



An initiative of

**United Cultures of Canada Association**

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# **A Self-Help Guide for Victims of Domestic Violence**

An initiative of

## **United Cultures of Canada Association**

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### **About this Manual**

This manual aims to support victims of spousal/intimate partner abuse, but *is not intended as a crisis response manual*. Its goal is to strengthen the efforts of the victims to end violence by providing information and support and improving access to key services. It has been written with consideration for the special needs of immigrant women but will apply to any victim of domestic abuse.

Abuse takes place due to imbalance and misuse of power. Thus, it is possible for *men also to become victims of domestic abuse*. But the population of victims all over the world is largely female. *Although, in this manual we have addressed women as victims, the information applies to both men and women without distinction*. Non-abuser men are deeply hurt by the abuse of women and support them in their efforts to end abuse in their lives.

Victims of abuse do not have to struggle alone to end abuse. There are many agencies and professionals who can help them in this. This manual aims to encourage the victims to see sense in seeking help, empower them to seek help, and assure them to see hope in their efforts. With this, we hope to be a part of their journey to an abuse-free life.

*This manual does not offer professional advice*. Legal and other information provided in it are well researched and verified from different sources but we do not guarantee its accuracy. UCCA will not be responsible for any loss or damage suffered due to reliance on the contents of this manual.

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### **Don'ts**

Do not blame yourself. It is not your fault.

Do not feel ashamed. You are not alone in this situation.

### **Do's**

Talk. You have been silent for too long.

Seek help. It is not only your battle. You don't have to fight it alone.

### **Know**

No one deserves to be abused.

Help is available.

### **Believe**

Many women have ended abuse in their lives. You can do it too.

Abuse cannot take away your worth, value, or dignity.

### **Applaud**

Applaud yourself for your courage, patience and resilience.

Applaud yourself for accomplishing a normal life in the midst of abuse and trauma.

### **Ask**

Ask your children what you mean in their lives. You will know what you CAN do.

Ask yourself what they mean in your life. You will know what you should do.

A woman like you can take charge of her destiny and write it all over again!

*I know this because I also am a woman like you.*

## Chapter One: **What Is Abuse And How Can I Prevent It?**

### I. **What is abuse?**

When a person mistreats another person or uses violence against him or her, it is called abuse. If a spouse or an intimate partner, or ex-spouse, or ex-partner abuses his or her spouse or partner, it is called spousal or intimate partner abuse. It is also referred to as domestic violence or family violence although these terms may indicate abuse of other family members as well. Abuse may involve a single abusive act or a series of such acts over a period of time. It may be physical, sexual, emotional or psychological, economic or financial, and spiritual. Certain abusive behaviours are crimes and the abuser can be punished under the Criminal Code of Canada if appropriate action is taken against him. Some acts are not considered criminal and are not punishable.

### II. **Am I being abused?**

You are being abused if you are subjected to one or more of the following acts:

Abusive Behaviours	Crime
<b>PHYSICAL</b>	
You are assaulted and attacked with a weapon, e.g. shot, stabbed, cut etc.	✓
You are assaulted and attacked without a weapon, e.g. beaten, kicked, pushed, shaken, strangulated, bitten, pinched, punched, burnt etc.	✓
<b>EMOTIONAL OR PSYCHOLOGICAL</b>	
You are threatened with harm to yourself, or other person, or your pet.	✓
Your pet is hurt.	✓
Your things are damaged.	✓
You are being followed or watched constantly at your home, workplace or other places you visit in a way to scare you for your safety or safety of your children.	✓
You are being dominated by acts such as humiliating, insulting, putting down, yelling and shouting, calling names, dictating what you can do and what you cannot do.	
You are constantly being ignored, judged, criticized, ridiculed; you are constant targets of jokes; your achievements are trivialized.	
You are being isolated from friends and family.	

<b>SEXUAL</b>	
You are touched in a sexual manner without your consent.	✓
You are made to indulge in unwanted, unsafe or degrading sexual acts.	✓
Your reproductive choices are controlled.	✓
NOTE: These acts amount to sexual abuse even if they take place in intimate relationships. Consent given under force or fraud is not consent freely given.	
<b>FINANCIAL OR ECONOMIC</b>	
Your pay cheques or money is taken away from you without your consent; your bank accounts and checkbooks are controlled.	✓
You are not allowed to work or forced to work against your wish.	✓
Your valuables are stolen or taken from you by fraud.	✓
You do not have information about or access to bank accounts, bank or credit cards, family assets or investments.	✓
You are not allowed to keep any money for yourself or enough money for family needs such as grocery, clothes, medicines, transport, etc.	✓
You are manipulated or exploited for financial gains such as through trafficking or forced labour.	✓
The bills and loans are in your name, or only you are supposed to pay them even if they are in joint names and your partner refuses to contribute.	✓
The family assets are used for the abuser's own pleasures such as alcohol, drugs etc.	✓
You are manipulated or forced to commit or participate in a crime for money, i.e. stealing, shoplifting, and other frauds or scams.	✓
<b>SPIRITUAL</b>	
You are not allowed to follow your religious or spiritual beliefs, or these are used to control or dominate you.	

**Why am I being abused? What have I done? Is it my fault?**

NO. IT IS NOT YOUR FAULT. Abuse does not happen because the victim has done something to “deserve it.” Even if you have done things that may anger others, it does not give anybody the right to abuse you. Difference of opinion, disagreement, or relationship conflict does not give one person the right to abuse another person. Besides, you are not the only one being abused. Abuse occurs in all societies, all classes, all cultures, faiths, or races. It also has nothing to do with a victim’s age, looks, intelligence, education, or socio-economic status.

## **Who is an abuser? Why does a person abuse?**

Like victims, abusers may come from any class of society, culture, race or faith. Abusers may be educated, uneducated, rich, or poor. In spite of differences in their backgrounds, they share some common characteristics.

Abuse is a complex behaviour and there may be many reasons behind it. Some of the most common reasons are:

- An abuser has a strong desire to dominate and control.
- The abuser himself has been a victim of abuse; he did not have a positive role model, and considers an abusive relationship to be a normal relationship.
- An abuser feels insecure that the victim may leave and tries to control her.
- An abuser believes in the old school gender roles and thinks that the man should be the master and the woman should be submissive and subservient. He does not respect women as individuals.

An abuser may feel entitled and egotistical and believe that he is always right. Research proves that abusers generally have lower self-esteem and they want to re-assure themselves that they are in control. Stress, frustration, alcohol, financial problems and conflicts with the victim can make their behaviour worse. An abuser continues to abuse because he is not held accountable or punished for his behaviour and gets what he wants through abuse.

## **Why is he able to abuse me?**

Abuse takes place in situations where the abuser is or seems to be more powerful than the victim. Generally speaking, there are four main bases of power - physical, financial, social and emotional. The abuser tries to gain control of these by

- threatening, intimidating or physically or verbally abusing you
- taking control of your finances and other resources
- isolating you from your family, friends or other people
- destroying you emotionally by constant criticism, put-downs, humiliation, bullying etc.

### III. How can I stop the abuse?

You are being abused because your power has been taken away by your abuser in order to control you. Here is a reverse action plan for regaining your power from him. He wants you:

to lose your self- esteem/ self-confidence.	Be strong and believe in yourself.
to have no economic power.	Become financially strong, upgrade, find work.
to be silent.	Talk to friends, family, professionals.
to be isolated.	Expand your network, connect, visit, invite.
to be dependent on him.	Try to become increasingly more independent physically, emotionally, financially.
to be confused.	Increase your mental power, educate yourself, think critically, cross-check information.
to be alone and unsupported.	Seek support and help from friends and family as well as professionals.

Abuse will become worse if not stopped. Stop it as early as possible. Yelling, swearing and calling names can escalate into throwing objects. Kicking and punching the wall can change into pushing and shoving you, and can further escalate into assaulting you. Damage to objects or pets is done with an intention to hurt the victim emotionally and to create stress and fear. The next stage could be direct physical assault; physical assault can also come with sexual assault to further humiliate the victim.

#### **How can I start doing all these things mentioned in the reverse action plan?**

First, if you feel that you are in an emergency situation, that is, *if there is an immediate danger to your life or safety, or the life or safety of your children, call 911*. Other crisis numbers are listed in the last chapter of this manual. If you are not in this situation, then begin by consulting a domestic violence counsellor. The City of Edmonton has many such counsellors who are located at its different offices all over the city. They offer assessment and short term counseling. When you meet them, they will assess your situation and your needs. Based on their assessment, they will help you develop plans for what you can do and will also refer you to the agencies that can help you further.

## **What should I do if I am a victim of a crime?**

If you think the abusive behaviour that you are subjected to is a crime, you need help from the police and courts. You can start by making a complaint to the police. Try to provide the police with complete information. To do a risk assessment to protect you, they need to know: if you are injured; if your abuser is a drug addict or alcoholic; if he keeps or uses weapons; if there is a history of criminal behaviour and other relevant details. Provide them a copy of any Emergency Protection Order (EPO), Queen's Bench Protection Order, Restraining Order, or a Peace Bond that you may have against your abuser. Also tell them about Child Welfare involvements or other services that you may have received.

For legal information and help with the court procedures, you can contact Crown Prosecutor's Office, Duty Counsel, Legal Aid, Lawyers Referral Services, Students Legal Services, Family Violence Prevention Centre and other agencies described in the last chapter of this manual. Contact emergency shelters if you feel unsafe in your home and need a safe place to stay immediately. The shelters can also help you make a safety plan. You can call crisis lines and speak to a counsellor over the phone. Contact victims' assistance programs offered by different agencies or Police Victim Services Unit. Do not forget to see a doctor for any injuries.

## **Everyone blames me for not leaving.**

Leaving may or may not be the best solution for all victims. Instead of ending abuse, it sometimes puts a victim's life at further risk. Victims can be killed in the process of leaving. Besides, it is no guaranteed or automatic solution to all your problems. It can bring along many losses –that of relationship, status, finance, security, home. Women often get poorer after separation. Leaving is a decision that should be made after serious consideration of advantages and disadvantages and with realistic planning for safety and future living. It can cause pain, anxiety, guilt and loneliness. That is why in research, it has been compared to grieving. Immigrant women can feel more guilt and shame if divorce is not common in their communities. Do not leave before you are ready unless there is an emergency.

