

Towards Violence-free Homes

A Handbook on
the Protection of Women from
Domestic Violence Act, 2005

SWATI—Society for Women’s Action and Training Initiative—is a non-profit organisation that works for the socio-economic empowerment of women in Gujarat.

In order to build women’s leadership at the grassroots and help them gain control over resources in a rights perspective, SWATI has organised women into large-scale, block-level collectives. These work on developmental issues of women and communities. An important outcome of this is the initiation of Mahila Nyaya Samitis (Women Justice Forums). These quasi-legal platforms work with a gender-just approach to combat violence against women.

SWATI has been actively involved in PWDVA, 2005 at the Gujarat state and the national levels, initially in the formulation of rules and regulations and now in effective implementation.

SWATI’s other key areas of involvement include

- promotion of thrift and credit and enterprise development among women;
- eliciting male involvement in combating violence against women;
- reproductive health concerns of women;
- empowering women and the community through Right to Information;
- action research and studies in the areas of women’s health, violence against women; and
- advocacy on issues of women’s right to land and property.

To increase the outreach of its work, SWATI aligns with other groups and organisations through capacity building and networking for collective action in the areas of violence against women, right to information and advocacy for reproductive health concerns of women.

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INTRODUCTION

Domestic violence is now recognised as a human rights issue and a serious barrier to development, not only by the women's movement but also by international conventions such as the Vienna Accord of 1994 and the Beijing Declaration and the Platform for Action (1995). The United Nations Committee on Convention on Elimination of All Forms of Discrimination against Women (CEDAW), too, in its General Recommendations in 1989 has strongly advocated that States should act to protect women against violence of any kind, especially violence occurring within the family unit.

In the Indian context, some aspects of the existing laws can help women facing violence. For example, when a woman is subjected to cruelty by her husband or his relatives, it is considered an offence under Section 498A of the Indian Penal Code (IPC). Cognisable and non-bailable, it provides for up to three years imprisonment and fine. This, however, is a criminal law and does not address the issue in its entirety. Real life experiences pointed to the urgent need for a law that went beyond Section 498A, to ensure other rights, such as the right to matrimonial residence, which could be made available only through a civil legislation.

The Constitution of India upholds equality for women as a concept. However the ground reality presents a completely different picture – of persistent discrimination against women, both economic and social. The new legislation that has been enacted to protect women from domestic violence fulfils a long-pending demand of the women's movement for a civil remedy to address this inadequately recognised yet rampant form of violence that all women face irrespective of their caste and class.

The Protection of Women from Domestic Violence Act (PWDVA), 2005 is an important step by the State towards fulfilling its constitutional obligation to ensure equality between the sexes, and its commitment to international (including UN) mandates to address violence and gender discrimination against women through the enactment of effective national laws. Thanks to intense lobbying by women's groups, the scope of the Act has been expanded to include sisters, daughters, widows and women in 'marriage like', not recognised by

law relationships. Until now, the second wife in a bigamous marriage could not seek aid from the law. The Act seeks to rectify this anomaly and brings all such affected women within the ambit of protection by the law. It provides not only protection from violence (physical, sexual, verbal, emotional and economic) but also ensures economic support and shelter. With proper implementation, the Act can not only arrest the rising incidence of domestic violence in the country but also serve as a deterrent and provide justice to women who face violence.

THE PROTECTION OF WOMEN AGAINST DOMESTIC VIOLENCE ACT, 2005

The Protection of Women from Domestic Violence Act, 2005 (hereafter PWDVA), was enforced on October 26, 2006. PWDVA seeks to protect women from all forms of domestic violence and check harassment and exploitation by family members or relatives.

In a society where these rights are often denied and the dominant structures of family, state and civil society are still patriarchal, the Act represents a defining moment for women's rights in India.

PWDVA is significant because it provides layers of protection for the affected woman, who may be forced to stay in abusive relationships simply because she has no place to go and no independent source of income. The Act is comprehensive, in its coverage, of the types of domestic violence, and is seen as a civil remedy for women enduring or facing the possibility of such violence.

PWDVA is not purely a matter of an effective law and a justice delivery mechanism. Its implementation involves proactive follow-up and monitoring in the private and the public spheres of the victim's life. This makes its use amenable to interventions in social support systems. Consequently it involves a variety of individuals and institutions who must be mobilised and calls for broad-based implementation mechanisms that the State must put in place. Thus all those instrumental in the implementation of the Act (organisations and individuals working with women, including those who will, by the provisions of the Act, be called upon to work with the victims) have to understand the various facets of this Act and its processes, to ensure that the PWDVA actually brings relief to victims of domestic violence and opens avenues for them to seek justice and entitlements.

Why a handbook

This handbook is intended to enable an easy understanding of the Act and its implementation procedures. It covers

- the provisions of PWDVA in a simplified adaptation;
- mechanisms and Rules for Implementation;
- step-by-step information about the implementation procedures to be

followed by various stakeholders in securing for a woman protection against various forms of domestic violence; and

- FAQs (Frequently Asked Questions).

The Handbook is however not a substitute for the basic Act, and its Rules and Regulations framed by the government in October 2006. These should be referred to for details of the provisions and procedures to be followed in the implementation of the Act.

Who can use the handbook

This handbook is meant for

- Social work professionals in Non-Government Organisations (NGOs);
- Family Counselling Centres;
- Legal Aid Centres and lawyers dealing with domestic violence; and
- Protection Officers, Service Providers and personnel in medical facilities etc. who render services to victims of domestic violence.

PWDVA has 37 sections in five chapters. Each section has sub-sections that define and explain the provisions of the Act. The sections can be broadly classified as follows:

- Section 2 deals with general definitions while Section 3 defines Domestic Violence per se.
- Sections 4 to 11 specify the powers and duties of various stakeholders such as Protection Officers, Service Providers, Police, Health and Shelter-home facilities, besides the duties enjoined on the state and central governments for ensuring effective implementation and review of PWDVA.
- Sections 12 to 29 spell out the procedures for filing the Domestic Incident Report (DIR), making an application to the magistrate, jurisdiction of the Act as well as rules for duration, alteration and appeal on a court order. The sections also list the various orders that a magistrate may pass in course of proceedings under PWDVA. These include among others, orders for Protection, Residence, Custody, Monetary relief and Compensation and Interim and ex parte Orders.
- Sections 30 to 37 list provisions that include penalties for breach by, and protection for acting in good faith to, all those responsible for implementing the Act. The provisions further ensure that those charged with implementation do not evade their responsibilities and provide legal protection to the aggrieved person.

In addition, for effective implementation of PWDVA, Government of India, by a notification of October 17, 2006 of the Ministry of Women and Child, adopted a set of 17 rules, with several sub-rules. These set down the duties and functions of the Protection Officers and Counsellors provided for in the Act. The rules also list the standards and procedures that will operate and guide the various stakeholders to activate the orders issued by the courts for the aggrieved.

A set of eight forms to register the domestic violence incident, describe its nature, provide safety/protection orders and affidavits have also been incorporated in the rules.

THE CONTEXT OF DOMESTIC VIOLENCE

Domestic violence is widely prevalent, but has remained largely invisible. The extent of domestic violence in Indian society is far greater than what is generally admitted. Statistics reveal that 45% of Indian women are slapped, kicked or beaten by their husbands and 75% of battered women contemplate suicide.

Official estimates from the Ministry of Law and Justice suggest that women in over 60% of urban households experience domestic violence. Of these, only 5% bring it into the public domain by reporting the matter to the police. In a nationwide study done by the International Center for Research on Women (ICRW, 2002), 85% of men admitted resorting to violent behaviour at least once and 32% had committed acts of violence against their pregnant wives. On the other hand, National Family Health Survey-3 (NFHS) data, 2005-6 places the number of ever-married women who experienced spousal violence at 37.2% for India. The average for Gujarat as per NFHS-3 is 27.6%

A major reason cited for the persistence of violence against women despite adequate laws, is that the prevailing social norms and attitudes uniformly condone, and thus make acceptable, violence against women in the domestic sphere. At the same time, cultural conditioning and economic dependence prevent the vast majority of women from accepting that a severely abused woman is justified in leaving her husband or the marital family.

In India, until very recently, there has been no provision for protecting a complainant. A woman complaining of harassment is often forced to go back to the very people against whom she has complained. Many women, faced with eviction from the family home, are cut off without maintenance and cannot follow up the complaint because they have no means to do so. As Ms. Indira Jaising of Lawyers' collective points out, the journey from 498A (IPC Section for mental and physical torture) to 304B (the Section for dowry death) is just one step for a woman, mainly because of lack of support to continue to act on her complaint. Similarly a study by the Tata Institute of Social Sciences found that, in the city of Mumbai, most of the cases under 498A are registered only after the woman is dead (304B).

The Need for a Civil act on Domestic Violence

Domestic violence is violence that occurs within the private sphere, generally between individuals who are related by intimacy, blood or law. Despite the apparent gender-neutrality of the term domestic violence, it is most often committed by men against women. It is now well established that domestic violence is rampant, is a serious infringement of the rights of women and poses a threat to their physical and mental health, security and even life.

Women more often than not stay on in exploitative relationships out of fear of either being thrown out of the house, being deprived of proximity to their children or being socially ostracised. Apprehension about the husband remarrying, and of economic destitution, is also a concern. In these circumstances there was an urgent need for a law that protected women from domestic violence while minimising such distress.

Experience of those working with victims of domestic violence also shows that a victimised woman often seeks, at least in the initial stages, an end to the violence in the relationship and not necessarily to the relationship itself.

A civil law gives the aggrieved woman freedom from fear of domestic violence. It also provides both parties the time and a violence-free environment to renegotiate their relationship and to take a more informed decision about its future. The important implication of PWDVA being a civil law is that it is directed towards providing relief, compensation and support to a woman. It is not intended, in the first instance, to penalise the offender. Its principal objective is to immediately stop violence in familial relationships and ensure the woman her basic right to live without fear. The law and the rules under it were enacted after years of tireless struggle, advocacy and several representations by women's organisations and networks. Even so, most state governments, as also the judicial system, are struggling to put in place the resources and mechanisms essential for its effective implementation.

SALIENT FEATURES OF PWDVA

PWDVA seeks to cover all those women who are or have been in a domestic relationship with a man, where both parties have lived or are living together in a shared household and are related (i) by blood – mothers, daughters, sisters, etc., whether unmarried, separated, divorced or widowed; (ii) by marriage – wives, sisters-in-law, daughters-in-law or widows of blood relatives; (iii) by adoption or as family members living together in a joint family. Also entitled to protection under the Act are women living with the perpetrator in relationships not recognised by law (such as live-in relationship, bigamous marriage not sanctioned by law, or fraudulent marriages).

The Act widens the definition of domestic violence under IPC to categorically include emotional abuse (humiliation, ridicule, name calling, threats of physical harm), sexually degrading conduct, unlawful dowry demands or economic deprivation [Section 3].

The Act seeks to protect the rights of women to violence-free domestic life and residence. Every woman in a domestic relationship has the right to reside in the shared household, whether or not she has any ownership right, title or beneficial interest in it and whether the house is rented or owned by anyone other than the respondent. This provision is irrespective of anything contained in any other law concurrently in force.

Protection orders and other strictures from the court prevent the perpetrator from directly or indirectly committing acts of domestic violence, depriving a woman of her basic survival needs, transferring and operating assets and bank accounts jointly held or utilised, and communicating with the victim against her desire or trying to enter her place of work with the intention of harassment or harm [Sections 17, 18, 19].

The Act provides for counselling of both parties singly or jointly, so that the aggrieved woman can be helped to evolve the best possible redress and remedial measures for her grievances [Section 14 (1)].

OTHER LAWS AND PROVISIONS COVERING VIOLENCE AGAINST WOMEN WITHIN THE HOUSEHOLD

Several other provisions and Acts in India address violence against women within the household and provide relief from it. These include the Dowry Prohibition Act, 1961, Section 498A of IPC and laws related to maintenance, rape, marriage and divorce. It would be useful to understand the scope of these other laws to protect women from domestic violence, and the complementarities of those laws with PWDVA, so that victims of domestic violence can seek relief in ways most appropriate to their situation.

1. Divorce or judicial separation, under the special marriage act and under all other personal laws, is allowed mainly on grounds of cruelty. Other reasons for judicial separation include immoral behaviour, mental instability, desertion for a minimum of two years, inability to fulfil marital obligations etc.

