

Domestic Violence Against  
Women (Prevention) Bill,  
1999

Second Draft  
By

**Lawyers Collective**  
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## Introduction

In India, violence against women has come within the focus of the law only in the last two decades. The amendments to the criminal law to include offences such as cruelty by the husband or his relatives, and dowry linked harassment (section 498A of the Indian Penal Code), came about around the same time as amendments to laws regarding other forms of violence (section 304B of the Indian Penal code). The experience of violence, however, remains unchanged. This is more so with respect to Domestic Violence, which seems to become more and more visible each day. Criminal courts are not the only forum for effectively addressing of the problem of Domestic Violence. The reluctance of women to approach the mechanisms of the criminal justice system and the inadequacy of the criminal remedy itself are important realities of our social context.

At the same time, the remedies that women have recourse to within civil law are ineffective in as much as they do not cater to the immediate needs of women in violent situations.

The need for a new law that is sensitive to the experiences of women facing violence at home, the reasons and nature of the violence, the immediate requirements and the probable effects of the various strategies to eradicate Domestic Violence cannot be overemphasised.

There is no doubt that various forms of familial violence other than those addressed by this bill exist. We have confined this bill to violence between spouses, children, parents, and cohabitees. It would neither be possible nor advisable to address all such forms of violence under one law as each such situation might require very different remedies. Thus the bill focuses on what we consider the most rampant and most urgent of circumstances, that is, the violence against women in matrimonial circumstances. At the same time, we have included cohabitees as we have seen that domestic violence is also prevalent in several intimate and stable relationships in the nature of marriage, where the union may not strictly be recognised as a marriage, for want of proper ceremonies. Moreover it is fairly common to come across situations in which the man had misled the woman about his marital status and induced the woman to marry him without disclosing the fact that he has a subsisting marriage. Such women had been denied any rights by courts on the ground that they are not lawfully married. Such women too are in need of protection by the law.





The definition of Domestic Violence has been made as exhaustive as is possible, at the same time making space for the recognition of, and protection from forms of violence that we have not been in a position to envisage. Physical, psychological, emotional, verbal, sexual and economic abuse, violence linked with dowry demands, harassment, intimidation etc. have all been addressed. The bill further addresses specific ways in which violence has been systematically perpetrated in the Indian context but which do not squarely fit into any of the broader concepts.

The mandate of the present bill is addressing the immediate needs of women in violent situations rather than providing long-term remedies. Long-term remedies, we believe, must properly be addressed in matrimonial laws and laws relating to property rights. These laws too are in urgent need of change so as to facilitate property settlements.

The primary form of relief in the bill in the "protection orders" that may be passed against the perpetrator of violence so as to ensure that the violence is stopped and that there may be no acts by the perpetrator that would harm the interests of the woman in the interim. To make protection orders effective, we have listed out various terms that may be included therein while ensuring that the courts have the power to include other terms that may be necessary for the prevention of violence.

Care has been taken to ensure that petitions for such protection orders do not require complicated legal procedures to be followed and that the petition may be made by others where the woman is not in a position to approach the court herself.

At the time of passing protection orders, courts are required to pass suspended warrants of arrest that may be executed on the breach of such protection orders. Breach of protection orders would invoke the criminal justice system as it has been made an offence by the bill. As such, while preventing the rigours of the criminal justice system from obstructing the effectiveness of the remedies, the criminal law shall act as a deterrent at the stage of the protection order itself.

Care has also been taken to ensure that the various factors that deter a woman from taking steps to stop the violence are addressed. As such, custody of children, returning of property including stridhan and monetary support to the woman when she approaches the law for protection have been provided for in the bill.

Another important aspect of the bill is the attempt to create a co-ordinated response to Domestic Violence. The bill creates the concepts of "protection officers" and "accredited service providers" for this purpose. Accredited service providers refer to the various governmental and non-governmental agencies and organisations that provide services and support to women in such circumstances. These include organisations providing medical, legal and financial assistance, short stay homes, counselling etc. Protection officers, appointed or designated by the state government for each district or ward, among other functions, have the function of co-ordinating the functioning of these organisations. The protection officers shall also have the duty to ensure that women have access to and information about the service providers, and to assistance in the implementation of protection orders. These functions include, specifically, providing assistance in collection of belongings and transportation to a safe place away from the matrimonial home.

