

Legal Literacy & Legal Awareness Programme (Adopted Baka Village, North Guwahati), 3rd June, 2023

1. Dr. Diptimoni Boruah	Access to Justice and Free Legal Aid Services
2. Gauri Goswami	Domestic Violence
3. Pranav Gandhi	Criminal Justice System in India
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Gauri Goswami

Domestic Violence means harming or injuring a woman in a domestic relationship. It includes physical, sexual, verbal, emotional, and economic abuse within its ambit. The abuse under the Domestic Violence Act includes not only actual abuse but also the threat of abuse. Any harassment resulting from unlawful dowry demands to the woman or her relatives is also covered by the definition under the Domestic Violence Act. The Domestic Violence Act primarily protects wives or female live-in partners from domestic violence at the hands of the husband or male live-in partner including his relatives. Section 2(a) of the DOMESTIC violence Act(1) defines “aggrieved person” as any woman who is, or has been, in a domestic relationship with the perpetrator and who alleges to have been subjected to any act of domestic violence. The Domestic Violence Act not only covers those women who are or have been in a relationship with the abuser but it also covers those women who have lived together in a shared household and are related by consanguinity, marriage or through a relationship in the nature of marriage or adoption including mothers, sisters or widows.

Types of Domestic Violence against women

The types of domestic violence against women range from physical, sexual, verbal and emotional abuse to economic abuse.

- **Physical abuse:** Physical abuse is the most prominently visible form of domestic violence against women. It has been defined in the Domestic Violence Act to include any act that causes bodily pain or danger to life, limb or health or development of the victim. Assault, criminal force, and criminal intimidation are forms of physical abuse.
- **Sexual abuse:** Sexual abuse against women is in the nature of sexual/reproductive coercion. Generally, marital rape should come within the ambit of sexual abuse. However, marital rape is not outlawed unless the wife is below 15 years of age. According to the Domestic Violence Act, sexual abuse is any abuse of a sexual nature that ‘abuses, humiliates, degrades or otherwise violates the dignity of a woman.’
- **Verbal and emotional abuse:** Verbal abuse includes remarks/threats made by the domestic relations during domestic violence against women. Verbal abuse further leads to emotional abuse and is an incredibly common form of domestic violence from the human rights perspective. The combination of verbal and emotional abuse leads to psychological abuse and erodes a woman’s sense of self-worth.
- **Economic abuse:** Introducing economic abuse in the categories of abuses under the Domestic Violence Act has been a remarkable step by the government. Economic abuse is generally characterised as a method of depriving or threatening to deprive the victim and her children from the use of financial resources/assets.

Causes of Domestic Violence in India

There is no uniform or single reason that leads to domestic violence. It is a combination of various sociological/behavioral, historical, religious, and cultural factors that lead to perpetration of domestic violence against women.

- **Sociological/Behavioral Factors:** The sociological, behavioral and cultural factors include factors like anger issues/aggressive attitude, poverty/economic hardship, difference in status, controlling/dominating nature, drug addiction, upbringing and psychological instability (bipolarism, depression, stress, etc.) among others. Neglect of conjugal

responsibilities due to extra-marital affairs or lack of trust also contributes to domestic violence.

- **Historical Factors:** Historical factors can be traced back to the inherent evil of patriarchy and superiority complex that has prevailed for centuries among men.
- **Religious Factors:** A subtle form of domination on women, if not direct and glaring, reflects in the religious sanctifications. This also contributes to perpetration of domestic violence against women.
- **Cultural Factors:** Cultural Factors leading to domestic violence include the desire for a male child. This obsession resulting from the lack of awareness and inherent male superiority leads to perpetration of domestic violence against women. This is not an exhaustive list of factors and the motivations or triggers behind domestic violence may vary.
- **Dowry:** Dowry is a form of socio-cultural factor. But, it becomes important to separately mention it because of the rampant domestic violence cases resulting from illegal demand of dowry. This was realised by the Parliament also because dowry-related domestic violence has been made a separate head in the scope of abuse resulting in domestic violence under the Domestic Violence Act.

Who should I report a Domestic Violence case to?