Issues faced by women in seeking recourse to the Law: Proving cruelty is rather difficult for a woman. It requires her to establish a history of brutality amounting also to emotional torture. It further requires her to characterise casual versus grave brutality. The testimony has to be corroborated with proof. This is difficult for a woman living in her in-laws' home. Further, such applications are tried in the District court, and where necessary, in the High Court. These are inaccessible to most women for a variety of reasons, including socio-economic and mobility constraints. In such cases securing legal protection against a violent husband is an arduous task, and a woman has to leave the marital home in desperation, compounding her insecurity. Additionally this act covers cruelty by the husband but not the in-laws.

Respite under PWDVA: PWDVA addresses most of these aspects and provides, at the sub-district level (lower) court, immediate relief for a stipulated period of time, without requiring a woman to leave the household or to apply for judicial separation or divorce. The Act very clearly recognises emotional abuse as a form of violence to be acted upon by the law. Under PWDVA a woman's testimony is sufficient, eliminating the need for complicated proofs.

2. Restitution of Conjugal Rights provides for orders to a person to cohabit with his/her spouse, where there may be no reason to reside separately.

Issues faced by women in seeking recourse: It has often been used by

The Act authorises and empowers NGOs/Service Providers registered under it, in the following ways [Section 10, sub-sections 2(a, b, c), 3]:

- Any direction given by them to a medical facility would make it obligatory for the medical facility to provide medical services to a woman who is facing violence.
- Any direction given by them to a shelter home would make it obligatory for the shelter home to provide shelter.
- The SP or any of its members is not liable to face any legal proceedings for any actions taken in the exercise of powers or discharge of functions under the Act [Section 10, Sub-section (3)].

In addition, the Act has many special features.

- It aims at providing immediate protection against violence. This means that the judicial magistrate must initiate proceedings within three days and provide all requisite protection and relief measures within 60 days of filing the application.
- Emergency orders that are interim and ex parte can be secured in case of critical situations, and where the Magistrate is satisfied that prima facie a woman's application shows that the respondent has committed or is committing domestic violence, or that there is a likelihood of her being subjected to violence. This means the woman can secure protection even from anticipated violence [Section 23].
- Under the Act no liability, civil or criminal, shall be incurred by any person for giving information in good faith to the concerned PO about domestic violence being committed, having been committed or likely to be committed, [Section 35].

husbands to force their wives to cohabit with them even under violent situations.

Respite under PWDVA: Under PWDVA the woman does not bear the onus of proving violence in order to secure separate residence or relief. This frees her from the obligation to cohabit with a violent husband. Restitution of conjugal rights cannot be forcibly effected under PWDVA, and yet the woman can continue to stay within the same household.

3. Dowry Prohibition Act 1961 makes the giving or taking of dowry a criminal offence. Demanding dowry is punishable by imprisonment of up to five years and a fine of up to the value of the dowry or rupees fifteen thousand, whichever is more.

Issues faced by women in seeking recourse to the Law: Booking offences under the Dowry act has been difficult as it requires proof that any articles given during or after the marriage were in response to dowry demands. It becomes even harder when such demands are made subtly and/or several years after marriage, and violence is inflicted on the woman.

Rulings over the years suggest that cruelty or violence against the wife is generally considered grave only if it is committed for dowry. It is not considered serious in its own right. This mindset of the courts weakens a genuine case of domestic violence when such an association cannot be proved.

Respite under PWDVA: Under PWDVA if physical/mental torture can be established, immediate relief can be secured regardless of the motive. If demand for dowry can also be proved the Dowry Act can be additionally applied and the offence compounded.

4. Section 125 of CrPC provides for maintenance of a wife, minor children legitimate or illegitimate (though not the mother of the latter) and disabled children and parents unable to maintain themselves. In case of non-compliance with the order, this section provides for punishment to the offender and monetary relief or compensation to the legally married wife.

Issues faced by women in seeking recourse to the law: Section 125 only covers marital relationships formalised under prevailing laws. It is actually

meant to view a maintenance petition independently of whether or not a woman has filed, or intends to file, for judicial separation or divorce. In practice, however if she is seeking maintenance after leaving her marital home for reason of domestic violence she is generally viewed unsympathetically by the courts.

Often, in court, the husband offers to maintain the wife on condition of her cohabiting with him. In such a situation, the magistrate has to be convinced of her reasons for refusal to live with the husband. Unfortunately the only reason generally considered valid is adulterous behaviour by the husband, which is difficult to prove.

Maintenance is granted, often as an interim order, until the case is resolved. Experience shows that after a prolonged legal procedure, a woman is granted Rs.500 per month and no other security. This limit has been done away with, but continues to operate in practice. Further, payment of even this small sum in compliance with the court order is abysmal. This leaves the woman with no choice but to keep on petitioning the court to get her entitlement.

Among Muslims, only a divorced woman can claim maintenance. Following the Muslim Women's Act, 1986, the role of Waqf Boards has made getting maintenance difficult. A woman can however approach the court under Section 125 (which is independent of all personal laws) and file a suit for maintenance, which the husband cannot refuse to pay.

Respite under PWDVA: PWDVA entitles to legal protection, economic relief and compensation, all women who have lived or are living in a familial relationship with the accused in a shared household. It also entitles a woman to compensation and maintenance for herself and her dependants without any limit being stipulated. These, therefore, are awarded depending on the circumstances of the parties involved and the discretion of the magistrate. Most importantly, PWDVA also requires the PO to ensure compliance with the relief orders.

Under PWDVA a woman can seek relief and protection on an immediate basis irrespective of the personal laws that govern the community she belongs to.

IMPLEMENTATION OF PWDVA: MECHANISM TO BE SET UP BY THE STATE

PWDVA makes the State responsible for extending protection against domestic violence to women. The Act thus provides for a set of persons/services and a set of procedures. These are briefly explained below. For detailed information refer to the Act under the Sections and Rules indicated.

Protection Officer (PO) [Section 8]

The Act requires the state government to appoint one or more POs per district. The role of the PO is pivotal and a unique provision under the Act. She is the human intermediary between the aggrieved woman and the justice delivery mechanism. The PO is expected to help a woman from the stage of filing her application to giving effect to the provisions of the Act.

The PO may be from the government or from an NGO, but should preferably be a woman [Section 8, clauses (1, 2)]. While acting in pursuance of any provisions of the act or orders issued under it, she will be considered a public servant [Section 30]. She should have at least three years of experience in the social sector and be appointed for a minimum three years [Rule 3 (1, 2, 3)].

The duties of the PO include [Section 9, rule 8]

- filing the Domestic Incident Report [DIR] and, if required by the magistrate, carry out the necessary investigations related to extending of relief to the aggrieved person;
- assist the aggrieved in filing the DIR, extending all necessary assistance to the aggrieved, initially to avail of the provisions of PWDVA and subsequently to ensure their compliance;
- co-ordinating and liaising with the service providers, the medical facility and the police (where necessary) to ensure proper implementation of the relief and protection provided by the Act; and finally
- ensuring under all circumstances protection to the aggrieved person from domestic violence and taking all possible measures to prevent its recurrence.

Service Providers (SPs) [Section 10]

A victim of domestic violence may need a range of services such as shelter, legal aid and medical help. The Act provides for a network of SPs to render these

5. Section 498A of IPC provides for prosecution and punishment of the husband or his relatives who commit cruelty on the woman. It defines as cruel acts which may cause a woman grave physical or mental injury or drive her to suicide. It also views dowry demands as harassment amounting to cruelty.

Issues faced by women in seeking recourse to the Law: The provisions of 498A often complicate assessment of the gravity of cruelty. In practice the courts tend to seek causal connections between cruelty and dowry demands rather than treating violence as an offence in itself.

Respite under PWDVA: PWDVA broadens the definition of cruelty, and absolves a woman from furnishing proof of gravity of the violence or its link with dowry. If the court accepts prima facie that violence has occurred or is likely to occur, it can pass relief orders immediately.

6. Rape (Section 375 of IPC) penalizes non consensual sexual intercourse by any male (including incestuous rape) with a woman.

Issues faced by women in seeking recourse to the law: Section 375 creates an exception to the offence of rape when the forced sexual intercourse is with a wife who is not under 15 years of age (however section 376 penalizes intercourse by a man, with his wife, during separation).

Respite under PWDVA: The Act is comprehensive in its recognition of types of sexual violence and is not limited to rape. PWDVA does not make an exception based on the marital status of a woman in granting her reliefs and protection against violence. Thus by not recognizing the exception in section 375, the PWDVA, in effect recognizes marital rape as constituting 'sexual' abuse.

7. Pre-conception Pre-natal Diagnostic Test (PCPNDT) Act 1994 applies to the husband and/or family members, besides non-family abettors and medical person/s, any of whom coerce a pregnant woman to abort a normally growing female foetus. It provides for prosecution of such persons and arrest and cancellation of licence of the medical person/s or facility. There is no equivalent provision against sex-selective abortion in PWDVA.

Respite under PWDVA: While this is yet to be conclusively established by court decisions, there is reason to believe that under PWDVA, a woman being coerced by her family members to undergo sex-selective abortion can seek immediate protection and relief from the coercion.


services. In order to qualify as an SP under the Act, an organisation must be registered under either the Societies Registration Act (1860), the Companies Act, 1956, or any other relevant law.

The SP may be registered for the provision of services mentioned above , guidance and support for occupational and social rehabilitation or any other assistance that helps protect the rights and interests of women [Section 10 and Rule 1 (1), (2), (3)].

An SP registered under the Act [Section 10, Sub-section 1] shall have the power to


- record the DIR in the prescribed form and forward a copy of it to the magistrate and the PO [Section 10, Sub-section 2a];
- get the aggrieved person medically examined [Section 10, Sub-section 2b]; and
- ensure for her a shelter in a shelter home [Section 10, Sub-section 2c].

Police [Section 5]

 It is possible to enforce PWDVA even without police intervention. At the same time the police are expected to help if approached by an aggrieved woman, PO or SP. They may also be directed by a court to take action in case of cognisable offences such as breach of court orders, continued violence or dowry demands.

The Act further states that 'nothing ... shall be interpreted in any manner to relieve a police officer from his duty to take appropriate action on cases of cognisable offences of Domestic Violence, in accordance with the criminal procedure law'.

Medical Aid to the Aggrieved Person [Section 7 and Rule (17)]

 The notified medical facility is bound by the Act to provide necessary medical care to the aggrieved person [Section 7] whether before or after the filing of application for protection. It cannot refuse assistance on grounds of her not having lodged a DIR before requesting medical assistance or examination [Rule 17 (2)]. The facility is also

required to supply free of cost to the aggrieved person a copy of the medical examination report [Rule 17 (4)].

Shelter to the Aggrieved Person [Section 6 and Rule (16)]



A shelter home facility notified by the state government under this act is bound by rules to provide shelter to the aggrieved person [Section 6] when approached by her, or on her behalf by a PO or SP.

It cannot refuse shelter on grounds of her not having lodged a DIR before requesting shelter [Rule 16 (2)].

The Act further stipulates that if the aggrieved person so desires, the shelter home shall not disclose her identity in the shelter, or information of her presence there to the accused [Rule 16 (3)].

Counselling Support [Section 14]



The magistrate may, at any stage of proceedings, direct the respondent or the aggrieved person, singly or jointly, to undergo counselling. As per rule 13 of the Act, the counsellors (preferably women) must be qualified professionals empanelled with the PO for providing counselling services.

The counsellors are expected to draw up a settlement, agreed to by both parties, which the court, if satisfied, shall include in the order. In case of failure to procure a settlement the counsellor must report this fact to the court, who may proceed with the case in accordance with procedures of the Act. However, the court may not draw inferences or pass orders based on the counselling record.

Legal Aid to the Aggrieved [Section 5 (d)]



The Act provides an aggrieved person the right to free legal services under the Legal Services Authorities Act, 1987. The PO is responsible for ensuring that the aggrieved person avails of this service if necessary [Section 9 (d)].

Preparing a Safety Plan [Rule 8 (iv)]

If an aggrieved woman faces or fears recurrence of domestic violence, the PO will, after admission of her application in the court, develop in consultation with her, a Safety Plan (Form V) that includes measures to prevent such recurrence. The Plan is based on the PO's assessment of circumstances, is time bound and must be endorsed by a court order.

If effectively implemented, a good safety plan can be a reliable means of protecting the woman and her children from domestic violence.

OBTAINING PROTECTION UNDER THE ACT

When an incident of domestic violence occurs and it is reported by the victim herself or by any relative, friend, or neighbour to a PO or SP registered under the Act, a number of actions are set into motion to assist the aggrieved woman. These include

- Medical assistance;
- Shelter, Relief and Rehabilitation and Child Care ;
- Legal aid;
- Counselling services; and
- Police support.