## How do I prepare for leaving?

There are two stages of leaving: immediate and long-term. It is very important to understand that a decision to leave should have a long-term plan without which the victims are often left with no choice except to return to their abusive homes. Even if you have to leave in emergency, try making a long term plan with the help of assisting professionals.

Immediate phase	Long term phase
<ul style="list-style-type: none"> <li>• <u>Risk Assessment</u>: Victims are never more at risk than when they leave their abusers and sometime after. You may need help from a professional for this.</li> <li>• <u>Safety Plan</u>: Based on risk assessment, you need a safety plan to help ensure immediate and long term safety of you and your family.</li> <li>• <u>Shelter/housing</u>: Shelters can provide safe but transitional housing. A more permanent solution may be through government subsidized housing.</li> <li>• <u>Finances</u>: Plan your finances and check to see if there are some funds that you can access. Find out if you can be eligible for government subsidies.</li> <li>• <u>Legal help</u>: You may need guidance in legal matters such as custody of your children.</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Obtaining legal help</u>: You may need it for divorce, custody, access, maintenance, or matrimonial property.</li> <li>• <u>Employment training</u>: If you are not already employed or do not have an employment that can meet your new financial needs, you can see an employment/career counsellor who will help you to obtain a job. You can get educational grants or loans from Student Finance or a bank's educational line of credit, if you want to upgrade.</li> <li>• <u>Support to heal</u>: This can come from informal social network as well as from professionals and counsellors. The wounds of abuse often take long to heal even after the abuse has stopped. A professional can guide you to individual or group counseling or support groups that can help you in this.</li> </ul>

## **What is a safety plan and who can help me make one for my family?**

If you are dealing with abuse, you need a safety plan for your children and yourself, whether you decide to live in an abusive relationship or leave it. This can be done with the help of a professional after proper risk assessment. The police, shelter and domestic violence workers may help you in this. Here are some basic guidelines for a safety plan:

- Plot out emergency exit routes and share them with your children.
- Keep within easy access important phone numbers as well as legal, medical financial, travel and personal identity documents, i.e., birth certificates, social insurance number, proof of Canadian citizenship, passport, permanent resident card, immigration/ visa documents, bank and health cards, restraining orders etc. If possible leave copies of important documents with someone you trust.
- Teach your children how to call 911.
- Clear browser history if you are seeking important information on the Internet. In Internet Explorer, if you hit “Tools” you can get the option “Delete Browsing History.” Others browsers have similar features. Delete phone messages or received or outgoing phone call details.
- Victims under threat of violence may be provided emergency alarm systems or free cell phones. Find out about such special services from helping professionals.
- If possible, have a separate bank account or a private post office box to receive confidential mail.
- With your children, plan a code word that can be used to alarm each other about any immediate danger, or to ask friends or relatives for help. Keep emergency money available if possible.

After separation:

- Change the locks of the house. Keep your old number but get a second line with an unlisted phone number. If the abusive partner tries to stalk you, he will still be able to call but you will not have to answer that call. This may avoid the risk of the abuser making more desperate efforts in frustration to find and harm you when he is unable to call you. Do not sign any legal papers such as agreements about

separation, divorce, terms of child support, custody or visitation without understanding them. If English is not your first language, you need to be even more cautious.

- Try to obtain legal help and have a professional accompany you to the court. There are some free programs that can help you prepare for court hearings. Information about them is included in the last chapter of this manual.
- Change your routes and routines.
- Try to create a strong network of people who are willing to support you. This can include your neighbor, your baby sitter, your children's school staff, or others.

### **What should I do if I cannot leave or cannot leave now?**

If you decide to stay, take care of your safety and continue to empower yourself slowly but consistently. Have a safety plan in place to protect you and your children in any emergency situations. If you hide your abuse and isolate yourself, you are helping your abuser in abusing you. In order to empower yourself:

- Talk, talk, talk. Talk to people who you can trust – friends, neighbours, relatives. Talk to strangers when it is safe to do so. Talk to professionals.
- Educate yourself about abuse. The dynamics of abuse are complex. There are not always definite or straightforward answers to many questions.
- Have faith in yourself. You were not crazy before you met him. Your abuser may try to convince you that your thinking is crazy in order to control you. Do not believe it.
- Think critically. Stop believing what does not seem right to you; challenge it. You are capable of thinking for yourself.
- Do not remain isolated. Abuse will increase if your abuser succeeds in isolating you. He isolates you to destroy your support, to make you dependent on him, and to make sure it is safe for him to abuse you. You are more likely to believe him if you are disconnected from reality. Stay in touch with your relatives, friends, and neighbors.
- End dependency. Make a list of all the things that make you dependent on him and work on them. For emotional or psychological dependency, seek counseling to help

you build up your self-esteem. If you cannot own a vehicle, learn how to find your way around through public transport. Even a baby step is a step closer to your goal.

- *Make yourself financially strong.* Take up a job. Upgrade your education or job skills if you need to. Learn English, if you cannot communicate in it. Find out if you are eligible for free ESL programs. Find out if you are eligible for financial assistance from the government and use it to advance your career.
- *Take good care of yourself.* It is important that you are not only safe but well too. Your family's health depends on your own health. Poor physical or mental health will make you weak and dependent on your abuser. Abuse can cause many short term and long term illnesses. Do not ignore your illnesses or injuries. You do not have to tell your doctor the cause of the injury. But he/she can play a crucial role in finding help for you. Make a note of the injuries, violent incidents, and also your visits to the doctor.
- *Don't be discouraged.* If you find people unsupportive, negative or critical, leave them alone. Do not allow them to discourage, judge, blame, or further abuse you. They are not well informed. Sometimes, when women make an attempt to end their abusive situation and fail, they begin to believe that it is no use making an effort to prevent their abuse, and give up. This is a self-defeating belief and part of learned helplessness. Know that dealing with abuse is not easy. The path to deliverance is full of ups and downs for everyone and not just you. There is nothing wrong with you or your effort. Have faith. Persevere.
- *Discredit harmful beliefs.* There are some harmful though popular beliefs that discourage women from preventing their abuse, i.e. even a bad father is better than no father, or female-headed families are more prone to failures and violence. Do not allow such wrong beliefs to lead your thoughts or actions. Research, challenge and discredit them.
- *Seek professional help.* It may be very difficult to end abuse without help; it may be impossible to find help without seeking it. Talk to a professional who has good information, training and experience. This could be a domestic violence worker, a social worker, a counsellor, or someone from a women's organization. Professionals are under oath of confidentiality. They will keep your personal information

confidential. If the abusive partner or spouse is willing to take responsibility for his behaviour and willing to change, he can get counselling.

- Join a support group. These groups are good because they help you realize that you are not the only one in this situation. Such programs use training materials that have been developed by experts and can help you understand the facts and dynamics of abuse. When you realize that you are not responsible for your abusive situation, you will not feel guilty or ashamed. Your thinking will become clearer. You will gain back your confidence and become increasingly more empowered to prevent abuse.
- Try to make a strong social circle. If possible, frequently invite your friends, relatives and neighbours to your home and also visit them. Try to attend social events with your children and spouse or partner as often as possible. The presence of other people may diffuse the tension in your home and maintain pressure on the abuser to behave. Most abusers are extra nice in public so no one knows or believes about their abusive behaviour.

### **How can abuse affect my health?**

Injuries, stress, anxiety, depression, loss of sleep and appetite, miscarriages, sexually transmitted diseases, strokes resulting from strangulation are some of the direct effects of abuse. Abuse may also result in several long term illnesses such as back pain, headache, and other chronic pains, allergies, asthma, dental problems, and irritable bowel syndrome. These are just a few health effects that have been researched so far.

### **What should I do if I want to separate and keep the children with me?**

You can apply to a civil court for divorce if you are married. You can also apply for custody of your children and child and spousal support. For detailed information on these topics, please refer to chapter three of this manual.

### **I have been sponsored by my spouse. If I leave him, can I still stay in Canada?**

If you have become a citizen, you cannot be asked to leave Canada. If you are a permanent resident, then also you cannot be asked to leave the country unless you have committed a crime that is punishable by at least two years' jail. Some abusers make complaints to Immigration, alleging that their spouse has used them fraudulently

to come to Canada and therefore must be deported. You need very strong support and legal advice to deal with such situations. If your spouse has not made an application to sponsor you, or has applied to sponsor you but you have not yet been granted a permanent residence status, your immigration status can be at risk. There are some options available for such situations. Chapter five has more details about this issue and also on what you should do if you fear that your child can be sent out of Canada.

### **Why do women stay in abusive relationships?**

A woman does not stay in abusive relationship because she likes to be abused, or because she is too weak or stupid. On the contrary, it requires a lot of courage, strength and intelligence to deal with abuse, and a woman stays because this seems to be the only way to meet the financial and other needs of her children, to ensure food on the table, and roof over their head. She is afraid of losing her children to the abuser. She stays because when she looked for support, she did not get it. She stays because in the goodness of her heart, she believes that her abuser is sick and needs her help, or is basically a good person and she will be able to change him.

Unfortunately, even today we live in a society that has only two role models for women, a young desirable sex diva or a mother-wife. A woman stays because she is not prepared to face the shame, stigma, failure, and guilt of not being able to keep the family together. She stays because of her fear of being ostracized.

Do not blame yourself for staying. Do not blame yourself for leaving. You know what is right for you and your children. You are the best judge of your situation and capable of taking the right decisions. Continue to increase your power, knowledge, support, and self-confidence. You will find a solution that is most suitable for you. The following chapters aim to assist you in your journey toward empowerment.

