult in the light that the woman is seeking to exercise her legal right. This assertion may not be possible through dialogue and discussion.

**SUPPORT: Effectiveness of Support Sought in the Past**

CATAGORY	CASES
POLICE	40
NATAL FAMILY	54
COMMUNITY	18



The percentages calculated for 207 cases.

A large number of women seeking help from the NGO have sought help from other sources before coming. Identifying where women go initially to seek help or protection can tell us a bit about women's perceptions of their own rights for safety, and who they believe the duty-bearers might be. In addition, the effectiveness of these agents at responding to her requests can also be informative.

Most frequently, women sought help first with the police, with community elders or panchayats and with their natal families. Some women seek help in all three places before coming to the NGO. A brief analysis of the data shows that all three of these have not been adequate in helping her to achieve protection, maintenance or the support she needs. Further, it is evident that none of these have prevented the violence from continuing.

## **The Police**

Many women describe having made a complaint or several complaints to the police.

Caseworkers report a sense that middle class women are more likely to go to the police before coming or in addition to coming to the NGO, while women from working classes appear to avoid the police. In the cases collected, 41 of 207 explicitly mention seeking help from the police in the past, and several mention reporting to the police several times. It is not clear from the data whether these women actually filed a formal complaint and registered an FIR, or whether they were dissuaded from doing so. Without standard documentation of this at the NGO, it is not possible to determine this. Of these cases that do identify previous police complaints however, all 41 mention that the violence either continued or even got worse as a result of their complaint. 7 describe that, in fact, reporting the violence to the police raised the level of danger they faced either because the police supported their husband and reinforced her vulnerability, or because her husband used her complaint as leverage to assault or threaten her further. In one case a woman described having been sent by the police to talk to her husband and his friends then assaulted her, another mentioned that her husband threatened her until she withdrew her complaint. In another case, a woman reported that police forced her to marry a man who had raped her, and then refused to support her as she continued to be assaulted and abused by him.

## **The Community**

All 18 of those who have sought help from community elders, panchayat councils or neighbors have found this to be ineffective in preventing or restraining the violence. In a few instances, her reporting to the community has increased the violence that she experiences. In one case, a woman describes being beaten severely when her husband learned that she had gone to the



panchayat. Others describe being temporarily reconciled by elders and then having the violence resume and increase.

### **The Natal Family**

54 of the cases explicitly report seeking help from their natal families. Of these, 38 appear to be able to stay at least temporarily with their families. However, they still seek help in acquiring maintenance, custody or assistance to receive justice or a divorce from the NGO while staying with their parents.

23 mention that their natal families are unable or unwilling to support them or that they are not safe with their families. This occurs when her family is no longer alive or accessible, the family refuses to keep her and forces her to return to her marriage, because her natal family also abuses her, or because her husband is able to find her and beat her while she is staying with her family.

7 report explicitly that their natal families are also being beaten or victimized in some way by her husband. For example, several describe threats by their husbands to kill her family, kill her mother, and assaults by her husband of her mother or her brother.

These results make evident that natal families are most likely the first and most frequent place a woman may go for help and that women do often look to the police for protection and safety. However, there is a sizable number of women who cannot be protected from the violence nor even receive shelter or support from their natal families and are incapable of finding support elsewhere. Further, the cases that do not explicitly mention their natal families in their written complaints to the NGO may have included an additional number for whom the natal families is not capable of providing support.

This data also shows that women may seek help repeatedly from many sources until they get what they need, and that despite the ineffective response from the police, women are willing to continue to reach out to NGOs and others.

#### FURTHER INSIGHT PROVIDED BY CASEWORKERS

Caseworkers responded to questions about the kinds of women who seek help in primarily class terms. 4 of 6 perceive that all classes of women report domestic violence. 2 mention that they receive higher reports from women in the lower or working classes and speculate that these are the women who are less likely to go to the police, and thus come to the NGO first. Women from the middle classes, on the other hand, may go to the police as well as to the NGO, according to these caseworkers. 3 of the 6 mention a perception that there has been an increase in the numbers of middle class women seeking help from the NGO.

These caseworkers suggest then that the increase in numbers among middle class women is the result of increases in education and awareness about domestic violence. That is, they suggest that “middle class women increasingly have the voice to come out and complain”.

All caseworkers interviewed state uniformly that there has been an overall increase in numbers of women coming forward for help from domestic violence. However, they have a variety of different speculative explanations for this which point to both increases in incidents of violence and increases in reporting. 2 suggest that it may be due to a general increase in expectations of women due to increased consumerism and need for income. This may be interpreted to mean that an increased consumerism generates more demand for dowry and for control of women and leads to more women being blamed or abused. 2 suggest that, as stated above, increased education and awareness about women’s rights and domestic violence has encouraged more women to come forward. And 2 suggest that women come to NGOs when they have no other form of support, and when police and other measures fail, increased incidents lead to more reporting.

Similarly, caseworkers perceive that women don’t report at all for reasons having to do with their class and status position. In general, caseworkers state that women don’t report because they are from villages or lower classes and believe that they “must handle situations themselves” and/or that they are women who believe that domestic violence is an inevitable part of marriage. Or,

alternatively, women don't report because they are from higher status families and are afraid of society's opinion of them if they come forward.

Caseworkers also offer that women may not report due to lack of support. Thus, while women may turn to outside help when she has been unable to receive help elsewhere, 2 caseworkers suggest that she may also fear or avoid coming forward until she receives at least a minimal level of support or encouragement from somewhere.

### **Support offered, NGO definitions of counseling and support**

4 of the 6 caseworkers interviewed considered a form of counseling or advising to be part of the services they provide to support women. 2 consider shelter, resettlement, and economic support to be primary and don't offer counseling per se. One suggested that they placed more importance instead on providing "necessities for the welfare of women". Of those who provide counseling, there is no consistent definition and notion of the process and the desired outcome. 2 perceive that it is their job to listen impartially to both the woman and her husband and provide some form of mediation that may reconcile the couple. 4 state that a successful resolution of the case would in fact be a happy reconciliation of the couple. 2 of the 6 stated that it would in fact probably be better (YES BUT) for a woman who has children to stay in the marriage regardless of the abuse. 2 suggest, however, that it is their job to listen to the woman, and help her to choose the solution which is right for her regardless of whether it means continuing the marriage. 1 explicitly states that it is the counselor's job to "give emotional and moral support like a family member".

Caseworkers each report being unable to provide many services that women need. Specifically, they cite the need for more medical help, shelter, food and temporary loans that women request. 3 explicitly state the need to be able to provide women with more opportunities to earn their own money. And all uniformly state an interest in acquiring more training in order to provide better services needed by women.

5 of the 6 caseworkers stated that they deal with the problems of their work as the cases come along. Only 1 admitted to feeling that the cases were occasionally an emotional drain on her and that she drew emotional sustenance from talking to others about the issues. She also stated that

there were many systemic problems faced by caseworkers dealing with the judiciary and with insensitive police.

### **Caseworker's View of Domestic Violence and Women's Rights**

Regarding their *own view* of domestic violence, caseworkers appear to have particular opinions about what causes the violence and what the correct course of action is to be taken by women experiencing domestic violence. 4 of the 6 state that women should complain about violence only after it escalates and not in the first instance. 5 of the 6 interviewed state that a woman must first either address the problem herself or seek primarily emotional or moral support before seeking outside help. Of these, 3 state that she must first determine why he is beating her, insure that she is not to blame and/or attempt to "make him understand" or "stand up to him" before seeking help. Another stated explicitly that seeking help from legal resources "sections" are not useful and that finding emotional and moral support is better. Only 1 of the 6 stated that a woman who is experiencing domestic violence should approach a woman's organization for support and simultaneously file a legal complaint. Clearly, this reveals that domestic violence has not customarily been viewed as a violation of her human rights.

Regarding the reasons for domestic violence, 2 of the 6 caseworkers believe that it is in fact a husband's right to reprimand his wife and 4 of the 6 state that they believe obedience is an important virtue for a wife. 2 of the 6 interviewed stated that men give vent to their frustrations by beating their wives. And 3 of the 6 state that it is probably not possible to stop wife beating because it is so deeply ingrained in our society. 2 of the 6 stated, however, that domestic violence may be reduced if women start earning, 3 believe that educated women experience less domestic violence, and 4 believe that if the existing laws were implemented, domestic violence would be

reduced. In addition, 5 of the 6 women caseworkers believe that ethnic and religious conflict can increase domestic violence. They believe that women suffer (rapes or assaults) because of the heightened tension in the atmosphere and because men use women as targets to assert power over their political enemies. Thus, as one caseworker stated, women are “directly affected by any kind of ethnic and religious strife”.

## RECOMMENDATIONS

1. Common formats for maintaining records and collection of data be evolved keeping in the framework of rights.
2. Forums be created where reflection and sharing of strategies are possible.
3. Mechanism of rewards and punishment be set up in the police department in cases of violence against women

## Questions

Total cases 207

	Answers	No answers
1. Her age	67	140
2. His age	25	182
3. Her Place of Birth	47	160
4. His place of Birth	26	181
5. Her Education	147	160
6. His Education	44	163
7. What are her formal skills? (certified)	9	198
8. What are her informal skills?	No data	
9. Does she/has she earned from her formal skills?	10	197
10. If yes, how does she earn this income?	7	200
11. If no, why does she not earn an income from her formal skills?	8	199
12. Has she/does she earn an income from her informal skills?	1	206
13. If yes, how does she earn this income?	1	206
14. If no, why does she not?	1	206
15. Her native language	54	153
Kannada	1	
Tamil		
Hindi		
Urdu		
Malayalam		
Telegu		
Other - specify (marwari)	12	

16. His native language		
Kannada	60	157
Tamil	22	
Hindi		
Urdu		
Malayalam		
Telegu		
Other - specify	9	
17. Does she want to work?	93	114
18. If no, why not?	24	183
19. If yes, why does she want to work?	59	148
For financial independence		
For financial reasons only – money needed at home		
For financial reasons only	2	
Is forced to by marital family		
Is forced to by natal family		
All of the above		
Combination of the above - specify		
Other - specify		
20. Is she currently employed?	85	122
Yes	35	
No	48	
21. If yes, where is she employed?	90	117
Specify		
22. Does her employment match her skills?	No data	
23. Is she underpaid for this job? – compared with males working there?	No data	
24. If yes, why does she not change her job?	No data	
25. If all constraints were taken away, would she change her job?	No data	
26. If she is not employed, why is she not employed?	27	180

27. Is he currently employed?	108	99
Yes	55	
No	13	
28. If yes, where is he employed? - Specify	49	158
29. If no, why is he not employed?	54	153
Did not want to work		
Happy to let her earn – live on her income		
Could not find a job		
Handicapped – specify		
Due to ill health – specify		
Other – Specify		
30. Is she disabled in any way?	64	143
31. If she is disabled, has she received treatment for her disability?	8	199
Yes		
No		
32. If no, why not treatment? – specify	7	200
33. Is she at present receiving treatment for her disability?	9	198
34. If no, why not ? – specify	No data	
35. Has she been discriminated against due to any of the following?	3	204
Caste		
Class		
Disability		
All of the above		
None of the above		
Some of the above – specify		
36. If she has been discriminated against for any of the above reasons has the discrimination she has faced been at	3	204
At home		
In the community		
At work		
Other – specify		



37. Is her marital family a joint or a nuclear family?	98	109
Joint/Nuclear	70 28	
38. How many siblings does she have?	30	177
39. How many siblings does he have?	32	175
40. Her birth order –	13	196
41. His birth order	9	198
42. Her mother's occupation	5	202
43. Her father's occupation	10	197
44. His mother's occupation	2	205
45. His father's occupation	9	198
46. Was she married or not married	199	8
Married		
Not married		
47. If married to this person, what is her marital status with this person at present?	191	16
Still married		
Separated		
Divorced		
48. Her marital status with this person at the time the violence started?	83	124
Still married		
Separated		
Divorced		
49. If not married to this person is she at present:	2	205
Living with partner		
Not living with partner		
50. If not married to this person was she, when violence started:	2	205
Living with partner		
Not living with partner		

51. If she is not living with this partner at present, then: Does partner visit frequently Does partner visit occasionally Does she visit partner frequently Does she visit partner occasionally	40	167
52. What is her type and amount of income	9	198
53. What is his type and amount of income	18	189
54. Number of persons living in their house at present	85	122
55. How are the people living in the house related to her and how old are they?	114	93
56. How are they related to her	100	107
57. Is the house she lives in rented?	32	175
58. If yes, in whose name is it rented ?	5	202
59. If the house they live in is not rented, do they own it?	17	190
60. If yes, who legally owns it?	11	196
61. Location of house they live in	120	87
62. If they have assets, what are they?	No data	
63. Does she spend/use the income they get from their productive assets?	No data	
64. If she does not get to use/spend the income generated form productive assets, explain why?	No data	
65. If she gets to use only part of the earnings/income generated from the productive assets, why she only gets some and what she uses it for	No data	
66. Does she need anyone's permission to use this income?	No data	

67. Is she does need anyone's permission to use this income?	No data	
68. Is this income usually in cash or in kind?	No data	
69. Name of her native place	119	88
70. Distance between her natal and marital home	73	134
71. Her age at marriage	63	144
72. His age at marriage	18	189
73. Family income	2	205
74. Their (husband/partner's and her) total income – in cash	2	205
75. Can she spend her own income -	23	184
76. If she spends her income without being accountable to anyone how does she spend it and under what circumstances does she choose to spend it on what she does?	No answers	
77. If she has to get permission to spend/use her income, whom does she get this permission from?	No answers	
78. Are there any occasions/emergencies where she can use her income without getting permission?	No answers	
79. If yes, what are these occasions/emergencies?	No answers	
80. Would she like to have more control over her earnings?	No answers	
81. If she does not want to have more control over her earnings, why not?	No answers	

82. If she does want to have more control over her earnings and is unable to who or what stops her ?	No answers	
83. If cannot use/spend her income – why is she not allowed to use spend it?	9	198
84. If she is not allowed to spend/use her income – who stops her from doing so?	14	193
85.If she is not allowed to spend/use her income – who spends it?	No answer	
86. If other’s spend/use her income what do they spend it/use it on	No answer	
87.Does she get to save her income?	No answers	
88.If yes she does save her income?	No answer	
89. If she does not save her income – why does she not save her income?		
90. Does she feel she can support herself on her own income?	No data	
91. Why does she feel she cannot support herself?	No data	
92. Does she have to give part of her income to another member of the family?	No data	
93. If she does have to give part of her income to another member of the family – who is it – how are they related to her?	No data	
94. Do they (husband/partner and her) have a joint pool of money?	No data	
95. Can she use/spend the money from their joint pool of money?	No data	
96. If she can spend from their joint pool of money only sometimes, specify when.	No data	