Simultaneously a set of legal civil procedures have to be initiated at the court of the Judicial Magistrate First Class or Metropolitan Magistrate, as the case may be, so that the woman can

- get immediate relief from the violence or its threat;
- be assured of subsequent safety and security; and
- secure her right to pursue a violence-free life.

The protection and relief available under PWDVA can be sought in addition to and along with any other relief that the aggrieved person may seek in a legal suit before a civil or criminal court.

Steps to Obtaining Protection**1. Information on Domestic Violence [Section 4, Rule 4]**

A woman or any person on her behalf can provide information to the PO, SP or police, either orally or in writing. If the informant is not the woman herself, s/he must sign the information provided, or identify her/himself.

2. Registering a Complaint

An aggrieved woman can

- file a complaint with the PO, SP or police, in person or, in emergency situations, by phone or email.
- Make a direct application to the Judicial Magistrate of her area who will

direct the PO to register a DIR.

Domestic Incident Report (DIR) is the report, in the prescribed format (Form I), of the incident of domestic violence. A DIR under PWDVA is comparable to a First Information Report (FIR) under criminal law. A PO must give an original copy of the DIR to the aggrieved person, free of cost.

3. Registration of the Domestic Incident Report

Once the complaint is filed with the PO, she initiates, as per the requirements of the case several procedures which may run simultaneously or in sequence. These include

- registering an official report of the incident as described by the victim and preparing the DIR for submission to the magistrate;
- formally informing the aggrieved woman about her rights under PWDVA in a way that she comprehends (Form IV);
- arranging to get immediate medical relief and a medical report if the woman/her child/dependant has faced bodily injury [Section 9 (1) (g)];
- arranging to send her to a shelter home, registered with the state under the Act, if the woman herself or the PO/SP fears danger to her body or life [Section 9 (1) (f)].

4. Application and Court Procedures

After the DIR is registered the PO, based on an assessment of the situation, will assist the aggrieved person or any person on her behalf, to prepare an application and appear if possible before the magistrate to procure the requisite orders [Form II]. A PO may obtain orders in the form of

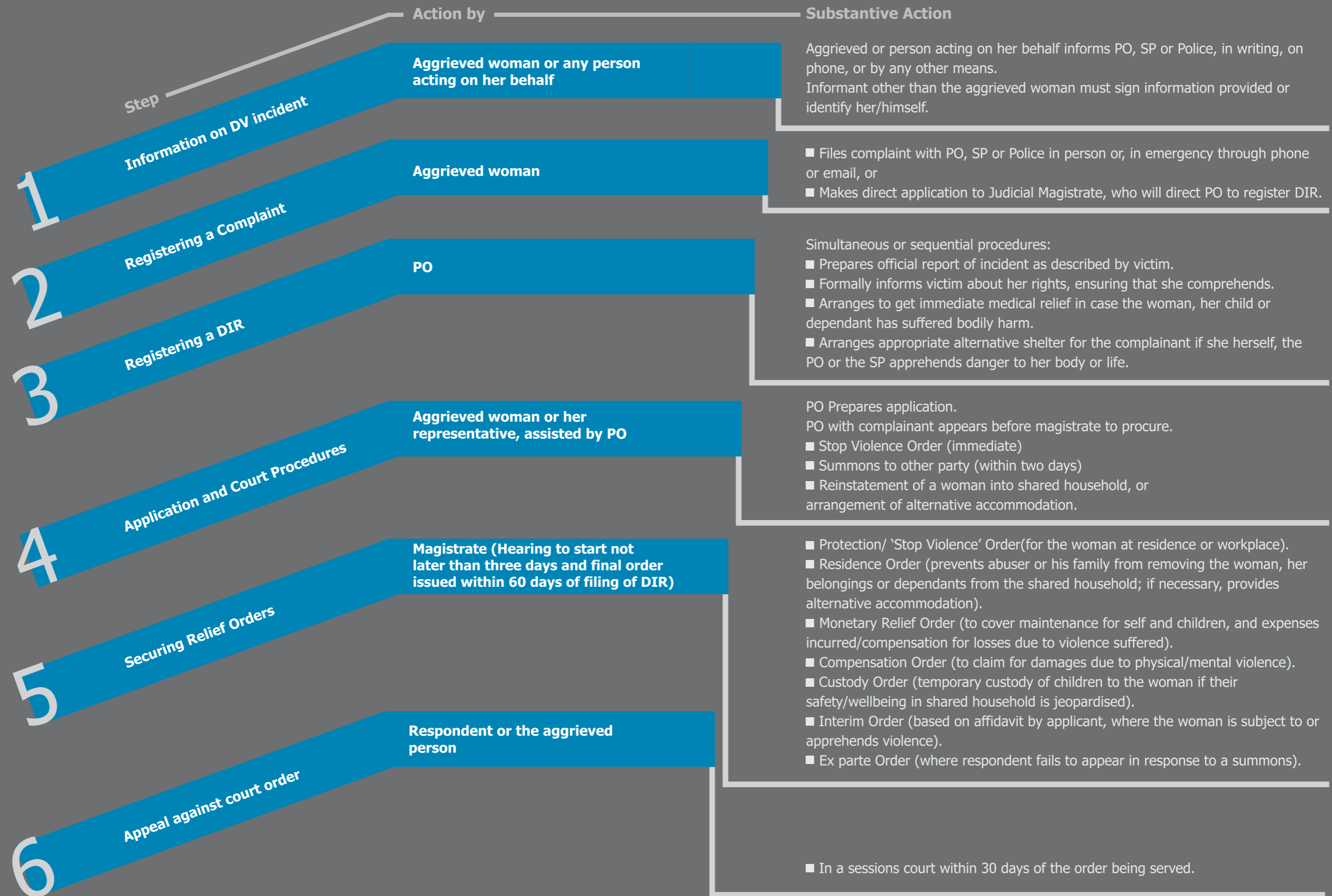
- a Stop Violence order, if the situation requires;
- an order for immediately reinstating the aggrieved person in her home or providing her an alternative accommodation, keeping in mind her safety and that of dependants; and
- a summons to the other party, to be delivered as far as possible within two days by the PO or her/his representative.

5. Securing Relief Orders

The magistrate must start hearing the case not later than 3 days [Section 12 (4)] from the application being received by the court. The court shall endeavour, within 60 days of the filing of DIR, to dispose of the application for protection and relief and issue a final order under the Act [Section 12, Sub-section (1), (5)]. By the end of this period the PO or SP shall procure protection and/or relief for the woman in the form of orders such as

- **Protection Order [Section 18]**, also known as Stop Violence order, prevents the respondent from committing or commissioning any act of domestic violence and prohibits communication with, harassment of, or threats to the complainant at her place of stay or work.
- **Residence Order [Section 19]** preventing the abuser/his family from removing the woman/her belongings/dependants from the house and if necessary providing alternative accommodation.
- **Monetary Relief Order [Section 20]**, compensation that a magistrate may order to be paid to an aggrieved person to meet expenses for herself and her children and for losses incurred due to violence suffered.
- **Compensation Order [Section 22]** to claim for damages because of physical/mental torture.
- **Custody Order [Section 21]** in respect of the children can be granted temporarily to the woman if the children's safety is jeopardised in the shared household.
- **Interim and Ex parte Order [Section 23]** can be given by the court on the basis of an affidavit, in situations where the woman faces or fears violence or when the other party refuses to appear in court.

Steps Involved in Availing of Protection under PWDVA



ENFORCEMENT AND BREACH OF ORDERS

Enforcing Court Orders

The Act requires the PO to assist the court in ensuring compliance with the orders, with help of the Police or SP if required. The orders may include reinstating the aggrieved and/or children back into the household or removing the accused from there; regaining custody of children; shifting the aggrieved/her children to a shelter home; restoring possession of personal assets; and paying compensation [Sections 12, 18, 19, 20, 21, 23].

Duration, Discharge and Alteration of Orders

A protection order issued under section 18 of the Act shall remain in force until the aggrieved person applies for discharge [Section 25]. A court shall pass an order under Section 25 only after being satisfied that such an application has not been submitted under force, fraud or coercion. The court shall record in the order the reasons for its satisfaction which may include any undertaking or surety given by the respondent [Rule 14(17)].

In response to an application from the aggrieved or the respondent, the court may also direct alteration or revocation of orders, after confirming that such a change is warranted by circumstances.

Appeal [Section 29]

A respondent or an aggrieved person may appeal against a magistrate's order, within thirty days of its being served. Such an appeal must be filed in a session's court.

Breach of Protection Orders [Rule 15]

If the respondent or any one acting on his behalf resists enforcement of a protection order, this shall be considered a breach of the order. An aggrieved person may file a written report of such a breach to the PO [Rule 15 (1) (2)] or directly to the magistrate or the police [Rule 15 (4)].

If, at any time after the Protection Order has been breached, the aggrieved seeks the PO's assistance, she must comply by lodging a report with the police and seeking their help [Rule 15(5)]. All such complaints shall be treated as cognisable offences under sections 31 and 32 of the Act.

Penalty for Breach of Protection Order [Section 31]

A breach of protection order or of interim protection order is an offence under PWDVA, and is punishable either with imprisonment of one year, or a fine of up to Rs. 20,000 or both [Section 31(1)].

While framing charges for the breach of orders the magistrate may also frame charges under section 498A or any other provisions of IPC or the Dowry Prohibition Act, if it is found that an offence has been committed under these [Section 31(3)].

Neglect of Duties by the PO

The PO can be tried by the court, and is liable for punishment with imprisonment up to one year or fine up to Rs.20,000 or both [Section 33] in case she refuses or fails to discharge her duties in the protection orders as directed by the magistrate. However, as per Section 34 of the Act, a complaint or litigation can be filed against the PO only with prior sanction of the state government or by any officer authorised by it for the purpose.

Jurisdiction of this Act:

The court competent to try offences and grant protection and other orders under this act [Section 27] shall be that of the Judicial Magistrate First Class or the Metropolitan Magistrate within whose jurisdiction the cause of action has arisen or the aggrieved person/respondent resides, carries on business or is employed.

FREQUENTLY ASKED QUESTIONS (FAQS)

What is the advantage of PWDVA being a civil law?

A civil law is primarily meant to provide relief to the aggrieved party, not to punish the accused. In the case of PWDVA, a woman invoking it is not dependent on the police or a lawyer. She can directly approach the court for relief. Except when there is breach of protection orders (which is a cognisable offence), no arrest can be made under this law.

How does PWDVA advance the cause of Womens Right to a violence free life?

PWDVA recognizes women's right to a violence free life and makes the state responsible for ensuring them this right. Thus under PWDVA infrastructure set up by the state is available to women to facilitate their access to justice. These include orders and reliefs authorized by the court and other support services in the form of NGOs, shelter home, medical facilities, counseling centers; all of who are required to respond in order to assure a woman subsequent safety and the right to pursue a violence free life.

In addition a major contribution of PWDVA has been its introduction of a comprehensive definition of domestic violence that includes emotional and sexual violence. While our criminal law does not recognize rape with in marriage as an offence, the PWDVA has made marital rape and other forms of sexual violence actionable, by constituting them as 'domestic violence'. To this extent the PWDVA can be said to have made a major advance over criminal laws.

Can a woman use PWDVA and other laws simultaneously?

Yes. PWDVA does not replace or nullify any other law. Section 36 lays down that its provisions shall be in addition to, and not in derogation of, the provisions of any other law currently in force.

The Act provides for holistic support to women seeking justice. Section 26 (2) lays down that civil relief can be claimed in addition to any proceedings pending before a civil or criminal court. Thus relief can be sought even if a divorce or custody case is already in progress or a complaint has been made under 498A.

What is a shared household?

A house where a woman lives has lived or is expected to live with a man and/or his family in a domestic relationship [Section 2 (f)] is considered a shared household under the Act. It does not matter whether or not the shared house is owned by the woman or the man. The concept of the shared household also applies in cases where the house is on lease, rent or is part of a jointly held property (say in the name of the mother-in-law and/or father-in-law or anyone else in the woman's marital family). All that needs to be proved is that the woman lives or has lived in the home with the respondent in a conjugal or domestic relationship.

What is the right to reside in a shared household?

The Act grants the right to live in the shared household to every woman who is covered under the definition of domestic relationship. She cannot be ousted from it except in accordance with due procedure established by law. In case of fear of continued violence against a woman, the court may pass residence orders directing the respondent to provide her with alternative accommodation, or even to himself move out of the household.