Care has been taken to ensure that legal technicalities, as far as can be envisaged may be prevented from making the provisions and safeguards in the bill ineffective.

This bill attempts to move away from the areas of criminal and civil laws and is the creation of a system in itself to deal with the problem of Domestic Violence. It provides for relaxation of procedural requirements while ensuring that the law is not unfair in the light of the constitutional mandates with respect to criminal law. It attempts to ensure that the issues of civil liberties that have often hijacked the debates and progress of the women's movement are not invoked in any manner detrimental to the efficacy of the law, and yet safeguards the interests of the person affected by the order.

The hope of the Women's Rights Initiative is that this bill may be debated at a large scale to evolve a national consensus on the same. The debate would inform the final version of the Bill that will evolve at a subsequent stage.

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## Domestic Violence Against Women (Prevention) Bill, 1999

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## Domestic Violence (Prevention) Bill A Lawyers Collective Draft

## DOMESTIC VIOLENCE AGAINST WOMEN (PREVENTION) BILL, 1999

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

### PREAMBLE

*WHEREAS domestic violence is a heinous crime against society that has operated as a severe form of oppression of women and which has been increasing with alarming proportions;*

*AND WHEREAS domestic violence claims victims from all social, economic, cultural, ethnic and religious backgrounds and that other than devastating the person aggrieved, domestic violence affects even children and elders who are caught in the environment of a abusive domestic relationship;*

*AND WHEREAS the majority of persons aggrieved by domestic violence are women, including pregnant women, and that they are assaulted in their own home, which is often the most violent place for women;*

*AND WHEREAS many victims of domestic violence are unable to leave abusive situations due to psychological and socio-economic factors and continue to face domestic violence putting their life and health in jeopardy;*

*AND WHEREAS domestic violence is one of the greatest obstacles to gender equality and securing for women their fundamental right to equal protection of the laws and the right to life and liberty;*

*AND WHEREAS the state has an obligation under the Constitution of India and international commitments towards ending violence against women and children,*

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





## Chapter I PRELIMINARY

### 1) Short title and extent:

- a) This Act may be called the Domestic Violence Against Women (Prevention) Act, 1999.
- b) It extends to the whole of India except the State of Jammu and Kashmir.

### 2) Definition-In this Act, unless the context indicates otherwise-

- a) "*accredited service providers*" means governmental, non-governmental, voluntary and charitable associations or institutions providing medical, counselling, legal and financial or other assistance to victims of domestic violence and who are registered with the State Government under the provisions of this Act;
- b) "*court*" includes any court established under the provisions of the Family Courts Act 1984, the principal civil court of original jurisdiction and any civil court or lok adalat which the State Government may, by notification in the Official Gazette, specify as a court competent to deal with all or any of the matters specified hereunder;
- c) "*domestic relationship*" means a relationship between the person aggrieved and respondent in any of the following ways:
  - i) they are or were married to each other, including marriage according to any law, custom or religion;
  - ii) they live or have at some stage lived together in a relationship in the nature of marriage, whether or not such relationship is recognised as marriage under the law;
  - iii) they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family; or,
  - iv) they are or were in an engagement, or customary relationship which includes but is not limited to an , intimate relationship;
- d) "*domestic violence*" means any action or behaviour that harms or injures or has the potential of harming or injuring the health, safety

or well-being of the person aggrieved or any child in the care of the person aggrieved or in her environment and includes but is not limited to-