97. If she can never spend from their joint pool of money then who and what prevents her?	No data	
98. Does she have control over her own assets? Example: Jewelry	No data	
99. If she has control over her assets only sometimes, specify when.	No data	
100. If she never has control over her assets, specify who or what prevents her ?	No data	
101. Does anyone else have control over her assets? – specify	No data	
102. If she has control over only some assets – specify which ones	No data	
103. Specify when/under what circumstance she has control over their joint assets?	No data	
104. If she has no control over their joint assets, who and what prevents her?	No data	
105. Number of years of marriage –	No data	
106. Number of children, their age, their sex their birth order. Number of children Age of children Sex of children No. of Males No. of Females Birth order of children	116    15 49	91
107. Age and sex of eldest child Age Sex	82	125
108. Age and sex of youngest child Age Sex		
109. Time – years and months between pregnancies	No data	

110. Did she want these children?	15	192
Yes		
No		
111. If she did want these children, why did she want these children?	12	195
112. If she did not want these children, why did she not want these children?	13	194
113. Who decided on the number of children?	13	194
114. In all how many pregnancies has she had?	11	196
115. Does she have a say in her reproduction?	2	205
116. If no, why can she not have a say ?	2	205
117. Would she like to have more of a say?	3	204
118. If no, why would she not want to have more of a say?	1	206
119. Has she suffered any illness in the past year?	12	195
Yes		
No		
120. If she has had an illness in the past year, what was the illness/problem?	15	192
121. For how long did the illness incapacitate her?	2	205
122. Was the illness related to the violence?	15	192
123. Did she tell anyone about the illness?	12	195
124. If she did tell someone about the illness, whom did she tell?	12	195
125. If she did not tell anyone about the illness, why did she not tell anyone?	7	200
126. Did she seek any treatment?	11	196

127. What kind of treatment was it and where was it received?	4	203
128. Who paid for her treatment?	No data	
129. If she did not receive any treatment, why did she not receive any treatment?	0	207
130. If she did not receive treatment, who and/or what stopped her from receiving treatment?	0	207
131. Her drinking habits	1	206
132. His drinking habits	23	184
Occasional		
Frequent		
Alcoholic		
133. Does he have any other habits that affect (adversely) her?	30	167
134. For how long have they lived in Bangalore?	99	108
135. Was she related to her husband before marriage?	3	204
136. If yes, how ?	3	204
137. Did she migrate to Bangalore?	19	188
138. If she did migrate to Bangalore, did she migrate to Bangalore -	4	203
With natal family		
With husband		
With husband's family		
Alone		
With someone else – or some other persons - specify		
139. How long ago did she migrate?	4	203
140. Does her husband have other women?	25	182
141. If he does have other women, how many other women does he have?	18	189

142. Have the relationships with other women been serial, parallel or occasional ?	6	201
143. If he does have other women, – do they live together?	12	195
144. Does her husband/partner have any other wives?	20	187
145. Where does she live now?	165	42
With husband's family		
With natal family		
With husband		
Other - specify		
146. Is her mother alive?	75	132
Yes		
No		
147. Is her father alive?	63	144
Yes		
No		
148. Is her mother in law alive?	79	128
Yes		
No		
149. Is her father in law alive?	69	135
Yes		
No		
150. Was dowry paid?	83	116
Yes		
No		
151. Was dowry paid before marriage?	8	206
Yes	2	
No	6	
152. Was dowry paid after marriage?	32	175
Yes	29	
No	3	



153. Was dowry paid during marriage?	62	145
Yes	60	
No	2	
154. Is she allowed to go out ?	29	178
Yes	13	
No	18	
155. If she is allowed to go out, where is she allowed to go out?	No data	
156. Why is she not allowed to go out?	14	193
157. Who prevents her from going out?	15	192
158. If she is allowed to go out, does she have to take permission to go out?	No data	
159. Whose permission does she have to take to go out?	No data	
160. If she has to take permission , is it Always Only Sometimes	No data	
161. If it is sometimes that she needs permission, on what occasions and/or for going out where (place) does she need this permission?	No data	
162. What time of the day/night is she allowed to go out without permission?	No data	
163. What times of the day/night is she allowed to go out with permission? – specify	No data	
164. Is she allowed to go out alone	No data	
165. If she is allowed to go out alone sometimes or never, then whom is she allowed to go out with?	No data	
166. If she is allowed to go out alone when and on what occasions is she allowed to go out?	No data	

167. When – specify when/purpose	No data	
168. What occasion – (place)	No data	
169. Does she watch TV	No data	
170. Does she see the newspaper	No data	
171. Does she read the newspaper?	No data	
172. Does she listen to the radio?	No data	
173. Does she read magazines?	No data	
174. Does she belong to any organizations?	No data	
175. If she belongs to any organizations which organizations does she belong to?	No data	
176. If she does not belong to any organization why does she not belong to any?	No data	
177. If there was a women's group that she could go to, would she join this collective/group?	No data	
178. Who prevents her from doing so and why?	No data	
179. Does her husband belong to any organization? Yes No	No data	
180. If he belongs to any organization, which organizations does he belong to?	No data	
181. For how long had she been married at the time of coming to the NGO/GO/Police Cell? Years married Date, event, other	177	30
182. Nature of violence This incident Previous incidents	162	45

183. Did she tell anyone about the violence before coming here?	122	85
Yes	83	
No	36	
184. Who was it?	available in descriptive data	
185. If she did tell someone about the violence before coming here, what was the outcome?	available in descriptive data	
186. If she did tell someone did it help her in any way?	109	98
Yes	40	
No	69	
187. How did it help her?	42	165
188. When was the first incidence of violence?	82	125
189. How old was she at the time of the first incident of violence?	31	176
190. What was the frequency of violence at about the time of the first few incidents?	72	135
Daily		
Weekly		
Month		
Occasionally		
191. How long had she been married at the time of the first incident?	70	137
192. Where does the violence usually take place?	78	129
Marital home	63	
Natal home	4	
Others	10	
193. Are they usually alone when violence takes place?	91	116
Yes	12	
No	79	
194. If they are not alone when violence takes place – who else is present ?	80	127

195. What was the frequency of violence at about the time of her coming here?	62	145
Daily		
Weekly		
Monthly		
Occasionally		
196. What time of day does violence usually take place?	16	191
197. What is the 'type' of violence that usually takes place?	108	99
198. What is the most common, most frequent, cause of violence?	available in descriptive data	
199. What time of day did the incident, before she came here, occur?	13	194
200. What has been the progression in violence?.	134	73
201. Has she reported any incident violence to the police?	149	58
Yes	58	
No	91	
202. If yes, what was the result of this?	40	167
203. Did she report this particular incident of violence to the police?	No data	
Yes		
No		
204. If she did not, why not?	No data	
205. Did she report this incident of violence to someone else?	137	70
Yes	131	
No	6	
206. If she did report, whom did she report it to?	121	86
NGO	97	
Police	6	

207. If she did not report this incident why not?	41	166
208. Did she come to this organization with someone?	7	200
Yes		
No		
209. If yes, who did she come with?	9	198
210. Did she come here after the first the first few incidents or after repeat incidents?	120	87
After first/first few incidents	3	
After repeat incidents	49	
211. Nature of (her) injury this time	25	189
212. Did the injury incapacitate her?	14	193
Yes		
No		
213. If the injury did incapacitate her, for how long did it incapacitate her?	No data	
214. If the injury did incapacitate her, was she able to do the housework?	No data	
215. If she was not able to do her housework, who did her housework for her?	No data	
216. If she was incapacitated, did it lead to loss of work other than housework?	No data	
217. Has the violence against her led to irreversible damage?	9	198
218. If yes, what is the damage?	4	203
219. If there is irreversible damage, explain	No data	
220. What was the weapon used in this incident of violence ?	66 32 hand	141

221. Has this weapon, been used before? Yes No	41	166
222. Which type of weapon has most commonly, been used	61	146
223. Did she need medical help for previous injuries? Yes No	12	195
224. If she did need help for previous injuries, could/did she receive medical aid? Yes No	7	200
225. If she did not receive medical aid, why not?	5	202
226. If she did receive medical aid, where did she receive this medical aid?	10	197
227. If she did receive medical aid who paid for this medical aid?	7	200
228. If she did need medical aid, did she need permission? Yes/No	2	205
229. If she needs permission, whose permission	1	206
230. Did tell the doctor cause of injury	No data	
231. Did the person doctor ask her Yes/No	No data	
232. Did she need medical help this time? Yes/No	11	196
233. If she did need medical help this time was she able to get this medical help? Yes/No	18	189

234. If she did need medical help why was she not able to get it?	9	198
235. If she was able to get medical help this time who paid for it?	11	196
236. If she received medical aid this time, where did she receive it?	14	193
237. If she did get receive medical aid this time, did she need permission? Yes No	64	143
238. If she did need permission to seek medical help this time, whose permission?	3	204
239. If she did receive medical aid this time, what did she tell the doctor?	No data	
240. Did the person administering medical aid this time ask her ? Yes No	No data	
241. Was anyone encouraging her husband to be violent? Yes No	89 72 20	118
242. If there was who was it?	74	133
243. Does anyone repeatedly support her husband to act violently against her? Yes No	94 76 18	113
244. If there is someone who are they?	109	98
245. Was there anyone helping her ? Yes/No	77 20/57	130
246. If there was who was it?	31	176

247. Does anyone repeatedly support her during such incidents? Yes/No	77	140
248. If yes, who is it?	23	184
249. Did anyone join her husband in beating her this time? Yes/No	63 33 30	144
250. If yes who was it?	32	175
251. What does she usually do after such incidents?	63	144
252. What did she do after this particular incident?	106	101
253. What does her husband do after such incidents?	19	188
254. What did her husband do after this particular incident?	27	180
255. What made her seek the help of an organization?	146	61
256. Why did she decide to come to this particular organization?	11	196
257. How did she hear about this organization?	6	201
258. Has anyone else in her family experienced domestic violence? Yes/No	1	206
259. If yes who is it?	1	206
260. Did she ever witness acts of domestic violence between her parents? Yes/No	No data	



261. If she did witness acts of domestic violence between her parents was it	No data	
Often		
Not often		
262. Is she still living with her husband?	181	26
Yes	44	
No	137	
263. If yes, why?	26	181
264. What her reaction to violence,	111	106
Passive -	18	
Assertive -	46	
265. If passive, in what way was is passive?	74	133
266. If assertive, in what way is she assertive?	91	116
267. Has this reaction changed overtime?	134	73
Yes/no	117/17	
268. If yes, is she more assertive?	141	66
Yes/No	126/15	
269. If she more assertive today, why ?	109	98
270. If not, why not?	7	200
271. Was she ever thrown out of her marital home?	114	93
Yes	85	
No	29	
272. If yes, who threw her out?	76	131
273. Why was she thrown out?	60	147
274. Has she/her family given dowry?	88	119
Yes/No	84/4	
275. Has dowry ever been the cause for domestic violence?	99	108
Yes/No	91/8	

276. Is dowry a cause of domestic violence at present? Yes/No	102 91/11	105
277. If dowry had/has been the cause for violence, did the violence occur due to - Her inability to produce dowry Her refusal to pay more dowry Fear of further violence Other - specify	79	128
278. If dowry was paid, was it paid/given - Before marriage/wedding During marriage/wedding After marriage/ wedding Combination of the above - specify	No data	
279. If dowry has been the cause of harassment has she made a police complaint? Yes No	82 32 50	115
280. If no, why not? Did not know about the dowry act Fear of further violence Other reasons - specify	21	186
281. Why did the first few incidents of violence happen	158	49
282. Does her husband beat the children as well? Yes No	30 26 4	177
283. Has she ever had a miscarriage? Yes No	6 6	201
284. If she has had a miscarriage, has it been due to the violence? Yes No	6 4 2	201
285. Is yes, explain	Not applicable	

286. Has she ever had an abortion?	8	199
Yes	6	
No	2	
287. If yes, was she forced ?	5	202
Yes /No	5/0	
288. Who forced her and why?	6	201
Who		
Why		

**CAMPAIGN**  

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**FOR**  

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**A CIVIL LAW**  

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**ON**  

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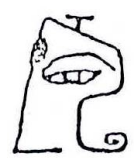
**DOMESTIC VIOLENCE**  

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**2002**  

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Update and Briefing Note



Lawyers Collective  
Women's Rights Initiative

UPDATE AND BRIEFING NOTE  
ON  
THE CAMPAIGN FOR A CIVIL LAW ON DOMESTIC VIOLENCE

Background to the Campaign on a New Civil Law  
on Domestic Violence

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Our campaign for a new law on domestic violence has reached a very critical stage and an important milestone. On the 11th of December 2001, the Government of India, through the Ministry of Human Resource Development, published and circulated a bill, to be introduced in the Lok Sabha, (Bill No 133 of 2001), titled:

THE PROTECTION FROM DOMESTIC VIOLENCE BILL, 2001.

The Bill (hereafter "GOI Bill") has not yet been introduced in the Parliament. As we all know, there was an attack on Parliament on the 13th of December and much of legislative business was put aside. This perhaps explains the fact that the GOI Bill was not introduced in Parliament in the winter session. It is now to be introduced in Parliament in the budget session, which will commence on the 18th February 02.

This delay in the introduction has proved to be a blessing in disguise for it gives us all an opportunity to discuss the same and its implications.

A copy of the GOI Bill is annexed.

As you all know, the Lawyers Collective, Women's Rights Initiative ("LCWRI") initiated a campaign for a new law on Domestic Violence sometime in December 1999. Since then a series of nation wide consultations were held with women's groups all over the country to discuss the proposal that was formulated by us. The response was very encouraging and there was a consensus over the fact that there is a need for a civil law on domestic violence.

The bill as reformulated by the LCWRI after the consultations (hereafter "LCWRI-Bill") is annexed.

## Comparison between the GOI Bill and the Bill as proposed by the Lawyers Collective after the consultations.

On a comparison of the two bills, we find that the GOI Bill, not only falls far short of our expectations and of indeed what is required to be done, but may actually turn out to be dangerous in its implications for women who are victims of domestic violence.

To begin with, we are happy that the government has finally recognized that domestic violence exists and that women need to be protected against it by law. This is the political significance of tabling of the bill. There has been a consistent denial of the existence of domestic violence against women and a refusal to address the issue. To that extent, we have made gains.