## Chapter Two: **Protection Under Criminal Justice System**

### **Chapter Summary**

1. If you suffer as a result of a crime, you are a victim and need help from the police and courts. These are two arms of Criminal Justice System in Canada.
2. Crime is an act prohibited by the Criminal Code of Canada or any other statutes. It is also called offence.
3. Governments run Criminal Justice System to apprehend criminals and punish them.
4. The first step for seeking help from this system is to file a complaint with the police. If you do not understand English, you may write the complaint in your own language. An interpreter can be provided, if asked for.
5. On receiving a complaint, the police investigate the crime. They collect evidence and interview complainant/victim, suspect, and other persons who have information about the crime.
6. If after investigation, the police believe that there is reasonable evidence that the suspect has committed a crime, they will lay a charge against him.
7. After being charged, the suspect is called an accused.
8. The police may arrest the accused with a warrant.
9. If an arrest is made, the police shall bring the accused before a Justice of Peace or a judge within 24 hours of arrest for a bail hearing.
10. Bail is a conditional release of an accused from police custody before trial. At bail hearing the crown prosecutor presents why the accused should not be released.
11. The Justice of Peace may refuse a bail or grant it with or without conditions.
12. If the crown prosecutor believes that there is a reasonable likelihood of conviction of the accused, he shall prosecute the accused.
13. Prosecution is holding legal proceedings against an accused in a court.
14. A crime harms not only the victim but also the public. A crown prosecutor is a

government's lawyer and represents the interest of public but is not a victim's lawyer.

15. If the court finds the accused not guilty, it shall acquit the accused.

16. If at court, an accused is found or pleads guilty, the court may convict him and hold a sentence hearing. If he does not plead guilty, the court may proceed for a trial.

17. The defence lawyer has only to raise a doubt about the guilt of the accused.

18. A court's decision is called a verdict.

19. If the accused is convicted, the court shall pass a sentence for punishment.

20. The accused can be sentenced to a fine, a jail term, a probation order, community service, or a combination of any two or more of these.

21. A person who has some information about a crime is a witness to that crime. Usually, the victim is a witness of the crime and called witness for the prosecution.

22. A witness must appear before the court when called and should not lie to the court. Lying under oath is perjury and is punishable by imprisonment.

23. Other protective measures include Emergency Protection Order, Queen's Bench Protection Order, Restraining Order, Warrant Permitting Entry and Peace Bond.

24. An Emergency Protection Order may be granted any time of the day when there is an immediate risk of harm to the victim. On such order, the accused may be removed from the home and ordered not to contact the victim.

25. Legal procedures may be expensive, confusing and intimidating. There are many government funded agencies that can help you in this. Some services are free.

26. Legal Aid Alberta offers many programs to provide help to Albertans. It runs Family Law Office through which lawyers can represent you in Family Law matters, i.e., divorce, custody, access, maintenance, matrimonial property etc.

27. People who have been arrested or detained also have a right to legal advice. A duty counsel can provide it to them free of charge.

## **Introduction**

If you are in an abusive relationship, you may need help from the police and courts, police to arrest the criminals and courts to punish them. These are the two main arms of the Criminal Justice System in Canada. Apart from these, Correctional Services and the National Parole Board are also parts of this system. This system has been established by the government to protect people and their property against crimes.

### **I. When a crime is committed: What do the police do?**

#### **What should I do when a crime has been committed?**

The first step one can take is reporting the crime to the police. Once the police are contacted, a police officer will meet the complainant, or arrive at the scene of the crime as soon as possible. The police officer will inspect the scene of the crime and record all the evidence, such as any broken furniture, scattered household possessions, presence of a weapon, or any injury to the body of the victim, suspect, or other persons present there. It is very important to show all injuries to the police for evidence. If this is embarrassing to you, you can ask for a female officer.

#### **What do the police do?**

When a crime is reported or otherwise comes to the knowledge of the police, they investigate and collect the evidence. If the evidence shows that there are reasonable and probable grounds to believe that a crime has been committed, or is likely to be committed, the police may lay charge against the suspect and try to make sure that he appears before the court.

#### **What is a charge?**

Charge is a formal accusation of guilt against a person.

#### **Who is a complainant? Who is a victim of crime? Who is a witness?**

The person who files a complaint or reports a crime is called complainant. A victim of crime is a person who has suffered physical or emotional damage as a result of the crime. When a victim of crime dies as a result of the crime, the immediate family

members are considered victims of crime. A witness is a person who has some information about the crime. A victim is the primary witness of a crime.

### **Who is a suspect? Who is called the accused? Who is a convict?**

When a person is suspected of committing a crime, he is called a suspect. When he is charged with a crime, he is called an accused. If he pleads guilty to a charge in a court, or is proven guilty, he is called a convict.

### **What is Crime?**

Generally speaking, any act or omission prohibited by the Criminal Code of Canada is a crime. Crimes are also called offences. There are three categories of offences in Canada. If the crime is not very serious, the punishment could be up to six months and the fine up to \$2000. The trial of such crimes is short and simple. These are called summary offences. Indictable offences are serious offences. Their proceedings are long and complex and punishment more severe. Hybrid offences may be either summary or indictable offences.

### **Is domestic violence a crime?**

Every wrongful act that is a crime when victim and offender are strangers is also a crime when victim and offender are spouses or intimate partners. Domestic violence means violent behaviour by one member against another member in a family. This term is mostly used for spousal violence, wife abuse, or intimate partner violence. It may include a single act of violence or a number of acts forming a pattern of abuse. The abuse can be physical, sexual, psychological or emotional. Constant put-downs and criticism of the victim and controlling her activities are some examples of psychological or emotional abuse. Psychological or emotional abuse is not acceptable but is not a crime under the Criminal Code.

### **How can a victim tell the police what happened?**

The police record victim/complainant's statement about the crime called witness statement. Victims/complainants whose first language is not English, can make statement in their first language. If you are a victim, it is important that you give relevant, correct and complete information to the police. If this information is enough for them to

believe that an offence has been, or is going to be committed, they can charge the suspect.

### **When can the police arrest an accused?**

Police may arrest a person if there is a warrant for his arrest. A police officer can also arrest a person without a warrant if that person has committed an indictable offence, or there are “reasonable and probable grounds” to believe that he has committed an indictable offence, or is about to do so. A police officer cannot arrest on mere suspicion. He can arrest anyone without warrant if he finds this person committing an offence. When there is evidence, the police officer must charge.

### **What is a warrant? What is a summons?**

A warrant is a court document that authorizes a police officer to arrest a person. In cases where the court has authority to issue an arrest warrant, the police will request the court to issue it. In cases where no warrant can be issued under law, the court may issue a summons to a person to appear before the court.

### **What happens when police do not make an arrest?**

In cases where police do not arrest, they may give a warning to the accused. They can also issue a notice for the accused to appear at the court.

### **What happens when an accused is arrested?**

On arrest, an accused will be produced without unreasonable delay and, in any case, within 24 hours, before a judge or Justice of Peace who is an officer of the court. It is for the judge or Justice of Peace to decide if the accused should be released on bail.

### **What is bail?**

After his arrest by the police, an accused has to stay in the police custody until his trial by the court. He can get an interim release from it through bail. At the bail hearing, the crown prosecutor argues why he should not be released from the police custody.

### **I have reasons to be afraid for my safety if my partner is released on bail?**

If you are afraid for your safety, you must immediately inform the police. The police will then inform the judge or the Justice of Peace about this at the time of bail hearing. They will also explain the basis of your fear to the judge or Justice of Peace, and let him know if you think that the accused is likely to disobey a term of release, especially, a no contact order. They will inform if the accused has a history of violence, substance abuse, or mental illness. If the judge or Justice of Peace is convinced, he may refuse to release the accused on bail. Or, he may release him with some conditions that he may deem necessary for your safety. It is very important for you to find out from the police what these conditions are so that you can make arrangements for your safety. If you become aware that the accused is breaching any condition of the bail, you should inform the police. The police may then re-arrest him and ask the court to cancel his bail.

### **If I call the police, can I also get charged or arrested?**

Police can charge and arrest you also if your partner claims that you have abused him, but they will have to determine if evidence supports this claim. This is called dual arrest and dual charging. However, before making an arrest, the police will decide who the primary aggressor is and who has acted in self-defense.

### **What happens when the police decide not to lay charges?**

If a police officer decides not to lay charges but the victim is not satisfied with it, she may request his supervisor to review this decision. If the supervisor also supports the decision, she can seek independent legal advice and start a private prosecution.

### **What happens after the police has laid the charges?**

After the charge, the police may arrest the accused and put him in jail. Or, they may serve a notice on the accused to appear before the court when asked. Once the police have laid the charge, the prosecution begins.

## **II. After the charges are laid: What do the courts do?**

### **What is prosecution?**

Prosecution means starting and carrying on criminal proceedings against an accused.

### **What are court proceedings and how do they start?**

The accused appears before the court and the charges are read. The accused is asked to plead guilty or not guilty. If the accused pleads guilty, the court convicts him and a sentence hearing is held. If the accused does not plead guilty, a trial is held.

### **What is conviction?**

Conviction means that the guilt of the accused has been proven. After this, the accused becomes a convict. When the accused is thus convicted, the judge gives a sentence for punishment. Before passing a sentence, the judge hears both the counsels, victim impact statement (victim's statement as to how she was affected by the crime) and pre-sentence report of the accused, if any. A judge may order a fine, imprisonment, probation, correction and rehabilitation, or a combination of any two or more of these.

### **What is a trial and how is it held?**

A trial is a process by which a court determines if the accused is guilty on the basis of the evidence produced in the court. In a trial, the crown prosecutor tries to prove the guilt of the accused and the defense lawyer tries to prove that there is no sufficient evidence against the accused, or that there are other circumstances that prove him innocent. They examine, cross-examine, and often re-examine witnesses, accused and victim, and examine other evidence to prove the guilt or innocence of the accused.

### **What courts hold these trials?**

The Provincial Court tries summary offences. It may also try indictable offences. Court of Queen's Bench in Alberta is superior to the Provincial Court and tries indictable offences by judge alone or by a jury. A jury is a group of twelve citizens called to listen to a case and decide the question of facts in a case before the judge.

