

To
Shri Ajay Kumar Bhalla
Ministry of Home Affairs
North Block
New Delhi - 110001
India

Dated: 01.05.2020

Subject: Representation for inclusion of work of Protection Officers authorized under Protection of Women from Domestic Violence Act, 2005 as “essential services”.

Dear Sir,

We, the undersigned, Legal Aid Clinic Jindal Global Law School, write this representation to your office(s) to express a serious concern, the plight of the children and the women owing to domestic violence and that too during the severity of the COVID-19 crisis which has gripped the country.

The lockdown that has followed in the wake of COVID-19 has resulted in what has been called a “shadow pandemic” because of a global rise in cases of domestic violence. It is unfortunate to see how a pandemic has paved the way for abusers to dominate in their households.

Ever since the national lockdown was imposed, women and children in abusive environments are appallingly vulnerable and isolated. Increasingly, the situation with regards to physical violence accompanied with depression, and anxiety in such households is worsening. There has been growing tendency to indulge in self-harm. In lockdowns, escaping abuse, or seeking help is nearly impossible, and the lack of acknowledgement of the abusive households is in no terms helping the victims.

It is pertinent to deliberate on the fact that the COVID-19 situation cannot bring down the right to live with dignity to a standstill. As a result, there is a need for the State to introspect and provide assurance to the vulnerable and oppressed section of our society.

Reports from numerous NGOs and other organizations confirm the gravity of this situation in India. In the details accessed from the National Commission for Women's (NCW) database, we found that the number of complaints across various categories has risen by **277%** - from 202 to 762. This can be confirmed at **Annexure I** attached to this mail. Certain State Governments and other Commissions have also taken cognizance of the rise in domestic violence after relentless media pursuit.

At the same point of time, a decrease in complaints in other data-records could indicate the inability of victims to reach out for help due to lack of logistics and subsequent privacy concerns.

The present data on complaints, while pointing to an increase, still might not reflect the true magnitude of the crisis as help remains inaccessible to underprivileged victims. This is predominantly not a mere assumption, but it is attached to the realities of our society. It has to be taken under account that a large number of women do not have access to a personal device, like a mobile. The plight of such women cannot be merely dismissed at their inability to access individual devices.

We are glad to find out that the NCW has launched a WhatsApp alert helpline in this regard (+91 7217735372), but certain factors like access to devices have been completely forgotten. The services of NCW to launch complaints through emails is also a very efficient way of dealing with the problem, but at the same time we do not expect women from the lower strata to even have access to the services of email due to a host of issues. There are concerns that the present remedies are insufficient to systematically counter this situation.

The WHO has been firm that the risks of domestic violence “cannot be ignored”. UN Secretary Antonio Guterres has urged states to make responding to domestic violence a “top priority” within **national** COVID-19 measures. A brief of the information shared can be perused from a catena of reliable and verifiable news reports:

<https://thediplomat.com/2020/04/indias-shadow-pandemic/>

<https://www.theguardian.com/society/2020/mar/28/lockdowns-world-rise-domestic-violence>

<https://www.ideasforindia.in/topics/social-identity/covid-19-lockdown-and-domestic-abuse.html>

<https://caravanmagazine.in/gender/lockdown-domestic-violence-ngo-struggle-government-catch-up>

http://164.100.58.238/frmRTICell_ComplaintDetails.aspx

<https://economictimes.indiatimes.com/news/politics-and-nation/kerala-government-launches-whatsapp-number-to-report-domestic-violence-during-lockdown/articleshow/75095648.cms>

<https://timesofindia.indiatimes.com/city/chandigarh/domestic-violence-cases-shoot-up-in-punjab/articleshow/75132410.cms>

<https://www.deccanherald.com/specials/insight/coronavirus-crisis-no-lockdown-for-domestic-violence-829941.html>

<https://www.who.int/news-room/q-a-detail/violence-against-women-during-covid-19>

It is imperative to note that the government has been accommodative and has constantly evolved its policies to reach out to the marginalised section. As law students, we intend to suggest viable and **urgent measures** that could help India combat rampant violation of women and children in their very own households in times of global crisis. We, therefore, urge that the following measures be prioritised at the earliest:

1. Inclusion of Protection Officers and others within “essential” services:

The first measure recommended by the WHO is to “...include essential services to address violence against women in preparedness and response plans for COVID-19, fund them, and identify ways to make them accessible in the context of physical distancing measures.” However, no such essential services form part of the MHA’s Order dated 29.04.2020 listing essential services in furtherance to the earlier orders to be found as attached in **Annexure-II**.