- i) physical abuse or a threat of physical abuse;
- ii) sexual abuse or a threat of sexual abuse;
- iii) emotional, verbal and psychological abuse;
- iv) economic abuse;
- v) intimidation;
- vi) harassment;
- vii) damage to or destruction of property;
- viii) entry into the residence of the person aggrieved where the parties do not share the same residence, or the property of the person aggrieved without her consent;
- ix) taking or attempting to take or appropriate property belonging to the person aggrieved, or jointly owned by the respondent and the person aggrieved, or jointly owned by the respondent and the person aggrieved with other people;
- x) demands for dowry, oral or written, in any manner, from the person aggrieved or any of her relatives;
- xi) any conduct which is of such a nature as to cause in the mind of the person aggrieved a reasonable apprehension that it will be harmful or injurious for her to live with the respondent;
- xii) any conduct which is of such a nature as to cause or contribute towards the causing of mental disorder of the person aggrieved,
- xiii) conduct of such a nature that the person aggrieved may not be reasonably expected to live with the respondent;
- xiv) conduct which would constitute an offence specified in Schedule 1 to this Act and which affects the person aggrieved directly or indirectly;

- e) "*economic abuse*" means any act, omission or conduct that has resulted in or has the effect of depriving, reducing or hindering access of the person aggrieved to economic resources and includes but is not limited to-
- i) deprivation or threatened deprivation of any or all economic or financial resources to which the person aggrieved is entitled under law whether payable under an order of court or otherwise or which the person aggrieved requires out of necessity, including but not limited to household necessities for the person aggrieved and her children, if any, stridhan, mortgage bond repayments, payment of license fee or rental related to the shared household;
  - ii) disposal or threatened disposal of household effects or other property in which the person aggrieved has an interest or is entitled to use by virtue of the domestic relationship; or,
  - iii) restricting the profitable employment of the person aggrieved or forcibly compelling the person aggrieved to give up any profession, employment, trade or calling;
- f) "*emergency monetary relief*" means interim compensation which a court may order under Section 12 of this Act, at any stage during the hearing of a petition seeking a protection order, to meet the expenses incurred and losses suffered by the person aggrieved and any child as a result of the domestic violence and includes but is not limited to-
- i) loss of earnings;
  - ii) medical expenses;
  - iii) moving and accommodation expenses;
  - iv) maintenance for the person aggrieved as well as her children, if any;
  - v) loss caused due to the destruction, damage or removal of any property from the control of the person aggrieved;
- g) "*emotional, verbal and psychological abuse*" means degrading or humiliating conduct that adversely affects or is likely to adversely

- affect the psychological or mental state of the person aggrieved and includes, but is not limited to-
- i) insults, ridicule or name calling, including insults, ridicule or name calling specially with regard to not having a child or a male child, or for having got insufficient dowry;
  - ii) compelling a woman to undergo a sex determination test and /or followed by selective abortion of a female foetus;
  - iii) repeated and false allegations of adultery or infidelity;
  - iv) repeated threats to cause emotional, psychological or physical pain to the person aggrieved or to any person to whom the person aggrieved is emotionally attached;
  - v) threat of suicide or
  - vi) repeated exhibition of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of the privacy, liberty, integrity or security of the person aggrieved.
- h) "*harassment*" means conduct that causes alarm, distress and fear of harm to another person and includes but is not limited to-
- i) waiting, or loitering outside of or near the building or place where the person aggrieved resides, works, carries on business, studies or happens to be;
  - ii) repeatedly making telephone calls or inducing another person to make telephone calls to the person aggrieved, whether or not conversation ensues;
  - iii) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail, photographs or other objects to the house or work of the person aggrieved;
- i) "*intimidation*" means doing any act which has the effect of causing any person aggrieved fear of harm or injury to herself or to her children, if any,
- j) "*person aggrieved*" means any woman who is or has been in a domestic relationship with the respondent and who alleges to have been subjected to acts of domestic violence by the respondent;