Although we are very happy that the government has finally found its way to recognizing the existence of domestic violence, we are extremely disappointed with the content of the law as proposed and this note is intended to share with you our concerns.

## Rationale behind a Law on Domestic Violence

At the outset, it is necessary to give a brief outline of the nature and function of any law on domestic violence. Simply put, the function of any law on domestic violence is to stop violence against women in intimate relationships. These women who are subjected to violence normally stay in a shared household, which in the case of married women has come to be described as the "matrimonial home". The home may be owned by the husband, by her parents-in-law in the case of joint families, jointly by her and by her husband, entirely by her, or may be rented. What makes it the matrimonial home, is not the ownership pattern of the home, but the fact of residence in the home in a conjugal and family relationship. The home, for many women has become the site of violence against them. The situation is akin to being a captive in the home. The relations of power being unequal, the woman is literally held hostage in a violent home in conditions akin to torture in custodial situations. Given that women often have no options to escape this situation, they suffer violence with no support from society, relatives and friends. Perhaps the only support that such a woman has is from her parental family, to whom she can turn in situations of distress. However, given the pervasive belief in society that a woman's place is in her husband's home, parents often push women back into violent relationships rather than encouraging their daughters to break loose from violent matrimonial relationships. There exists no social security for such women. Shelter homes are few and far between and are often run in a prison like fashion, with no freedom of movement and autonomy. Many of them do not allow children to accompany the women. There is a sense of shame associated with the breakdown of a marriage and the woman is seen as the person responsible for the breakdown. Even when shelters exist, few women see them as an option as there is discrimination against women who have come out of a bad marriage.

The abuser, recognizing the vulnerability of such a woman, hits her where it hurts most. He and his family often ensure that she is thrown out of the matrimonial home or make her life so miserable that she has no option but to leave the home. The harassment ranges from:

- physical beating
- emotional torture
- mental abuse
- sexual abuse
- threat of violence
- denial of basic necessities such as food and maintenance
- Where there are children, there is the additional blackmail that custody of the children will be denied to her if she does not fall in line.

It is no solace to be told that she can go to court for custody as going to court itself is a long drawn out torture (given that in court also she is perceived as an offender rather than a victim) and besides the process is very expensive. Often, she is simply abandoned and deserted with no means of sustenance. Another very common form of violence is the taking of a "second wife". It makes no difference that bigamy is a crime, many men continue to believe that they have a right to have extra marital affairs.

Statistics indicate that women in this country do not own property or the matrimonial home which belongs either to the husband or to his family members. The man is therefore literally the lord and master of the home. See some statistics on page 20.

So far we have talked only about married women. However, other women in intimate familial situations are also vulnerable to abuse. Daughters who have little or no rights in ancestral homes or in any event are seen as "outsiders" and waiting to be married off, widows who are seen as having no right to continue to live in the house after the death of the husband, mothers and old parents, seen as a nuisance by children are all such victims of abuse in intimate relationships.

There is another very common problem, and that is the problem of the woman who believes that she is married to a man and is then told when the relationship breaks that there was no marriage at all as essential ceremonies of the marriage were not performed when the marriage took place. There are also situations in which people have lived together in what has come to be described as common law marriages for several years and such women too face violence within the relationship.

It is therefore clear that any law on domestic violence, which seeks to prevent it, must address all these problems and very fundamentally, must protect the right to reside in the "shared household".

The term "shared household" is preferred over "matrimonial home" since the relationships protected are beyond matrimonial ones. It is the fact of living together in a common space, the intimate nature of the relationship, the privacy of the home and the unequal relations of power that provide the opportunity for the abuse of the woman.

### Factors which determine the success of a domestic violence law

It should therefore be clear to us that the success of any law on domestic violence depends on the following factors:

1. A declaration of basic intent of the law, namely, the object of preventing domestic violence.

The UN framework for model legislation on domestic violence states:

*"All acts of gender-based physical, psychological and abuse by a family member against women in the family, ranging from simple assaults to aggravated physical battery, kidnapping, threats, intimidation, coercion, stalking, humiliating verbal use, forcible or unlawful entry, arson, destruction of property, sexual violence, marital rape, dowry or related violence, female genital mutilation, violence related to exploitation through prostitution, violence against household workers and attempts to commit such acts shall be termed "domestic violence"."*

As a signatory to CEDAW and the Beijing platform of Action we have accepted the following definition of violence:

*The term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. Accordingly, violence against women encompasses but is not limited to the following:*

- a. Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;*
- b. Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;*
- c. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.*

The General Assembly Resolution adopting the Declaration on the Elimination of Violence against Women (A/RES/48/104, 20 December 1993) also defines violence against women in similar words as the CEDAW and the Beijing Declaration and Platform for Action.

The LCWRI proposal defined domestic violence as follows:

*"domestic violence" means any act, omission or conduct which is of such a nature as to harm or injure or has the potential of harming or injuring the health, safety or well-being of the person aggrieved or any child in the domestic relationship and includes physical abuse, sexual abuse, verbal and mental abuse and economic abuse.*

*Explanation*

- i) "physical abuse" includes any act or conduct which is of such a nature as to cause bodily pain, harm or danger to life, limb, or health or impair the health or development of the person aggrieved, and includes assault, criminal intimidation and criminal force.*
- ii) "Sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the person aggrieved and includes*



*sexual intercourse against the will or without the consent of the person aggrieved and refusal to co operate in contraception when the person aggrieved may reasonably require.*

*Provided that where the person aggrieved is below the age of sixteen, any sexual intercourse, whether or not against her will or without her consent shall amount to sexual abuse;*

- iii) "sexual abuse" of a child includes any act or conduct of a sexual nature that abuses, harms or violates a child in a domestic relationship.*
- iv) "verbal and mental abuse" includes insults, ridicule, humiliation, degrading or name calling, including insults, ridicule or name calling specially with regard to not having a child or a male child, or ; repeated threats to cause physical pain to any person in whom the person aggrieved is interested .*
- v) "economic abuse" includes*
  - a) deprivation of any or all economic or financial resources to which the person aggrieved is entitled under law or custom whether payable under an order of court or otherwise or which the person aggrieved requires out of necessity, including but not limited to household necessities for the person aggrieved and her children, if any, stridhan, property, jointly or separately owned by the person aggrieved, payment of rental related to the shared household and maintenance;*
  - b) disposal of household effects, any alienation of assets whether moveable or immovable, valuables, shares, securities, bonds etc or other property in which the person aggrieved has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the person aggrieved or her children or her stridhan or any other property jointly or separately held by the person aggrieved; or,*
  - c) prohibiting or restricting continued access to resources or facilities which the person aggrieved is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.*

Why then has the government chosen a definition, which hides rather than reveals the true dimensions of violence against women? The answer given is that all forms of violence will be covered by the expression in Section 4(1) (c) of the GOI Bill "Otherwise injures or harms the aggrieved person". That leaves everything to the imagination of the judge and to his/her individual perception of what is violence and what is not. The purpose of a law is to provide the framework of guidelines within which judges are to make decisions. This is the trend in all modern law making. There are certain acts which must be considered acts of domestic violence and it is for the law to lay down what these acts are. This is how all laws are framed. Residuary clauses are meant to cover unforeseen acts of domestic violence, which fall into a pattern similar to the one defined.

The GOI Bill fails to define domestic violence and washes itself off the responsibility of defining it and leaves it to judges to decide. This leaves too much to the mercy of the judge and too little to rights of the person aggrieved. The definition does not use the language of rights and uses instead the outdated concept of conduct making "the life of an aggrieved person miserable". It does not even define cruelty.

An analysis of the definition adopted by the LCWRI shows that it not only follows international legislative trends but also that it is based on the UN framework for model legislation on domestic violence and on the definition of violence adopted by CEDAW. There is in the GOI Bill, a persistent denial to recognize that domestic violence exists and the need to articulate its various forms. This definition will defeat the very purpose of the law and will render it meaningless for women, if not make their position worse.

It might foreclose the possibility of arguing that sexual abuse, economical abuse, child sexual abuse are forms of domestic violence. Anyone who has argued cases on behalf of women in abusive situations will know what an uphill task it is to convince a judge that violence exists and what are its manifestations. Even when convinced, judges tend to think that their role is to "preserve the marriage" by condoning the violence and asking the woman to "forgive and forget". Success for a judge or for the law is seen as the ability to "patch up the marriage" and hope for a fairy tale situation in which the man and the woman are suddenly transformed in a manner that the violence disappears. The root cause of the violence is neither seen nor addressed. We have often heard judges say, "I succeeded in persuading the husband to take her back". How many of them have monitored what happened to the women after she went back? How many of them know that condoning violence leads to more violence? How many of them have seen cases where the condonation of the violence and acceptance of it has led to further violence and in some cases, even death of the woman in the matrimonial home?

The role of the law is to condemn domestic violence in all its form unambiguously. Lawmakers must realize that the best guarantee of successful marriage is the unconditional condemnation of violence by one partner against the other and the declaration of the right to be free from violence in all its various forms. The definition fails in this respect.

#### NO DEFINITION OF 'RELATIVE'

The GOI Bill does make it possible to file a complaint against a "relative". This means that sisters, daughters and mothers will be in a position to file a complaint against the abuser. However, it is debatable whether a woman who has been led to believe that she is married to a man but is not actually married for want of compliance of essential ceremonies will be able to use the law. In all probability she will not be considered a "relative". This will also be the case in bigamous marriages as the husband who enters a second marriage will not be considered a "relative" of the second wife, leaving such a woman vulnerable to abuse without a remedy.

Section 4(2) seems to suggest that a plea of "self defense" will be available to a man when faced with a complaint of domestic violence. This is a ploy to undo the main provision as

a man can always say that he was trying to get out of a scuffle, a fight between himself and his wife or between his wife and his mother and caused the injury complained of, not intentionally, but in order to protect himself. Such provisions have been used in many other countries against women. Often in criminal law, the police, when they arrive on the scene of violence arrest both the man and the woman, leaving them to fight it out in a court of law as to who was to blame. This provision must be dropped if the woman is intended to be protected from violence

### OMISSIONS FROM THE GOI BILL

We now come to the most important omission from the Bill.

The Bill contains no declaration of rights. There is no section indicating that the woman in a domestic relationship has the right to reside in the shared household. Absence of such a provision makes the entire exercise an attempt at pulling wool over our eyes. The most significant omission from our matrimonial laws is the fact that none of them, whether Hindu, Muslim, Christian or Parsi, contain any such declaration of a right to reside in the matrimonial home. As explained earlier, this is the root cause of the vulnerability of a woman in her matrimonial home. This is the one major factor, which makes it possible to drive out a woman on to the street and blackmail her into agreeing to an unfair settlement. In today's context when the courts talk of a "settlement", what is offered to a woman is either a return to the violent home and acceptance of the violence or a divorce by mutual consent giving up the right to any share in the matrimonial assets or a decent alimony. Often the woman is willing even for divorce on the mere return of her own stridhan, or custody of the children which she fears that she is in danger of losing, considering that the father is the natural guardian of the children under the law of the land. In other words, the woman is faced with the choice of bargaining away her rights in return for the dubious benefit of a divorce and her children and sometimes her stridhan. Awards for alimony are notoriously miserly and depend on the continued payment month after month. They are also dependent on the continued "chastity" of the divorced wife and the fact that she does not remarry. What a bargain!

The one remedy required against this situation is an unambiguous declaration that the woman has the right to reside in the shared household. We live in a constitutional regime, in which rights are guaranteed and most importantly, the right to life and liberty, the right to be secure in one's person. Any nation that cannot guarantee that right to its people cannot be considered civilised at all. If the GOI Bill does not give any indication that the commitment to securing the right to life and liberty of women in this country was its driving force.

For most women, life is where the matrimonial home is and today the situation is that death is also where the home is. The biggest threat to life and liberty for a vast majority of women comes from the matrimonial home. The recognition of this fact is the basis of all domestic violence legislations across the world. The declaration of the right to reside in the shared household is the best guarantee to ensure that violence will be prevented. It must exist in the law, failing which, this law must be rejected by the women's movement.

## RELIEFS THAT CAN BE GRANTED

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Corresponding to the omission on the part of the drafters to grant substantive rights to the victims of domestic violence, there is an omission in the section dealing with the relief that can be granted.

Section 14 of the GOI Bill deals with 'Protection Orders' enabling a Magistrate to pass three kinds of orders against the respondent:

- refrain from committing any act of domestic violence;
- pay such monetary relief as the magistrate deems just; and
- pass such other directions as may be considered necessary.

If the purpose of any law was to be brief, then this drafting would get full marks. Indeed, it could have only said that the magistrate may pass any order as he/she deems fit!

As against this, the LCWRI Bill had proposed the following orders:

### *Protection order*

- a) *The court may pass a protection order prohibiting the respondent from:*
- *committing any act of domestic violence;*
  - *aiding and abetting in the commission of acts of domestic violence;*
  - *entering the place of employment of the person aggrieved or, if person aggrieved is a child, its school, or any other place frequented by the person aggrieved;*
  - *entering the residence of the person aggrieved;*
  - *attempting to communicate in any form whatsoever with the person aggrieved, including personal, oral or written, electronic or telephonic contact;*
  - *committing any other act as specified in the protection order;*
  - *alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both parties, either singly or jointly; including her stridhan or any other property held either jointly or separately by the person aggrieved;*
  - *causing violence to the dependants, other relatives and persons who give the person aggrieved assistance from domestic violence.*

*The court may impose any additional conditions which it deems reasonably necessary to protect and provide for the safety of the person aggrieved or any child.*

*While passing an order under Section 5(a) or (b), the Court may also pass an order directing the police to give protection to the person aggrieved or to assist her or the petitioner in the implementation of the order.*

*The court may direct the respondent to return to the possession of the person aggrieved her stridhan or any other property or valuable security to which she is entitled to either singly or jointly.*

*The court may direct the Protection Officer or any other authority to remove the person aggrieved to a place of safety such as any short stay home run by any accredited service provider.*

*The court shall, in all cases where it has passed a protection order under this section, order that a copy of such order be given to the protection officer in charge of the area and to any accredited service provider located within the local limits of the jurisdiction of the Court.*

#### *Monetary Relief*

*The court may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the person aggrieved and any child as a result of the domestic violence and includes but is not limited to-*

- loss of earnings;*
- medical expenses;*
- loss caused due to the destruction, damage or removal of any property from the control of the person aggrieved;*
- maintenance for the person aggrieved as well as her children, if any;*
- compensation for the domestic violence inflicted upon the person aggrieved*

*Copies of an order for monetary relief shall be forwarded by the Court to the concerned protection officer and to the Station House Officer of the police station within whose jurisdiction the respondent resides.*

*The respondent shall pay monetary relief to the person aggrieved within the date specified in the order made in terms of sub-section (a) and in accordance with the terms there.*

*The protection officer may, upon the failure on the part of the respondent to make payment in terms of sub-clause (c), by an order, direct an employer or a debtor of the respondent, to directly pay to the person aggrieved or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.*

#### *Residence order*

*The court may pass a residence order to:*

- restrain the respondent from alienating or dispossessing the shared household or encumbering the same;*
- restrain the respondent from renouncing his rights in the shared household except in favour of the person aggrieved;*
- require the respondent to permit the person aggrieved to enter and remain in the shared household or part thereof;*
- prohibit, suspend or restrict the exercise by the respondent of his right to occupy the shared household;*

- restrain the respondent from dispossessing the person aggrieved from the shared household and
- direct the respondent to secure alternate accommodation for the person aggrieved or to pay rent for the same, if for sufficient reasons, the court is of the opinion that it will be harmful or injurious for the person aggrieved to live with the respondent in the shared household, having regard to the circumstances of the case.