It is important to note, however that the Act only secures the woman's right to reside in the house. It does not give her ownership rights.

What is the difference between monetary relief and compensation orders?

Under PWDVA monetary relief can be obtained by an aggrieved for

- payment for losses and expense such as medical expenses, loss of wages/pay, loss of property and any other loss incurred as a consequence of domestic violence ; and
- payment for maintenance to meet daily expenses, expenses for education, residence etc. of the aggrieved person and her children.

Compensation orders provides for injuries including mental torture and emotional violence sustained as a result of Acts of DV.

The difference between monetary relief and compensation order is that the former is intended to meet expenditure and loss incurred, while the later is meant to compensate the aggrieved for emotional and mental torture and stress related damage above and beyond the tangible loss or expenditure.

Can a woman file a case under PWDVA against another woman?

Except a 'Stop Violence' order under the Act, no other order can be passed against a female perpetrator even if she is a member of the shared household. However, say, if a mother-in law, sister-in-law or any other woman is involved in the harassment, the complainant can mention this in the DIR, and she, or on her behalf the PO, can appeal to the magistrate who may in the Protection Order bind the respondent to restraint his female relatives from committing any further acts of violence.

What can a woman do if her husband lives away from home owing to the nature of his work and she faces violence in the shared household?

The household where a woman stays after marriage with her husband and/or his extended family will be considered her shared household, even if the husband stays away. The court can pass 'Stop Violence' orders against any male or female members of the shared household. It can also direct the husband to ensure a separate house or portion of the existing house for his wife.

Can a PO or SP help without court orders or DIR being filed?

Yes. In emergency situations [Rule 9], if the PO or SP receives reliable information of domestic violence either from the aggrieved or any other person, they may seek immediate assistance of the police to accompany them to the place of occurrence. They are expected to record the DIR and immediately present it to the magistrate, seeking appropriate orders.

What can a woman do if there is no PO or SP available in her area, or she needs to make a complaint after office hours?

Under PWDVA a woman can fill up the DIR form herself and attach it to the application. Alternatively she can approach the police to record a DIR and forward it to the magistrate. In an emergency a woman or anyone on her behalf can inform the PO by telephone, fax or email about the incident of violence.

Can the police refuse to help a woman on grounds of PWDVA being a civil and not a criminal law?

The police cannot refuse and must help an aggrieved woman file a case under PWDVA. If approached, they must advise and assist her to use the Act and also inform her of her right to file a complaint under Section 498A of IPC [Section 5].

Can a complaint be filed or information of domestic incident given anonymously?

The Act stresses the credibility of a complaint. To establish this, it must be made in writing or orally, with the complainant's identity affirmed over a signature, by physical presence or other acceptable means. An anonymous complaint may not be accepted.

What evidence is a woman required to give to prove that domestic violence has occurred?

Unlike criminal law PWDVA requires no substantive evidence. The woman's application and the DIR are prima facie sufficient for the magistrate to pass orders necessary to protect the woman. The PO may be required by the magistrate to file additional reports pertaining to the complaint.

What is the importance of evidence in PWDVA cases?

If prima facie it can be established that violence has occurred the woman's application and the DIR are sufficient for the magistrate to pass an order for protection. However when in order to prove acts of violence that have occurred in the past, photographs with injuries, medical certificates police complaints etc. are required. Similarly when monetary reliefs are being sought or to establish the familial nature of the relationship, evidence in the form of salary slips, property deeds, income tax returns, etc. In case an aggrieved person is unable to produce any papers as evidence, she can seek an order of the court [rule 10 (1) (b)] for directions to the PO to conduct an inquiry into financial assets.

What if a woman needs additional injunctions in an ongoing case under PWDVA?

If a woman already has her case filed under PWDVA and requires additional protection, she can attach an 'Interim Application' to the original application.

**THE PROTECTION OF WOMEN FROM
DOMESTIC VIOLENCE ACT, 2005**

ACT No. 43 of 2005

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

The following Act of Parliament received the assent of the President on the 13th September, 2005, and is hereby published for general information

**THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT,
2005**

ACT No. 43 of 2005

[13th September 2005]

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.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:

1. Short title, extent and commencement

- (1) This Act may be called the Protection of Women from Domestic Violence Act, 2005
- (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, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;
- (b) "**Child**" means any person below the age of eighteen years and includes any adopted, step or foster child;
- (c) "**Compensation Order**" means an order granted in terms of section 22;
- (d) "**Custody Order**" means an order granted in terms of section 21;
- (e) "**Domestic Incident Report**" means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;
- (f) "**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;
- (g) "**Domestic Violence**" has the same meaning as assigned to it in section 3;
- (h) "**Dowry**" shall have the same meaning as assigned to it in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961);
- (i) "**Magistrate**" means the Judicial Magistrate of the first class or as the case may be, the Metropolitan Magistrate, exercising jurisdiction under the Code of Criminal Procedure, 1973 (2 of 1974) in the area where the

Short title,
extent and
commencement

Definitions

28 of 1961

2 of 1974

aggrieved person resides temporarily or otherwise or the respondent, resides or the domestic violence is alleged to have taken place;

(j) **"Medical Facility"** means such facility as may be notified by the State Government to be a medical facility for the purposes of this Act;

(k) **"Monetary Relief"** means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;

(l) **"Notification"** means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(m) **"Prescribed"** means prescribed by rules made under this Act;

(n) **"Protection Officer"** means an officer appointed by the State Government under sub-section (1) of section 8;

(o) **"Protection Order"** means an order made in terms of section 18;

(p) **"Residence Order"** means an order granted in terms of sub-section (1) of section 19;

(q) **"Respondent"** means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act;

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;

(r) **"Service Provider"** means an entity registered under sub-section (1) of section 10;

(s) **"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;

(t) **"Shelter Home"** means any shelter home as may be notified by the State Government to be a shelter home for the purpose of this Act.

3. Definition of domestic violence

For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it

- (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clauses (a) or clause (b); or
- (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation 1. - For the purpose of this section,

- (i) "**Physical Abuse**" means 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 aggrieved person 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 women;
- (iii) "**Verbal and Emotional abuse**" includes
 - (a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and
 - (b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.
- (iv) "**Economic Abuse**" includes
 - (a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an

order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II - For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this section, the overall facts and circumstance of the case shall be taken into consideration.

Information to Protection Officer and exclusion of liability of informant

4. Information to Protection Officer and exclusion of liability of informant

- (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 about it to the concerned Protection Officer.
- (2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

Duties of Police Officers, service Providers and Magistrate

5. Duties of Police Officers, Service Providers and Magistrate

A police officer, Protection Officer, Service Provider or Magistrate who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person

- (a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order a compensation order or more than one such order under this Act;
- (b) of the availability of service of the Service Providers;
- (c) of the availability of services of the Protection Officers;
- (d) of her right to file a complaint under section 498A of the Indian Penal Code, wherever relevant:

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

Duties of shelter homes

6. Duties of Shelter Homes

If an aggrieved person or on her behalf a Protection Officer or a Service Provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home.

Duties of Medical Facilities

7. Duties of Medical Facilities

If an aggrieved person or, on her behalf Protection Officer or a Service Provider requests the person in charge of a medical facility to provide any medical aid to her,

such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

8. Appointment of Protection Officers

- (1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act.
- (2) The Protection Officers shall as far as possible be a woman and shall possess such qualifications and experience as may be prescribed.
- (3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed.

9. Duties and function of Protection Officer

- (1) It shall be the duty of the Protection Officer
 - (a) to assist the Magistrate in the discharge of his functions under this Act;
 - (b) to make a Domestic Incident Report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;
 - (c) to make an application in such form and in such manner as may be prescribed to the Magistrate. If the aggrieved person so desires, claiming relief for issuance of a protection order;
 - (d) to ensure that the aggrieved person is provided legal aid under the Legal Service Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made;
 - (e) to maintain a list of all service providers providing legal aid or counseling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;

Appointment of Protection Officers

Duties and function of Protection Officer

10. Service Providers

- (f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home, to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;
 - (g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;
 - (h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 (2 of 1974);
 - (i) to perform such other duties as may be prescribed.
- (2) The Protection officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act.
- (1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purpose of this Act.
 - (2) A service provider registered under sub-section (1) shall have the power to
 - (a) record the Domestic Incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place;
 - (b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the



- local limits of which the domestic violence took place;
- (c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place.
 - (3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

11. Duties of Government.

The Central Government and every State Government, shall take all measures to ensure that

- (a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;
- (b) the Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;
- (c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodic review of the same is conducted;
- (d) protocols for the various ministers concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

Application To
Magistrate

12. Application to Magistrate

(1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act:

Provided that before passing any order on such application the magistrate shall take into consideration any Domestic Incident Report received by him from the Protection Officer or the service provider.

(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without 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 favor of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate 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 amount, if any, left after such set off.

(3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.

(4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.

(5) The Magistrate shall Endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.

Service Of
Notice

13. Service of notice

(1) A notice of the date of hearing fixed under section 12 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 within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt.

(2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed 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.

14. Counselling

(1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counselling with any member of a service provider who possess such qualifications and experience in counselling as may be prescribed.

(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.

15. Assistance of welfare expert

In any proceeding under this Act, the Magistrate may secure the services of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit for the purpose of assisting him in discharging his functions.

16. Proceedings to be held in camera

If the Magistrate considers that the circumstance of the case so warrant and if either party in the proceedings so desire, he may conduct the proceedings under this Act in camera.

17. Right to reside in a shared household

(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

Counselling

Assistance of
welfare expert

Proceedings
to be held
in camera

Right to reside
in a shared
household

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

18. Protection orders

The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima face satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favor of the aggrieved person and prohibit the respondent from:

- (a) committing any act of domestic violence;
- (b) aiding or abetting in the commission of acts of domestic violence;
- (c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;
- (d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;
- (e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;
- (f) causing violence to the dependents, other relatives or any person who give the aggrieved person assistance from domestic violence;
- (g) committing any other act as specified in the protection order.

19. Residence orders

(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order:

- (a) restraining the respondent from dispossessing or in any other manner



disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;

- (b) directing the respondent to remove himself from the shared household;
- (c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;
- (d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;
- (e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or
- (f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:

Provided that no order under clause (b) shall be passed against any person who is a woman.

- (2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.
- (3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.
- (4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly.
- (5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.

20. Monetary reliefs

- (6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.
- (7) The Magistrate may direct the officer-in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.
- (8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her stridhan or any other property or valuable security to which she is entitled to.

(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but is not limited to:

- (a) the loss of earnings;
- (b) the medical expenses;
- (c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and
- (d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment of monthly payments of maintenance, as the nature and circumstances of the case may require.



- (4) The Magistrate shall send a copy of the, order for monetary relief made under sub-section (1) to the parties to the application and to the in-charge of the police station within the local limits of whose jurisdiction the respondent resides.
- (5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).
- (6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person 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.

21. Custody orders

Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent:

Provided that if the Magistrate is of the opinion any visit of the respondent may be harmful to the interests of the child of children, the Magistrate shall refuse to allow such visit.

22. Compensation orders

In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress caused by the acts of domestic violence committed by that respondent.

23. Power to grant interim and ex parte orders

- (1) In any proceeding before him under this Act, the Magistrate may pass such

interim order as he deems just and proper.

- (2) if the Magistrate is satisfied that an application 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, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

Court gives copies of order free of cost

24. Court to give copies of order free of cost

The Magistrate shall, in all cases where he has passed any order under this Act, order that copy of such order, shall be given free of cost, to the parties to the application, the police officer in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any Service Provider located within the local limits of the jurisdiction of the court and if any Service Provider has registered a Domestic Incident Report, to that Service Provider.

Duration and alteration of orders

25. Duration and alteration of orders

- (1) A protection order made under section 18 shall be in force till the aggrieved person applies for discharge.
- (2) If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

Relief in other suits and legal proceeding

26. Relief in other suits and legal proceeding

- (1) Any relief available under section 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after commencement of this Act.
- (2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such

suit or legal proceeding before a civil or criminal court.

- (3) In case any relief has been obtained by the aggrieved person in any Proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

27. Jurisdiction

Jurisdiction

- (1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which :
- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
- (b) the respondent resides or carries on business or is employed; or
- (c) the cause of action has arisen,
- shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

- (2) Any order made under this Act shall be enforceable throughout India.