### **Who is a crown posecutor?**

Crimes and criminals not only harm the victim, but also the society at large. Therefore, the government takes the responsibility of arresting criminals and punishing them. A crown prosecutor is a lawyer hired by the government to prosecute a criminal and help

the court to find out if the accused has committed a crime or not. Though a crown prosecutor prosecutes an accused, he is not a lawyer of the victim/ complainant.

### **What is public prosecution?**

In every case, the government conducts the criminal proceedings against an accused through a crown prosecutor. This is called public prosecution.

### **Who is a duty counsel?**

A duty counsel is a lawyer provided by the Legal Aid who is present at the provincial, criminal and family law courts to assist the people appearing before the court if they do not have their own lawyers. The duty counsel may speak on behalf of the victim in the court and also help her in applying for an Emergency Protection Order. He can assist a person in the police custody. He can assist an accused in entering a plea, making a bail application, seeking an adjournment, or speaking to a sentence. The duty counsel's service is free for all and no conditions apply for financial eligibility. A victim, who wants help from a duty counsel, should try to see him before the court begins.

### **What is a verdict?**

A verdict is the decision of the court stating if an accused is guilty or not guilty.

### **What is acquittal?**

If an accused is not found guilty, he is acquitted of the charge and is free to go. If the victim has any safety concerns due to acquittal, she should inform the police and apply for a protection order. A protection order asks the accused to not contact the victim.

### **What is a sentence?**

A sentence is the punishment that a court decides for a crime. If a written decision is issued, the victim can deposit a fee and obtain its copy from the Court Services. Such decisions are available in Alberta on the website: [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca). The following are the kinds of punishment.

- **Fine:** A payment of money as a penalty for an offence
- **Probation:** Release of the offender on conditions such as community service; a sentence or part of it completed in the community and not in jail

- **Community Service:** An order that the offender volunteer for community for a certain number of hours
- **Imprisonment:** Jail term. If a person is convicted of more than one offence, there may be more than one sentence of imprisonment.
- **Concurrent sentences:** All the sentences starting at the same date and the jail term ending with the longest sentence
- **Consecutive sentences:** Sentences running one after the other in case of unrelated offences committed by a convict
- **Conditional sentences:** Such as a court allowing a convict to spend the sentence time “under house arrest” instead of a jail
- **Combination:** A sentence that is a combination of two or more kinds of penalties

### **What does “criminally not responsible” on account of mental disorder mean?**

In some cases, the court may conclude that the accused was not capable of committing the crime due to a mental disorder, and therefore, is not “criminally responsible for the crime.” Such a person is kept under the supervision of Alberta Review Board who periodically assesses his mental state. The victim may present a victim impact statement to the Board who will consider it before releasing the accused.

### **What is an appeal? What is its process?**

An accused can appeal the conviction or the sentence. In Canada, there is a hierarchy of courts. An appeal moves from a lower court to the next higher court. In Alberta, a decision from the Provincial Court can be appealed to the Queen’s Bench, from this court to the Provincial Court of Appeal, and from there to the Supreme Court of Canada.

### **What is restitution?**

Restitution is compensation to a victim from the convict for any loss or damage suffered by the victim as a result of the crime. This may include damage or loss of property or income and expenses the victim may have incurred while moving out of the house of the offender. A victim should apply for restitution as soon as possible.

### **III. Measures for your safety: Other legal remedies**

#### **Emergency Protection Order**

An Emergency Protection Order (EPO) is an order passed in an emergency when there is a serious threat to safety of one spouse/partner and his or her family from the other spouse/partner. You can apply for an EPO before a provincial court judge during normal court hours. Besides, a police officer, a child welfare worker, a member of the Victim Services, or your lawyer can also apply for it with your consent and on your behalf by phoning a Justice of Peace any time of the day or night. An EPO authorizes the police to remove the accused from the victim's home, or remove any weapons from the accused. It may ask the accused to not contact the victim or come near her home, workplace, or children's school. An EPO is valid up to nine working days only unless the Queen's Bench reviews and confirms it. It becomes effective on serving a copy of it on the accused. An EPO does not cost anything to the applicant. Check the last chapter for other details.

#### **Queen's Bench Protection Order**

The Court of Queen's Bench can confirm, revoke, or replace an EPO with a Queen's Bench Protection Order with duration up to one year. This can be extended further but each time only for a year. This order may ask the abuser to compensate the victim for financial losses that she may have suffered as a direct result of his abuse. A violation of this order may be punished as summary or indictable offence. The order does not involve any cost.

#### **Warrant Permitting Entry**

You can contact the police for a Warrant Permitting Entry. This warrant authorizes the police to help the complainant's family member to enter the home of a person feared to be a victim of domestic violence and check on her safety, or remove her if she wishes.

#### **Peace Bond**

If a woman has reasonable fears that her abuser may harm her, her family and her children, or damage her property, she may apply to a justice court or a summary conviction court for a peace bond. The peace bond asks a person to keep peace and

good behaviour and to not harm the complainant. It may include specific conditions. It may ask the respondent to not visit or contact the victim and her children. It may ask him to receive counseling for substance abuse or anger management. A peace bond can be issued for up to 12 months and its violation is punishable by a fine up to \$2,000 or imprisonment up to two years.

Many women find it easier to apply for an EPO than a peace bond because in case of a peace bond, a person has to serve a notice on the other party and there has to be a hearing before the justice or the court. There is no cost to apply for a peace bond and a person does not need the help of a lawyer or police for applying for it.

### **Restraining Order**

This is a civil court order made by the court of Queen's Bench, ordering the accused to stop harassment of the complainant or her children and to not contact them. A victim can apply for this order herself, or through a lawyer. Though restraining order is not an emergency order, in emergency, an ex-parte order may be obtained within one or two days and then reviewed in about 2-3 weeks' time. On review, it may be revoked or confirmed. If confirmed, it usually remains in force for 3-6 months. This order becomes effective only when a copy of it is served on the accused. The victim needs to show to the police a copy of this order if the accused has breached the order and an action needs to be taken against him. A breach of restraining order is not a crime, but it can be punished as contempt of court.

### **Edmonton Protection Order Program**

Under this program, the Family Law Office in Edmonton may help a victim of domestic violence to apply for an Emergency Protection Order or to seek a review of this order. There is no fee for the services. Check last chapter of this manual for further details.

### **Publication Ban**

It is a court order prohibiting the media from reporting the identity of a victim or witness. A victim or witness may apply for it; a judge may either grant or refuse it.

## **High risk cases and repeat victimization**

Where the victim is assessed to be at a high risk of harm, or the accused has previously committed crime/s against the same victim or other victim/s, the police may take special measures to investigate, such as surveillance and physical, visual, photographic or electronic interception. Police may also support such victims with their special needs, i.e., medical help, language interpretation, counselling, transportation to a shelter or a safe place, or safety as in case when the victim or the suspect returns to collect personal belongings. They can take the victim's contact information to inform her about the progress in her case such as if or what charges have been laid against the accused.

## **IV. If you are a victim or witness**

### **Role of a victim**

A victim has the option of submitting a victim impact statement to the court after the charges have been laid against an accused. The courts can call her in as a witness for the prosecution. In rare cases, the defense can also call her in as a witness.

### **Who is a witness?**

A person who knows the facts and circumstances of a case can be called a witness in that case. A witness should know the date, time, place, name of the court, and room number where she is asked to testify. A witness should reach the court house before the scheduled time, report to the lawyer who has called her in as a witness and present the subpoena to the court clerk. Influencing or harassing a witness to change the testimony is an offence punishable by imprisonment extending up to ten years.

### **What is subpoena?**

Subpoena is a court order served on a person asking him to appear before the court to give testimony. If he fails to follow it, an arrest warrant may be issued against him.

### **What is perjury?**

Knowingly giving false evidence under oath is perjury and is punishable by imprisonment that may extend up to 14 years.

## **When you are a witness**

As a witness, you will be expected to answer all the questions asked by the presiding officer of the court. If you are unwilling to answer, you must tell this to the court. Try to find out from your lawyer what kind of questions you may expect from the court officer or in the cross-examination. You should also find out if you should tell your address aloud when the court asks it. The friends and relatives of the accused may be present where you are waiting for your turn to testify. Do not discuss your testimony with anybody there.

If you have language barriers, an interpreter or translator can be arranged. If you have any security concerns, you should inform the police and the crown prosecutor's office. If you are not comfortable being alone in the courtroom, a member of the Victim Services Unit or any other friend or relative can be allowed to accompany you. If you are too scared to testify, a videotape made within reasonable time after the crime may be accepted as evidence. The court may also allow you to give your testimony before close circuit television or behind the screen. A witness for the crown prosecutor can get all his travel expenses reimbursed if he or she has to travel outside the community to testify.

In Edmonton, there are many agencies that can provide you information and support with different legal processes. You can find details of such services and the agencies that offer them with their contact information in the last chapter of this manual.

## Chapter Three: **Protection Under Civil Justice System**

### **LAWS RELATING TO DIVORCE, CUSTODY, ACCESS, CHILD SUPPORT & SPOUSAL SUPPORT**

#### **Chapter Summary**

1. A marriage can be dissolved by a divorce on the ground that the marriage has broken down.
2. The grounds for divorce can be cruelty or adultery of one of the spouses, or the fact that the spouses have been living separate and apart for one year or more.
3. Divorce proceedings may be contested or uncontested. If a spouse contests a divorce, it means that he or she is not willing to divorce.
4. Uncontested divorce proceedings are simple and you may not need a lawyer for it.
5. The court may refuse to grant a divorce in certain conditions.
6. If there is a divorce, you can apply for division of matrimonial property.
7. You can apply for divorce or division of matrimonial property at the Court of Queen's Bench in Alberta if your matrimonial property is located in Alberta and you meet the residency requirement for the application.
8. Matrimonial home is a home that is owned or leased by both or one of the spouses where the spouses live after their marriage.
9. Under Matrimonial Property Act, a court may grant you an exclusive possession of matrimonial home and other household goods such as car in certain situations, even if they are owned or rented by your spouse.
10. The Dower Act provides that the spouse who owns the matrimonial home cannot sell or mortgage it without the prior permission of the spouse who is not the owner.
11. The non-owner spouse also has a right to live in this home.
12. An application for matrimonial property can be filed as an independent action or along with the application for divorce, separation, or annulment of marriage. If it is not filed at this time, it must be filed within two years of separation or divorce.