While making an order under this section, the court may impose on the respondent obligations relating to the discharge of rent or other payments, having regard to the financial needs and resources of the parties.

#### *Custody Order*

Notwithstanding any other law in force, the court may, at any stage of the hearing of the petition for protection order, grant temporary custody of any child or children to the person aggrieved or the petitioner and specify, if necessary, arrangements for visitation by the respondent.

Provided that in any case where a complaint of sexual abuse of a child has been made, and the court is prima facie satisfied that such allegation is true, the court shall grant custody to the person aggrieved or the petitioner and no such order for arrangements for visitation by the respondent shall be made.

#### *Compensation Orders*

In addition to other reliefs under this Act, the court may on an application by the person aggrieved, pass an order directing the respondent to pay compensation and damages for the injuries caused by the acts of domestic violence committed by the said respondent.

The person aggrieved may make an application for compensation and damages under this section without any prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent.

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the person aggrieved, the amount, if any, paid or payable in pursuance of the order made by the court under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance, if any, left after such set off.

These are standard features of any domestic violence legislation the world over. We can only conclude that the absence of these provisions is intentional.

Domestic violence law is in the nature of an emergency legislation and is intended to give immediate relief from violence. Often the violence is directed not only against the woman

but is intended to cut off all her support structures, deny access to essential services and to withhold a woman's own property or children in an attempt to blackmail. The most obvious way of achieving this aim is to throw the woman out of the household. Unless the power of restoration exists or the power to remove an abusive spouse exists, there is no purpose in having this law at all. Indeed, it is even possible for judges to argue that the absence of such provisions was intentional by the legislature and hence, no such orders can be given. It is just not good enough to argue that such orders can be given under the provisions "pass any other direction as may be considered necessary". Considered necessary by whom? We know what are the necessities of women who face domestic violence, why are those necessities not spelt out? What is the reluctance all about?

The omission of the power to restore a woman to the matrimonial home is justified on the ground that women who have been treated with violence do not want to go back to the matrimonial home. Here is a classic case of the woman's victimisation being taken as the basis for further victimisation. A woman who faces violence does not want to go back because of the violence, the solution she seeks is not homelessness but a right to live in the home free from violence. It is then argued, "where is the guarantee that if a woman is restored to her matrimonial home, the violence will stop. A mandatory law directing a woman to be restored to matrimonial home will not work for the woman". The answer to that is that if the abuser knows that the woman does have a right to be there in the first place, he will be less likely to feel that he can get away with the violence. That is the primary guarantee; the existence of her right! Moreover, why is it not possible to direct a repeatedly abusing spouse to leave the matrimonial home? It is nobody's case that all the women must be mandatorily put back into the matrimonial home. That is a decision that will be taken from case to case. What the law must provide is the power to pass such order if the situation so requires. What, then, is the reluctance to pass such a law? It seems at the root of the reluctance, is the male supremacy, the desire to safeguard the property of the man, even over the life of the woman. First, we need clarity that through this law, the women's movement does not seek to transfer property from the man to the woman, but only seek a guarantee of the right of a woman in a domestic situation to live in the home free from violence. Her long-term rights will have to be worked out in matrimonial litigation as and when it is commenced. This grave omission must be viewed in the light of the fact that none of the marriage laws in this country provide for an equitable distribution of the matrimonial property on the breakdown of a marriage. The breakdown of a marriage in our society with its attendant discrimination means virtual civil death for a woman. She is often left with the responsibility of bringing up children, with no guarantee that her children will be able to claim their rights at an appropriate stage in life. Her children acquire no rights at birth (except Hindu male children in joint Hindu family property) and a matrimonial dispute can lead to a total disinheritance of rights. When children grow and their needs multiply, she is left to fend for herself and her children. To take a decision to obtain a divorce is a decision, which not only has emotional consequences, but also is almost like choosing between violence and civil death. This makes out a very strong case for changing our matrimonial laws by introducing a law of matrimonial property.

However, given the experience of the law making process in relation to the domestic violence legislation, we do not see that happening in the near future. In the absence of such legislation on matrimonial property rights, a proper law on domestic violence is a must.

The present law is a complete sell-out of the rights of women. We must resist the attempt and demand that the State perform its most elementary duty, the duty to protect the life and liberty of its citizens in an effective way consistently with its Constitutional and International obligations.

## PROTECTION OFFICERS AND THEIR ROLE

The GOI Bill provides for the appointment of Protection Officers. They have very important functions. It is the duty of Protection Officers to inform women of their rights under the Act to obtain orders under the Act. There is no point in having protective laws of which women are not aware. Few women care to know their rights when entering into a marriage or a relationship. However when disputes arise, they want to know their rights. They are often left to their own resources, often private lawyers. In the last few years, NGOs have fulfilled that role, but given the magnitude of the problem, they cannot fulfil the unmet need. The State has the responsibility to meet that need and Protection Officers have that function to perform. They are also intended to assist a woman in filing a complaint and perform all such functions as may be delegated to them by court orders. The Protection Officer, on the request of the aggrieved person, is also supposed to assist her in bringing about a settlement. Once again, much will depend on the sensitivity of the officer and what he/she understands by "settlement". If no settlement is arrived at, he/she will file an application to the court, if so desired by the woman.

One very welcome feature of the GOI Bill is in Section 10, on "service of notice", the Protection Officer is required to serve the court notice on the respondent, taking care of a major problem that women face in serving proceedings on the respondent.

## OTHER FEATURES OF THE BILL

### Mandatory Counselling

Section 11 contains a very dangerous provision providing for the woman to undergo mandatory counselling with the abuser. This goes against all accepted principles of counselling. The victim and the abuser are in an unequal situation and no joint counselling is possible in that situation. It can only lead to further disempowerment of the unequal party. The section uses the word "mandatory counselling". Mandatory counselling is one of the methods of correcting abusive behaviour. It is ridiculous to enable the Magistrate to insist on "mandatory" counselling of the innocent party. Such counselling can only end up 'convincing' her to accept her situation of disempowerment as being normal and to continue in a violent marriage. Counselling for the innocent part can and should only be voluntary. This is especially dangerous given the fact that even under the existing dispensation, judges and Crimes Against



Women Cells of the Police constantly goad women into so-called "reconciliation" sessions where they are made "agree" to "settlements".

Section 12, which permits assistance of experts. This is a welcome provision. However, the section goes on to say that such an expert can be a person who is engaged in promoting "family welfare". This latter provision must be dropped, as the welfare of the family does not mean the same thing as the welfare of the abused women. It reflects the same mindset of patching the family together as any cost, most often at the cost of the woman.

#### Service Providers

This is a welcome recognition of the role of NGOs who are described as service providers and at any stage the Protection Officer can seek the assistance of such service providers or ensure the access of the aggrieved person to service providers including medical services and shelters. A Protection Officer can seek the services of a service provider in discharging his/her functions. Any person who is aware of domestic violence can give information to a Protection Officer of such violence. The Protection Officer can then assist the aggrieved woman in reaching a settlement.

#### Offences and Penalties

Under Section 18, breach of a protection order can lead to a conviction and imprisonment for a period up to one year or with fine up to Rs 20,000 or with both. It is important to understand that this law is in addition to and not in derogation of any other law, which basically means that the remedy under Section 498A of the Indian Penal Code will continue to exist.

The LCWRI Bill in Section 22, had provided for the issuance of a warrant of arrest while issuing a protection order. However, this warrant of arrest was to remain suspended. It could be implemented if there is a breach of the condition of the order to which it is attached. If a woman files an affidavit to the effect before the police station that the order has been violated, the police officer will activate the warrant and make the arrest. This provision is intended to prevent the woman having to go all over again to the court and complain of the breach, virtually having to reargue the case before the judge. It is also based on the fact that a competent court has already come to the conclusion that domestic violence had been committed, that is why the protection order is being issued. Strangely enough, the GOI Bill makes no provision for cognisance of the offence under section 18, that is breach of the protection order. This is a very serious omission. It must either contain a provision for a suspended warrant of arrest or mention that an offence under section 18 is cognisable and non-bailable. A woman who complains that a protection order has been violated must have the right to approach a police station and have the offender arrested to be produced before the court for violation of its orders. Failing such a provision, a man can violate the order with impunity, secure in the knowledge that there will be no immediate consequences to be faced.

## JURISDICTION OF THE MAGISTRATES

Unlike the LCWRI Bill, which envisioned an application to be made to a civil court, the GOI Bill enables an application to be made to a Magistrate's Court. It is suggested that the Magistrates' Courts are more accessible. This may not be an advisable move as domestic violence issues are often connected with long-term matrimonial disputes which are decided by civil courts. The LCWRI Bill suggested, relief under this domestic violence law should be granted in any other proceedings that a woman might commence. Thus, for example, if a woman has filed a suit for partition of the matrimonial property which is jointly owned, or for divorce or separation, she can, in addition, claim relief under the domestic violence law. Similarly, in a criminal proceeding initiated by the person aggrieved such as, a Section 498A IPC complaint, orders under the domestic violence law can be obtained. Conferring the jurisdiction under the GOI Bill exclusively to Magistrates and that too, in separate proceedings would result in multiple litigation, an onerous burden for a victim of violence. However, even if the object of accessibility is to be resolved, it is essential to ensure that the jurisdiction to grant protection orders to the Magistrate within whose jurisdiction the person aggrieved resides temporarily or permanently or where the respondent resides or carries on business or where the cause of action arose. The GOI Bill does not specify the Magistrate who will have local jurisdiction to try such cases. In such a case, it is not clear whether a woman can make a complaint to a Magistrate from her place of residence, even if the respondent does not reside within the local jurisdiction of such Magistrate.

## IMMUNITY TO PROTECTION OFFICERS

Section 21 of the GOI Bill contains a provision for the protection from civil or criminal action against a Protection Officer for any action taken in good faith by him/her. This protection must be extended to service providers. We have handled several cases of women's organizations that have been prosecuted for kidnapping, when assisting a woman in getting her children out of an abusive home, for defamation when saying that the abuser may have been a child molester etc. Such groups performing a very valuable social function must be protected against the harassment of the law, which is often used as a tool to shield and cover up abuse.

One of the most problematic aspects of the appointment of Protection Officers is the qualification for the appointment of such officers and the method of appointment. During previous consultations on the Bill, an apprehension was expressed that the government of the day would simply appoint protection officers from amongst the members/supporters of the party to which they belong, or in any event make arbitrary appointments. Since the Protection Officers do play an important role, a fear was expressed that they would degenerate into another bureaucracy and that some mechanism should be put in place to prevent this from happening. One safeguard that we suggested was that these Protection Officers will function under the supervision of the courts.

The GOI Bill in Section 19 provides for the prosecution of Protection Officers for failure to discharge duties as directed by the Magistrate. This must be changed to "directed to

discharge of duties under the Act". We suggested two very major safeguards. One, that anyone must have a right to be appointed as a Protection Officer and the other, that the process of appointment should be transparent. This could be ensured if the post of Protection Officer was filled by advertisement inviting applications. Since Protection Officers are meant to inform women of their rights against violence and their rights to access the law and the services of the service providers, they must be qualified to do so. The question was therefore debated, what should be the qualifications of Protection Officers? One view was that they should be qualified social workers. Most of us felt that this would be an ideal situation but that it was possible that social workers may not exist in all situations, more particularly in rural areas and that it may be better to appoint women who have had a certain number of years of experience in dealing with women's issues and a proven track record of working for women. Others suggested that Mahila Panchas should perform this role in rural areas. The general feeling was that the State Governments should prescribe the qualifications depending on the situation in the State. Perhaps the best situation would be to insist that the person is a qualified social worker but also make provision for appointment of a person who has worked in a women's organization for a certain number of years and has the experience of dealing with domestic violence. Whatever be the qualifications, the Bill must state very clearly that the appointment will be through public advertisement with an opportunity to every qualified person to apply for the post.

#### MECHANISM OF THE IMPLEMENTATION OF THE LAW

The creation of a post of Protection Officer presumes the Government is willing to commit resources to the making of this law a success. There is no such commitment in this law at all. There is no "FINANCIAL MEMORANDUM" accompanying this law. Where will the Protection Officers come from? Who will appoint them? Who will pay for their salaries and expenses? How will they assist women? Who will pay for the drafting of the applications that they are supposed to present to the court? Who will provide for their transport or the transport of a woman to a place of safety?

#### MONITORING

We must realize that Governments have fallen into the habit of passing laws without any intention of making them a reality. The monitoring of the implementation of the law is as crucial as having the law itself. We had therefore suggested that setting up of a Coordinator for the Prevention of Domestic Violence, whose function would be to investigate into the functioning of the law, make annual reports, review the existing law plans and execute training programs.

It has often been said that there is no shortage of laws in the country, what is lacking is the implementation of these laws. The will to implement is lacking. In the case of domestic violence, there is a lack of political will to even address the problem and the same is evident from the fact that till date, there is no law addressing domestic violence. Our effort is to bring

such a law into existence, but one that will truly serve the function of preventing and addressing the problem of domestic violence. But the law itself must contain the mechanisms for implementation and monitoring.

## THE WAY AHEAD

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The appointment of Protection Officers is meant to be a recognition of the fact that not only must a democratic State, committed to the principle of equality and protection of the right to life, guarantee the same by law, but must also, by affirmative action, provide the means by which the right can be actualised. Our laws must recognize that the woman is not in a position to exercise her rights unless she is provided with the means to do so. It is said that ignorance of the law is no excuse. If that be so, it is equally the duty of the State to publicise the law, to send the signal that domestic violence is not acceptable, that women have rights against it and that the State will make available its resources to the woman to exercise her rights. That is the concept behind providing protection officers who perform outreach functions, beyond the confines of the courtroom, and who will help to make the court orders meaningful. Affirmative action and special provisions are required where parties are in an unequal relationship of power and this is one such situation.