- k) *"petitioner"* means any person who makes a petition under Section 7 of this Act;
- l) *"physical abuse"* means the use of physical force against a person that harms or restricts the person and includes but is not restricted to acts of assault, battery, coercion, wrongful restraint and/or wrongful confinement;
- m) *"prescribed"* means prescribed by or under this Act or rules made hereunder;
- n) *"protection officer"* means an officer appointed by the State Government in relation to or for the purposes of this Act;
- o) *"protection order"* means an order granted in terms of Sections 10 or 15;
- p) *"respondent"* means any person who is or has been in a domestic relationship with the person aggrieved and against whom the person aggrieved has sought or has obtained a protection order;
- q) *"sexual abuse"* means any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the person aggrieved and includes but is not limited to sexual intercourse against the will, or without the consent of the person aggrieved and refusal to co-operate in contraception when the person aggrieved may reasonably require,  
  
provided that where the person aggrieved is below the age of sixteen, any sexual intercourse, whether or not against her will or without or without her consent shall amount to sexual abuse;
- r) *"shared household"* means a household where the person aggrieved and the respondent live or have, at any stage, lived together while in a domestic relationship and includes property owned jointly or by either the person aggrieved or the respondent or property, including tenements, in respect of which either the person aggrieved or the respondent or both jointly have any right, title, interest or equity and includes property which may belong to the relations of the person aggrieved or the respondent or the joint family of which the respondent is a member;
- s) *"warrant"* means a warrant contemplated in Section 16 of this Act.

## Chapter II Rights of an aggrieved person

- 3) **Right to reside in a shared household, the right against violence and the right to obtain protection orders-**
  - a) Notwithstanding any other law in force, every person aggrieved shall have an interest in the shared household and shall have a right to reside therein.
  - b) Notwithstanding any other law in force, every person aggrieved has a right to obtain protection against domestic violence under this Act in the form of protection orders and emergency monetary relief.
- 4) **Duty to inform person aggrieved of rights-** A police officer who is present at the scene of an incident of domestic violence or when the incident of domestic violence is reported to him, shall-
  - a) inform the person aggrieved of her right to apply for protection orders under the provisions of this Act,
  - b) inform the person aggrieved of the services of accredited service providers; and
  - c) inform the person aggrieved of her right to free legal services under the Legal Services Authorities Act, 1987.



### Chapter III Protection Orders

- 5) **Petition for interim protection order**- Any person aggrieved may apply to the court for an interim protection order in a form prescribed.
- 6) **Particulars of the petition**—The petition must contain the following particulars -
  - a) the facts on which the petition is based;
  - b) particulars of the person aggrieved and the respondent;
  - c) the nature of relief sought; and
  - d) the name of the police station at which the person aggrieved is likely to report any breach of the protection order.
- 7) **Petition by next friend**-
  - a) Notwithstanding the provisions of any other law, the petition may be brought on behalf of the person aggrieved by any other person, provided that the petition must be brought with the written consent of the person aggrieved.
  - b) Provided further that such written consent would not be necessary in circumstances where the petitioner is an accredited service provider or where the person aggrieved is-
    - i) a minor;
    - ii) mentally retarded or suffers from a mental disorder of such nature and to such an extent that she cannot reasonably be expected to apply by herself;
    - iii) unconscious;
    - iv) under the influence of intoxicating liquor or drugs to such an extent that the person aggrieved may not reasonably be expected to make the petition herself;
    - v) confined by the respondent or any other person, or

- vi) is unable to approach the court herself for any reason whatsoever.
- 8) **Orders during court recess** -The petition may be brought at anytime outside ordinary court hours or on a day that is not an ordinary court day. Provided that during a time when the court is not in session, a Special Executive Magistrate appointed under section 21 of the Code of Criminal Procedure, 1973, shall entertain such a petition and shall, if he is satisfied, pass a protection order subject to confirmation within 48 hours by the court.
- 9) **Protection Orders in other suits and legal proceedings:**
  - a) A protection order may be sought in any legal proceeding, civil or criminal, affecting the person aggrieved and the respondent whether or not initiated before the commencement of this Act.
  - b) A magistrate may in a proceeding relating to an offence or offences specified in Schedule 1, where a protection order is sought, grant bail to the respondent only subject to conditions as may be provided in the protection order.
  - c) Such order may be sought in addition to and along with any other relief that the person aggrieved may pray for in such suit or legal proceeding.
- 10) **Power to grant interim protection order:**
  - a) If a court is satisfied that a petition for interim protection order *prima facie* discloses that the respondent is committing, or has committed an act of domestic violence, it shall grant an interim protection order against the respondent, in a form as may be prescribed under the rules.
  - b) The Court shall, while granting an interim protection order, issue notice to the Respondent to show cause why the interim order should not be confirmed and the emergency monetary relief prayed for not be granted.
  - c) The date to show cause shall not be less than seven days after service has been effected upon the respondent and ordinarily not more than