28. Procedure

Procedure

- (1) Save as otherwise provided in this Act, all proceedings under section 12, 18, 19, 20, 22 and 23 and offences under section 31 shall be governed by the provisions of the code of Criminal Procedure 1973 (2 of 1974).
- (2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.

29. Appeal

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, whichever is later.

Protection Officers and members of service providers to be public servants

30. Protection Officers and members of Service Providers to be public servants

The Protection Officer and member of Service Provider, while acting or purporting to act in pursuance of any of the provision of this Act or any rules or order made there under shall be deemed to be public servants within the meaning of section 21 (45 of 1860) of the Indian Penal Code.

Penalty for breach of protection order by respondent

31. Penalty for breach of protection order by respondent

- (1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.
- (2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.
- (3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A (45 of 1860) of the Indian Penal Code or any other provision of that Code or the Dowry Prohibition Act, 1961 (28 of 1961), as the case may be, if the facts disclose the commission of an offence under those provisions.

Cognizance and proof

32. Cognizance and proof

- (1) Notwithstanding anything contained in the Code of Criminal Procedure 1973 (2 of 1974), the offence under sub-section (1) of section 31 shall be cognizable and non-bailable.
- (2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of section 31 has been committed by the accused.

Penalty for not discharging duty by Protection Officer

33. Penalty for not discharging duty by 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 twenty thousand rupees, or with both.

34. Cognizance of offence committed by 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.

Cognizance of offence committed by Protection Officer

35. 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 intended to be done under this Act or any rule or order made there under.

Protection of action taken in good faith

36. Act not in derogation of any other law

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.

Act not in derogation of any other law

37. Power of Central Government to make rules

- (1) The Central Government may, by notification, make rules for carrying out the provision 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) the qualifications and experience which a Protection Officer shall possess under sub-section (2) of section 8;
 - (b) the terms and conditions of service of the Protection Officer and the other officers subordinate to him, under sub-section (3) of section 8;
 - (c) the form and manner in which a domestic incident report may be made under clause (b) of sub-section (1) of section 9;
 - (d) the form and the manner in which an application for protection order may be made to the Magistrate under clause (c) of sub-section (1) of section 9;
 - (e) the form in which a complaint is to be filed under clause (d) of sub-section (1) of section 9;

Power of Central Government to make rules

r u l e s
the protection of women
from domestic violence act
[O c t o b e r , 2 0 0 6]

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THE GAZETTE OF INDIA, EXTRAORDINARY

[PART II, Sec 3, (I)]

Notification

Ministry of Women and Child Development

New Delhi, the 17th October, 2006

NOTIFICATION

G.S.R644(E)- In exercise of the power conferred by section 37 of the Protection of Women from Domestic Violence Act, 2005 (43 of 2005), the Central Government hereby make the following rules, namely:

1. Short title and commencement

- 1) These rules may be called the Protection of Women from Domestic Violence Rules, 2006.
- 2) They shall come into force on the 26th day of October, 2006.

2. Definitions

In these rules, unless the context otherwise requires

- (a) "**Act**" means the Protection of Women from Domestic Violence Act, 2005 (43 of 2005);
- (b) "**Complaint**" means any allegation made orally or in writing by any person to the Protection Officer;
- (c) "**Counsellor**" means a member of a Service Provider competent to give counselling under sub-section (1) of section 14
- (d) "**Form**" means a form appended to these rules;
- (e) "**Section**" means a section of the Act;
- (f) Words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Qualifications and experience of Protection Officers

- 1) The Protection Officers appointed by the State Government may be of the Government or members of non-government organizations
Provide that preference shall be given to women.
- 2) Every person appointed as Protection Officer under the Act shall have at least three years experience in social sector.
- 3) The tenure of a Protection Officer shall be a minimum period of three years.
- 4) The State Government shall provide necessary office assistance to the Protection Officer for the efficient discharge of his or her functions under the Act and these rules.

4. Information to Protection Officers

- 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 about it to the Protection Officer having jurisdiction in the area either orally or in writing.
- 2) In case the information is given to the Protection Officer under sub-rule (1) orally, he or she shall cause it to be reduced to in writing and shall ensure that the same is signed by the person giving such information and in case the informant is not in a position to furnish written information the Protection Officer shall satisfy and keep a record of the identity of the person giving such information.
- 3) The Protection Officer shall give a copy of the information recorded by him immediately to the informant free of cost.

5. Domestic Incident Report

- 1) Upon receipt of a complaint of domestic violence, the Protection Officer shall prepare a Domestic Incident Report in Form 1 and submit the same to the Magistrate and forward copies thereof to the police officer in-charge of the police station within the local limits of jurisdiction of which the

domestic violence alleged to have been committed has taken place and to the service providers in that area.

- 2) Upon a request of any aggrieved person, a service provider may record a domestic incident report in Form 1 and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence is alleged to have taken place.

6. Applications to the Magistrate

- 1) Every application of the aggrieved person under section 12 shall be in Form II or as nearly as possible thereto.
- 2) An aggrieved person may seek the assistance of the Protection Officer in preparing her application under sub-rule (1) and forwarding the same to the concerned Magistrate.
- 3) In case the aggrieved person is illiterate, the Protection Officer shall read over the application and explain to her the contents thereof.
- 4) The affidavit to be filed under sub-section (2) of section 23 shall be filed in Form III.
- 5) The applications under section 12 shall be dealt with and the orders enforced in the same manner laid down under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974).

7. Affidavit for obtaining ex parte orders of Magistrate

Every affidavit for obtaining ex parte order under sub-section (2) of section 23 shall be filed in Form III.

8. Duties and functions of Protection Officers

(1) It shall be the duty of the Protection Officer :

- i. to assist the aggrieved person in making a complaint under the Act, if the aggrieved person so desires;
- ii. to provide her information on the rights of aggrieved persons under the Act as given in Form IV which shall be in English or in a vernacular local language;

- iii. to assist the person in making any application under section 12, or sub-section (2) of section 23 or any other provision of the Act or the rules made there under;
- iv. to prepare a "Safety Plan" including measures to prevent further domestic violence to the aggrieved person, in consultation with the aggrieved person in Form V, after making an assessment of the dangers involved in the situation and on an application being moved under section 12;
- v. to provide legal aid to the aggrieved person, through the State Legal Aid Services Authority;
- vi. to assist the aggrieved person and any child in obtaining medical aid at a medical facility including providing transportation to get to the medical facility;
- vii. to assist in obtaining transportation for the aggrieved person and any child to the shelter;
- viii. to inform the service providers registered under the Act that their service may be required in the proceeding under the Act and to invite applications from service providers seeking particulars of their members to be appointed as Counsellors in proceedings under the Act under sub-section (1) of section 14 or Welfare Experts under section 15;
- ix. to scrutinise the applications for appointment as Counsellors and forward a list of available Counsellors to the Magistrate.
- x. to revise once in three years the list of available Counsellors by inviting fresh applications and forward a revised list of Counsellors on the basis thereof to the concerned Magistrate;
- xi. to maintain a record and copies of the report and documents forwarded under sections 9, 12, 20, 21, 22, 23 or any other provisions of the Act or these rules;
- xii. to provide all possible assistance to the aggrieved person and the children to ensure that the aggrieved person is not victimized or pressurized as a consequence of reporting the incident of domestic violence;

xiii. to liaise between the aggrieved person or persons, police and service provider in the manner provided under the Act and these rules;

xiv. to maintain proper records of the service providers, medical facility and shelter homes in the area of his jurisdiction;

2. In addition to the duties and functions assigned to a Protection Officer under clauses (a) to (h) of sub-section (1) of section 9, it shall be the duty of every Protection Officer:

- a. to protect the aggrieved person from domestic violence, in accordance with the provisions of the Act and these rules;
- b. to take all reasonable measures to prevent recurrence of domestic violence against the aggrieved person, in accordance with the provisions of the Act and these rules.

9. Action to be taken in cases of emergency

If the Protection Officer or a service provider receives reliable information through e-mail or a telephone call or the like, either from the aggrieved person or from any person who has reason to believe that an act of domestic violence is being or is likely to be committed and in a such an emergency situation, the Protection Officer or the service provider, as the case may be, shall seek immediate assistance of the police who shall accompany the Protection officer or the service provider, as the case may be, to the place of occurrence and record the Domestic Incident Report and present the same to the Magistrate without any delay for seeking appropriate orders under the Act.

10. Certain other duties of the Protection Officers

- (1) The Protection Officer, if directed to do so in writing, by the Magistrate shall:
 - a. conduct a home visit of the shared household premises and make preliminary enquiry if the court requires clarification, in regard to granting ex party interim relief to the aggrieved person under the Act and pass an order for such home visit;
 - b. after making appropriate inquiry, file a report on the emoluments, assets,

bank accounts or any other documents as may be directed by the court;

- c. restore the possession of the personal effects including gifts and jewellery of the aggrieved person and the shared household to the aggrieved person;
- d. assist the aggrieved person to regain custody of children and secure rights to visit them under his supervision as may be directed by the court;
- e. assist the court in enforcement of orders in the proceedings under the Act in the manner directed by the Magistrate, including orders under section 12, section 18, section 19, section 20, section 21 or section 23 in such manner as may be directed by the court;
- f. take the assistance of the police, if required, in confiscating any weapon involved in the alleged domestic violence.

(2) The Protection officer shall also perform such other duties as may be assigned to him by the State Government or the Magistrate in giving effect to the provisions of the Act and these rules from time to time.

(3) The Magistrate may, in addition to the orders for effective relief in any case, also issue directions relating general practice for better handling of the cases, to the Protection Officers within his jurisdiction and the Protection Officers shall be bound to carry out the same.

11. Registration of service providers

- (1) Any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance and desirous of providing service as a service provider under the Act shall make an application under sub-section(1) of the section 10 for registration as service provider in Form VI to the State Government.
- (2) The State Government shall, after making such enquiry as it may consider necessary and after satisfying itself about the suitability of the applicant, register it as a service provider and issue a certificate of such registration:

provided that no such application shall be rejected without giving the applicant an opportunity of being heard.

(3) Every association or company seeking registration under sub-section (1) of section 10 shall possess the following eligibility criteria, namely:

- a. it should have been rendering the kind of services it is offering under the Act for at least three years before the date of application for registration under the Act and these rules as a service provider;
- b. in case an applicant for registration is running a medical facility, or a psychiatric counselling centre, or a vocational training institution, the State Government shall ensure that the applicant fulfils the requirements for running such a facility or institution laid down by the respective regulatory authorities regulating the respective professions or institutions;
- c. in case an applicant for registration is running a shelter home, the State Government shall, through an officer or any authority or agency authorized by it, inspect the shelter home, prepare a report and record its finding on the report, detailing that :
 - i. the maximum capacity of such shelter home for intake of persons seeking shelter;
 - ii. the place is secure for running a shelter home for women and that adequate security arrangements can be put in place for the shelter home;
 - iii. the shelter home has a record of maintaining a functional telephone connection or other communication media for the use of the inmates.

(4) The State Government shall provide a list of service providers in the various localities to the concerned Protection Officers and also publish such list in newspapers or on its website.

(5) The Protection Officer shall maintain proper records by way of maintenance of registers duly indexed, containing the details of the service providers.

12. Means of service of notices

(1) The notices for appearance in respect of the proceedings under the Act shall contain the names of the person alleged to have committed domestic violence, the nature of domestic violence and such other details which may facilitate the identification of person concerned.

(2) The service of notices shall be made in the following manner, namely:

- a. The notices in respect of the proceedings under the Act shall be served by the Protection Officer or any other person directed by him to serve the notice, on behalf of the Protection Officer, at the address where the respondent is stated to be ordinarily residing in India by the complainant or aggrieved person or where the respondent is stated to be gainfully employed by the complainant or aggrieved person, as the case may be.
- b. The notice shall be delivered to any person in charge of such place at the moment and in case of such delivery not being possible it shall be pasted at a conspicuous place on the premises.
- c. For serving the notices under section 13 or any other provision of the Act, the provisions under order V of the Civil Procedure Code, 1908 (5 of 1908) or the provisions under Chapter VI of the Code of Criminal Procedure, 1973 (2 of 1974) as far as practicable may be adopted.
- d. Any order passed for such service of notices shall entail the same consequences, as an order passed under Order V of the Civil Procedure Code, 1908 or Chapter VI of the Code of Criminal Procedure, 1973 respectively, depending upon the procedure found efficacious for making an order for such service under section 13 or any other provision of the Act and in addition to the procedure prescribed under the Order V or Chapter VI, the court may direct any other steps necessary with a view to expediting the proceedings to adhere to the time limit provided in the Act.