Legislative mindsets have to change, a law must not only be passed but its implementation monitored, hence the need for a Coordinator for the prevention of domestic violence. Public interest messages against domestic violence must be broadcast through public interest media and this too must be the mandate of the law. Training is also mandatory, not only for protection officers but also, more importantly, for Judges. This too must find a place in the law, rather than be left to the whims and fancies of decision makers. Lastly, the law itself must contain budgetary provisions, as indicators of the commitment of the Government, for the use of prevention of violence against women. Examples of such laws exist in the field of domestic violence legislations across the world. The Prevention of Violence Against Women Act, 1994 passed by the Clinton Administration mandated the US Congress to commit large funds for the prevention of violence against women. These funds have been used for providing social workers attached to police stations, research and documentation, training, setting up of separate shelters, public education campaigns, training of the police and various associated purposes.

We, in the women's movement have a long battle ahead of us. Getting the government to politically commit itself to pass a law on domestic violence is a victory no doubt but an incomplete one.

In a democratic country citizens have a right to participate in the framing of legislation.

We must insist that:

- "Domestic violence" is defined in accordance with the UN framework for model legislation on Domestic Violence;
- The right to reside in the shared household is included;

- The law should enable judges to pass orders of residence, restraining dispossession, restoring possession;
- Law should enable grant of monetary relief, custody and compensation;
- There should be no provision for mandatory counselling for the woman;
- Protection Officers are appointed through an open process of inviting applications from all qualified persons through advertisements in a transparent manner;
- A suspended warrant of arrest is attached to the protection order or in the alternative, violation of a protection order is an offence which is cognisable and non bailable;
- The government commit substantial funds for the appointment of protection officers and for the implementation of the Act;
- Widest possible publicity of the law is given;
- The government provide for training of the law enforcement machinery;
- A Coordinator for the prevention of domestic violence is appointed;
- Legal Aid to victims of domestic violence should be readily available.

INDIRA JAISING  
 Lawyers Collective  
 Women's Rights Initiative

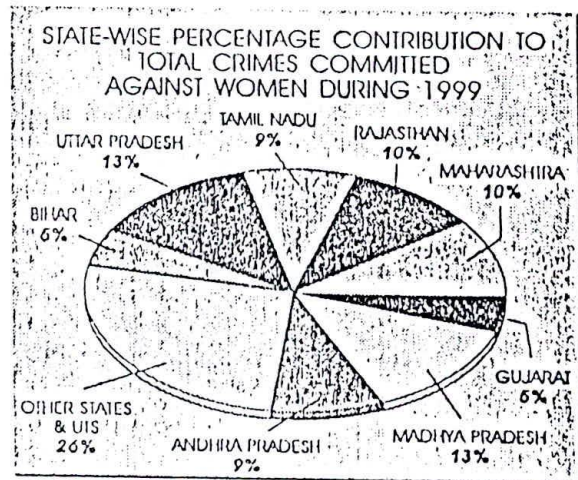
DOMESTIC VIOLENCE  
NCRB, MINISTRY OF HOME AFFAIRS FIGURES

**Dowry Deaths**

Incidence of dowry death cases also reported a decline of 3.9% over the previous year. 31.2% of these cases at national level were reported by Uttar Pradesh alone followed by Bihar (15.2%). The highest rate of crime (1.2%) was also reported from Uttar Pradesh.

**Crime Against Women Cases In Cities**

A total of 16,807 cases were reported from 23 mega cities sharing 12.4% of the total cases at national level. Among 23 cities, Chennai city shared 21.2 % of these cases followed by Delhi (12.0%). However, the rate was significantly higher at Vishakapatnam (55.1) followed by Chennai (54.0) compared to the national average of 13.8. Among 23 cities, 32.9 % of Rape cases, 43.2% of kidnapping & abduction cases, 17.4% of 'Dowry Death' cases and 23.3 % of 'Molestation' cases were reported from city of Delhi alone.



INCIDENCE OF CRIMES AGAINST WOMEN – ALL INDIA (1997-1999)

CRIME HEAD	YEAR			PERCENTAGE VARIATION IN 1999 OVER 1998
	1997	1998	1999	
Dowry Death	6006	6975	6699	- 3.9
Cruelty to wife	36592	41376	43823	5.9

DISPOSAL OF CASES BY THE COURTS DURING 1999

CRIME HEAD	TOTAL NO. OF CASES FOR TRIAL INCLUDING PENDING CASES	CASES WITH-DRAWN BY GOVT.	NO. OF CASES			TOTAL [(b) + (c)]	PENDING TRIAL
			(A) COM-POUNDED OR WITHDRAWN	(B) CON-VICTED	(C) ACQUI-TED OR DISCHARGED		
Dowry Death	24534	0	209	1338	2648	3986	20339
Cruelty by Husbands and Relatives	142575	0	3681	3416	14556	17972	120922

PERCENTAGE OF DISPOSAL BY THE COURTS - 1999

CRIME HEAD	DISPOSAL	PENDENCY
Dowry Death	17.1	82.9
Torture	15.2	84.8

GOVERNMENT BILL  
LOK SABHA

A Bill to protect the right of women who are victims of violence of any kind occurring within the family and to provide for matters connected therewith or incidental thereto.

(Dr. Murli Manohar Joshi, Minister of Human Resource Development)

To Be Introduced In Lok Sabha

Bill No. 133 of 2001

THE PROTECTION FROM DOMESTIC VIOLENCE BILL, 2001

A  
BILL

To protect the rights of women who are victims of violence of any kind occurring within the family and to provide for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.

(1) This Act may be called the Protection from Domestic Violence Act, 2001.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions

In this Act, unless the context otherwise requires,-

a) "aggrieved person" means any woman who is or has been a relative of the respondent and who alleges to have been subjected to acts of domestic violence by the respondent;

- b) "domestic violence" has the same meaning assigned to it as in section 4;
  - c) "Magistrate" means the Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, exercising jurisdiction under the Code of Criminal Procedure, 1973 in the area where the aggrieved person resides;
  - d) "monetary relief" means compensation which a Magistrate may order at any stage during the hearing of application seeking a protection order, to meet the expenses incurred and losses suffered by the aggrieved person as a result of the domestic violence;
  - e) "notification" means a notification published in the Official Gazette;
  - f) "prescribed" means prescribed by rules made under this Act;
  - g) "Protection Officer" means an officer appointed by the State Government under section 5;
  - h) "protection order" means an order made under section 14;
  - i) "relative" includes any person related by blood, marriage or adoption and living with the respondent;
  - j) "respondent" means any person who is or has been a relative of the aggrieved person and against whom the aggrieved person has sought monetary relief or has made an application for protection order to the Magistrate or to the Protection Officer, as the case may be; and
  - k) "service provider" means any voluntary association registered under the Companies Act, 1956 or any other law for the time being in force with the objective of protecting the rights and interests of women by any means including legal aid, medical, financial or other assistance.
3. Act not in derogation of any other law.  
The provision of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

## CHAPTER II

### DOMESTIC VIOLENCE

#### 4. Domestic Violence.

- (1) For the purposes of this Act, any conduct of the respondent shall constitute domestic violence if he,-
  - a) Habitually assaults or makes the life of the aggrieved person miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment; or
  - b) Forces the aggrieved person to lead an immoral life; or
  - c) Otherwise injures or harms the aggrieved person.
- (2) Nothing contained in clause (c) of sub-section (1) shall amount to domestic



violence if the pursuit of course of conduct by the respondent was reasonable for his own protection of or for the protection of his or another's property.

## CHAPTER III

### PROTECTION OFFICER

#### 5. Appointment of Protection Officer

- (1) The State Government shall, by notification in the Official Gazette, appoint such number of Protection Officers in each district as it may consider necessary and shall notify the area or areas within which a Protection Officer shall exercise his powers and perform his duties under this Act.
- (2) The Protection Officer shall possess such qualifications as may be prescribed.
- (3) The terms and conditions of service of the Protection Officer and other officers subordinate to him shall be such as may be prescribed.

#### 6. Duties of Protection Officer.

- (1) Where the Protection Officer, after enquiry, believes either *suo moto* or on the basis of information received from any person under sub-section (1) of section 8 that action should be taken, it shall be his duty to –
  - (a) inform the aggrieved person of right to apply for protection order under the provisions of this Act;
  - (b) inform about a service provider in the area where the aggrieved person resides so that she may seek support and help from such service provider;
  - (c) inform the aggrieved person of her entitlement to legal services under the Legal Services Authority Act, 1987;
  - (d) perform such other duties as may be prescribed or as may be ordered to be performed by the Magistrate.
- (2) It shall also be the duty of the Protection Officer to entertain any request or application made or presented to him under the provisions of this Act by the aggrieved person or any other person on behalf of the aggrieved person.
- (3) The Protection Officer on receipt of an application of an application under sub-section (2) shall, where so desired by the aggrieved person, endeavor to assist the aggrieved person and the respondent in an independent and impartial manner to reach an amicable settlement of the grievance under this Act.
- (4) If no such settlement as stated in sub-section (3) is arrived at, the Protection Officer shall file an application to the Magistrate under this Act if so desired by the aggrieved person.

#### 7. Powers of Protection Officer.

- (1) A Protection Officer within the local limits for which he is appointed shall exercise such powers as may be conferred on him by or under this Act.

- (2) A Protection Officer may take assistance of any person while exercising his powers or discharging his duties under this Act.
  - (3) A Protection Officer authorised to discharge functions under this Act shall be deemed to be a Civil Court for the purposes of holding enquiries under this Act.
8. Information to Protection Officer and exclusion of liability.
- (1) Any person who has reason to believe that an act of domestic violence has been, is being, or is likely to be committed, may give information to the Protection Officer.
  - (2) No liability, civil or criminal, shall be incurred by any person for information given in good faith for the purpose of sub-section (1).

#### CHAPTER IV

#### PROCEDURE FOR OBTAINING PROTECTION ORDER

9. Application to the Magistrate
- (1) The aggrieved person who is a victim of domestic violence, or any other person on her behalf, or the Protection Officer, may present an application to the Magistrate for seeking relief under section 14.
  - (2) The application under sub-section (1) may contain particulars in such form as may be prescribed or as near thereto as possible.
  - (3) The Magistrate shall fix first date of hearing which shall not exceed fifteen days from the date of the receipt of the application by the Magistrate for consideration of the application.
10. Service of notice
- (1) Notice of the date fixed under section 9 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate.
  - (2) A declaration in such form as may be prescribed of the Protection Officer regarding service of notice shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.
11. Counselling
- (1) The Magistrate at any stage of the proceedings under the Act may direct the respondent or the aggrieved person, either singly or jointly, to undergo mandatory counselling with any service provider.
  - (2) Where the Magistrate has issued any direction under sub-section(1), he shall fix the next date of hearing of the case within a period not exceeding two months.
12. Assistance of welfare expert
- In any proceedings under this Act, the Magistrate may secure the service of such person,

preferably a woman where available, whether related to parties or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions.

13. Proceedings to be held *in camera*

The proceedings may be held *in camera*, if the Magistrate considers that the circumstances of the case so warrant, and shall be so held if either party so desires.

14. Passing of protection order

(1) The Magistrate, after giving opportunity of being heard to the parties to the application, and after being satisfied that the aggrieved person is being subjected to domestic violence, may pass the protection order by directing the respondent to,-

- a) Refrain from committing any act of domestic violence; or
- b) Pay such monetary relief as the Magistrate deems just, and specify the period in the protection order within which the amount of such monetary relief is to be paid by the respondent to the person aggrieved; or
- c) Pass such other direction as may be considered necessary.

(2) Subject to section 11, every endeavor shall be made by the Magistrate hearing the application under this Act to dispose it of within three months from date of filing of the application.

(3) All evidence in any proceeding under this Act shall be taken in the presence of the respondent, or, when a personal attendance of the respondent is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed for summons-cases in the Code of Criminal Procedure, 1973:

Provided that if the Magistrate is satisfied that the respondent is willfully avoiding service of notice, or willfully neglecting to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte*.

(4) A copy of the protection order shall be forwarded to the Protection Officer and parties to the application.

(5) Where the Magistrate is satisfied that circumstances stated in the application presented under section 9 are such so as to justify the immediate intervention of the Magistrate to restrain the respondent from committing domestic violence, the Magistrate may issue an interim protection order directing the respondent to restrain from engaging in any act of domestic violence, and the Magistrate may further require the respondent to show cause as to why he should not be ordered to exceed a bond, with or without sureties, for maintaining domestic peace for such period as the Magistrate thinks fit.

15. Duration and alteration of protection order.

(1) A protection order made under section 14 shall be in force in the first instance for such period as the Magistrate may fix but not exceeding two years.

- (2) The protection order, for reasons to be recorded in writing may be altered, modified, varied or revoked, on an application either by the aggrieved person or the respondent provided that the Magistrate is satisfied that there is a change in the circumstances that requires such alteration, modification, variation or revocation, as the case may be.

## CHAPTER V

### MISCELLANEOUS

#### 16. Appeal

There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be.

#### 17. Protection Officer to be a public servant

Every Protection Officer, when acting or purporting to act under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

#### 18. Penalty for breach of protection order by the respondent

A breach of protection order, or of the interim protection order, by the respondent shall be an offence and shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to rupees twenty thousand, or with both.

#### 19. Penalty for not discharging duty by the Protection Officer

If any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to rupees twenty thousand, or with both.

#### 20. Cognizance of offence committed by the Protection Officer

No prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorized by it in this behalf.

#### 21. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Protection Officer for any damage caused or likely to be caused by anything which is in good faith done or is intended to be done under this Act or any rule made thereunder.