- Under the Domestic Violence Act, any woman who is aggrieved or anyone who has been a witness to the act can approach the nearest Police Station, Protection Officer and a Service Provider. The court can appoint a protection officer to enforce its orders. The protection officer is a special post created to serve as a liaison between victims of domestic violence and the system. One can also file a complaint directly with the magistrate for obtaining orders of reliefs under the Domestic Violence Act. Anyone who provides information about the offence committed to the concerned authorities is absolved of any civil/criminal liability
- Post the complaint, the court is required to instate a hearing within three days of the complaint being filed
- If the court finds that the complaint is genuine, the court passes a protection order

- A complaint can also be filed under Section 498-A of the India Penal Code which recognizes the offence of matrimonial cruelty and prescribes criminal penalty

Anyone who is a victim of domestic violence can just ask for legal advice from us online. We guarantee you the best legal solutions to all your queries.

What sets out Domestic Violence from other forms of violence?

Formation of a pattern of abuse is the characteristic feature of domestic violence. There remains a constant need and a constant effort to maintain power and control over the other, leading to a systematic pattern of power and control perpetrated by one intimate partner against another. In contrast, situational violence occurs when both the partners confront conflict with violence against each other and is specific to a particular situation. Situational violence occurs less frequently than domestic violence. Unlike situational violence, domestic violence happens frequently and has a tendency to result in long-term physical, emotional and psychological harm or even worse, death.

Does verbal abuse amount to Domestic Violence?

When people hear about domestic violence, they usually tend to limit it to physical violence—especially in the sense of what remains visible. The idea of verbal abuse doesn't often come up. This leads to the normalization of the impact of verbal abuse. However, domestic violence usually starts with a verbal form of abuse before becoming a full-blown pattern of violence. Section 3 of the Domestic Violence Act includes verbal violence as a form of domestic violence. This makes verbal abuse a legally recognizable mode of perpetrating domestic violence against women. Verbal Abuse affects one's sense of self-worth and spirit leading to self-doubt. Any attack on self-worth further results in psychological trauma and depression.

Can a man lodge a case for Domestic Violence?

The Domestic Violence Act, 2005 makes no provision for men to lodge cases of domestic violence against women owing largely to the fact that The Domestic Violence Act is primarily welfare legislation. Although, an aggrieved man can **file for Divorce**/Judicial Separation on the ground of Cruelty, i.e., Section 13(1)(ia) of the Hindu Marriage Act(2).

Indian domestic violence laws are silent on the protection required to men from domestic violence. However, the Supreme Court of India has recognized the need for protection to men from acts of domestic violence in *Narayan Ganesh Dastane V. Sucheta Narayan Dastane* and more recently in *Hiral P Harsora vs Kusum Narottamdas Harsora*. In the former case, the Apex Court for the first time recognized cruelty against men. Cruelty and violence against men should be recognized by law in clear words for gender-neutral society. Additionally, with the decriminalization of homosexuality in India, it becomes pertinent that the domestic violence advocacy of men's right for protection from domestic violence gains traction.

What acts constitute violence against men?

Violence against men is not considered serious because of its different manifestation. In most cases of violence against men, more mental, verbal, and emotional violence occurs as compared to physical violence. The impact of violence against men is less apparent and is less likely to come to the attention of others. In some cases, humiliating a man emotionally can be more devastating than physical abuse. Unkind and cruel words hurt in different ways and linger in different ways. In most cases, men are more deeply affected by emotional abuse than physical abuse.

Consequences of Domestic Violence against women

Domestic Violence against women can cause long term and short term physical and mental harm. The domestic violence against women also affects the children in the family causing long-lasting impressions on a child's vulnerable memory.

- **Short Term Consequences:** The short-term physical effects of violence can include minor injuries or serious conditions. They can include bruises, cuts, broken bones, or injuries to organs and other parts inside the body. Some physical injuries are difficult or impossible to see without scans, x-rays, or other tests done by a doctor or nurse. The long-emotional and verbal abuse might affect the woman's mood and children's mood in their day to day activities & might also reduce the efficiency
- **Long-term Consequences:** Violence against women, including sexual or physical violence, is linked to many long-term health problems. Long-term mental health effects

of violence against women can include Post Traumatic Stress Disorder, Depression or Anxiety. This can further lead to the problem of substance abuse and drug addiction. Sexual violence can result in irreparable injury to sexual violence and a loss of self-worth.

Monetary reliefs.—(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 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 or 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 that any visit of the respondent may be harmful to the interests of the child or 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.

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 a 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. 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.

26. Relief in other suits and legal proceedings.—(1) Any relief available under sections 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 the 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.—(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.

29. 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.

