

# **Webinar on Protection of Women from Domestic Violence and Domestic Violence Act, 2005 – Report**

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**Speaker –**

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**Date –**

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**Pro Bono  
Club,  
Symbiosis  
Law School,  
Noida**

## **CONCEPT NOTE**

A webinar was conducted on 31<sup>st</sup> October 2020 by Pro Bono Cell, Symbiosis Law School, Noida, on the Protection of Women from Domestic Violence and Domestic Violence Act, 2005. The primary objective for the same was to spread awareness on the issues faced by women in their domestic lives. The aim was to empower women and inform them about their rights against domestic violence and dowry related cases.

## **OBJECTIVES**

- Spreading awareness on the Domestic Violence and Domestic Violence Act, 2005
- Discussing the following questions –
  1. What is domestic violence
  2. Reliefs available under the Act
  3. Against whom can you file a domestic violence complaint
  4. Concept of shared household and domestic relationships
  5. Where to file a domestic violence complain
  6. Remedies under the Act

## **PRELIMINARY PREPARATION**

People and organisations supporting women in their fight against domestic violence were invited for the webinar. Even under privileged women from localities joined the webinar with support from Pro-Bono associates. The aim was to engage in a discussion and enable education and awareness on how the laws can be accessed and remedies accessed.

## **DISCUSSION UNDERTAKEN**

### **I. INTRODUCTION OF THE ACT**

The Domestic Violence Act, 2005 is a very powerful and strong act in relation to the rights of women. It is a one stop shop for women to enforce any kinds of rights against her family members and in-laws. The Domestic Violence Act was introduced in the year of 2005 and the main objective was to give protection to women at the place where she resides after marriage.

The preamble of the act defines its objective, which is “An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.”

## II. WHAT IS DOMESTIC VIOLENCE

Firstly, we must know what domestic violence is. It has been divided in four types of abuse. Firstly, Physical abuse, sexual abuse, verbal abuse- using abusive language or saying something wrong which makes the woman feel bad and fourthly economic abuse like not providing money for bare essentials of life or taking away the valuable like jewellery and selling it or pawning it and not giving any maintenance. This is either done by husband or his family members. The ambit of Domestic violence under the act is very wide and the above four categories were the main facets of domestic violence. There are other acts as well under the act which are considered domestic violence like demanding dowry, violence by either husband, sister in-law or in-laws or any other person residing in the matrimonial home. An order can be taken from court against any such act.

## III. RELIEFS AVAILABLE UNDER THE ACT

We will now focus upon the kinds of reliefs and remedies under the Act. The scope of Domestic Violence Act is very wide and covers different types of violence. It also gives reliefs to the victim for any kind of domestic violence. The first type of relief given is a Protection order. It can be given in cases like if a husband is not allowing her wife to work, then a protection order can be sought to prohibit the husband from entering the premises where his wife is working. Another kind of protection order can be prohibiting the husband from calling his in laws and threatening them or his wife and cannot enter the school of children and disturb them. The second type of order is a Residence order which states that no one can dispossess or disturb the possession of the wife from the shared household. Recently the Supreme Court held that even if the house where the woman is residing with her family is not in the name of her husband, she cannot be disposed from the house except in case of legal proceedings. Thus, the apex court widened the scope of the term 'shared household' giving women wider powers under the act and thus creating a landmark change in the previous law. Residence order can also be sought in the respect to restrict the husband from entering that portion of the house where the wife is residing.

This Act is also applicable to the live-in partners and people having a live-in relationship and the women in such kind of relationship have all the rights under this act. The third kind of relief under the Act is Monetary Relief. Under this, the husband has to maintain his wife and children. There are various ways in which the maintenance amount can be calculated keeping in mind the number of family members, salary of the husband, whether the wife is working or

not and the like. Even if the wife works and earns income, then also she is entitled to receive maintenance from the husband. The next type of relief is Custody Orders. The need of custody order arises when there are children born out of the marriage. In many cases the women are victimised and tortured by their family members using the kids and they are not allowed to meet the kids unless the woman meets the demands of her husband or family members. Thus, such custody orders are interim in nature and they give the custody of the child to the mother for the time period the case is going on. The last relief that can be sought is Compensation for any kind of wrong behaviour which happens with the wife.

#### IV. AGAINST WHOM CAN YOU FILE A DOMESTIC VIOLENCE COMPLAINT?

A woman can file a domestic violence complaint against her husband, mother-in-law, father-in-law or anyone else who stays in the same household as that of the aggrieved person and has a domestic relationship. But this complaint cannot be filed against any person who does not live in that house. The recourse to the aggrieved person in such a case is given under the Indian Penal Code, 1860 (IPC, 1860). Under section 498A of IPC, 1860 a woman can file a case of cruelty and dowry against her family members who do not live in the same household like sister-in-law. This provision is sometimes misused as well by women as they tend to file a complaint against all the family members who are not guilty and thus, innocent people are also dragged into these cases.