#### 22. Power to make rules

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
- a) prescribing the form in which the application may be presented;
  - b) qualifications, terms and conditions of service for the appointment of Protection Officers, his subordinate staff and their duties;
  - c) duties of the Protection Officer;
  - d) the form and manner in which notice may be served on the respondent and other persons by the Protection Officer; and
  - e) any other matter in connection with or in relation to this Act.
- (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be compromised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be: so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

#### STATEMENT OF OBJECTS AND REASONS

1. Domestic violence is undoubtedly a human rights issue and serious deterrent to development. The Vienna Accord of 1994 and the Beijing Platform of Act (1995) both have acknowledged this. The United Nations Committee on CEDAW (Convention on Elimination of All Forms of Discrimination Against Women) and in its general recommendation No. XII (1989) has recommended that State parties should act to protect women against violence of any kind especially that occurring within the family.
2. The phenomenon of domestic violence is widely prevalent but has remained largely invisible in the public domain. Presently, where a woman is visited with cruelty by her husband or his relatives is an offence under section 498A of the Indian Penal Code, 1860. The civil law does not address this phenomenon in its entirety.
3. With a view to providing a remedy under the civil law which is intended to preserve the family and at the same time provide protection to victims of domestic violence, legislation is being proposed. The main features as contained in the Bill are as follows:-
  - (i) it is being provided that any conduct of relative of the victim, which subjects her to habitual assault, or makes her life miserable, or injures or harms, or forces her to lead an immoral life would constitute domestic violence;
  - (ii) the Judicial Magistrate of the first class or the Metropolitan Magistrate may take the cognizance of domestic violence and pass a protection order requiring the relative of the woman to refrain from committing an act of domestic violence, or pay monetary relief which is deemed fit in the circumstances or pass any other direction as the Magistrate may consider just;

- (iii) the Magistrate may even require as an interim and urgent measure from the relative of the woman to execute a bond, with or without sureties, for maintaining domestic peace;
- (iv) the violation by the relative of the order made by the Magistrate would constitute an offence punishable with imprisonment upto one year, or with fine, or with both;
- (v) it is being proposed to set up an institution of Protection Officer to help the help of domestic violence in making application to the Magistrate and in availing of her other legal rights;
- (vi) a provision is being made for the appointment of Protection Officers by State Governments and they shall possess such qualifications as may be prescribed by the Central Government; and
- (vii) Protection Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian penal Code, 1860, and if he fails or refuses to discharge the duties as directed by the Magistrate, his act shall amount to an offence punishable with imprisonment up to one year, or with fine, or with both.

4. The Bill seeks to achieve the above objects

NEW DELHI

MURLI MANOHAR JOSHI "

The 11<sup>th</sup> December, 2001

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Sub-clauses (2) and (3) of clause 5 seek to confer power on the Central Government to make rules for prescribing qualification, terms and conditions of service of the Protection Officer and other officers subordinate to him. Clause 6 prescribes duties of Protection Officer in addition to the duties which the Central Government can impose on them by virtue of powers conferred by sub-clause (1) of the said clause. Sub-clause (2) of clause 9 confers power on the Central Government to make rules for prescribing the form in which the application may be presented by the aggrieved person to the Magistrate. Sub-clauses (1) and (2) of clause 10, confer power on the Central Government to make rules regarding service of notice on respondent. Clause 22, *inter alia*, confers power on the Central Government to make rules for carrying out the purposes of the Bill, and for any other matter in connection or in relation to the Bill.
2. The matter in respect of which provision may be made in the rules are generally matters of procedure and detail. The delegation of legislative power, is therefore, of a normal character.

# The Domestic Violence Against Women (Prevention) Bill, 2001

A Lawyers Collective, Women's Rights Initiative Proposal

Domestic Violence Against Women (Prevention) Bill, 2001  
An Act to address the growing menace of domestic violence and in particular to empower courts to grant orders for the protection of victims of domestic violence.

## PREAMBLE

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*WHEREAS* the Republic of India is party to several international instruments such as the Convention on the Elimination of Discrimination Against Women (CEDAW);

*AND WHEREAS* the United Nations adopted a Declaration on the Elimination of All Forms of Violence against Women in 1993;

*AND WHEREAS* the constitutional guarantee under Article 14 of the Constitution of India guarantees to women equality before the law and equal protection of the laws, and Article 21 secures for women the right to life and personal liberty;

*AND WHEREAS* domestic violence has operated as a severe form of oppression of women and which has been increasing with alarming proportions thereby affecting the fundamental rights of women;

*AND WHEREAS* Article 15(3) of the Constitution of India permits special provisions to be made in the interests of women and children;

*AND WHEREAS* it is necessary to recognise the right of women to protection against violence and to reside in their shared household and towards that end to put into place a co-ordinated and integrated system of responses;

BE IT THEREFORE ENACTED by the Parliament in the \_\_\_\_\_ year of the Republic of India, as follows:

## CHAPTER I

### PRELIMINARY

- 1) Short title and extent
  - a) This Act may be called the Prevention of Domestic Violence Against Women (Prevention) Act, 2001.
  - b) It extends to the whole of India except the State of Jammu and Kashmir.

- 2) Definition

In this Act, unless the context indicates otherwise

- a) "*accredited service providers*" means governmental, non-governmental, voluntary and charitable associations or institutions working for the welfare of woman that are registered under Societies Registration Act or any other law and providing medical, shelter homes, counselling, legal and financial or other assistance to victims of domestic violence who have entered their names in a register maintained by the State Government under the provisions of this Act;
- b) "*court*" means any court established under the provisions of the Family Courts Act 1984 or where no such court exists, the principal civil court of original jurisdiction or any court or lok adalat or any other authority which the State Government may, by notification in the Official Gazette, specify as a court competent to deal with all or any of the matters specified hereunder and includes any court in which a petition may be made under section 8 of the Act;
- c) "*child*" includes any adopted, step or foster child or any other minor i.e. below the age of 18 years, in a domestic relationship or in a shared household.
- d) "*domestic relationship*" means a relationship between two persons who live or have, at any point of time, lived together in the shared household, in any of the following ways:
  - i) they are or were married to each other, including marriage according to any law, custom, religion or usage whether such marriage is legally valid or not;
  - ii) they cohabit or have at some stage cohabited together;
  - iii) they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.
- e) "*domestic violence*" means any act, omission or conduct which is of such a nature as to harm or injure or has the potential of harming or injuring the health, safety or well-being of the person aggrieved or any child in the domestic relationship and includes physical abuse, sexual abuse, verbal and mental abuse and economic abuse.

#### Explanation

- i) "*physical abuse*" includes any act or conduct which is of such a nature as to cause bodily pain, harm or danger to life, limb, or health or impair the health or development of the person aggrieved, and includes assault, criminal intimidation and criminal force.



- ii) "*Sexual abuse*" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the person aggrieved and includes sexual intercourse against the will or without the consent of the person aggrieved and refusal to co operate in contraception when the person aggrieved may reasonably require.  
Provided that where the person aggrieved is below the age of sixteen, any sexual intercourse, whether or not against her will or without her consent shall amount to sexual abuse;
- iii) "*sexual abuse*" of a child includes any act or conduct of a sexual nature that abuses, harms or violates a child in a domestic relationship.
- iv) "*verbal and mental abuse*" includes
  - a) insults, ridicule, humiliation, degrading or name calling, including insults, ridicule or name calling specially with regard to not having a child or a male child, or;
  - b) repeated threats to cause physical pain to any person in whom the person aggrieved is interested .
- v) "*economic abuse*" includes -
  - a) deprivation of any or all economic or financial resources to which the person aggrieved is entitled under law or custom whether payable under an order of court or otherwise or which the person aggrieved requires out of necessity, including but not limited to household necessities for the person aggrieved and her children, if any, stridhan, property, jointly or separately owned by the person aggrieved, payment of rental related to the shared household and maintenance;
  - b) disposal of household effects, any alienation of assets whether moveable or immovable, valuables, shares, securities, bonds etc or other property in which the person aggrieved has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the person aggrieved or her children or her stridhan or any other property jointly or separately held by the person aggrieved; or,
  - c) prohibiting or restricting continued access to resources or facilities which the person aggrieved is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household;
  - d) "*monetary relief*" means monetary relief which a court may order under Section 6 of this Act.
  - e) "*person aggrieved*" means any woman or child who is or has been in a domestic relationship with the respondent and who has been subjected to acts of domestic violence ;
  - f) "*petitioner*" means any person who makes a petition under Section 8 of this Act;
  - g) "*prescribed*" means prescribed by or under this Act or rules made hereunder;
  - h) "*protection officer*" means an officer appointed under section 24 by the State Government in relation to or for the purposes of this Act;
  - i) "*protection order*" means an order granted in terms of Section 5;
  - j) "*residence order*" means an order granted in terms of Section 7;

- k) "respondent" means any person who is or has been in a domestic relationship with the person aggrieved or a person who is aiding such a person in committing or threatening to commit domestic violence;
- l) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes property owned jointly or by either the person aggrieved or the respondent or property, including tenements, in respect of which either the person aggrieved or the respondent or both jointly have any right, title, interest or equity and includes property which may belong to the relations of the person aggrieved or the respondent or the joint family of which the respondent is a member irrespective of whether the respondent or the person aggrieved has any right, title or interest in the shared household;

## CHAPTER II

### RIGHTS OF AN AGGRIEVED PERSON

- 3. Right to reside in a shared household and the right to protection against violence
  - a) Notwithstanding any other law in force, every woman in a domestic relationship shall have the right to reside in the shared household.
  - b) If in occupation of the shared household, a woman in a domestic relationship shall have a right not to be evicted or excluded from the same or any part of it by the respondent save in accordance with the procedure established by law.
  - c) If forcibly evicted or denied access to the shared household, a woman in a domestic relationship shall have a right to enter into and occupy the same.
  - d) Notwithstanding any other law in force, every woman in a domestic relationship has a right to obtain protection against domestic violence under this Act in the form of a protection order and/or a residence order and/or an order granting monetary relief.

- 4. Duty to inform person aggrieved of rights

A police officer or a protection officer who has received a complaint of domestic violence or is otherwise present at the scene of an incident of domestic violence or when the incident of domestic violence is reported to him, shall-

- a) inform the person aggrieved of her right to apply for and obtain a protection order, an order for monetary relief and/or a residence order under the provisions of this Act;
- a) inform the person aggrieved of the services of accredited service providers and
- b) inform the person aggrieved of her right to free legal services under the Legal Services Authorities Act, 1987.

Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognisable offence.

## CHAPTER III

### ORDERS

#### 5. Protection order

- a) The court may pass a protection order prohibiting the respondent from:
  - i) committing any act of domestic violence;
  - ii) aiding and abetting in the commission of acts of domestic violence;
  - iii) entering the place of employment of the person aggrieved or, if person aggrieved is a child, its school; or any other place frequented by the person aggrieved;
  - iv) entering the residence of the person aggrieved;
  - v) attempting to communicate in any form whatsoever with the person aggrieved, including personal, oral or written, electronic or telephonic contact;
  - vi) committing any other act as specified in the protection order;
  - vii) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both parties, either singly or jointly; including her stridhan or any other property held either jointly or separately by the person aggrieved;
  - viii) causing violence to the dependants, other relatives and persons who give the person aggrieved assistance from domestic violence.
- b) The court may impose any additional conditions which it deems reasonably necessary to protect and provide for the safety of the person aggrieved or any child.
- c) While passing an order under Section 5(a) or (b), the Court may also pass an order directing the police to give protection to the person aggrieved or to assist her or the petitioner in the implementation of the order.
- d) The court may direct the respondent to return to the possession of the person aggrieved her stridhan or any other property or valuable security to which she is entitled to either singly or jointly.
- e) The court may direct the Protection Officer or any other authority to remove the person aggrieved to a place of safety such as any short stay home run by any accredited service provider.
- f) The court shall, in all cases where it has passed a protection order under this section, order that a copy of such order be given to the protection officer in charge of the area and to any accredited service provider located within the local limits of the jurisdiction of the Court.

#### 6. Monetary Relief

- a) The court may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the person aggrieved and any child as a result of the domestic violence and includes but is not limited to-
  - i) loss of earnings;
  - ii) medical expenses;
  - iii) loss caused due to the destruction, damage or removal of any property from the control of the person aggrieved;

- iv) maintenance for the person aggrieved as well as her children, if any;
  - v) compensation for the domestic violence inflicted upon the person aggrieved
  - b) Copies of an order for monetary relief shall be forwarded by the Court to the concerned protection officer and to the Station House Officer of the police station within whose jurisdiction the respondent resides.
  - c) The respondent shall pay monetary relief to the person aggrieved within the date specified in the order made in terms of sub-section (a) and in accordance with the terms there
  - d) The protection officer may, upon the failure on the part of the respondent to make payment in terms of sub-clause (c), by an order, direct an employer or a debtor of the respondent, to directly pay to the person aggrieved or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.
7. Residence order
- (a) The court may pass a residence order to:
    - i) restrain the respondent from alienating or dispossessing the shared household or encumbering the same;
    - ii) restrain the respondent from renouncing his rights in the shared household except in favour of the person aggrieved;
    - iii) require the respondent to permit the person aggrieved to enter and remain in the shared household or part thereof;
    - iv) prohibit, suspend or restrict the exercise by the respondent of his right to occupy the shared household;
    - v) restrain the respondent from dispossessing the person aggrieved from the shared household and
    - vii) direct the respondent to secure alternate accommodation for the person aggrieved or to pay rent for the same, if for sufficient reasons, the court is of the opinion that it will be harmful or injurious for the person aggrieved to live with the respondent in the shared household, having regard to the circumstances of the case.
  - (b) While making an order under this section, the court may impose on the respondent obligations relating to the discharge of rent or other payments, having regard to the financial needs and resources of the parties.

8. Custody Order

Notwithstanding any other law in force, the court may, at any stage of the hearing of the petition for protection order, grant temporary custody of any child or children to the person aggrieved or the petitioner and specify, if necessary, arrangements for visitation by the respondent.

Provided that in any case where a complaint of sexual abuse of a child has been made, and the court is prima facie satisfied that such allegation is true, the court shall grant

custody to the person aggrieved or the petitioner and no such order for arrangements for visitation by the respondent shall be made.

9. Compensation Orders

- a. In addition to other reliefs under this Act, the court may on an application by the person aggrieved, pass an order directing the respondent to pay compensation and damages for the injuries caused by the acts of domestic violence committed by the said respondent.
- b. The person aggrieved may make an application for compensation and damages under this section without any prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent.

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the person aggrieved, the amount, if any, paid or payable in pursuance of the order made by the court under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance, if any, left after such set off.

## CHAPTER IV

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### PRACTICE AND PROCEDURE

10. Petition

Any person aggrieved may apply to the court for appropriate relief against domestic violence in a form prescribed which form may be obtained free of cost from any court, police station or protection officer.

11. Particulars of the petition

Ordinarily, the petition, accompanied by an affidavit must contain the following particulars:

- a) particulars of the person aggrieved and the respondent
- b) the facts on which the petition is based;
- c) the nature of relief sought whether a protection order, residence order and/or an order for monetary relief and
- d) the name of the police station at which the person aggrieved is likely to report any breach of the orders.