(3) On a statement on the date fixed for appearance of the respondent, or a report of the person authorized to serve the notices under the Act, that service has been effected, appropriate orders shall be passed by the court

on any pending application for interim relief, after hearing the complainant or the respondent, or both.

- (4) When a protection order is passed restraining the respondent from entering the shared household or the respondent is ordered to stay away or not to contact the petitioner, no action of the aggrieved person including an invitation by the aggrieved person shall be considered as waiving the restraint imposed on the respondent, by the order of the court, unless such protection order is duly modified in accordance with the provisions of sub-section (2) of section 25.

13. Appointment of Counsellors

- (1) A person from the list of available Counsellors forwarded by the Protection Officer, shall be appointed as a Counsellor, under intimation to the aggrieved person.
- (2) The following persons shall not be eligible to be appointed as Counsellors in any proceedings, namely:
- i. any person who is interested or connected with the subject matter of the dispute or is related to any one of the parties or to those who represent them unless such objection is waived by all the parties in writing;
 - ii. any legal practitioner who has appeared for the respondent in the case or any other suit or proceedings connected therewith.
- (3) The Counsellors shall as far as possible be women.

14. Procedure to be followed by Counsellors

- (1) The Counsellor shall work under the general supervision of the court or the Protection Officer or both.
- (2) The Counsellor shall convene a meeting at a place convenient to the aggrieved person or both the parties.
- (3) The factors warranting counselling shall include the factor that the respondent shall furnish an undertaking that he would refrain from causing such domestic violence as complained by the complainant and in

undertaking that he will not try to meet, or communicate in any manner through letter or telephone, electronic mail or through any medium except in the counselling proceedings before the Counsellor or as permissible by law or order of a court of competent jurisdiction.

- (4) The Counsellor shall conduct the counselling bearing in mind that the counselling shall be in the nature of getting an assurance, that the incidence of domestic violence shall not get repeated.
- (5) The respondent shall not be allowed to plead any counter justification for the alleged act of domestic violence in consulting the fact that and any justification for the act of domestic violence by the respondent is not allowed to be a part of the counselling proceeding should be made known to the respondent, before the proceedings begin.
- (6) The respondent shall furnish an undertaking to the Counsellor that he would refrain from causing such domestic violence as complained by the aggrieved person and in appropriate cases an undertaking that he will not try to meet, or communicate in any manner through letter or telephone, e-mail, or through any other medium except in the counselling proceedings before the Counselor.
- (7) If the aggrieved person so desires, the Counsellor shall make efforts of arriving at a settlement of the matter.
- (8) The limited scope of the efforts of the Counsellor shall be to arrive at the understanding of the grievances of the aggrieved person and the best possible redress of her grievances and the efforts shall be to focus on evolving remedies or measures for such redressal.
- (9) The Counsellor shall strive to arrive at a settlement of the dispute by suggesting measures for redressal of grievances of the aggrieved person by taking into account the measures or remedies suggested by the parties for counselling and reformulating the terms for the settlement, wherever required.

(10) The Counsellor shall not be bound by the provision of the Indian Evidence Act, 1872 or the Code of Civil Procedure, 1908, or the Code of Criminal Procedure, 1973, and his action shall be guided by the principles of fairness and justice and aimed at finding way to bring an end to domestic violence to the satisfaction of the aggrieved person and in making such an effort the counsellor shall give due regard to the wishes and sensibilities of the aggrieved person.

(11) The Counsellor shall submit his report to the Magistrate as expeditiously as possible for appropriate action.

(12) In the event the Counsellor arrives at a resolution of the dispute, he shall record the terms of settlement and get the same endorsed by the parties.

(13) The court may, on being satisfied about the efficacy of the solution and after making a preliminary enquiry from the parties and after, recording reasons for such satisfaction, which may include undertaking by the respondents to refrain from repeating acts of domestic violence, admitted to have been committed by the respondents, accept the terms with or without conditions.

(14) The court shall, on being so satisfied with the report of counselling, pass an order, recording the terms of the settlement or an order modifying the terms of the settlement on being so requested by the aggrieved person, with the consent of the parties.

(15) In cases, where a settlement cannot be arrived at in the counselling proceedings, the Counsellor shall report the failure of such proceedings to the Court and the court shall proceed with the case in accordance with the provisions of the Act.

(16) The record of proceedings shall not be deemed to be material on record in the case on the basis of which any inference may be drawn or a order may be passed solely based on it.

(17) The Court shall pass an order under section 25, only after being satisfied that the application for such an order is not vitiated by force, fraud or

coercion or any other factor and the reasons for such satisfaction shall be recorded in writing in the order, which may include any undertaking or surety given by the respondent.

15. Breach of Protection Orders

1) An aggrieved person may report a breach of protection order or an interim protection order to the Protection officer.

2) Every report referred to in sub-rule (1) shall be in writing by the informant and duly signed by her.

3) The Protection Officer shall forward a copy of such complaint with a copy of the protection order of which a breach is alleged to have taken place to the concerned Magistrate for appropriate orders.

4) The aggrieved person may, if she so desires, make a complaint of breach of protection order or interim protection order directly to the Magistrate or the Police, if she so chooses.

5) If, at any time after a protection order has been breached, the aggrieved person seeks his assistance, the protection officer shall immediately rescue her by seeking help from the local police station and assist the aggrieved person to lodge a report to the local police authorities in appropriate cases.

6) When charges are framed under section 31 or in respect of offences under section 498A of the Indian Penal Code, 1860 (45 of 1860), or any other offence not summarily triable, the Court may separate the proceedings for such offences to be tried in the manner prescribed under Code of Criminal Procedure, 1973 (2 of 1974) and proceed to summarily try the offence of the breach of Protection order under section 31, in accordance with the provisions of Chapter XXI of the Code of Criminal Procedure, 1973 (2 of 1974).

7) Any resistance to the enforcement of the orders of the Court under the Act by the respondent or any other person purportedly acting on his behalf shall be deemed to be a breach of protection order or an interim protection order covered under the Act.

8) A breach of a protection order or an interim protection order shall immediately be reported to the local police station having territorial jurisdiction and shall be dealt with as a cognizable offence as provided under sections 31 and 32.

9) While releasing the person on bail arrested under the Act, the Court may, by order, impose the following conditions to protect the aggrieved person and to ensure the presence of the accused before the Court, which may include:

- a. an order restraining the accused from threatening to commit or committing an act of domestic violence;
- b. an order preventing the accused from harassing, telephoning or making any contact with the aggrieved person;
- c. an order directing the accused to vacate and stay away from the residence of the aggrieved person or any place she is likely to visit;
- d. an order prohibiting the possession or use of firearm or any other dangerous weapon;
- e. an order prohibiting the consumption of alcohol or other drugs;
- f. any other order required for protection, safety and adequate relief to the aggrieved person.

16. Shelter to the aggrieved person

(1) On a request being made by the aggrieved person, the Protection Officer or a Service Provider may make a request under section 6 to the person in charge of a shelter home in writing, clearly stating that the application is being made under section 6.

(2) When a Protection Officer makes a request referred to in sub-rule (1), it shall be accompanied by a copy of the Domestic Incident Report registered, under section 9 or under section 10:

provided that shelter home shall not refuse shelter to an aggrieved person under the Act, for her not having lodged a domestic report, prior to the

making of request for shelter in the shelter home.

(3) If the aggrieved person so desires, the shelter home shall not disclose the identity of the aggrieved person in the shelter home or communicate the same to the person complained against.

17. Medical Facility to the aggrieved person

(1) The aggrieved person or the Protection Officer or the Service Provider may make a request under section 7 to a person in charge of a medical facility in writing, clearly stating that the application is being made under section 7.

(2) When a Protection Officer makes such a request, it shall be accompanied by a copy of the Domestic Incident Report: provided that the medical facility shall not refuse medical assistance to an aggrieved person under the Act, for her not having lodged a Domestic Incident Report, prior to making a request for medical assistance or examination to the medical facility.

(3) If no Domestic Incident Report has been made, the person-in-charge of the medical facility shall fill in Form 1 and forward the same to the local Protection Officer.

(4) The medical facility shall supply a copy of the medical examination report to the aggrieved person free of cost.

f o r m s
the protection of women
from domestic violence act
[O c t o b e r , 2 0 0 6]

FORM I
[See rule 5(1) and (2) and 17 (3)]

Domestic Incident Report under sections 9(b) and 37(2) (c) of the Protection of Women from Domestic Violence Act, 2005 (43 of 2005)

1. Details of the complainant/aggrieved person

- (1) Name of the complainant/aggrieved person: _____
(2) Age: _____
(3) Address of the shared household: _____
(4) Present Address: _____
(5) Phone Number, if any: _____

2. Details of Respondents:

Sr.No.	Name	Relationship with the aggrieved person	Address	Telephone No. if any.

3. Details of children, if any, of the aggrieved person:

- (a) Number of Children:
(b) Details of Children:

Name	Age	Sex	With whom at present residing

4. Incidents of domestic violence:

Date, place and time of violence	Person who caused domestic violence	Types of violence		Remarks
		(i) Physical violence	(ii) Sexual violence	
		Causing hurt of any kind, please specify.		
(ii) Sexual violence Please tick mark [] the column applicable.				
		<input type="checkbox"/> Forced sexual intercourse. <input type="checkbox"/> Forced to watch pornography or other obscene material. <input type="checkbox"/> Forcibly using you to entertain others. <input type="checkbox"/> Any other act of sexual nature, abusing, humiliating, degrading or otherwise violative of your dignity (please specify details in the space provided below):		
(iii) verbal and emotional abuse				
		<input type="checkbox"/> Accusation/aspersion on your character or conduct, etc. <input type="checkbox"/> Insult for not bringing dowry, etc. <input type="checkbox"/> Insult for not having a male child. <input type="checkbox"/> Insult for not having any child. <input type="checkbox"/> Demeaning, humiliating or undermining remarks/statement. <input type="checkbox"/> Ridicule <input type="checkbox"/> Name calling <input type="checkbox"/> Forcing you to not attend School, college or any other educational institution. <input type="checkbox"/> Preventing you from taking up a job. <input type="checkbox"/> Preventing you from leaving the House. <input type="checkbox"/> Preventing you from meeting any particular person. <input type="checkbox"/> Accusation/aspersion on your character or conduct, etc.		

S.No.	Date, place and time of violence	Person who caused domestic violence	Types of violence	Remarks
			Causing hurt of any kind, please specify.	
			<input type="checkbox"/> Forcing you to get married against your will. <input type="checkbox"/> Preventing you from marrying a person of your choice. <input type="checkbox"/> Forcing you to marry a person of his/their own choice. <input type="checkbox"/> Any other verbal or emotional abuse <input type="checkbox"/> (please specify in the space provided below)	
(iv) Economic Violence				
			<input type="checkbox"/> Not providing money for maintaining you or your children. <input type="checkbox"/> Not providing food, clothes, medicine, etc. for you or your children. <input type="checkbox"/> Forcing you out of the house you live in. <input type="checkbox"/> Preventing you from accessing or using any part of the house. <input type="checkbox"/> Preventing or obstructing you from carrying on your employment. <input type="checkbox"/> Not allowing you to take up an employment. <input type="checkbox"/> Non-payment of rent in case of a rented accommodation. <input type="checkbox"/> Not allowing you to use clothes or articles of general household use. <input type="checkbox"/> Selling or pawning your stridhan or any other valuables without informing you and without your consent. <input type="checkbox"/> Forcibly taking away your salary, income or wages etc. <input type="checkbox"/> Disposing your stridhan <input type="checkbox"/> Non-payment of other bills such as electricity, etc. <input type="checkbox"/> Any other economic violence <input type="checkbox"/> (Please specify in the space provided below)	
(v) Dowry related harassment				
			<input type="checkbox"/> Demands for dowry made, please specify. <input type="checkbox"/> Any other details with regard to dowry, please specify. <input type="checkbox"/> Whether details of dowry items, stridhan, etc. attached with the form <input type="checkbox"/> Yes <input type="checkbox"/> No	
(vi) Any other information regarding acts of domestic violence against you or your children				

(Signature or thumb impression of the complainant / aggrieved person)

5. List of documents attached

Name of document	Date	Any other detail
Medico legal certificate		
Doctor's certificate or any other prescription		
List of Stridhan		
Any other document		

6. Orders that you need under the Protection of Women from Domestic Violence Act, 2005

Sr.no	Orders	Yes/No	Any other
(1)	Protection order under section 18		
(2)	Residence order under section 19		
(3)	Maintenance order under section 20		
(4)	Custody order under section 21		
(5)	Compensation order under section 22		
(6)	Any other order (specify)		

7. Assistance that you need

Sr.No.	Assistance available	Yes/No	Nature of Assistance
(1)	(2)	(3)	(4)
(1)	Counsellor		
(2)	Police assistance		
(3)	Assistance for initiating criminal proceedings		
(4)	Shelter home		
(5)	Medical facilities		
(6)	Legal aid		

8. Instruction for the Police officer assisting in registration of a Domestic Incident Report:

Wherever the information provided in this Form discloses an offence under the Indian Penal Code or any other law, the police officer shall-

- Inform the aggrieved person that she can also initiate criminal proceedings by lodging a First Information Report under the Code of Criminal Procedure, 1973 (2 of 1973).
- If the aggrieved person does not want to initiate criminal proceedings, then make daily diary entry as per the information contained in the domestic incident report with a remark that the aggrieved person due to the intimate nature of the Relationship with the accused wants to pursue the civil remedies for protection against domestic violence and has requested that on the basis of the information received by her, the matter has been kept pending for appropriate enquiry before registration of an FIR.
- If any physical injury or pain being reported by the aggrieved person, offer immediate medical assistance and get the aggrieved person medically examined.