We accordingly believe that the following must be classified as essential services at this juncture:

- a) The work of **Protection Officers** who are empowered by the Protection of Women from Domestic Violence, Act of 2005 as has been annexed under **Annexure- III** to provide first-hand assistance to women facing domestic violence before any intervention from the police.
- b) To **health services and especially abortion for women** since it is of urgent nature and any delay to it can be detrimental.
- c) **Shelters and helplines** to be set up, prioritising remote areas in mind.
- d) Services by ASHA workers and anganwadis in dealing with domestic violence shall be included in the fold of helping domestic violence victims.
- e) Any other services, resources and responders on-ground that aim to mitigate the effects of domestic violence

2. Awareness drives/circulation of important information concerning remedies

The following are **three particularly beneficial measures** that should also be taken:

- a) Circulating the contact information of Protection Officers in awareness drives locally per their jurisdictional areas as far as possible through targeted local cable TV operators and local newspapers.
- b) Popularizing in India the “mask-19” code-word used in France and Spain, with which women could indicate on trips to pharmacies that they require support and are victims of domestic violence. In such a case, the Protection Officer of the area could be contacted.
- c) A section could be used by the print media and digital media to display helpline numbers of protection officers based on zones and regions. This must be mandated by ordinance or order to different forms of media to adhere to such norms.

The feasibility and the implementation prospects of the suggested remedies can be relied upon and verified from the following sources:

<https://apps.who.int/iris/bitstream/handle/10665/331699/WHO-SRH-20.04-eng.pdf>
https://mofpi.nic.in/sites/default/files/mha_order_and_guideline_as_on_24.03.2020.pdf
http://chdsla.gov.in/right_menu/act/pdf/domviolence.pdf

The sufferings and miseries that have transpired due to lockdown were not a far-sighted reality. The actions to mitigate such institutional hardships should have been taken earlier. The people in distress should be accommodated within the system primarily. Gender subjugation has been an inherent problematic aspect and the bird is out of its nest at this time with all zest. The state should crack down on such practises, rather than giving a cold shoulder to it and let it exist in its own sphere.

For the purpose of transparency, reasonableness and democratic values, the prevalent situation should be immediately taken into cognizance and reviewed. We request you to take immediate actions and provide for the reliefs sought or any other relief as may be deemed fit.

Regards,
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ANNEXURE- I

Complaint Category	Count of Complaint Category
Bigamy / Polygamy	6
Cyber Crime against women	67
Denial of Maternity Benefits to women	3
Dowry death	9
Free legal aid for women	2
Gender Discrimination including equal right to education & work	1
Harassment of married women/Dowry harassment	72
Indecent Representation of Women	1
Not Categorized yet	6
Outraging modesty of women/Molestation	30
Police Apathy against women	34
Protection of Women against Domestic Violence	373
Rape/Attempt to Rape	20
Right to exercise choice in marriage/Honour Crimes	8
Right to live with dignity	282
Sexual Assault	4
Sexual Harassment	16
Sexual Harassment of Women at workplace	10
Stalking / Voyeurism	19
Trafficking / Prostitution of women	1
Grand Total	964