12. Petition by next friend or a protection officer

Notwithstanding the provisions of any other law, the petition may be brought on behalf of the person aggrieved by any other person, provided that the petition must be brought with the written consent of the person aggrieved.

Provided further that such written consent would not be necessary in circumstances where the petitioner is an accredited service provider or a protection officer and where the person aggrieved is-

- a) a minor;
  - b) suffering from a mental disorder of such nature and to such an extent that she cannot reasonably be expected to apply by herself;
  - c) unconscious or otherwise physically incapable due to the acts of domestic violence;
- Provided further that an accredited service provider or a protection officer shall be entitled to appear before the Court and address the same if such accredited service provider is a petitioner or where the petitioner authorises the accredited service provider.

13. Orders during court recess

A petition under Section 8 of this Act may be brought before the court at anytime. Provided that when a petition is made at any time outside ordinary court hours or on a day that is not an ordinary court day or when the court is not in session, the Duty Magistrate shall pass the necessary protection orders as provided in Sec.5, 6 and 7 of this Act and the same may be confirmed by the court upon resumption of work within 72 hours.

14. Relief in other suits and legal proceedings

- a) Relief available under this Act, may also be sought in any legal proceeding, civil or criminal, affecting the person aggrieved and the respondent whether such proceeding was initiated before or after the commencement of this Act.
- b) Such order may be sought in addition to and along with any other relief that the person aggrieved may pray for in such suit or legal proceeding, civil or criminal.
- c) During the pendency of investigations in relation to commission of offences mentioned in Schedule 1, a competent court may upon a petition in that behalf by the person aggrieved, grant the orders mentioned in Sec.5, 6 and 7 of this Act, as a condition of release on bail of the respondent.

15. Power to grant interim and ex parte orders

- (a) In any proceeding before it under this Act, the Court may pass such interim order as it deems just and proper.
- (b) If a court is satisfied that a petition *prima facie* discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, it may grant an *ex parte* order under sections 5,6,7,8 and or 9 against the respondent, in a form as may be prescribed under the rules.

16. Single acts or condonation

The court shall not refuse to grant a protection order merely on the basis that:

- a) only a single act of domestic violence has been committed or a single threat has

been made by the respondent or on the ground that the acts or threats if viewed in isolation, appear to be minor or trivial.

- b) the person aggrieved had not complained of the acts of domestic violence and had condoned the same.

Provided that the complaint is brought within 7 years from the date of the commission of the act(s) of domestic violence complained of.

17. Notice to show cause

The Court shall issue notice to the Respondent to show cause <sup>within 30 days</sup> ~~within the time as may~~ be prescribed why an order under sections 5, 6, 7, 8 and/or 9 should not be granted or if granted under Section 15 why the same should not be confirmed.

18. Confirmation, variation or revocation of order

(a) An order under sections 5, 6, 7, 8 and 9 shall operate for a period of three years and may, on application by the person aggrieved, be extended for a further period.

(b) An order made under this section may, for exceptional circumstances to be recorded in writing, be altered, modified, varied or revoked on an application by either the person aggrieved or the respondent provided the court is satisfied that there is a change of circumstances that requires such alteration, modification, variation or revocation.

19. Appeal

Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in the Code of Criminal Procedure, 1973 or in any other law, an appeal shall lie from every judgement or order of the court, to the High Court.

## CHAPTER V

### PROTECTION OFFICERS

20. Appointment and qualifications of Protection officers

The State Government shall by notification in the official gazette, appoint such number of Protection Officers in each district as it may consider necessary, to assist the court in the discharge of its duties under this Act.

Provided that such appointment shall be by recruitment by the State Public Services Commission or such other body which conducts, selections, examinations and recommends recruitments of state public servants.

Provided further that such appointment shall be in accordance with the qualifications for the post of protection officers as may be prescribed by the State Government.

21. Duties and Functions of Protection Officers

- a) It shall be the duty of a Protection Officer to assist the Court in the investigation of complaints relating to domestic violence.

- b) The Protection Officer shall be under the control of the Court, and shall and perform duties imposed on him by the Court and by this Act.
- (c) In addition to the above the Protection Officer shall perform the following functions:
- i) Make a Domestic Incident Report in the prescribed form upon receipt of a complaint of domestic violence.
  - ii) Inform the person aggrieved of her right to apply to the court for a protection order, monetary relief and/or a residence order under the provisions of this Act.
  - iii) Assist the person aggrieved in obtaining a protection order from the Court.
  - iv) Ensure that the monetary relief deposited by the respondent is made available to the person aggrieved at the earliest.
  - v) Co-ordinate the activities of the accredited service providers operating in his area.
- (d) The protection officer shall make best efforts to ensure that the activities of the police and the accredited service providers are so co-ordinated as to ensure that a person aggrieved:
- i) has easy access to information about accredited service providers, including short stay homes in the area that may provide her with support and help that she may require and enable access to services of the accredited service providers;
  - ii) is easily able to access transportation to an alternative residence or a safe place of shelter if the person aggrieved so requires;
  - iii) is able to avail of transportation to the nearest hospital or medical assistance for the treatment of injuries if such assistance is required,
  - iv) is able to obtain assistance in the collection of her belongings, including stridhan or any other property ordered to be returned or restored to her by the order of the court, with the assistance of the police.
  - v) is able to access the Court for orders under this Act.
  - vi) has access to every possible assistance in the service of exparte orders to the respondent, and enforcement of any orders that may have been made by the court under this Act.
- (e) Notwithstanding anything in any law, the protection officer may, subject to confirmation by a Court within 48 hours, by an order:
- i) Direct a bank or a financial institution to suspend transactions in respect of any bank account or locker; or
  - ii) Prohibit a co-operative society or a registry or any authority or an individual or a company from registering a transfer of any share, right or interest in any movable or immovable property.



## CHAPTER VI

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### OFFENCES AND PENALTIES

22. Breach of a order

A breach of an order made under Sections 5, 6, 7, 8,9 and/or 15 shall be an offence and shall be punishable with imprisonment which may extend upto three years or with fine which may extend upto Rupees twenty thousand or with both.

23. Conditional warrant of arrest

While granting any order under sections 5, 6, 7, 8 or 9 of this Act after hearing both the parties, the Court, if satisfied, that the respondent has committed act(s) of domestic violence, may attach to the order, a power of arrest without warrants for any breach of the same.

24. Execution of the warrant

Upon a complaint by the person aggrieved or otherwise, if the appropriate police officer of the concerned police station is satisfied that a condition exists for execution of the warrant of arrest, he shall execute the warrant and arrest the respondent.

25. Cognisance and proof

- a) The offence under Section 24 shall be a cognizable and non-bailable.
- b) The court may conclude the commission of an offence under Section 24 upon the sole testimony of the person aggrieved.

26. Offence by Protection Officer

If any protection officer refuses or without sufficient cause is unable to give effect to the provisions of this Act or discharge his obligation he shall be punished with imprisonment of either description for a term which may extend upto one year, or with a fine which may extend to Rupees five thousand or with both.

Provided that no Court shall take cognisance of an offence under this section save with the permission of the state government.

27. Powers of the court in relation to offence

The court passing an order under Section 5,6,7 or 13 shall have the power to try offences punishable under this Act.

## CHAPTER VII

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### MISCELLANEOUS PROVISIONS

28. Jurisdiction

- a) Jurisdiction to grant a protection order and/or try offences under this Act lies with any court, within whose jurisdiction-

- i) the person aggrieved permanently or temporarily resides, carries on business or is employed; or,
  - ii) the respondent resides, carries on business or is employed; or,
  - iii) the cause of action arose
- (b) Any order made hereunder shall be enforceable throughout India.

29. In camera proceedings

Unless the court is satisfied to the contrary, proceedings under this Act shall be held in camera.

Provided however that the protection officer or the accredited service provider may be permitted to attend the same.

30. Non obstante clause

The provisions of this Act and of any rules made hereunder shall have effect notwithstanding anything inconsistent with therewith contained in any other law in force.

31. Counselling

The Court may at any stage of the hearing on the petition for a protection order direct the respondent to undergo singly or, at the option of the person aggrieved, jointly with the person aggrieved mandatory counselling with any accredited service provider.

32. Protection of actions taken in good faith

No suit, prosecution or other legal proceeding shall lie against any accredited service provider or protection officer or police officer for anything which is in good faith done or purported to be done by or under this Act.

33. Procedure

- a) Except as otherwise stated in this Act, proceedings regarding the issuance of orders and offences provided herein against the same shall be governed respectively by the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973.
- b) Nothing in sub-section (a) shall prevent the court from laying down its own procedure.

34. Duty of government to ensure effective implementation of the Act

- 1) The Government of India shall appoint an eminent person as the Coordinator for Prevention of Domestic Violence who shall submit annual reports to the Government of India on the incidence of Domestic Violence in India and on the implementation of this Act which report shall be laid before both houses of Parliament.
- 2) The Coordinator for the Prevention of Domestic Violence, appointed under sub-section (1) of this section shall have the powers to perform all or any of the following:

- a) powers to investigate and examine all matters relating to Prevention of Domestic Violence
  - b) make in its annual reports to the Government of India, recommendations for the effective implementation of the provisions of this bill
  - c) review, from time to time, the existing provisions of the law on domestic violence.
  - d) Look into complaints and take suo-motto notice of matters relating to domestic violence and the non-implementation of the law on domestic violence
  - e) Call for special studies or investigations into specific incidence of domestic violence
  - f) Participate and advise on the planning process for securing a safe environment free of domestic violence.
  - g) Evaluate the progress of the development of women under the law on domestic violence
- 3) The Government of India, as well as the State Government, shall ensure that:
- a) the Act and the contents thereof receive wide publicity in the television, radio and the print media;
  - b) the government officers, the police and the members of the judicial services are given periodic sensitisation and awareness training on the issues addressed by this Act; and
  - c) effective protocols are formulated by concerned ministries dealing with health, prosecutions and welfare to address issues of domestic violence and that the same are periodically revised.
35. Power to make Rules
- a) The State Government may by notification in the official gazette, make rules for carrying out the purposes of this Act.
  - b) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-
    - i) prescribing the format in which the forms, petitions, orders, directions and reports under this Act would have to be made;
    - ii) maintaining a register of accredited service providers;
    - iii) rules and procedure for the appointment and co-ordination of protection officers and their duties, tasks and responsibilities;
    - iv) powers of protection officers;
    - v) rules and procedure for appointment of officers to assist protection officers appointed under this Act;
    - vi) method and manner of deposit, recovery and payment of monetary relief;
    - vii) rules of procedure for proceedings under this Act; and
    - viii) any other matter in connection with or in relation to this Act.

## SCHEDULE 1

### Offences under the Indian Penal Code, 1860

- i) Sections 269 (negligent act likely to spread infection of disease dangerous to life), Section 270 (malignant act likely to spread infection of disease dangerous to life),
- ii) Offences listed under chapter XVI (offences affecting the human body),
- iii) Sections 383, 385, 386, 387, 388, 389 (Sections dealing with extortion),
- iv) Section 403 (dishonest misappropriation of property), Section 405 (criminal breach of trust),
- v) Section 441 (criminal trespass),
- vi) Offences listed under Chapter XX (offences relating to marriage),
- vii) Section 498A ,
- viii) Section 499 (defamation),
- ix) Sections 503 (criminal intimidation), 504 (intentional insult with intent to provoke breach of peace),
- x) Section 507 (Criminal Intimidation by an anonymous communication)
- xi) Section 509 (word, gesture or act intended to insult the modesty of a woman),
- xii) Attempt to commit any of the above offences.

### Other statutes

- i) All offences listed in the Dowry Prohibition Act, 1961
- ii) Section 4, of the Commission of Sati Act, 1987. (abetment of sati)
- iii) All offences listed in the Immoral Traffic (Prevention ) Act, 1956
- iv) Offence under the Prenatal (Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994

emergency rooms. One in four pregnant women has a history of partner violence (Journal of the American Medical Association, 1992).

Myth 5: It is easy for battered women to leave their abuser.

Fact 5: women who leave their batterers are at a 75% greater risk of being killed or tortured by the batterer than those who stay. (Barbara Hart, National Coalition Against Domestic Violence, 1998).

#### National Scenario

Violence against women has its roots in unequal social structures and is further intensified by social and economic inequalities that are brought in by increasing privatization and globalization. There are very few studies done on domestic violence in India. According to the national Crimes Record Bureau, Ministry of Home Affairs, government of India, a shocking 71.5% increase in cases of torture and dowry deaths during the period from 1991 to 1995 and it clearly reflected an increase in reporting of violence. In 1995, torture of women constituted 29.2 per cent of all reported crimes against women. As far as our country is concerned, majority of dowry victims are forced to commit suicide and mostly forced by women of older age. The national family Health Survey (NFHS-2), 1998-1999, found that at least one in five women experienced physical violence since age 15 and at least one in nine experienced such violence in the 12 months preceding the survey (IIPS and ORC Macro 2002).

#### Domestic Violence against women in Haryana:

Respecting women and motherhood is very much part of the Haryanvi culture we boast of lavishly. But what is happening to our women, girls and children today is a blot on our culture and the Haryana's conscience. The argument that violence is happening everywhere in the world is no justification. It makes us all hang our heads in shame. Too many selective sex abortions, too many murders, too many rapes, too many cases of sexual abuse, too many cases of Honor Killing, too many cases of molestation have disfigured Haryana and its fair name. It has serious implications, especially on health. If women's health is endangered, the whole fabric of society may be torn apart, and the even tenor of life will be disturbed. Stories about sexual harassment or violence within homes abound the media reports and include female genital mutilation (FGM); forced feeding of women; early marriage; the various taboos or practices which prevent women from controlling their own fertility; nutritional taboos and traditional birth practices; son preference and its implications for the status of the girl child; female infanticide; early pregnancy; and dowry price.

