

**GENDER-BASED VIOLENCE AND CHILD PROTECTION**

**MADANPUR KHADAR AND SHAHEEN BAGH, DELHI**

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**SLIC**  
Socio-Legal Information Centre

## **BACKGROUND**

The Madanpur Khadar settlement of Rohingya refugees, in the recent past, had several incidences of Gender-Based Violence and Child Protection. SLIC has witnessed the rise in SGBV incidents at the Rohingya settlements at Madanpur Khadar and Shaheen Bagh. This is of great concern and needs urgent attention; therefore, awareness sessions are required. In an interactive session by SLIC with the residents of Madanpur Khadar, it was observed that there was a need of a session on the laws relating to the laws on POCSO, Domestic Violence and Sexual harassment.

## **THE SESSION**

On the date of 20/06/2019, the SLIC, BOSCO and member of UNHRC went to the Rohingya Refugee settlement in Madanpur Khadar camp to interact with people about different issues on women and children and informing about the Indian laws to help children and women of the area. The session was attended by 41 individuals of the Rohingya community.

The second session was conducted at the Shaheen Bagh settlement of Rohingyas were 19 individuals from the Rohingya community attended the session.

## **INTRODUCTION**

The session at Madanpur Khadar settlement commenced with an introduction by Advocate Fazal Abdali, SLIC. Fazal Abdali introduced the other staffs from SLIC, BOSCO and UNCHR. He further introduced a group of Rohingyas including men and women, about how a woman has to be treated within the Indian laws and how everyone has to follow the Indian laws within the settlement and outside the settlement. He also shared about the situation prevailing in the settlement and how it is hampering the image of the Rohingyas at large. Further, a brief introduction to the laws relating to gender-based violence and child protection under the law of the land was shared with the community.

Similarly, at Shaheen Bagh settlement the meeting commenced with a brief introduction by Advocate Fazal Abdali about the current situation within the Rohingya community on the issues of gender-based violence and child protection.



### **SESSION OF SEXUAL HARASSMENT BY MS SHIVI RAINA**

The brief introduction on the definition of harassment and sexual harassment under Indian Laws was shared with the community. She introduced about the Sexual Harassment, where she stated that in India each woman is being respected and hence if anyone who is seeing a woman with wrong intentions not only in the camp but outside the camp also, the person can be charged with punishment of 3 to 7 months of imprisonment with fine.

#### **Key Highlights of the Sexual Harassment session:**

##### **1. The group were explained about the definition of Sexual Harassment**

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature when either:

- The conduct is made as a term or condition of an individual's employment, education, living environment or participation in a University community.
- The acceptance or refusal of such conduct is used as the basis or a factor in decisions affecting an individual's employment, education, living environment, or participation in a University community.

2. Further, the group was informed about the actions that amount to sexual harassment, which includes:

- Unwanted deliberate touching, leaning over, cornering, or pinching
- Unwanted sexual looks or gestures
- Unwanted letters, telephone calls, or materials of a sexual nature
- Unwanted sexual teasing, jokes, remarks, or questions
- Whistling at someone
- Sexual comments about a person's clothing, anatomy, or looks
- Touching clothing, hair, or body
- Standing close or brushing up against a person
- Looking a person up and down (elevator eyes)
- Staring at someone
- Sexually suggestive signals
- Making sexual gestures with hands or through body movements.

Thereafter, the group was explained that Sexual harassment may occur in a variety of circumstances and in places as varied as factories, schools, colleges, the theatre, and the music business. Often, the perpetrator has or is about to have **power** or authority over the victim (owing to differences in social, political, educational or employment relationships as well as in age). Harassment relationships are specified in many ways:

- The perpetrator can be anyone, such as a client, a co-worker, a parent or legal guardian, a relative, a teacher or professor, a student, a friend, or a stranger.
- Harassment can occur in varying locations, in school, colleges, workplaces, in public, and in other places.
- Harassment can occur whether or not there are witnesses to it.
- Incidents of harassment can take place in situations in which the targeted person may not be aware of or understand what is happening.
- An incident may be a one-time occurrence.
- The victim and the perpetrator can be any gender.
- The perpetrator does not have to be of the opposite sex.
- The incident may arise from a misunderstanding by the perpetrator and/or the victim.

**The facilitator also explained the laws regarding Sexual Harassment defined under:**

## A. Indian Penal Code (IPC), 1860 with the recent amendments



### a. Section 354 in The Indian Penal Code

354. Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

b. **Section 354 (A):** A man committing any physical contact, advances involving unwelcome and explicit sexual overtures; or demanding or requesting sexual favours; or showing pornography against the will of a woman, or making sexually coloured remarks, shall be guilty of the offence of sexual harassment. (Punishment: Rigorous imprisonment for a term which may extend to three years)

c. **Section 209:** Obscene acts in any public place, singing obscene songs to the annoyance of others (Punishment: Imprisonment for a term of up to 3 months or fine, or both).

d. **Section 509:** Uttering any word or making any gesture intended to insult the modesty of a woman. (You cannot call her “mast”.) Punishment: Imprisonment for 1 year, or fine, or both.)