a month from the date of the interim protection order.

11) Terms of the protection order—

- a) The protection order may prohibit the respondent from:
  - i) committing any act of domestic violence;
  - ii) enlisting the help of another person to commit any such acts of domestic violence;
  - iii) entering the shared household. Provided that the court may impose this prohibition only if it appears to be in the best interests of the person aggrieved or any child;
  - iv) entering the place of employment of the person aggrieved or, if person aggrieved is a child, its school;
  - v) entering the residence of the person aggrieved;
  - vi) attempting to communicate in any form whatsoever with the person aggrieved, including personal, written or telephonic contact.
  - vii) committing any other act as specified in the protection order.
- b) The protection order may, further:
  - i) Restrain the respondent from dispossessing the person aggrieved from the shared household;
  - ii) Direct the respondent to restore the possession of the shared household or a part thereof to the person aggrieved;
  - iii) Restrain the respondent from alienating or dispossessing the shared household or encumbering the same; or
  - iv) Restrain the respondent from renouncing his rights in the shared household.
- c) The court may impose any additional conditions which it deems reasonably necessary to protect and provide for the safety of the person aggrieved or any child, including but not limited to police protection when the person aggrieved visits a specified place to

supervise the collection of personal property and regular police supervision.

- d) While making an order under this section the court may impose on the respondent obligations relating to the discharge of rent or mortgage payments, having regard to the financial needs and resources of the parties.
- e) The court shall, in all cases where it has passed a protection order under this section, order that a copy of such order be given to the protection officer in charge of the area.

12) Emergency Monetary Relief-

- a) Notwithstanding any other law, at any stage of the hearing of a petition for a protection order, the court may direct the respondent to pay emergency monetary relief. Provided that unless circumstances warrant otherwise, the court shall not grant emergency monetary relief without affording the respondent an opportunity to show cause why the same should not be granted.
- b) Copies of an order for emergency monetary relief shall be served on the concerned protection officer and the respondent.
- c) The respondent shall pay emergency monetary relief to the concerned protection officer within the date specified in the order made in terms of sub-section (a) and in accordance with the terms thereof.
- d) It shall be the duty of the concerned protection officer to ensure that the emergency monetary relief so deposited by the respondent is made available to the person aggrieved at the earliest.
- e) The protection officer may, by an order, direct an employer or a debtor of the respondent, to directly deposit with him 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 emergency monetary relief payable by the respondent.
- f) An order made under this section may, at any time, be altered modified, varied or revoked on an application by either the person



aggrieved or the respondent, provided the court is satisfied that there is a change of circumstances that requires such alteration, modification, variation or revocation.

- 13) **Single acts**-The court shall not refuse to grant a protection order merely on the basis that only a single act of domestic violence has been committed or a single threat has been made by the respondent or on the basis that the acts or threats if viewed in isolation, appear to be minor or trivial.

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

Provided that in any case where an allegation of sexual abuse of a child has been made, and the court is prima facie satisfied that such allegation is true, no such order for arrangements for visitation shall be made.

15) **Power to grant final protection order-**

- a) If the respondent does not appear on the date specified for him to show cause under Section 10 subsection (c) of the Act or in the event the respondent does appear and his affidavit in objection to the interim order or the show cause is not satisfactory, the court shall confirm the interim protection order, or where no interim protection has been granted, grant such protection as it may consider necessary.

Provided that if the respondent is not present, the court shall not confirm the interim protection order unless it is fully satisfied that proper service has been effected upon the respondent.