Haryana being culturally backward and feudal society, is now in a transition phase. Modern thought and scientific temper are not the guiding force in day today life. Even the educated people, scientists and science teachers have not absorbed scientific temper though they are using science as their livelihood. Under the influence of market driven society at large in the world, Haryana society is also becoming a consumerist society without shedding its older backward culture and feudal ideas. On the top of this easy money has accumulated with a few people in cities and villages as well in the last 10-15 years earned through black-marketing, liquor sale, grabbing and sale of lands and other corrupt means. This is the dominating group which have influence over closed society of Haryana where women is taken as a commodity and not a human being. Haryana women suffer the most crippling disability while having to bear a disproportionate burden of household work. Emotional abuse fuel the situation. All sort of violence against women are on increase as is clear from the statistics of one districts of Haryana. Son preference is very deep rooted in Haryana which is at the cost of girl child. Murdering a girl in the womb of the mother has been an accepted practice in most of the homes. The declining sex ration in Haryana is a testimony to this crime. Sex Ratio in educated people of Haryana is 617. Very alarming indeed! This shows that the present education does not bring in gender sensitization and hence it is gender blind. It should be gender friendly. Women's oppression does not seem to end only with economic progress or with education. Beating of wife is very common. There is a saying in Haryana—"jugai ke

gudi pachhe mat hose. Isne kabu mein rakhan khatar do jante han dhardaya aur do ake dhar dayo". Rape by the known persons and relations in the families is increasing though the studies on Haryana society are difficult to be traced. Patriarch Monarch like behavior is a very common feature of the society here. Bride burning is very common. Most of the women admitted in the PGIMS Rohtak with serious burns are married between the age group of 15-35. Dowry Deaths are on increase in Haryana. Even dowry torture cases are increasing. One argument raised by the backward thought people is that this law is being misused. These very forces have never raised the voice against misuse of other laws e.g in murder cases the names of so many persons are implicated many times but these forces never raise their voice. Because of gender bias they are raising voice against dowry act.

Sexual harassment is also on increase in the families. Honor Killing of young girls and boys in families

has been there but is on increase these days. Janwadi Mahila Samiti has case studies of 18 such cases.

#### One of the Districts of Haryana

Year	Dowry Death 304-B	Rape Cases 376-IPC	Molestation 354 IPC	Torture for Dowry 498-A
1999	30	16	33	37
2000	23	21	7	40
2001	20	10	29	43
2002	23	17	9	54
2003	20	15	17	69
2004				
30.6.04	12	15	8	38

(Source: District Level Complaint Center )

One factor must be kept in mind that a good many cases of domestic violence does not get reported.

Why donot victims just leave?

One very important reason why women don't just leave an abusive relationship is the very real fear that they will be harmed if they try to leave. The perpetrator will threaten the women as well as other family members including children. She may not have the financial means to support herself and their children. The victim may feel that the children need an intact family. She may have religious or cultural beliefs that the family must remain intact at all costs. She may believe that violence is because of her fault. She may still love the perpetrator and succumb to his promises never to let it happen again. It is a vicious circle. Victimized women may not admit that the injuries they have received are the result of abuse even if they are asked. They may fear retaliation if they tell. She may be unable to talk freely because the perpetrator is present.

Long and short term relief measures:

There is no ready made immediate solution of this deep rooted social problem.

A comprehensive understanding of the problem of domestic violence in all its spheres is very essential while formulating effective and sustainable intervention strategies against women violence. The problem lies in the deeply disrespectful, even contemptuous attitude towards the fair sex. Unless men's mindset changes, the status of women will not change for the better. This includes identifying the victims and perpetrators the evident risk and protective factors, the common outcomes of violence, and the real needs of survivors.

A great deal of violence in the home is neither constant nor random. It occurs in a defined cycle. If this is the pattern in one's home, understanding the cycle can help clarify what makes you a victim, and when and how you can get help to break the cycle.

Anybody who comes into contact with the people should be on the alert for the signs of domestic violence that includes doctors, nurses, teachers, social workers, lawyers and other resource persons. If a

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person knows where to go for necessary help, some of the frustration and confusion can be eliminated. But long term solutions still rest with gender friendly education. Children living in abusive households will have to be extended specialized support. One way we can stop the cycle is by teaching children in school that they don't need to use violence. Teaching healthy communication skills is a long term way to help. Educating men about women that they are equal and that men cannot use violence to get what they want is important.

How to Reduce domestic violence?

The following steps may help in reducing domestic violence:

- Ø Establishment of short stay homes to provide immediate needs.
- Ø Advocating preventive measures by monitoring existing cases, creating opportunities for economic self reliance, consciousness- raising (drawing the attention of community to the fatal consequences of domestic violence) and creating an awareness among the community and mobilizing them to stop domestic violence with the use of street theatre and folk songs.

Ø The availability of a wide range of accessible quality services together with interventions that seek to challenge the broader social and economic context that exacerbates the imbalance in power between men and women.

Ø It is very essential to involve the community in the design and implementation of intervention strategies. The success of any community-based project mainly depends on the full involvement of the community which will not only be effective but also sustainable in the long run.



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**Domestic Violence against Women in Haryana**

**Dr R.S.Dahiya**

Domestic violence is not only a public health issue but also a universal problem. Violence within the four walls of home is taking place everywhere irrespective of economic status, culture, religion, class and ethnicity. Violence against women can be seen sadly in every corner-on the streets, at homes and in places of work. It is a grave social problem that threatens the safety, equality and bodily integrity of every women. Domestic violence must be looked at in the context of our social attitudes rather than solely as an individual problem.

**Controlling attitude**

Domestic violence is a pattern of controlling behaviors aimed at gaining power in order to control an intimate partner. It is not just about hitting or punching. It is a pattern of assaultive and coercive behavior including psychological, sexual and physical abuse. Domestic violence can be defined as violent or controlling behavior by a person towards a partner, usually a wife, girlfriend, or love. Although the partner is the primary target, violence is often directed towards children as well, and sometimes towards family members, friends, and even bystanders in attempts to control their partner. This is further complicated by a common belief that violent acts are an expression of love and merely a desire to help the subject be a "better" person.

The definition of violence would include all acts of "physical, verbal, visual or sexual abuse that are experienced by a women or girl as threats, invasion or assaults and that have the effect of hurting her, or degrading her and /or taking away her ability to control contact(intimate or otherwise) with another individual".( Koss et al.1994). Such a definition more fully captures all the different processes by which women undergo subordination within intimate relations and fits more directly into a human rights perspective. Despite widespread prevalence, such violence is not customarily acknowledged and has remained invisible. In Haryana authority of the male as the head of household is unquestionable historically also. Violence is perceived as part of the discipline essential for maintaining the rule of authority within the family.

**Myths, facts and statistics**

**Myth 1: Domestic violence does not affect many people.**

**Fact:** a women is beaten every 1 minute in the world. Domestic violence is the leading cause of injury to women between ages 15 and 44 in the USA which is more than car accidents(Uniform Crime Reports, Federal bureau of Investigation,1991). Battered women are more likely to suffer miscarriages and to give birth to babies with low birth weights(Surgeon General, United States,1992)

**Myth 2: Battering is only a momentary loss of temper.**

**Fact:** Battering is the establishment of control and fear in a relationship through violence and other forms of abuse. The batterer uses act of violence and a series of behaviors including intimidation, threats, psychological abuse, isolation ,etc. to coerce and to control the other person. The violence may not happen often, but it remains as a hidden,(and constant) terrorizing factor.( Uniform Crime Reports, Federal Bureau of Investigation,1990).

**Myth 3: Domestic violence only occurs in poor, urban areas.**

**Fact 3: Women of all cultures, races, occupations, income, levels, and ages are battered---by husbands, boyfriends, lovers and partners.**

**Myth 4: Domestic violence is just a push, slap or punch---it does not produce serious injuries.**

**Fact 4: More than 25% of women who are battered are often severely injured who visit medical**

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### WHAT YOU CAN DO :

1. Get to know these facts- Be aware & Sensitive
  - Take a stand on this issue
2. Collect information about Violence Against Women specially any unnatural death of young married women in your area and document and disseminate- Inform others and authorities
3. Start dialogue – in different groups in the Community and professionals
  - Break the culture of silence
  - Address the basic issue – status of women, dowry
4. Document evidence of violence- any type
5. File – First Information Report (FIR) in the police station regarding any violent action against women
6. Contact State commission for women , socially conscious lawyers, journalists dealing with gender violence.
7. Campaign in schools and colleges to prepare the young people to accept & respect the girls and treat them as equals & not as inferior.
  - Empower young girls to be assertive
8. Join hands with others to visit burns wards in hospitals
9. Join with others to support protest rally for creation of awareness and action and support of victims of violence.
10. In your own groups, families, religious circle create awareness and motivate action.

### CAMPAIGN AGAINST VIOLENCE AGAINST WOMEN



### FACTS THAT HAVE TO BE ADDRESSED & RESOLVED



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website: [www.tnvha.org](http://www.tnvha.org) and [www.pcsadvt.com/tnvha](http://www.pcsadvt.com/tnvha)

## **VIOLENCE**

Any action that hurts, kills, humiliates a person – physically, mentally, socially including planned denial of fundamental rights can be termed as violence

**Women :** In our country there are many incidents/ actions / behaviour patterns that are against women – from womb to tomb. Most of them are considered domestic, personal issues. But they are destroying the social fabric & denying / destroying the well being of half of our population constituting the women & girls

### **Violence Against Women – in the life cycle**

**Foetus** - Sex selection – leading to female foeticide. Torture of mother for this. Because of Male preference.

**At Birth** - Rejection – female infanticide / killing  
- denial of breast milk, immunisation, basic care  
- Neglect this girl to have another child(male) immediately thus depriving all attention to girl baby

**Young girl** - Rejection – denial of food (Nutritious food)

- Health care, love, care & acceptance
- Scolding, using abusive words
- Beating and torture
- Sexual molestation, rape, teasing at home and outside
- Leading to suicide, low self esteem etc.
- Denial of opportunities to learn and develop skills
- To take care of siblings
- Restricted Mobility
- Treated as a "Property" to be handed over- not as HUMAN BEING with feelings & needs

**Adult Women** – Rejection – as daughter, daughter in law

- Denial of fundamental rights
- Torture and harassment due to dowry , power struggle
- Bride burning, suicide
- Even family planning methods are thrust on women – affecting their health
- Domestic violence - physical, mental humiliation,
- Isolation - denial of access to help (parents).
- Sexual abuse by leaders, land lords, etc. even to punish husband
- Violence in police station

### **HOME IS NO MORE A SAFE PLACE**

- Female foeticide, female infanticide
- Sexual encounter – first rape at home by relatives
- Girl tortured to not to say any things

### **A TIME TO RECON THESE STATISTICS**

**DECLINING SEX RATIO** per 1000 Men / Boys:  
From more than 1000 in 1901 now in 2000  
adult women 956 in Tamil Nadu (929 in India)  
At birth (1<sup>st</sup> year) 929 in Tamil Nadu

### **LEADING CAUSE OF DEATH:**

- Communicable diseases, malnutrition, violence
- Between the age of 15-35 years
- Next to TB of lung (first)
  - Suicide and burning
  - Amongst top 10 Causes
- according to (RGI) Registered General of India

*Stop the policy!* WH17

## POLICY STATEMENT ON POPULATION AND THE ENVIRONMENT

The current macro debate which portrays population growth as the central variable in environmental degradation is not supported by research findings. Extremes of wealth and poverty, leading to overconsumption by some and the erosion of livelihoods for others, skewed distribution and use of resources, and patterns of human settlement (including urbanisation) have a stronger demonstrable relationship to environmental degradation than population size per se. In addition, macro/global economic strategies and policy decisions are increasingly affecting both people and the natural environment. These findings are supported in study after study, across a wide range of social and environmental conditions.

There has been a long tradition of people adapting to and shaping the natural environment through the accumulation of local knowledge and experience. This relationship has been increasingly disrupted as a result of external global forces, notably the globalisation of capital, large-scale technology and communications, subordination within world markets, and rising levels of consumption by the rich, particularly concentrated in industrialised countries. These processes have eroded livelihoods, the natural environment, and the interaction between people and their environment. The focus on population growth as the key factor in degrading the environment is thus misplaced.

Because poor women and children are the poorest of the poor, and because of the central role that women play in household and natural resource management, they are particularly affected by the erosion of livelihoods. It has been repeatedly demonstrated that fertility is determined by cultural and socio-economic factors such as women's economic autonomy, legal and political rights, education, and access to reproductive health services and health. Fertility decline is also related to the improved survival chances of offspring. However, general erosion of livelihoods as a result of global economic and political forces, and resulting national policies, are increasingly undermining women's access to health services (including family planning services) and education.

Policy implications are:

1. Despite current ideologies and policies favouring trade liberalisation free of state regulation, market forces cannot be relied upon to protect the livelihoods of people or the health of the environment.
2. The global community (including NGOs and international institutions), national and local governments have an obligation to protect the environment and to help to ensure the sustainable livelihoods of present and future generations.
3. Extractive industries including mining, logging and petroleum tend to disrupt both the physical and social environment. It is therefore recommended that
  - a. an international data base of the social, economic and environmental effects of these traded resources be established;
  - b. information drawn from the data base be made available to local communities;
  - c. social and environmental impact studies be commissioned by governments; and
  - d. an international code of ethics for extractive companies be incorporated into all concessions and contracts.
4. Intensive agriculture, transformative industries and military activities that may produce waste and pollution as well as severe social and economic dislocation adversely affect the environment and the health of people. Critical assessment of the environmental and human effects of these processes is urgently needed.

5. In order to promote the sustainability of agriculture, international organisations, national governments, and producers' associations must develop and disseminate more careful guidelines and regulations. This would help to ensure that the use of modern agricultural technology such as fertilisers, pesticides and herbicides, irrigation and machinery have the least deleterious impact on the environment and people.
  
6. There must be a reassessment of macro-economic forces such as debt, resulting structural adjustment programmes, financial and trade flows and agreements, and national government interventions, to mitigate their dramatic and damaging effects on the natural environment and livelihoods of the poor.
  
7. In order to promote sustainable development in general and livelihoods in particular -
  - a. Management of local resources and the definition of "environmental problems", must be democratised so that local communities can influence and invoke state regulations and policies which protect their access to resources.
  - b. Women's entitlements and access to key services must increase, e.g.
    - education
    - employment/child care
    - health care for themselves and their families
    - adequate reproductive health services
    - equal property and legal rights.
  - c. Women must have a stronger role in decision making.
  - d. Women and men must have increased access to information on the environmental damage of the industrialized products and processes which they encounter in every day life.

8. Governments, corporations, academic institutions and society must promote more environmentally-sound and sustainable forms of development and technology, including the transfer of environmentally-appropriate technology. To this end, innovative measures must be developed and implemented with respect to national income accounting systems, taxation and legislation.
  
9. There must be a concerted effort on the part of the local, national, and global communities to change values that have led to overconsumption, so as to promote a new ethic which attaches primacy to caring for people in harmony with the environment.

CONCERNED SCHOLARS PARTICIPATING IN A SSRC/ISSC/DAWN WORKSHOP ON  
POPULATION AND THE ENVIRONMENT, MEXICO, Jan/Feb 1992.