13. When spouses divorce they must make arrangements for custody and support of their children. The court shall not grant divorce until the custody, access and child support issues are settled.
14. In deciding custody and access issues, the court considers the best interest of the child. The parent who can best protect the interest of the children is given their custody.
15. The parent not having custody may still be asked to pay money to meet the child's need.
16. Custody involves rights and responsibilities to live with and take care of the child and take the decision about child's day to day life as well as the ones regarding education, health, or religion.
17. Custody may be sole, joint, shared or split.
18. Access is the right of a child to meet and spend time with the non-custodial parent.
19. The court decides the amount of child support on the basis of the needs of the child, number of children, and income of the parents.
20. There are both federal and provincial guidelines for calculating child support.
21. Children who are adult may be entitled to support if they are full time students or if they are not able to support themselves because of disability or any other reason.
22. A spouse can also apply for spousal support on divorce or separation.
23. An order for child or spousal support can be registered with the Maintenance Enforcement Program to ensure regular payment.

## **Introduction**

If you decide to leave your spouse, you need to know how you can legally end your relationship with him. When you separate, the court will decide who will keep the children and who will pay the bills for them. In order to protect the best interest of your children and yourself, you need to know if you have any share in the matrimonial property and what financial support you can get from your spouse for your children and yourself. If you want to settle these matters without going to the court, you can go for out of court settlement. This chapter provides basic information on all these matters.

### **I. Divorce**

#### **I want to end my relationship with my spouse. What should I do?**

If you are legally married, you can apply to the court for a divorce. Divorce is legally ending a marriage. Common law partners do not need a divorce to separate legally.

#### **Is a marriage performed outside Canada legal in Canada?**

If a marriage is legal in a country where it was performed but not legal in Canada, such marriage is not legal in Canada.

#### **What is separation? What are the rights of a separated spouse?**

When the spouses start living separate and apart because they believe that their marriage is over, it is called separation. A separated spouse can file an application for custody, access, child support and division of matrimonial property.

#### **What are the grounds for applying for a divorce?**

Divorce means that the marriage has broken down permanently. You can apply for divorce if your marriage has broken down because of cruelty, adultery or spouses living separate and apart for one year. It is easier to obtain a divorce on the last ground because it is not easy to prove cruelty or adultery to the court.

#### **What is cruelty?**

Cruelty may be physical or mental. Physical cruelty includes acts of physical abuse and violence such as assault with or without a weapon, confinement, sexual assault etc.

Such acts are crimes and punishable under the Criminal Code of Canada. Mental cruelty includes constant criticism, put downs, intimidation, withdrawal from the companionship, refusal to have sexual relationship etc. These behaviours are not punishable.

### **What is adultery?**

Sexual relationship with a person other than the spouse in the duration of marriage is considered adultery. Such relationship is considered adultery even if the spouses are living separate and apart.

### **Do I need the help of a lawyer to apply for a divorce?**

You need the help of a lawyer if your application for divorce is contested by your spouse. This is called a contested divorce. In this, the parties need to personally appear before the court and the proceedings are lengthy and expensive. When the divorce is not contested by the other spouse, it is called uncontested or desk divorce. In this, the parties do not need to personally appear before the court. The proceedings are simple and take less time. A divorce application kit is available at places like Staples and Coles or on the Internet. You can fill it out yourself following the instructions and file it. This divorce order becomes effective after 31 days from the date of order.

### **Where should I apply for a divorce?**

You can apply for a divorce in a province where you have or your spouse has resided for at least one year before filing the application. Employment, bank accounts, and residential property in a province are proofs of residence in that province. In Alberta, an application for divorce can be filed at the Court of Queen's Bench.

## **II. Matrimonial Property**

### **Do I have any rights in our property after divorce?**

You have a right to the division of matrimonial property; you may have a right to exclusive possession of matrimonial home, matrimonial goods and your family car. You also have the dower rights.

## **What are matrimonial property, matrimonial home, matrimonial goods and dower rights?**

Matrimonial property is the property *acquired during or through the marriage*. This can be either purchased or acquired by or gifted to the couple together. Matrimonial home is a home that is either owned or leased by one or both the spouses in which the spouses live together after their marriage. Matrimonial goods are goods owned or acquired by either spouse for use by the family such as furniture, home appliances, car etc. Dower rights are the rights of the spouse who does not own the matrimonial home. Such rights restrict the owner-spouse from selling, mortgaging or creating liabilities (encumbrances) on the matrimonial home without the permission of the non-owner spouse. This entitles the non-owner spouse to live in the matrimonial home if he/she survives the owner-spouse.

### **What is included in the matrimonial property?**

1. All property acquired through and during marriage by purchase, gift, or otherwise
2. R.R.S.P.'s, pensions, stocks and bonds, investments, and business interests
3. Matrimonial home, matrimonial goods, and family car
4. Increase in the value of a property, and any property purchased from such increase, during a marriage even if it was owned exclusively by one spouse before marriage. For example, if your spouse has owned a property from before your marriage with him, you will have a claim to the increase in its value from the date of your marriage.

### **What is not included in the matrimonial property?**

1. Property owned by the spouses before their marriage together except the matrimonial home
2. Property purchased by the money from the sale of such property if such property is not a matrimonial home
3. Any property given to just one of the spouses through inheritance, gifts, as damages in torts, or as proceeds of an insurance policy, etc.

## **How is matrimonial property divided between the spouses?**

The basic principle for the division of matrimonial property under the Matrimonial Property Act is that the matrimonial property should be divided equally between both the spouses who are considered to be equal partners in the marriage.

### **I stayed home to raise our children and never made or contributed any money.**

Even if you have been a stay home mom, you may have a share in the matrimonial property. A marriage does not run on finances only. Thus, participation in the marriage can be non-financial as well. If you have used your time, labour or skill to run the home and raise children, this is an equally important contribution. You may have helped your spouse in his business, you may have taken his business calls, or helped him to renovate, improve or manage rental properties that he owns or manages. This is contribution, too.

### **Are there situations when the 50:50 rule will not apply?**

This is just a basic rule. While applying it, the court may also consider the following:

- Doubtful transactions with an intention of depriving the other spouse of matrimonial property. For example, one spouse gives away a large amount of money to someone as a gift, or sells property for a cheap price
- Any property that was acquired by a spouse when he or she was living separate and apart without any contributions from the other spouse
- Taxes that a spouse will have to pay when that property is sold because of the order of division
- Any damage caused to the property by the spouse
- The difference between the financial status of the spouses at the time of marriage and at the time of divorce (The court would assess which of the two has gained, lost, or remained the same in financial status after the marriage.)
- The ability of each spouse to carry on life after divorce on the basis of their income or ability to earn, their assets and liabilities.
- Length of marriage
- Any verbal or written agreement between the spouses

### **How will I get my share? Will it be cash or kind?**

If you and your spouse have an agreement, the court may simply enforce that. Otherwise, it may order division of matrimonial property in many ways. It may order sale of the property and divide up the sale proceeds. It may transfer it to one spouse on condition that he/she pays to the other spouse a certain amount as a lump sum or through installments with or without interest. The court can also order the release of dower rights in a property, which will allow the spouse who owns it to sell or mortgage it.

### **Can I live in my matrimonial home after my separation or divorce?**

The court may order that you can live in the matrimonial home along with your children. The court may also order your spouse to leave this home to your exclusive possession even if he is paying the mortgage or rent, and further order him to continue paying it even if he is not living in it. He may not even be allowed to re-enter it without your or the court's permission. You can apply for exclusive possession of your matrimonial home with an application for divorce or separation, or with an application for division of matrimonial property, or through a separate application. You can also apply for exclusive possession of your matrimonial home ex-parte, that is, without informing your spouse, if you fear that he may harm you or your children if he comes to know about it.

### **Can I continue to use other items as well such as our car?**

Some items such as a car, furniture, home appliances are meant for use by all the family members even if owned by only one spouse. You can apply to the court to divide or exclusively have these. The court will consider your request on the basis of your needs, i.e. you may want to own a car because you need to drive your children around.

### **Can he sell the matrimonial properties before the court's decision?**

No. You can file a 'Certificate of Pending Litigation' in the Land Titles Office to prevent him from doing so. Also, if you have an order for exclusive possession of the matrimonial home, car, or other household goods, you must register this order with appropriate registry, i.e. car with Motor Vehicle Registry, matrimonial home with Land Titles Office and goods with Personal Property Registry. This will prevent him from selling these without your knowledge. If he has sold or disposed off any property so that

it cannot be included in the matrimonial property at the time of division, you can request the court to take that into consideration. Such request should be made within a year of the sale of such property.

**Where should I file an application for division of matrimonial property?**

You can file it in the province where such property is located. The court will also take into consideration the value of any other matrimonial property located outside the province when it is dividing the matrimonial property between you and your spouse.

**I am currently not residing in Alberta but a major part of my matrimonial property is located in Edmonton. Can I make an application in Edmonton?**

You can do so if: (1) you or your spouse has applied for divorce in Edmonton; (2) or at the time of your marriage, you and your spouse lived in Alberta; (3) or after marriage and for the last time, you and your spouse jointly lived in Alberta; (4) or at the time of filing your application for division of matrimonial property, you and your spouse were residing jointly or separately in Alberta.

*Example one:* You and your spouse were residing in Edmonton at the time of your marriage and purchased some matrimonial property here. Then for some reason you moved to India, your country of origin, and your spouse moved to B.C. Now, if you or your spouse intends to separate and wants a division of matrimonial property located in Edmonton, either of you can file an application here though you are not living here.