2. Criminal Justice System
3. Consumer Protection Act

Pranav Gandhi

The Rights of Arrested Persons: Safeguarding Justice and Liberty:

Introduction : The rights of arrested persons play a crucial role in safeguarding justice and preserving individual liberty within any legal system. Recognizing the vulnerability of individuals in custody, these rights ensure fairness, due process, and protection from abuse. By examining the principles and importance of the rights of arrested persons, we can appreciate their significance in upholding the rule of law and maintaining a just society.

Body:

1. Presumption of Innocence (200 words): One of the fundamental principles underlying the rights of arrested persons is the presumption of innocence. It is a cornerstone of the legal system, which asserts that an individual is considered innocent until proven guilty. This principle safeguards the

rights and dignity of the accused, ensuring that they are not subjected to unnecessary prejudice or discrimination before their guilt is established beyond a reasonable doubt. The presumption of innocence ensures that the burden of proof lies with the prosecution, discouraging arbitrary arrests and encouraging fair investigations.

2. **Right to Legal Counsel** : The right to legal counsel is another crucial aspect of protecting the rights of arrested persons. It guarantees that every individual has the right to seek advice from an attorney and to be represented by legal counsel during all stages of the legal process. Legal counsel helps ensure that the accused understands their rights, assists in building a robust defense, and guards against coerced confessions or wrongful convictions. This right serves as a vital safeguard against any potential abuses of power by law enforcement authorities.
3. **Protection against Unreasonable Searches and Seizures** : Arrested persons also have the right to be protected against unreasonable searches and seizures. This right prevents law enforcement from conducting arbitrary searches of a person's property, person, or belongings without a valid warrant or probable cause. It serves as a crucial check on the power of the state, ensuring that individuals' privacy and personal effects are protected from unjust intrusion. Upholding this right promotes trust in the justice system and prevents the abuse of authority.
4. **Right to Due Process** : The right to due process is a fundamental principle that guarantees fairness and procedural safeguards for arrested persons. It includes the right to a fair and public trial, the right to be informed of the charges, the right to present evidence and witnesses, and the right to confront one's accusers. Due process ensures that individuals are given a meaningful opportunity to be heard, to challenge the evidence against them, and to present a defense. It protects against arbitrary detention and promotes the integrity and legitimacy of the criminal justice system.
5. **Protection against Cruel and Unusual Punishment** : Arrested persons are entitled to protection against cruel and unusual punishment. This right prohibits the use of excessive force, torture, or any form of degrading treatment during arrest, detention, or imprisonment. It underscores the importance of treating individuals with dignity and respect, regardless of the charges against them. Upholding this right is crucial to maintaining a humane and just legal system.

The rights of arrested persons form the bedrock of a fair and just legal system. They ensure that the accused are treated fairly, their dignity is respected, and they have the opportunity to defend

themselves against charges. By upholding these rights, societies can maintain the delicate balance between the power of the state and the rights of individuals. The rights of arrested persons serve as a testament to a society's commitment to justice, liberty, and the protection of human rights.

Rights of women

I. Equal Treatment:

One of the fundamental principles of justice is the equal treatment of all individuals before the law. During arrest, women should be treated with fairness and impartiality, without discrimination based on gender. They should be entitled to the same procedural rights as men, including the right to remain silent, the right to legal representation, and the right to be informed of the reasons for their arrest.

II. Right to Privacy:

The right to privacy is a fundamental human right, and it is especially critical to protect the privacy of women during arrest. Female detainees should have the right to be searched by a female officer to ensure their modesty and dignity. Moreover, during strip searches, it is essential that these searches are conducted in a manner that respects the privacy and sensitivity of women, with utmost consideration for their physical and psychological well-being.

III. Protection from Gender-Based Violence:

Women are more vulnerable to gender-based violence, including sexual assault and harassment. Therefore, it is crucial to safeguard their rights and protect them from such abuses during arrest. Female detainees should be housed in separate facilities from male detainees, with appropriate security measures in place to prevent any form of violence or abuse. Law enforcement officers should receive comprehensive training on handling cases involving female detainees to ensure sensitivity, empathy, and protection of their rights.

IV. Access to Legal Representation:

Access to legal representation is a vital aspect of the criminal justice system, ensuring a fair trial for all individuals. Women, especially those from marginalized communities, may face

additional barriers in accessing legal assistance. It is essential to guarantee that women have equal opportunities to seek legal representation and be informed about their rights. Adequate legal aid services should be made available to women during arrest to ensure that they can navigate the legal process effectively.

