

**Lawyer's Consultation on Implementation of PWDVA,2005(By The Alternate Space in collaboration with NUSRL, Ranchi.)**

The Alternate Space is a nonprofit organization working for women's rights across the country. We provide legal aid to women, children and the marginalized section of the society, in cases related to domestic violence, divorce, separation, family law matters, Child protection/Child support, sexual violence, trafficking SC/ST act etc.

Women's organizations who were involved in providing legal aid and support to women facing violence realized in late 80s that a large number of women were denied basic fundamental rights of safety security and bodily integrity. Their Rights were grossly violated at home whether it was matrimonial or paternal home and there was no legal recourse available to them to seek legal remedy.

The other major issue faced by women facing domestic violence was nonexistence of any protective law or laws which can restore their rights in their homes itself. There were few punitive laws such as section 498 A ,304B, 406B and 125 CrPC which were only available for legally wedded wives. These laws would also provide relief in the form of punishment and women using these laws were rendered destitute and faced gross violations from the hands of their matrimonial families. We also observed that there was no legal remedy available to the women living in faulty or in relationships like marriage as well as no remedy available against violations of their rights by Male relatives in patriarchal homes. After extensive consultations held across the country and based on findings of a survey by women's groups under the guidance of senior Advocate **Indira Jaising**, a law was drafted and after an extensive advocacy by the women's movement "protection of women from domestic violence act -2005 "was promulgated by the parliament of India.

While drafting this law the drafting committee took in consideration the following points: -

- This law is being drafted to protect and restore fundamental rights of women.
- Purpose of this law is to restore fundamental rights of all women in their domestic relationship without taking in consideration of legality of relationship.
- That most of Indian women don't have socio economic capacity or opportunity to get access to justice.
- That women find it difficult to travel long distances to approach district courts.
- Language of court is not comprehended properly by most of the women of the country because of low educational status and exposure to public spaces.

- Most of the women facing domestic violence don't want to break the relationship with the perpetrators nor they want involvement of police or punitive action either.

Considering these factors this law was drafted in a very special and innovative manner. Taking in consideration the gravity of offences of domestic violence, this law was created as a civil law of criminal nature triable at magistrate's court. To make this law more women friendly and accountable two special features were included they are: -

A. Office of protection officer

B. Registered service providers

- Under section 10(a) of PWDVA 2005, It has been laid down that registered women's organizations or groups with more than three years' experience on prevention of violence against women by providing one or more of the following services: -
  - medical,
  - shelter,
  - mediation,
  - legal aid,
  - social legal or
  - medical counselling
  - and any other services to women facing domestic violence can apply to the state government in the prescribed form.

These registered service providers can provide services under pwdva2005 as per their expertise and assist the magistrate or protection officer as and when required.

In furtherance of our agenda, we are hoping to initiate the dialogue on proper implementation of "Protection of Women from Domestic Violence Act, 2005" among the all the stakeholders. Lawyers being, the prime stakeholder for the proper implementation of the law, we intend to hold a 2 days consultation at the state level in Ranchi at the campus of NUSRL on 7<sup>th</sup>-8<sup>th</sup> of December, 2019 to discuss and highlight the impediment faced by stakeholder in implementation of PWDVA and to Find short term and permanent solution to these impediments. After this consultation and proper documentation of findings and way forward, we want to take it forward to the district level lawyers fraternity to bring inputs from the grassroot and to create a final document of recommendation for the government to enhance the facility for better/outreach of the law.

**The Agenda for the Consultation are as follows**

- Discussion on implementation of PWDVA in the respective districts
- Discussion on the Role of Lawyers in PWDVA
- Issues and Challenges while dealing the cases under PWDVA
- Discussion on Responsibility of other stakeholder under the Act such as Service Provider and Protection Officer
- Finding Solution to overcome the impediments and way Forward for better implementation of the Act.

**Resource Person**

The organization has been working eminent legal luminaries of the country who have been involved with drafting and implementation of this law. So, Our Chief Guest will be Senior Advocate of the Supreme Court of India, Indira Jaising who will talk about '*The role of Judicial Activism in Protection and Promotion of Women's Rights in India and its History with special reference to Indian Constitution*'. The resource person for the consultation would talk about the implementation of PWDVA which would include senior lawyers like

- **Senior Advocate Indira Jaising, Supreme Court of India**
- Adv Anandita Pujari,
- Adv Sanjay Ghosh,
- Adv Deep Kishore
- Adv Muzaffer Begum (Practicing Trial Court Lawyer),
- Khadijah Faruqi (Human Rights Consultant).

Prepared by “The Alternate Space”

### **Our Partners**

- Centre for Legal Aid Programme, National University of Study and Research in Law,  
Ranchi
- JHALSA
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