*Example Two:* Your spouse has been residing in Edmonton for more than a year. He marries you in India and returns to Canada. He purchases a house in Edmonton with the money that was gifted to you and him by your father after your marriage. He does not sponsor you to immigrate to Canada and your marriage is over. You can come to Edmonton and file an application for divorce here and also apply for division of matrimonial property.

*Example Three:* You and your spouse lived in Vancouver but purchased some property in Edmonton. Then you both moved to Edmonton and started living here. You can file an application for division of matrimonial property in Edmonton.

### **Do I need a divorce before I can apply for division of matrimonial property?**

No. You can apply for division of matrimonial property (1) before or at the time of applying for divorce, judicial separation or annulment of marriage, (2) anytime within two years of living separately, or (3) within two years of the date of divorce judgment. Note that if your marriage is void (illegal) and at the time of marriage, you were aware that it was void, you cannot file an application for division of matrimonial property. But if at that time of your marriage, you were not aware that the marriage was void, you can file an application for division of matrimonial property along with an application for declaration that the marriage is void. This information may be particularly useful to the victims of fraudulent international marriages discussed in chapter five.

### **How is the property divided between common law partners when they separate?**

The Matrimonial Property Act does not apply to the property of common law partners. The rule of 50:50 also does not apply to them. One partner may use the other's property while living together, but the property, as well as any income or wealth created through it, belongs to the owner.

## **III. Custody, Access and Support Orders**

### **What happens to the children after divorce or separation?**

When spouses decide to separate, there may be many issues between them regarding the care and support of the children. The court tries to make sure that on divorce or separation of the parents, proper arrangements are made so that children continue to get all the care and support they were getting before the divorce or separation, and their wellbeing is not affected. For this, there are provisions of custody, access and support.

### **What is custody?**

The parent with whom the children live and who has the physical control of the children is said to have the custody of the children.

### **What are the rights of a parent having custody?**

There are four different types of custody orders: sole, joint or shared. In case of **sole custody**, the child lives with one parent who has the right to make decisions about the

day-to-day affairs as well as other important matters such as education, medical care and religion of the child. The non-custodial parent may pay child support and have access right and right to be informed of the major decisions about the child. In case of **joint custody**, the child may live with one parent for most of the time, but both the parents have the right to take major decisions about the child with mutual consent, and to visit the child when the child is in the other parent's custody. The non-custodial parent may also be ordered to pay child support. In case of **shared custody or shared parenting**, each parent has child's custody for at least 40% of the time, and both parents have the right to take major decisions about the child with mutual consent. In **split custody**, one parent has custody of some children most of the time and the other parent has custody of some other children most of the time.

### **What is access right?**

A parent who does not have the custody of the child is called a non-custodial parent. A child has a right to meet and spend time with the non-custodial parent. This is called access right. The court decides where, when and for how long a non-custodial parent will meet or visit with the child. The court shall not deny this right unless there is a risk of potential harm to the child from this parent. A custodial parent has no right to refuse access to non-custodial parent even if the non-custodial parent has failed or refused to pay the court ordered child support. Also, a non-custodial parent cannot stop paying child support because he/she was not allowed access to the child. The court can order that the access be supervised if it believes that there is a risk of harm to the child from a non-custodial parent.

### **How does the court decide who gets the custody of the children?**

In deciding which parent will have the custody and which one will have access rights, the court is guided by only one consideration - what is in the best interest of the child. In this decision, financial condition of a parent does not matter as the court can order the other parent to pay child support. In such decisions, the court considers the following:

- **Child's preferences:** Who is the child more attached to? In case of teenagers, who do they want to live with? Does the child want to live with a sibling?

- **Opportunities for the child:** Which parent is willing and capable of providing the best opportunities for education, health, cultural and religious upbringing, stable social relationship and other such factors that can influence their development?
- **Parenting ability, skills and past conduct:** Which parent has the time to care for the child? Who did that in the past? Which parent has the support of grandparents, other relatives or friends? Has there been a history of violence or neglect? Which parent is physically and mentally more capable of child care?

### **What happens when there are conflicts regarding custody issues?**

Children are extremely vulnerable in divorce situations and parents should try to avoid conflicts regarding custody issues. The courts encourage parents to resolve custody issues through mutual agreement or mediation. Besides, the court may order parents to consult a psychologist or social worker, and go through a program entitled 'Parenting after Separation.' This program offers useful education on how to deal with psychological and emotional impact of separation on children. In particular, if there is evidence of domestic violence or abuse, or a child is at a risk of physical, emotional or sexual abuse or injury, the court may go as far as to appoint a Director of Child Services to take custody of the child.

### **Do the same laws of custody and access apply to common law relationships?**

The laws are mostly the same if the parents are married, common-law partners, or parents by adoption. In divorce proceedings, settlement of issues related to custody, access and child support, is mandatory. In common-law relationships, an application may be filed for this. In both cases, if there is an agreement in place, the court shall review it, and if it is satisfied that it serves the best interests of the children, confirm it.

### **He has the custody of my 10 year-old son. He often leaves him alone at home and goes out of city. Do I have a right to bring my son home while his father is away?**

If your children are less than 14 years of age and your spouse has their custody, you cannot remove them from his custody without his permission or the permission of the court. Even if there is no custody order in place yet, you cannot remove a child from the custody of your spouse without his permission. If you do so, it will be called abduction.

Abduction is illegally taking away a child from the lawful custody of the guardian. It is a serious crime for which you can get a jail term of up to ten years. However, if there is an emergency, you can contact the police or childcare services and remove the child for safety reasons, but must inform the court and apply for custody as soon as possible.

**I fear that my child will be taken out of Canada and I will never see him again.**

Canada has signed an international agreement according to which children taken across the boundaries of any of the countries that have also signed this agreement will be returned to the authorities in the country where their custodial parent lives. If you fear that your children may be taken out of Canada, inform the court and request it to keep the passport of the children with it. If your children do not have a passport, immediately contact the embassy or consulate of the country of which your children are citizens and ask them to inform you if anybody tries to get a passport for them. You must always keep a copy of the custody order to show the authorities that you have custody of your children. You should also inform their school about it.

**What is child support and how is it calculated?**

The money that you pay to or receive from the other parent to meet the financial needs of your child is called “child support.” In determining the child support amount, the court considers the number of children, their normal and special needs, i.e. medical needs and education, and parents’ capacity to pay the expenses on the basis of their income as shown in their Income Tax Return. There are federal and provincial/ territorial guidelines to calculate child support. Since the income may change year to year, the Alberta Child Support Recalculation Program provides a service to recalculate the child support amount. An adult child may also be entitled to child support if he/she is a full time student, or has special needs. In Alberta, the age of majority is 18 years.

**My spouse has stopped paying child support.**

The Alberta Maintenance Enforcement Program (MEP) ensures regular payment of child and spousal support. The parent who pays the support is called the payer (debtor), and the one who receives it is called the recipient (creditor). When a child support order is registered with MEP, a separate account is opened for it. The payer makes a

payment into this account, which is transferred to the recipient's account. If a payer fails to pay, MEP can enforce payment by taking one or more of the following actions against him:

- Have his driver's license suspended
- Forfeit his passport or other federal licenses
- Report to the credit bureau
- Garnishee his wages
- Make a claim against a real estate owned by him
- Take up to 50 % of moneys held by him jointly with another party – e.g. second wife or husband
- Apply to the court to allow seizure of his property

### **Can I get financial support from my ex-spouse?**

Financial support for a spouse is called spousal support. A spouse may apply to the court for an order of spousal support only in three situations: (1) There is an agreement between the spouses; (2) the spouse is entitled to a compensation for the loss suffered as a result of marriage - for example, gave up a successful career to raise children; and (3) the spouse asking for support is suffering from economic hardships and the other spouse is in a position to support. Such support will stop when the economic hardship ends or the spouse gets re-married. There is no rule that only abusive spouse will have to pay the spousal support to the abused spouse. On the contrary, even a non-abusive spouse may be ordered to pay spousal support to the abusive spouse if he/she is eligible for it. This application can be made during divorce proceedings or after it. The court may order payment through a lump-sum amount or installments or both.

### **Is there any cost to legal proceedings in addition to lawyer's fee?**

There is a court fee for many legal proceedings, in addition to the lawyer's fee. There may be relief from court costs under some circumstances or when a party cannot pay for a service. For example, a person receiving legal aid may be exempted from the court fee based on his or her income. You do not have to pay the court fee for a Restraining Order or custody, access, child support and spousal support applications.

## Chapter Four: **Impact On Children Who Are Exposed To Abuse**

### How to Protect and Help Them Heal

#### **Chapter Summary**

1. Children who witness abuse of their parents are being abused and may have the same effects as a child who has himself been abused.
2. If a child is living in an abusive home, it is highly unlikely that he has not directly witnessed the abuse.
3. Even if the children have not directly witnessed the abuse, they have heard the sounds of anger and violence. They know a lot about abuse.
4. A man who abuses his children's mother is not a good father.
5. A good parent is also a good role model.
6. The favorite child of an abuser is most at risk of becoming like him.
7. Depending upon their nature and experience of abuse, children experience a wide range of feelings about it, i.e. anger, fear, guilt, shame, and helplessness.
8. Abuse can impact even babies and result in their developmental delays.
9. Due to living in constant anxiety and fear, a child may not be able to concentrate on his studies and thus his school performance may suffer.
10. While living in abusive homes, children can learn many wrong lessons, such as abuse is a normal form of interaction with others, men can abuse women, women should take abuse.
11. Boys raised in such homes are found to be three times more likely to abuse their partners.
12. Not all children who grow up in abusive homes become abusive themselves. A lot depends on their relationship with their non-abusive parent who can become their role model, enforce positive values, and help them break away from the cycle of abuse and violence.