- b) The court may, while confirming the interim protection order, further:-
- i) Grant exclusive possession of the entire shared household or a part thereof to the person aggrieved; or,
  - ii) direct the respondent to secure alternate accommodation for the person aggrieved or to pay rent for the same, if for sufficient reasons, the court is of the opinion that it would not

be in the best interest of the person aggrieved to reside in the shared household.

Provided that unless circumstances warrant otherwise, the court shall not make an order under clause (b) without affording the respondent an opportunity to show cause why the same should not be granted.

- c) An order made under this section shall operate for a period of two years and may, on application by the person aggrieved, be extended for a further period.

Provided, however, that no order shall be extended without affording the respondent an opportunity to show cause why such extension should not be granted.

- d) An order made under this section may, for exceptional circumstances to be recorded in writing, be altered, modified, varied or revoked on an application by either the person aggrieved or the respondent provided the court is satisfied that there is a change of circumstances that requires such alteration, modification, variation or revocation.



## Chapter IV Warrant and arrest

### 16) Conditional warrant of arrest —

- a) While granting a protection order the court shall issue a warrant for the arrest of the respondent.
- b) The warrant of arrest issued under sub-section (a) shall however remain suspended provided, the respondent makes payment of the emergency monetary relief, if so directed, and does not breach any of the conditions imposed in the said protection order.

17) **Execution of a warrant-** Upon a complaint by the person aggrieved or otherwise if the appropriate police officer of the concerned police station is satisfied that a condition exists for the execution of the warrant of arrest, he shall execute the warrant and arrest the respondent.

## Chapter V Offences and Penalties

18) **Offence-**A breach of a protection order or an order directing payment of emergency monetary relief shall be an offence and shall be punishable with imprisonment which may extend upto one year or with fine which may extend upto Rupees twenty thousand or with both.

### 19) Cognisance and burden of proof—

- a) The court that passed the protection order alleged to be breached, or any other court with jurisdiction to pass such order may take cognisance of the offence under Section 18-
  - i) upon receiving a complaint of facts which constitute such a breach;
  - ii) upon a report by the protection officer to that effect;
  - iii) upon a police report to that effect; or,
  - iv) upon information from any other person or upon its own knowledge that such breach has been committed.
- b) Where cognisance has been taken on the report of a protection officer, and in all other cases, on the receipt of a report made by a protection officer that such a breach has been committed at any point in the proceedings, the court shall presume that the respondent has committed such breach and the onus shall be on the respondent to prove that he is not liable for the offence as alleged.

## Chapter VI Protection Officers

### 20) Protection officers-

- a) The State Government shall appoint or designate one or more protection officers for every district or ward.
- b) The protection officer shall co-ordinate the activities of the accredited service providers operating in his area.
- c) The protection officer shall make best efforts to ensure that the activities of the police and the accredited service providers are so co-ordinated as to ensure that:
  - i) a person aggrieved has easy access to information about accredited service providers, including short stay homes in the area that may provide her with support and help that she may require and enable access to services of the accredited service providers;
  - ii) a person aggrieved is easily able to access transportation to an alternative residence or a safe place of shelter if the person aggrieved so requires;
  - iii) a person aggrieved is able to avail of transportation to the nearest hospital or medical assistance for the treatment of injuries if such assistance is required;
  - iv) a person aggrieved is able to obtain assistance in the collection of her belongings, including stridhan; and,
  - v) a person aggrieved has access to every possible assistance in the enforcement of any protection orders that may have been made by the court under this Act.

## Chapter VII Miscellaneous provisions

### 21) Jurisdiction—

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

22) **In camera proceedings**—Unless the court is satisfied to the contrary, proceedings under this Act shall be held *in camera*. Provided however that the protection officer or an accredited service provider may be permitted to attend the same.

23) **Other relief not barred** -A person aggrieved shall not be disentitled or barred from claiming relief under any other law merely because she has sought protection under this Act and has initiated proceedings hereunder.