#### V. CONCEPT OF 'SHARED HOUSEHOLD, AND 'DOMESTIC RELATIONSHIP'

These two concepts are very important when considering filing a domestic violence case. Domestic Relationship means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when 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. 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 such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.

#### VI. PROTECTION OFFICER AND DOMESTIC INCIDENT REPORT

When a case of domestic violence is filed, the court orders a Protection officer to make a report which is known as the Domestic Incident Report. This report lays down in detail the grievances of the aggrieved person and the incidents which led to the filing of such case. It is on the basis of this report that a further investigation happens in a domestic violence case. A list of protection officers in Delhi was also shared during the webinar for easier access to justice to the aggrieved women.

#### VII. WHERE TO FILE A DOMESTIC VIOLENCE COMPLAINT?

A domestic violence complaint can be filed in the jurisdiction of the court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of

- (a) where the person aggrieved permanently or temporarily resides or carries on business or is employed; or
- (b) where the respondent resides or carries on business or is employed; or
- (c) where the cause of action has arisen

#### VIII. WAYS IN WHICH AGGRIEVED PERSONS CAN SEEK HELP

There are various helpline numbers and apps which help women facing domestic violence and provide them support. One such is 1091 for Women Helpline (All India) for women in distress. Another is 112 which is a National Emergency Number, it can be dialled for emergency rescue and support to women facing or apprehending violence. There is a '112 India' app through which an SOS message can be sent. Then there are state emergency numbers as well and other NGOs which provide protection to women and have helpline numbers which can help a woman in distress.

There is an Emergency Response Support System (ERSS) which is a Pan-India single number (112) based emergency response system for citizens in emergencies. Each State/ UT is required to designate a dedicated Emergency Response Centre (ERC) to handle emergency requests. If an aggrieved person requires emergency assistance from Police, Fire & Rescue, Health and other services, she can do the following:

- Dial 112 from your phone;
- Press power button on your smart phone 3 times quickly to activate Panic call;
- In case of feature phone, long press 'S' or '9' key to activate Panic call

- Log on to State ERSS website and place your SOS request;
- Email SOS alert to State ERC and
- Use 112 India Mobile App to activate a panic call to ERC.
- In case of women and children, you can use 112 India mobile App to activate SHOUT feature, which alerts registered volunteers in vicinity for immediate assistance apart from activating ERC.

### **REPOSE OF THE TARGET POPULATION**

**Question 1. A house help who earns around five thousand per month is beaten and her money is snatched away by her husband. She wants to file for a divorce. What is the recourse she can get and what will be the maintenance amount if the husband earns thirty thousand per month?**

Adv. Adab: There is a Legal Aid Cell in all the states and even Delhi has one. The objective of this Legal Aid Cell is to provide free legal aid to people who cannot afford to hire a lawyer and fight for their rights. In such a case, the government appoints lawyers who fight the case on the behalf of the aggrieved persons without charging any fees. The aggrieved person will have to put a request for legal aid and they will be appointed a lawyer. The aggrieved person does not have to pay anything for the case as all the costs will be borne by the government including the fees of the lawyer appointed and for any charges which are incurred during the litigation.

For maintenance various factors will be considered by the court while calculating the final amount like, the income of both the parties, the number of children. But filing for divorce is not the only option. The lawyer will study the facts and circumstances of the case and will guide and advise accordingly, whether to file for a divorce or a domestic violence complaint.

**Question 2. If a person does not want to go to the police or the court to file a complaint, then is there any other way to get justice in such matters?**

Adv. Adab: We firstly will consider the case if the aggrieved person does not even want to seek the help of a lawyer. In such a case, aggrieved person should talk to their family members and discuss the situation and problems faced and look for possible solution. They should first talk to the husband and if he is not willing to listen then talk to the in-laws an after that her own parents. Even after this, the issue is not resolved, then a third party can be consulted who knows both the families and an amicable solution can be reached to. If all the

above options do not prove to be useful, the aggrieved person can approach a marriage counsellor or an NGO and help can be sought to resolve the dispute. It has been seen in many cases that following the above steps, the dispute usually gets resolved. But even after this, if the dispute persists, then a legal action needs to be taken against the family members.

**Question 3. How does the Domestic Violence Act help men who are dominated and abused by their wives?**

Adv. Adab: The Act only provides protection to women and a husband cannot file an application under the act. But he can seek recourse under the law by filing a civil case. In cases of custody of child or visitation to child, a husband can file a complaint under this Act. The husband can even seek an injunction order against the wife under this Act and can seek the help of family members as discussed before.

**Question 4. If an aggrieved person is staying in a joint family and is being abused by her brother in-law and is mentally harassing her, can she live with her family members and can the people harassing her be dispossessed from the home?**

Adv. Adab: in this case, a domestic violence complaint can be filed and the court can pass an order to evict the brother in-law who is harassing the aggrieved person.