Complaint Category	Action has been initiated and Letter to the concerned authority has been sent.	Complaint Closed	Under Process	Grand Total
Bigamy / Polygamy	6	0	0	6
Cyber Crime against women	65	2	0	67
Denial of Maternity Benefits to women	3	0	0	3
Dowry death	9	0	0	9
Free legal aid for women	0	2	0	2
Gender Discrimination including equal right to education & work	1	0	0	1
Harassment of married women/Dowry harassment	67	5	0	72
Indecent Representation of Women	0	1	0	1
Not Categorized yet	1	1	4	6
Outraging modesty of women/Molestation	30	0	0	30
Police Apathy against women	33	1	0	34
Protection of Women against Domestic Violence	352	20	1	373
Rape/Attempt to Rape	19	1	0	20
Right to exercise choice in marriage/Honour Crimes	7	1	0	8
Right to live with dignity	221	61	0	282
Sexual Assault	2	2	0	4
Sexual Harassment	15	0	1	16
Sexual Harassment of Women at workplace	9	1	0	10
Stalking / Voyeurism	18	1	0	19
Trafficking / Prostitution of women	1	0	0	1
Grand Total	859	99	6	964

Complaint Category	March	April
Bigamy / Polygamy	0	6
Cyber Crime against women	14	53
Denial of Maternity Benefits to women	1	2
Dowry death	1	8
Free legal aid for women	2	0
Gender Discrimination including equal right to education & work	0	1
Harassment of married women/Dowry harassment	12	60
Indecent Representation of Women	0	1
Not Categorized yet	0	6
Outraging modesty of women/Molestation	7	23
Police Apathy against women	12	22
Protection of Women against Domestic Violence	63	310
Rape/Attempt to Rape	8	12
Right to exercise choice in marriage/Honour Crimes	4	4
Right to live with dignity	66	216
Sexual Assault	0	4
Sexual Harassment	5	11
Sexual Harassment of Women at workplace	3	7
Stalking / Voyeurism	4	15
Trafficking / Prostitution of women	0	1
Grand Total	202	762
Percent increase from March to April	277%	

ANNEXURE – II

No.40-3/2020-DM-I (A)
Government of India
Ministry of Home Affairs

North Block, New Delhi-110001

Dated 29th April, 2020

ORDER

In continuation of Ministry of Home Affairs's Orders No.40-3/2020-DM-I(A) dated 15th April, 2020, 16th April, 2020, 19th April 2020, 21st April 2020 and 24th April 2020 and in exercise of the powers, conferred under Section 10(2)(i) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee, hereby orders **to include** the following in the consolidated revised guidelines for strict implementation by Ministries /Departments of Government of India, State/Union Territory Governments and State /Union Territory Authorities:

Sub-clause (iv) under Clause 17 on Movement of persons:

- iv. Due to lockdown, migrant workers, pilgrims, tourists, students and other persons are stranded at different places. They would be allowed to move as under:
 - a. All States/ UTs should designate nodal authorities and develop standard protocols for receiving and sending such stranded persons. The nodal authorities shall also register the stranded persons within their States/ UTs.

- b. In case a group of stranded persons wish to move between one State/ UT and another State/ UT, the sending and receiving States may consult each other and mutually agree to the movement by road.
- c. The moving person (s) would be screened and those found asymptomatic would be allowed to proceed.
- d. Buses shall be used for transport of groups of persons. The buses will be sanitized and shall follow safe social distancing norms in seating.
- e. The States/ UTs falling on the transit route will allow the passage of such persons to the receiving State/ UT.
- f. On arrival at their destination, such person(s) would be assessed by the local health authorities, and kept in home quarantine, unless the assessment requires keeping the person(s) in institutional quarantine. They would be kept under watch with periodic health check-ups. For this



purpose, such persons may be encouraged to use **Aarogya Setu** app through which their health status can be monitored and tracked.

The guidelines of the Ministry of Health and Family Welfare (MoHFW) on Home Quarantine, dated 11.03.2020 may be referred to in this regard, which are available at (<https://www.mohfw.gov.in/pdf/Guidelinesforhomequarantine.pdf>)

pdf)

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Home Secretary

To: (As per list attached)

1. The Secretaries of Ministries /Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories

Copy to:

- i) All members of the National Executive Committee.
- ii) Member Secretary, National Disaster Management Authority.

ANNEXURE- III

8.Appointment of Protection Officers.

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 women 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 functions of Protection Officers.

9. Duties and functions of Protection Officers.-(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 Services 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 counselling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;

(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.