### B. The Indecent Representation of Women (Prohibition) Act (1987)

- If an individual harasses another with books, photographs, paintings, films, pamphlets, packages, etc. containing ‘indecent representation of women’; they are liable for a minimum sentence of two years.

The roles of police in the investigation of the cases related to sexual harassment were also informed to the group along with the information, how and where to approach in such cases. The group was made aware of the emergency numbers relating to such cases i.e. 100, 1091, 181 and 1096.

The group was also informed about the laws on making false complaints:

- Section 182. False information, with intent to cause public servant to use his lawful power to the injury of another person.—Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant. The offence under Section 182 I.P.C. is punishable with imprisonment for a period of six months or with fine or with both

### **SESSION ON DOMESTIC VIOLENCE BY MS SENYA**

The community was enlightened about the fact that Indian laws are more sensitive towards the matters of domestic violence and the culprits cannot escape the clutches of law. Further Miss Seniya introduced people with domestic violence she talked about what it is and how it is not limited to husband/ husband's mother (mother-in-law) but also brother or relatives.



#### **Key Highlights of The Protection of Women from Domestic Violence Act, 2005:**

- The community members were informed about the need and importance to make a separate Act/ Legislation for Domestic violence
- The concept of who is the victim and perpetrators under the Domestic Violence Act was explained to the community.
- The community members were informed of different types of domestic violence: physical, mental, verbal, economic and sexual violence. She further aware people about protection officers that every state has one protection officers to complain about the same she also told that in such cases of domestic violence a woman also gets monetary relief, custody of a child if there is a divorce case.

- They were made aware of the need for such a law in society and how it came into being.
- About the definition of domestic violence and the kinds of abuses (physical, mental, sexual, emotional and economical) which are included within it; and
- About who can be the perpetrators within this Act (like Father, Husband, and Father-in law, Brother and so on).
- About the complaint mechanism active under the law.



**SESSION ON THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES, ADVOCATE FAZAL ABDALI**

Advocate Fazal further continued the session by stating that commenting, taunting is also one of the categories of harassing a person. He stated that a man has no right to assault or harras his wife or husband’s family has no right to taunt or even raise hand over the women (wife) that is crime under the law of the land.

Thereafter, he started his session of POCSO by asking the community about who is a child. He shared that a child is anyone who is under 18 years of age regardless of gender. He informed that POCSO is one of the most strict laws of the land and the reporting of an incidence is made mandatory under the Act.

- **Highlights of Protection of children from sexual offences Act 2012 (POCSO Act):**

- The community members were encouraged to be freer with their children so that the children can share any abuse arising under this Act freely with their parents.
- The community members were informed about the sexual harassment, grievous sexual harassment, sexual assault and grievous sexual assault defined under the Act.
- The community members were also made aware of the punishments for the offence which has been committed under the Act.
- They were enlightened about the mandatory recording mechanism active under the Act (that the Police cannot refuse to record the case under section 19 of the Act).
- About the fact that all complaints along with victim will be kept anonymous keeping in mind the future of the child and to encourage active reporting of such matter. In furtherance of this clause, restrictions have been imposed on media to maintain anonymity
- That under this Act provisions have been made to speedily redress the complaints.
- That the punishment of such gravity as of having a deterrent effect on the society as a whole has been included within this Act.

If any person who has made a false complaint, then he/she needs to face 6 months imprisonment. He further continued by stating that in such cases, a child is sent to children psychiatrist and interpreter is made available for their convenience. He also stated that when an individual comes to know about an incidence and is not comfortable to report it to police must understand that police has to keep his/her identity hidden while investigating the offence.

## **CONCLUSION**

Advocate Fazal Abdali concluded the session by a briefing on the laws relating to gender-based violence and also the laws protecting the children from sexual offences. He also shared that reporting an incidence when a child is a victim of such offence is mandatory. Further, he also shared that false reporting to police is also punishable under the law of the land. Thereafter, he also stated that there is already a Supreme Court case against them and if



they complicate the situation like behaving in this way, putting allegations, breaking laws and such complaints are received by police in huge numbers then this will complicate the things more so these things have to be reduced. Then the entire group moved towards the settlement and scattered to talk to each individual and know their part of stories.

In Shaheen Bagh the community was receptive and the women discussed the law in detail to understand it better. However, there was a need to have a follow-up session with the community as they were not very confident in reporting incidents against the men.