Place: _____ Counter signature of Protection Officer/Service Provider
Date: _____ Name:
Address:

(Seal)

Copy forwarded to:-

- Local Police Station
- Service Provider/Protection Officer
- Aggrieved Person
- Magistrate

FORM II
[See rule 6 (1)]

Application to the Magistrate under section 12 of the Protection of Women from Domestic Violence Act, 2005 (43 of 2005)

To
The Court of Magistrate

Application under section..... of the Protection of Women from Domestic Violence Act, 2005 (43 of 2005)

Showeth:

1. That the application under the section..... of the Protection of Women from Domestic Violence Act, 2005 is being filed along with a copy of Domestic Incident Report by the

- (a) Aggrieved Person
 - (b) Protection Officer
 - (c) Any other person on behalf of the aggrieved person
- (tick whichever is applicable)

2. It is prayed that the Hon'ble court may take cognizance of the complaint/ Domestic Incident Report and pass all/any of the orders, as deemed necessary in the circumstance of the case.

- (a) Pass protection orders under section 18 and /or
- (b) Pass residence order under section 19 and /or
- (c) Direct the respondent to pay monetary relief under section 20 and/or
- (d) Pass order under section 21 of the Act and /or
- (e) Direct the respondent to grant compensation or damages under section 22 and /or
- (f) Pass such interim orders as the Court deems just and proper
- (g) Pass any orders as deems fit in the circumstances of the case

3. Orders required:

(i) Protection Order under section 18

- Prohibiting acts of domestic violence by granting an injunction against the Respondent/s from repeating any of the acts mentioned in terms of column 4(a)/(b)/(c)/(d)/(e)/(f)/(g) of the application.
- Prohibiting Respondent (s) from entering the school/college/workplace.
- Prohibiting from stopping you from going to your place of employment.
- Prohibiting Respondent (s) from entering the school/college/any other place of your children.
- Prohibiting from stopping you from going to your school.
- Prohibiting any form of communication by the Respondent with you.
- Prohibiting alienation of assets by the Respondent.
- Prohibiting operation of joint bank lockers/accounts by the Respondent and allowing the aggrieved person to operate the same.
- Directing the Respondent to stay away from the dependents/relatives/any other person of the aggrieved person to prohibit violence against them.
- Any other order, please specify.

(ii) Residence Order under section 19

- An Order restraining Respondent (s) from
 - Dispossessing or throwing me out from the shared household.
 - Entering that portion of the shared household in which I reside.
 - Alienating/disposing/encumbering the shared household.
 - Renouncing his rights in the shared household.
- An order entitling me continued access to my personal effects.
- An order directing Respondent (s) to
 - Remove himself form the shared household.
 - Secure same level of alternate accommodation or pay rent for the same.
- Any other order, please specify.

(iii) Monetary reliefs under section 20

- Loss of earnings, Amount claimed
- Medical expenses, Amount claimed
- Loss due to destruction/damage or removal of property from the control of the aggrieved person,
Amount claimed
- Any other loss or physical or mental injury as specified in clause 10 (d),
Amount claimed
- Total Amount claimed
- Any other order, please specify

(iv) Monetary reliefs under section 20

- Directing the Respondent to pay the following expenses as monetary relief.
- Food, clothes, medications and other basic necessities,
Amount / Per month
- School fees and related expenses, Amount / Per month
- Household expenses, Amount / Per month
- Any other expenses, Amount / Per month
- Total Per month
- Any other order, please specify

(v) Custody Order under section 21

Direct the Respondent to hand over the custody of the child or children to the

- Aggrieved Person Any other person on her behalf, details of such person

(vi) Compensation order under section 22

(vii) Any other order, please specify

4. Details of previous litigation, if any

- (a) Under the Indian Penal Code, Section.....Pending in the court of
- Disposed off, details of relief
- (b) Under, CrPC, Section.....Pending in the court of
- Disposed off, details of relief
- (c) Under the Hindu Marriage Act, 1956, Section..... Pending in the court of
- Disposed off, details of relief
- (d) Under the Hindu Adoptions and Maintenance Act, 1956, Sections..... Pending in the court of
- Disposed off, details of relief
- (e) Application for maintenance, under Section Under Act
- Interim maintenance Rs. p.m.
- Maintenance granted Rs. p.m.
- (f) Whether Respondent was sent to Judicial Custody
 - For less that a week
 - For less than a month
 - For more than a month

Specify period

(g) Any other order

Prayer :

It is, therefore, most respectfully prayed that this Hon'ble Court be pleased to grant the relief (s) claimed therein and pass such order or orders as this Hon'ble court may deem fit and proper under the given facts and circumstances of the case for protecting the aggrieved person from domestic violence and in the interest of justice.

Place:

Complainant/Aggrieved person

Date:

Through counsel

Verification :

Verified at.....(place) on this day of.....that the contents of Paras 1 to 12 of the above application are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

DEPONENT

Countersignature of Protection Officer with date

FORM III

[see rule 6(4) and 7]

Affidavit Under Section 23 (2) of The Protection of Women from Domestic Violence Act, 2005

IN THE COURT OF..... MM.....

P/S:.....

IN THE MATTER OF:

Ms. & others Complainant

VERSUS

Mr. & Others Respondent

AFFIDAVIT

I, ,W/O Mr ,R/o..... ,D.O.....

Mr..... ,R/o..... Presently residing at..... do

hereby solemnly affirm and declare on oath as under :

1. That I am the Applicant in the accompanying Application for..... filed for myself and for my daughter/Son.
2. That I am the natural guardian of.....
3. That being conversant with the facts and circumstances of the case I am competent to swear this affidavit.
4. That the Deponent had been living with the Respondents/s at since..... to
5. That the details provided in the present application for the grant of relief under section(s) have been entered into by me/at my instructions.
6. That the contents of the application have been read over, explained to me in English/Hindi/any other local language (please specify.....).
7. That the contents of the said application may be read as part of this affidavit and are not repeated herein for the sake of brevity.
8. That the applicant apprehends repetition of the acts of domestic violence by the Respondents (s) against which relief is sought in the accompanying application.
9. That the Respondent has threatened the Applicant that
10. That the reliefs claimed in the accompanying application are urgent in as much as the applicant would face great financial hardship and would be forced to live under threat of repetition/escalation of acts of domestic violence complained of in the accompanying application by the Respondent (s) if the said reliefs are not granted on an ex parte ad-interim basis.
11. That the facts mentioned herein are true and correct to the best of my knowledge and belief and nothing material has been concealed there from.

DEPONENT

Verification :

Verified at..... on this Day of 20..... that the contents of the above affidavit are correct to the best of my knowledge and belief and no part of it is false and nothing material has been concealed there from.

DEPONENT

Form IV

[see rule 8 (1) (ii)]

Information on rights of aggrieved persons under the Protection of Women from Domestic Violence Act, 2005

1. If you are beaten up, threatened or harassed in your home by a person with whom you reside in the same house, then you are facing domestic violence. The Protection of Women from Domestic Violence Act, 2005, gives you the right to claim protection and assistance against domestic violence.
2. You can receive protection and assistance under the Act, if the person(s) with whom you are/were residing in the same house, commits any of the following acts of violence against you or a child in your care and custody.

1. Physical Violence

For Example

- i. Beating,
- ii. Slapping,
- iii. Hitting,
- iv. Biting,
- v. Kicking,
- vi. Punching,
- vii. Pushing,
- viii. Shoving, or
- ix. Causing bodily pain or injury in any other manner.

2. Sexual Violence

For Example

- i. Forced sexual intercourse;
- ii. Forces you to look at pornography or any other obscene picture or material;
- iii. Any act of sexual nature to abuse, humiliate or degrade you, or which is otherwise violative of your dignity or any other unwelcome conduct of sexual nature;
- iv. Child sexual abuse.

3. Verbal and Emotional Violence

For Example

- i. Insults;
- ii. Name calling;
- iii. Accusations on your character or conduct etc;
- iv. Insult for not having a male child;
- v. Insults for not bringing dowry etc;
- vi. Preventing you or a child in your custody from attending school, college or any other education institution;
- vii. Preventing you from taking up a job;
- viii. Forcing you to leave your job;

- ix. Preventing you or a child in your custody from leaving the house;
- x. Preventing you from meeting any person in the normal course of events;
- xi. Forcing you to get married when you do not want to marry;
- xii. Preventing you from marrying a person of your own choice;
- xiii. Forcing you to marry a particular person of his/their own choice;
- xiv. Threat to commit suicide;
- xv. Any other emotional or verbal abuse.

4. Economic Violence

For Example

- i. Not providing you money for maintaining you or your children;
- ii. Not providing food, clothes, medicines etc. for you or your children;
- iii. Stopping you from carrying on your employment; or
- iv. Disturbing you in carrying on your employment;
- v. Not allowing you to take up an employment; or
- vi. Taking away your income from your salary, wages; etc. or
- vii. Not allowing you to use your salary, wages; etc.
- viii. Forcing you out of the house you live in;
- ix. Stopping you from accessing or using any part of the house;
- x. Not allowing use of clothes, articles or things of general household use;
- xi. Not paying rent if staying in a rented accommodatio etc.

3. If an act of domestic violence is committed against you by a person/s with whom you are/were residing in the same house, you can get all or any of the following orders against the person(s)-

(a) Under Section 18

- i. To stop committing any further acts of domestic violence on you or your children;
- ii. To give you the possession of your *stridhan*, jewellery, clothes, etc;
- iii. Not to operate the joint bank accounts or lockers without permission of the court.

(b) Under Section 19

- i. Not to stop you from residing in the house where you were residing with the person/s;
- ii. Not to disturb or interfere with your peaceful enjoyment of residence;
- iii. Not to dispose off the house in which you are residing;
- iv. If your residence is a rented property then either to ensure payment of rent or secure any other suitable alternative accommodation which offers you the same security and facilities as earlier residence;
- v. Not to give up the rights in the property in which you are residing without the permission of the court;
- vi. Not to take any loan against the house/property in which you are residing or; mortgage it or create any other financial liability involving the property;
- vii. Any or all of the following orders for your safety requiring the person/s to.

(c) General Order

- i. Stop the domestic violence complained/ reported.

(d) Special Orders:

- i. Remove himself/stay away from your place of residence or workplace;
- ii. Stop making any attempts to meet you;
- iii. Stop calling you over phone or making any attempts to communicate with you by letter, e-mail; etc.

- iv. Stop talking to you about marriage or forcing you to meet a particular person of his/their choice for marriage;
- v. Stay away from the school of your child/children, or any other place where you and your children visit;
- vi. Surrender possession of firearms, any other weapon or any other dangerous Substance;
- vii. Not to acquire possession of firearms, any other weapon or any other dangerous substance and not to be in possession of any similar article;
- viii. Not to consume alcohol or drugs with similar effect which led to domestic violence in the past;
- ix. Any other measure required for ensuring your or your children's safety.

(e) An order for interim monetary relief under section 20 and 22 including:

- i. Maintenance for you or your Children;
- ii. Compensation for physical injury including medical expenses;
- iii. Compensation for mental torture and emotional distress;
- iv. Compensation for loss of earning;
- v. Compensation for loss caused by destruction, damage, removal of any property from your possession or control.