13. An angry home is a scary home where children may feel unsafe and unloved. In search of an abuse-free home, they may run away or join gangs.
14. A woman who is living with abuse may find it difficult to meet the physical and emotional needs of her children. This is why children who live in abusive homes can often become neglected.
15. Children can get drawn into parents' conflict even if the parents try to keep them away from it. They can even get hit accidentally.
16. If the children are not talking about abuse, it does not mean that they are not affected by it. They may be quiet because they are scared, confused, or ashamed.
17. It is very important for women who are living with abuse to have a safety plan in place. It is needed in both situations, for living with abuse or leaving it.
18. When leaving an abusive home is not the best or possible option, efforts can be made to minimize the impact of abuse.
19. Leaving is a difficult decision and, in some cases, can become a reason for increased violence. Do not leave without adequate preparation.
20. Being safe is not being well. Healing from scars of abuse may be a long process. It may take a long time even after the abuse has stopped.
21. Some children can start healing as soon as they are out of the abusive environment. Others may take longer. Also their healing journey can be full of ups and downs.
22. Children may benefit immensely in contact of loving, caring adults who can help restore their belief in the positive aspects of life and thus help them heal.
23. There are many special programs for women and children to help them heal. There are many agencies providing specialized counseling that is low-cost or free.
24. It is very important to get professional help. Professionals have adequate training and experience to guide you and your children in this process. A list of such services is provided in the last chapter of this manual.

## **Introduction**

Women, who live in abusive relationships, worry about safety and well being of their children, and try hard to protect them from the effects of abuse. They try to hide their own abuse from them, and in spite of their draining, devastating abuse, also make their best efforts to meet their children's physical and emotional needs. Many leave an abusive relationship to create a safe and better life for their children; many stay in it for the same reason; and some return to it after leaving for the same reason. That is why it is very important for a woman experiencing abuse to understand what its effects are on her children, how to protect them from these effects, and also help them heal.

### **I. Children as witnesses**

#### **I am being abused. My children are not being abused.**

A child who is exposed to the abuse of his parent is considered to be an abused child. Such a child may have the same effects as a child who has been directly abused. A child is not a silent spectator. To see his mother in pain, crying, bleeding, traumatizes a child. He worries for her safety, his own safety, and the safety of his siblings. He wants to be able to stop the abuse and rescue her. He may feel guilty and ashamed for not being able to protect her from her abuse.

#### **My children have never seen me being abused.**

Research indicates that majority of children living in abusive homes have directly witnessed the abuse. They secretly watch the assaults from keyholes, from behind the furniture, from windows, although their parents may not be aware of this. Even if they do not witness the assaults directly, they are aware of the sounds of violence - yells, threats, swears, punches, blows, crashing objects. Broken dishes, toys, furniture can tell it all to them. They notice their mother's bruises and injuries, her agony, shock, pain, trauma. They exchange notes with their siblings.

#### **Even though he abuses me, he is a good father.**

A good father does not abuse his children's mother. A good parent is also a good role model, someone who children can look to for safety, guidance and unconditional love.

## **He abuses me but he loves his children.**

This may be true and many women stay in abusive relationships because of this. However, an abusive man is a poor role model and children are at risk of following him. In fact, the favorite child of an abusive man is at the greatest risk of becoming like him.

## **What is generational violence?**

Several studies indicate that boys, who have witnessed their father abuse their mother, are three times as likely to abuse their partners when they grow up. On the other hand, girls who witnessed their mothers being abused, find it difficult to escape violence in their relationships. This is referred to as generational violence.

## **How do children feel when they witness abuse?**

It largely depends on two things: the child's nature and his personal experience of abuse. Depending on these, children can react differently. Collected below are the voices of children who have been a witness to their mother's abuse. You can see that they express a wide range of feelings - from anger and hatred to fear, guilt, shame and helplessness.

"I feel so helpless..[.]"

"I'd like to kill him..[.]"

"I think he hates me..[.]"

"If mum won't deal with him, then I will. I have to stay strong to hold things together."

"Dad behaves like a mad dog..[.]"

"I am ashamed of him – I can't tell anyone because then they will know I haven't got a proper dad..[.]"

"I feel like killing myself..[.]" "I am really scared he's going to start hitting me and my brother and sisters..."

"I'd rather run away than go home..[.]"

"My dad is power maniac..."

"I hate my dad and I want to leave home..."

"There is nothing I can do..."

“I’ve only seen the violence once but I’m scared things are going to get worse..[.]”

“My friends don’t want to listen anymore – It’s been going on for too long – I’ve become a broken record...”

“I want some peace for myself..[.]”

“I used to get upset – now I feel angry..[.]”

“I sit in my room and cry..[.]”

“At times he can be really nice and at times he’s like an animal..[.]”

“It’s affecting my school work..[.]”<sup>i</sup>

## **II. Impact of witnessing abuse on children**

### **What is the impact of abuse on children?**

Abuse in the home can result in physical or emotional neglect of infants and can put their physical and mental health in danger. It can cause developmental delays in them such as inability to learn language or toilet-train. Such children may become extremely fearful of loud noises. They can cry for long periods for no real reason and become unable to calm down. Exposure to abuse and violence can upset their sleeping and eating routines. Younger children can show separation anxiety or fall ill frequently. They may learn to show aggression through hitting, biting, or destroying their toys, or other objects. They may learn to act with violence with others and bully them. They can also show cruelty to animals. As they grow older, they may suffer from low self-esteem or depression. They may also become prone to self-destructive behaviours. Due to low self-esteem, they may try to please to seek approval.

### **My child is not doing very well at school.**

Sometimes, when children are silently suffering from the ill-effects of abuse, their social skills and school performance may be affected. Researches prove that abuse affects the brain development of children. It can make them hyperactive, or they may suffer from attention deficit, and become unable to concentrate on their studies. They may show inability to follow rules or discipline. Such children are also likely to be more absent from school. Due to poor social skills, they may have bad peer relationships.

### **What wrong lessons can children learn?**

Children may begin to see violence as normal behaviour in relationships. In abusive homes, children can learn that women are inferior to men and do not deserve to be treated with respect. Boys may come to believe that it is acceptable for a man to abuse his partner, and girls, that it is acceptable for a woman to be abused. They can start believing that victims are responsible for their own abuse.

### **How do children deal with abuse?**

Many children try to disconnect themselves from abuse mentally. They may leave home at the time of violence. Younger children can seek comfort in fantasies such as that of a superhero who will take revenge on the abuser and rescue the family. Some older children may try to take charge of the situation by reaching out for help from friends and relatives or even police. They may also try to take charge of their siblings and mother. Some children are seen to injure themselves or attempt suicide. These are their cries for help. Some others may become very aggressive, or seek comfort in drug and substance abuse. Some may even run away from home in search of acceptance and love. Some also may use positive ways to cope, such as exercise and sports, creative writing, drawing, acting etc. They may also try to work extremely hard to achieve academic excellence to prove their worth.

### **Can my child run away from home?**

Studies on homelessness in children indicate that a large number of street children come from violent homes. When they are running away from their unsafe homes they do not realize that streets are even less safe. Children need a sense of safety and belongingness. Drug and other gangs can offer this and become a surrogate family to them.

### **A child who grows up in an abusive home will never become a normal child.**

This is not true. Children are capable of rationalizing and making their own choices. However, in this, their relationship with their non-abusive parent and other supporting, loving adults plays a critical role. These are the people who will teach them why abusive behaviour is wrong, and how not to imitate it. They can learn from such adults how to be

fair, honest and respectful in relationships. In fact, an abuser may even become a negative role model and his children may make a conscious effort not to become like him.

### **How can my child be affected by MY abuse?**

An abusive and violent environment in itself is oppressive and traumatizing and not good for physical and emotional health of children. In such homes, children become hyper vigilant as though they are living in a war zone. An abusive man tries to isolate his partner from her friends and relatives, especially those who can offer help. Thus, children are also isolated from people who care for them and can help them. Children are often used as weapons by an abusive man. A very common form of this is using them to spy on their mother. Children can also be treated with emotional and physical cruelty to hurt their mother. They may be encouraged, taught, bribed or forced to participate in her abuse. This can make them very guilty and distance them from her. Often they are used as a weapon after separation and in court proceedings. To take revenge on their partners, abusers often try to take children away through custody battles or even abduction. Mistreatment of children during unsupervised visitation may not allow them to heal even after leaving an abusive home.

### **My child never talks about abuse. It seems he is not affected by it.**

If the child is not talking about abuse, it does not mean that he does not know about it, or that he is not affected by it. It also does not mean that he does not care about his mother. Sometimes, children do not talk about their feelings because abuse is supposed to be hidden from them and they are afraid of being punished if they talked about it. They may also be afraid that if the abuse is known to people, their parents can go to jail, or they themselves can be taken away by the Child Protective Services.

### **If we keep our children away from abuse, how can they still be drawn into it?**

Children may get physically hurt while trying to protect their mother. In order to stop the abuse, they may try to intervene, calm down the aggressor, take the blame upon themselves to protect the victim, or mediate the conflict. This exposes them to abuse.

### **My child is too young to be affected by my abuse.**

Even babies are affected by the abuse of their mother. However, depending on their age, children may show their distress differently.

### **Can my abuse impact my parenting?**

Abuse is a deeply painful experience and can drain a woman physically, mentally and emotionally, leaving her with little energy to meet her children's needs. It can make her emotionally unavailable to them. An abuser may not allow his partner any say in the matters of parenting. As a result, children may stop looking to her as a figure of parenting authority and lose her loving guidance. Out of the fear of the abuser, children may distance themselves from their mother. Some abusers portray their partner as foolish, incompetent or a woman of loose character and try to convince the children that she is responsible for her own abuse, and deserves to be abused. Children can learn to disobey, disrespect, and distrust her, or even participate in abusing her.

## **III. How can I protect my children?<sup>ii</sup>**

### **Should I leave?**

Leaving is a very difficult decision, although in some cases, it may be the only practical solution. Children can lose their home, their social network, their familiar school, neighbourhood and playground in this process, which can seriously disrupt their lives. Legal actions such as custody battles are extremely expensive. Many women may not be financially strong enough to support their children after separation. Sometimes, children start missing their father once he is gone and blame their mother for this.