**Question 4. If the husband is abusing the wife, is there any law by which the children can be saved from the father's abuse?**

Adv. Adab: In such cases, the mother can file a domestic violence case under the Act and can seek a Protection order from the court for her children and herself stating that the husband cannot abuse her children and beat them either at home or visit their school and disturb them. If this is continued, then an order to evict the husband from the house can also be given.

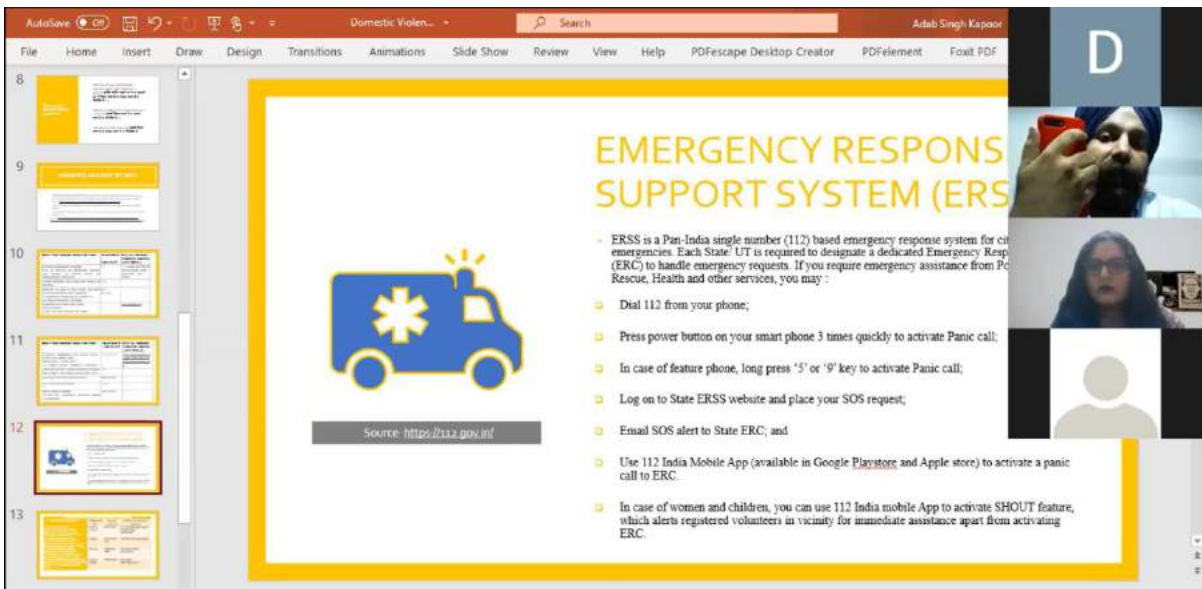
## MOMENTS FROM THE EVENT



**WHAT IS DOMESTIC VIOLENCE?**

**घरेलू हिंसा**

- PHYSICAL ABUSE  
शारीरिक हिंसा
- SEXUAL ABUSE  
लैंगिक हिंसा
- VERBAL AND EMOTIONAL ABUSE  
मौखिक और भावनात्मक हिंसा
- ECONOMIC ABUSE  
आर्थिक हिंसा



**EMERGENCY RESPONSE SUPPORT SYSTEM (ERS)**

- ERS is a Pan-India single number (112) based emergency response system for cities. Each State/ UT is required to designate a dedicated Emergency Response (ERC) to handle emergency requests. If you require emergency assistance from Police, Fire, Health and other services, you may :
  - Dial 112 from your phone;
  - Press power button on your smart phone 3 times quickly to activate Panic call;
  - In case of feature phone, long press '5' or '9' key to activate Panic call;
  - Log on to State ERSS website and place your SOS request;
  - Email SOS alert to State ERC; and
  - Use 112 India Mobile App (available in Google Playstore and Apple store) to activate a panic call to ERC.
  - In case of women and children, you can use 112 India mobile App to activate SHOUT feature, which alerts registered volunteers in vicinity for immediate assistance apart from activating ERC.

Source: <https://112.gov.in/>



### **SUGGESTIONS / FEEDBACK**

The webinar was well received by the attendees. It informed the under-privileged women about their rights. The questions received from the attendees were an eye-opener for everyone about the difficulties faced by women in domestic lives. Conduction of the webinar in Hindi as the language proved very helpful as we were able to reach more people and communicate easily to people who may not be well versed with English.

### **CONCLUDING REMARKS**

The webinar helped reach the women to understand the meaning of domestic violence as it was observed that many attendees did not even realise that the daily harassment they go through is a punishable violence. It assisted them to understand how to stand up against the atrocities which affect their livelihoods. It empowered them to even help other women around them. The webinar and the discussion proved very helpful and we were able to reach a lot of people and spread information on basic rights of women and their accessibility for the general public.

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