V. Health and Well-being:

Women's health and well-being must be prioritized during arrest. Female detainees should have access to necessary medical care, including gynecological and reproductive health services, to address their specific needs. Pregnant women, nursing mothers, and women with pre-existing medical conditions should receive appropriate care and accommodations to ensure their well-being. Mental health support should also be provided, recognizing the potential psychological impact of arrest and detention on women.

VI. Support for Vulnerable Women:

Certain groups of women, such as survivors of domestic violence, trafficking, or sexual exploitation, may require special support and protection during arrest. Law enforcement agencies should be trained to recognize signs of vulnerability and trauma in women, providing them with appropriate assistance and referrals to support services. Collaboration between criminal justice agencies and social service providers is essential to ensure comprehensive support for these vulnerable women.

VII. Rehabilitation and Reintegration:

The objective of the criminal justice system should not solely be punishment but also rehabilitation and reintegration into society. Women should have access to education, vocational training, and rehabilitation programs while in custody. These initiatives can equip them with the necessary skills and support for their successful reintegration into society, reducing recidivism rates and promoting gender equality.

Saranga Kaushik Phookan

I would like to talk to you about the Consumer Protection Act 2019 - a landmark legislation that aims to safeguard the interests of consumers across India.

The Consumer Protection Act 2019 was passed by the Indian Parliament with the objective of enhancing consumer protection and ensuring that consumers have access to fair and efficient dispute resolution mechanisms. This act replaces the old Consumer Protection Act, 1986 and has many new provisions that strengthen the rights of consumers.

The act defines a consumer as any person who buys goods or avails of services for a consideration. It lays down the rights of consumers which include:

1. Right to be protected against marketing of goods and services that are hazardous to life and property.
2. Right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may be, so as to protect the consumer against unfair trade practices.
3. Right to choose from a variety of goods and services at competitive prices.
4. Right to be heard and to seek redressal against unfair trade practices or restrictive trade practices.
5. Right to seek compensation for any harm caused by a defective product or deficient service.
6. Right to consumer education, so as to make them aware of their rights and responsibilities as consumers.

The Consumer Protection Act 2019 also establishes a Central Consumer Protection Authority (CCPA) to promote, protect, and enforce the rights of consumers. The CCPA has the power to investigate, recall, and impose penalties on businesses that violate consumer rights.

In addition, the act provides for the establishment of Consumer Dispute Redressal Commissions at the district, state, and national levels. These commissions have the power to hear and resolve consumer complaints and disputes in a time-bound and cost-effective manner.

In conclusion, the Consumer Protection Act 2019 is a crucial piece of legislation that empowers consumers to make informed choices and protects them from fraudulent and unfair trade

practices. As consumers, it is our right to be aware of these rights and use them to our advantage. I urge all of you to exercise your rights as consumers and demand fair treatment from businesses.

Picture Gallery

Location: Adopted Baka Village, North Guwahati, District- Kamrup



Orientation of the Legal Awareness Programme at Adopted Baka Village, North Guwahati

REPORT OF PRO BONO LEGAL SERVICES CLUB (MINISTRY OF LAW AND JUSTICE)



People gathering for the Legal Awareness Programme at Adopted Baka Village, North Guwahati



Speech of Pranav Gandhi on Criminal Justice System



Speech of Gauri Goswami on Domestic Violence



Speech of Saranga Koushik Phookan on Consumer Protection Act



Ms. Diptimoni Boruah on legal awareness to a person of Baka Village, North Guwahati



Concluding Session and a group photograph with the Baka Village People, North Guwahati

LEGAL AWARENESS

The purpose of the visit is to achieve the following objectives:

- To provide speedy justice.
- To generate awareness amongst the public regarding the conciliatory mode of dispute settlement and legal sanctity.
- To gear up the process of organising Legal awareness.
- To provide a supplementary to the mainstream legal system.
- To encourage the public to settle their cases outside the formal set-up.
- To empower the public to participate in the justice delivery system.

Awareness:

- Legal literacy and legal aid programmes should be provided for the poor and the socially and economically marginalised societies.
- Awareness camps must be conducted at the grass-root levels and mass media can be utilised for this purpose.

Bringing lawyers on board:

- The quality of legal aid provided by lawyers must be improved.
- The remunerations offered from legal service authorities to lawyers should be increased so that they are encouraged to provide effective legal assistance to the needy.