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

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

### 26) Procedure-

- a) Except as otherwise stated in this Act, hearings regarding the issuance of protection orders shall be governed by the Code of



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Civil Procedure, 1908 and hearings on offences in this Act shall be governed by the Code of Criminal Procedure, 1973.

- b) Notwithstanding any law in force and without prejudice to the generality of the foregoing provision, the court while entertaining any proceeding under this Act shall be at liberty to relax its procedure and rules of evidence so as to ensure that the person aggrieved is not unfairly and unduly prejudiced on account of technicalities and pleas of procedure.
- c) Without prejudice to the generality of the foregoing provision, the court shall have the discretion to decide on any proceeding under Section 10 on the basis of sworn affidavits alone without requiring the record of any evidence.

Provided, however, that the respondent is accorded a fair opportunity of being heard and is in no manner prejudiced.

27) Appeals

No Court hearing any appeal preferred by the respondent against any order under this Act, shall grant any interim order of stay while the appeal is pending save in exceptional circumstances for reasons to be recorded in writing.

Provided, however, that no stay by way of an interim order shall be granted against an order granting emergency monetary relief.

28) Power to make Rules-

- a) The State Government may by notification in the official gazette, make rules for carrying out the purposes of this Act.
- b) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-
  - i) prescribing the format in which the forms, petitions, orders, directions and reports under this Act would have to be made;
  - ii) registration of accredited service providers;
  - iii) rules and procedure for the appointment and co-ordination

Domestic Violence (Prevention) Bill  
A Lawyers Collective Draft

of protection officers and their duties, tasks and responsibilities;

- iv) rules and procedure for appointment of officers to assist protection officers appointed under this Act;
- v) method and manner of deposit, recovery and payment of emergency monetary relief;
- vi) method and manner of investigation, inquiry and report on the revocation of the suspension of the warrant;
- vii) rules of procedure for proceedings under this Act; and
- viii) any other matter in connection with or in relation to this Act.



## SCHEDULE 1

1. Offences under the Indian Penal Code, 1860.
  - Sections 269 (negligent act likely to spread infection of disease dangerous to life), Section 270 (malignant act likely to spread infection of disease dangerous to life),
  - Offences listed under chapter XVI (offences affecting the human body),
  - Sections 383, 385, 386, 387, 388, 389 (Sections dealing with extortion),
  - Section 403 (dishonest misappropriation of property), Section 405 (criminal breach of trust),
  - Section 441 (criminal trespass),
  - Offences listed under Chapter XX (offences relating to marriage),
  - Section 498A,
  - Section 499 (defamation),
  - Sections 503 (criminal intimidation), 504 (intentional insult with intent to provoke breach of peace),
  - Section 509 (word, gesture or act intended to insult the modesty of a woman), and
  - Attempt to commit any of the above offences.
2. All offences listed in the Dowry Prohibition Act, 1961.
3. Section 4 of the Commission of Sati Act, 1987.
4. All offences listed in the Immoral Traffic (Prevention) Act, 1956.

*We welcome comments, suggestions, criticism and opinions on this Draft Bill.  
In particular, we invite your comments on the following aspects of the Bill:-*

- ❖ Scope and ambit of the Bill
  - Violence against spouses
  - Violence against children
  - Violence against the aged
  - Violence against cohabitees
- ❖ Definition of Domestic Violence
  - Physical abuse
  - Sexual abuse
  - Emotional, verbal and psychological abuse
  - Economic abuse
  - Intimidation
  - Harassment
  - Offences under Schedule I
  - Conduct causing mental disorder
- ❖ Role of the police
- ❖ Role of protection officers
  - Receiving emergency monetary relief
  - Making report as to breach
- ❖ Role of accredited service providers
- ❖ Types of protection orders
  - Interim protection order
  - Final protection order
  - Order of payment of emergency monetary relief
- ❖ Period of protection orders and whether there should be a time based bar on modification, alteration, variation and revocation
- ❖ Court procedure
  - Relaxation of rules of evidence
  - Issues of burden of proof
  - Cognisance of offences