- Note :
- I.** Any of the above relief can be granted on an interim basis, as soon as you make a complaint of domestic violence and present your application for any of the reliefs before the court.
 - II.** A complaint of domestic violence made in Form I under the Act is called a "Domestic Incident Report".

4. If you are a victim of domestic violence, you have the following rights:

- i. The assistance of protection officer and service providers to inform you about your rights and the relief which you can get under the Act under section 5.
- ii. The assistance of protection officer, service providers or the officer in charge of the nearest police station to assist you in registering your complaint and filling an application for relief under sections 9 and 10.
- iii. To receive protection for you and your children from acts of domestic violence under section 18.
- iv. You have right to measures and orders protecting you against the particular dangers or insecurities you or your child are facing.
- v. To stay in the house where you suffered domestic violence and to seek restraint on other persons residing in the same house, from interfering with or disturbing peaceful enjoyment of the house and the amenities facilities therein, by you or your children under section 19.
- vi. To regain possession of your *stridhan*, jewellery, clothes, articles of daily use and other house hold goods under section 18.
- vii. To get medical assistance, shelter, counselling and legal aid under sections 6,7, 9 and 14
- viii. To restrain the person committing domestic violence against you from contacting you or communicating with you in any manner under section 18.
- ix. To get compensation for any physical or mental injury or any other monetary loss due to domestic violence under section 22.
- x. To file complaint or applications for relief under the Act directly to the court under section 12, 18, 19, 20, 21, 22 and 23.
- xi. To get the copies of the complaint filed by you, applications made by you, reports of any medical or other examination that you or your child undergo.
- xii. To get copies of any statements recorded by any authority in connection with Domestic Violence.
- xiii. The assistance of the Protection Officer or the Police to rescue you from any danger.

5. The person providing the form should ensure that the details of all the registered service providers are entered in the manner and space provided below. The following is the list of service providers in the area:

Name of Organization	Service Provided	Contact Details
.....
.....
.....

Form V
[see rule 8 (1) (iv)]

SAFETY PLAN

- When a Protection Officer, Police Officer or any other service provider is assisting the woman in providing details in the form, then details in columns C and D are to be filled in by the Protection Officer, Police Officer or any other service provider, as the case may be, in consultation with the complainant and with her consent.
- The aggrieved person in case of approaching the court directly may herself provide details in columns C and D,
- If the aggrieved person leaves columns C and D blank and approaches the court directly, then detail in the said columns are to be provided by the Protection Officer to the court, in consultation with the complainant and with her consent.

Sr. No.	A Violence by the Respondent	B Consequences of violence mentioned in Column A suffered by the Aggrieved Person	C Apprehensions of the Aggrieved person regarding violence mentioned in Column A	D Measures required for Safety	E Orders sought from the Court
1.	Physical Violence by the Respondent	Complainant's perception that she and her children are at risk of repetition of physical violence	a) Repetition b) Escalation c) Fear of Injury d) Any other, specify		
2.	Any sexual act abusing, humiliating or degrading, otherwise violative of your dignity	a) Depression b) At risk of repetition of such an act c) Facing attempts to commit such acts	a) Repetition b) Escalation c) Any other, specify		
3.	Attempts at strangulation	a) Physical injury b) Mental ill health c) Any other, specify	a) Repetition b) Any other, specify		
4.	Beating the children	a) Injury to the children b) Adverse mental effect of the same on the children c) Any other, specify	a) Risk of repetition b) Adverse effect of violent behavior/ environment on the child		
5.	Threats to commit suicide by the Respondent	a) Violent environment in the house b) Threat to safety c) Any other, Specify	a) Actually trying to commit the same b) Repetition c) Any other, specify		
6.	Attempts To commit Suicide by the Respondent	a) Violent environment in the house b) Insecurity, anxiety, depression, mental trauma c) any other, specify	a) Repetition, escalation, aggravation of the same b) Mental trauma, pain c) any other, specify		
7.	Psychological & Emotional abuse of the complainant like insults, ridicule, name calling, insults for not having a male child, false accusations of unchastity etc.	a) Depression b) Mental trauma, pain c) Unsuitable atmosphere for the child/ children d) Any other, specify	a) Repetition, escalation, aggravation of the same b) Mental trauma, pain c) Any other, specify		

Sr. No.	A	B	C	D	E
Sr. No.	Violence by the Respondent	Consequences of violence mentioned in Column A suffered by the Aggrieved Person	Apprehensions of the aggrieved person regarding violence mentioned in Column A	Measures required for Safety	Ordes sought from the Court
8.	Making verbal threats to cause harm to the aggrieved person/her children/ parents/ relatives	a) Living in constant fear b) Mental trauma, pain c) Any other, specify	a) Respondent may carry out the mentioned threats b) Mental trauma, pain c) any other, specify		
9.	Forcing not to attend school/ college/ any other educational institution	a) Depression b) Mental trauma, pain c) Any other, specify	a) Repetition b) Mental trauma, pain c) Any other, specify		
10.	Forcing to get married when do not want to/forcing not to marry a person of choice/ forcing to marry a particular person of Respondents' choice	a) Depression b) Mental trauma, pain c) Fear of being married forcibly d) Any other	a) Repetition b) Mental trauma, pain c) Any other		
11.	Threatening to kidnap the child/ children	a) Living in constant fear b) threat to the child/children's safety c) Any other, specify	a) Children might be kidnapped b) Any other, specify		
12.	Actually causing harm to the aggrieved person/ children/ relatives	a) Living in constant fear of further harm b) Any other, specify	a) Repetition b) Escalation c) Fear of Injury d) Any other, specify		
13.	Substance abuse (drugs/alcohol)	a) Living in constant fear of abusive and violent behavior by the Respondent due to substance abuse b) Deprived of leading a normal life c) Any other, specify	a) Physical violence after consuming the same b) Abusive behavior after consuming the same c) Non payment of maintenance / household expenses d) Any other, specify		
14.	History of criminal behavior	a) constant fear of violence b) Fear of revenge by the Respondent	a) Respondent has a tendency to violate law and is likely to flout orders passed by the court against him b) Respondent might cause harm to the aggrieved person/ children for filing any further proceedings c) Any other, specify		

15.	Not provided money towards maintenance, food, clothes, medicines, etc.	a) Driven towards vagrancy and destitution b) Any other, specify	a) Have to face great hardship to fulfill the needs and requirements of her child/ children and herself b) Any other, specify		
16.	Stopped, disturbed from carrying on employment or not allowed to take up the same	a) Not able to fulfill the basic needs for yourself and your children b) Any other, specify	a) Have to face great hardship to fulfill the needs and requirements of her child/children and herself b) Any other, specify		
17.	Forced out of the house, stopped form accessing or using any part of the house or prevented form leaving the same	a) Having no place to stay for yourself and your children b) Being restricted to a particular area of the house	a) Safety of her child/ children and herself b) Have to face great hardship in providing, shelter for her and her children c) Any other, specify		
18.	Not allowed use of clothes, articles or things of general household use	a) Losing possession of the same b) Not having resources to replace the same	a) The same may be disposed off by the Respondent b) Any other		
19.	Non payment of rent in case of rented accommodation	a) Being asked to leave the same by the owner on such non payment b) No alternate accommodation to go to c) No income to afford a rented accommodation	a) Losing shelter b) Facing great hardship c) Any other, specify		
20.	Sold, pawned <i>stridhan</i> or any other valuables without informing or without consent	a) Loss of valuables or property b) Any other, specify	The same may be disposed off by the Respondent Any other, specify		
21.	Dispossessed of <i>stridhan</i>	a) Deprived of the property in her possession b) Any other, specify	a) The same may be disposed off by the Respondent b) Fear of never receiving the same again c) Any other, specify		
22.	Breach of civil/ criminal court order, specify order	Please specify	Please specify		

Signature
Aggrieved Person

Signature
Service Provider/Protection
Officer/Police Officer

Form VI

[see rule 11 (1)]

Form for registration as service providers under section 10 (1) of the Protection of Women from Domestic violence Act, 2005

1.	Name of the Applicant	
2.	Address along with phone number, e-mail address, if any	
3.	Service being rendered	<input type="checkbox"/> Shelter <input type="checkbox"/> Psychiatric Counselling <input type="checkbox"/> Family Counselling <input type="checkbox"/> Vocational Training Centre <input type="checkbox"/> Medical Assistance <input type="checkbox"/> Awareness Programme <input type="checkbox"/> Counselling for a group of people who are victims of domestic violence and family dispute <input type="checkbox"/> Any other, specify
4.	Number of persons employed for providing such services:	
5.	Whether providing the required services in your institution requires certain statutory minimum professional qualification? If yes, please specify and give details	
6.	Whether list of names of the persons and the capacity in which they are working and their professional qualification is attached?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.	Period for which the services are being rendered	<input type="checkbox"/> 3 years <input type="checkbox"/> 4 years <input type="checkbox"/> 5 years <input type="checkbox"/> 6 years <input type="checkbox"/> more than 6 years
8.	Whether registered under any law/ regulation	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If yes, give the registration Number	
9.	Whether requirements prescribed by any regulatory body or law fulfilled?	
	If yes, the name and address of the regulatory body:	
Note : In case of a shelter home, details under column 10 to 18 are to be entered by registering authority after inspection of the shelter home.		
10.	Whether there is adequate space in the shelter home	<input type="checkbox"/> Yes <input type="checkbox"/> No
11.	Measured area of the entire premise	
12.	Number of rooms	
13.	Area of the rooms	
14.	Details of security arrangements available	
15.	Whether a record available for maintaining a functional telephone connection for the use of inmates for the last 3 years	
16.	Distance of the nearest dispensary/clinic/medical facility	
17.	Whether any arrangement for regular visits by a medical professional has been made?	<input type="checkbox"/> Yes <input type="checkbox"/> No

If yes, name of the Medical Professional

Address

Contact number

Qualification

Specialization

18. Any other facilities available, specify

Note : In case of a counselling centre, details under column 19 to 25 are to be entered after inspection by registering authority

19. Number of Counsellors in the centre

20.	Minimum qualification of the Counsellors, specify	
	<input type="checkbox"/> Under graduate <input type="checkbox"/> Diploma holder <input type="checkbox"/> Any other, specify	<input type="checkbox"/> Graduate <input type="checkbox"/> Professional degree <input type="checkbox"/> Post graduate
21.	Experience of the Counsellors	
	<input type="checkbox"/> Less than a year <input type="checkbox"/> 2 years	<input type="checkbox"/> 1 year <input type="checkbox"/> 3 years <input type="checkbox"/> More than 3 years

22. Professional qualification / experience of Counsellors

- Professional degree
- Experience in family counselling as
 - a. (designation) in the (Name of the organization)
- Experience in psychiatric counselling
 - a. (designation) in the (Name of the organization)
- Any other relevant experience, please specify

23. Whether a list of names of counsellors along with their qualification has been annexed

Yes No

24. (a) Type of counselling provided

- Supportive one-to-one counselling
- Cognitive behavioral therapy (CBT) [Mental process that people use to remember, reason, understand, solve problems and judge things]
- Providing counselling to a group of people suffering
- Family counselling

(b) Facilities provided

- Offering personal professional and confidential counselling sessions.
- A safe environment to discuss problems and express emotions.
- Information on counselling services, support groups and mental health care resources.
- One-to-one counselling and group work.
- Therapy, ongoing counselling and health related support.
- Any other, please specify.

.....

(c) Any other service

1. Services being provided

.....

2. Personnel appointed

.....

3. Statutory minimum qualifications required for providing such service

.....

4. Whether a list of names of Personnel engaged for providing service along with their professional qualification is annexed

- Yes No

5. Any other details which the service provider desirous of registration may provide

.....if necessary continue on a separate sheet

Place :
Date :

Signature of authorized official
Designation
(Seal)

Form VII
[see rule 11 (1)]

Notice for appearance under section 13 (1) of the Protection of Women from Domestic violence Act, 2005

IN THE COURT OF

P/S:

In the Matter of :

Ms. Complainant

VERSUS

Mr. Respondent

To,
Mr.

S/o:

R/o:

Whereas the petitioner has filed an application (s) under section of the Protection of Women from Domestic violence Act, 2005 (43 of 2005);

You are hereby directed to appear before this court on the day of 20 at o'clock in the noon personally or through a duly authorized counsel of this court to show cause why the relief(s) claimed by the Applicant against you should not be granted, failing which the court shall ex parte against you.

Given under my hand and the seal of the court of on the day of 20

Seal of the Court

Signature