### **What benefits should I expect after this painful decision has been taken?**

The most important benefit for your children is that they do not have to suffer the pain of witnessing your abuse. You have set them free from a violent, angry home. Now you have more time and energy to focus on their needs. Above all, you have set an example before your children that abuse is wrong. Many children start recovering as soon as they are removed from an abusive home.

## **What can I do to protect my children from the impact of abuse?**

When it is not possible for a woman to leave an abusive relationship, she can work to reduce the impact of the abuse. Many women are able to do so and raise healthy, compassionate and successful children even while living in abusive relationships.

*Give yourself due credit:* Parenting is the most challenging obligation for anyone. You are meeting this in spite of living in the most difficult situation. Those who understand this, deeply admire you and know that even the best and bravest can break down under the circumstances that you are enduring.

*Understand your role:* You are your children's role model to show them how it is possible to be kind and respectful even when living with injustices and abuse. You are their leader to help them break away from the cycle of violence and make them capable of healthy, responsible and happy relationships.

*Break the silence:* Your children need to understand their experience of abuse. They need to understand what is happening in their lives. They may believe that they are the reason for your abuse; or, they may be ashamed at not being able to protect you. They need to know that you are safe and that you are doing your best to keep them safe too.

*Create a close and trusting relationship with your children:* This way you will be able to understand what is going on in their mind, or in their life. You can also equip them to deal with abuse. It is often found that men who abuse their partners abuse their children also. Do not dismiss any of their complaints or concerns. Do not ignore any injuries.

*Do not expect your children to help you:* Do not share your emotional burden with them. Do not expect them to take on adult responsibilities. They are not capable of that.

*Reverse the abusive practices:* Try to make sure that children do not follow abusive behaviours. They must treat each other and you with respect. Insist on honesty and fairness. If you have developed any bad habits of hitting and swearing, or drug and substance abuse due to your abuse, do your best to give them up, or get help.

*Do not criticize your partner:* Criticism of parents is hurtful to children. It may not win their sympathy for you. On the contrary, it may even antagonize them against you. Instead, teach them to think rationally and analyze their situation intelligently. This will better prepare them to understand abuse and deal with it.

Observe discipline; It is not uncommon for victims of abuse to feel depressed. The stress, trauma, and chaos can make it difficult to follow routine. By strictly following daily routines for school, play, study, meal and sleep, some of the chaos can be controlled. Sports and fun activities can be especially useful in dealing with depression.

Seek professional help: If you think that your children's mental or physical health is at risk, do not shy away from seeking help from experts and professionals. They are trained for this and have both knowledge and experience to provide help.

### **Should I talk to my children about my abuse?**

When parents are at conflict, children are often not able to understand who the aggressor is and who is acting in self-defense. Children may be told that their mother is responsible for the abuse or separation. Many abusers even play victim to win the sympathy of their children. If you can talk to them, you will have an opportunity to guide them in understanding the difficult realities. But while doing so, give them information that is appropriate for their age, which is neither too little, nor too much.

### **IV. How can I help my children heal?**

Children have natural resilience and heal quickly from physical and mental injuries. You can fast-track this process by understanding what kind of help they need and providing it. Many children recover very fast and blossom once they are taken away from abusive homes. Some others may have slow and inconsistent recovery.

A domestic violence expert has described the following as key factors in children's recovery:

“A close relationship with their mother (regardless of the child's age or sex).

Safety.

Good relationships with siblings.

Connections to other loved ones, to peers, to self, and to creation.

Opportunities to talk about events and express feelings.

Opportunity to release distressing feelings.

Good information about abuse.”<sup>iii</sup>

Children may need to release their feelings of anger, pain and fear in order to heal. You can encourage them to release their feelings through drawing, writing, play-acting, and other creative activities. Sports and games can be very beneficial too. They may be taken to a therapist, or individual or group counseling. A list of agencies that offer such services is included in the last chapter of this manual.

## Chapter Five: If I Am An Immigrant

### Chapter Summary

1. A Canadian citizen or permanent resident can sponsor his or her family members to immigrate to Canada.
2. During the period of sponsorship, the sponsor is responsible to provide for the essential needs of the sponsored person(s).
3. The period of sponsorship varies based on the relationship of the sponsored person(s) with the sponsor and their age.
4. Sponsorship agreement is a contract between the sponsor and the government; it is a sponsor's promise of unconditional support to the sponsored person even if the circumstances in the sponsor's life change due to divorce, unemployment, or other reasons.
5. If a sponsored person claims social assistance from the government in the period of sponsorship, the government can recover this amount from his/her sponsor. Also, the sponsor will not be able to sponsor again unless this amount is paid off.
6. A sponsored person who is being abused by the sponsor should seek safety away from the sponsor even if he/she needs to claim social assistance.
7. A sponsor cannot deport a sponsored person.
8. If your application for permanent residence is still in process, your sponsor can withdraw his sponsorship. This may put your immigration status at risk.
9. If you are in this situation, you can apply for *Permanent Residence from Within Canada: Humanitarian and Compassionate Considerations*.
10. Both, a sponsor or a sponsored person, if they are not yet citizens of Canada, can be removed from Canada if convicted of a criminal offence in certain cases.
11. If a sponsor has committed a sex offence, family violence, or defaulted on the payment of child or spousal support, he/she can become ineligible to sponsor.

12. Fraudulent marriages and marriages of convenience for the sake of immigration are abuse of sponsorship privileges.
13. Internationally arranged marriages that are entered into with fraudulent information often aim to collect dowry from the bride's parents.
14. Dowry is money, valuables or property given in consideration of marriage by bride's family to the bridegroom's family. Giving or taking of dowry is crime in India and certain other countries where this custom is practiced. In Canada, extorting money is a serious crime.
15. Forced marriage is a marriage against the wishes and without the consent of a party to the marriage. Such marriages may be voided by a party who is forced to marry.
16. If you fear that you will be forced to marry, you may contact a social worker or police if you are in Canada. If you are abroad, you can call Canadian government office or Emergency Operation Centre.
17. If you are being abused in your relationship while abroad, you can contact Canadian Consular office there for help.
18. Abduction is removal of a child from the care and charge of a parent or legal guardian, without his/ her knowledge or consent. It is a crime in Canada.
19. If you fear that your child may be abducted by your spouse, you must stay alert, and take precautions. If your child has been abducted, you must immediately inform the police and speak to your lawyer.
20. An immigrant woman can apply for divorce. She can also apply for custody, access, child support, spousal support, and division of matrimonial property.
21. Understand and observe immigration rules and do not be a party to any unlawful activities.

## **Introduction**

An immigrant woman is more susceptible to abuse than a non-immigrant woman because of her language and other barriers and lack of support system. An immigrant woman is often abused by the person who has sponsored her and is the only person known to her in her new homeland. In some cases, her immigration status depends upon this person. She is far away from people who care for her and may support her in her fight against her abuse. That makes it easier for an abusive sponsor to isolate and control her. When she wants to seek help against her abuser, she is often silenced by the shame of being a cultural traitor or by the fear of deportation without her children. Imagine being alone in a new country, with little or no knowledge of language or resources, not much skill to earn, no friends or relative to support you, and living under constant fear of deportation!

### **I. Immigration and sponsorship**

All immigrant women, who have been sponsored by their spouse, should know how sponsorship obligations apply. This will make their position stronger in their relationship.

#### **What is sponsoring?**

The provision of sponsorship has been created by the government to unite foreign born Canadians with their family members. Through this, a Canadian citizen or permanent resident, who is 18 or above, can invite a family member to immigrate to Canada. These family members must be foreign nationals. They may be living either outside or in Canada. Immigration under this category takes place on the basis of sponsored person's relationship with the sponsor. The financial eligibility criterion requires that the sponsor meet the minimum income requirement<sup>iv</sup> and is able to fulfill the basic needs of the sponsored person(s) during the period of sponsorship. The criterion for minimum income does not apply to sponsorship of dependent children, spouse, conjugal, or common law partner.

#### **Who can be sponsored?**

Apart from children and spouses or partners, a person can also sponsor parents and grandparents. He/she can also sponsor brothers or sisters, nephews or nieces,

granddaughters or grandsons and their accompanying relatives if they meet the specified criteria.

### **What does sponsorship mean?**

When you apply to sponsor someone, you are required to fill out two forms: *Application to Sponsor and Undertaking [IMM 1344A]* and *Sponsorship Agreement [IMM 1344B]*.

The application for undertaking says that sponsorship is an “unconditional promise of support” that does not change according to the situation in sponsor’s life, i.e. if he/she divorces, becomes unemployed, etc. The undertaking says:

“I undertake to provide for the basic requirements of the sponsored person and his or her family members who accompany him or her to Canada, if they are not self-supporting. I promise to provide food, clothing, shelter, fuel, utilities, household supplies, personal requirements, and other goods and services, including dental care, eye care, and other health needs not provided by public health care. I understand that the money, goods or services provided by me must be sufficient for the sponsored people to live in Canada.”

This undertaking is a promise of the sponsor to the government of Canada. That is why if the sponsor has failed to provide for the needs of the sponsored person, and the sponsored person has received social assistance during the period of sponsorship, the amount will become a debt owed by the sponsor to the government and an enforcement action can be taken for its recovery. Besides, if the sponsor is in default, he/she will not be able to make another application to sponsor.

### **For how long does a sponsor have to fulfill these responsibilities?**

This depends on two factors: (1) age of the sponsored persons and (2) their relationship to the sponsor. For spouse/partner, it is three years. For elderly parents or grandparents, it is ten years as they are not expected to earn to support themselves.

### **Does the sponsored person also have any responsibilities?**

*Sponsorship Agreement [IMM 1344B]* is an agreement between the sponsor and the sponsored person. It includes the above promise of support to the sponsored person. In

addition, it also makes the sponsored person(s) promise “to make every reasonable effort” to meet their own requirements and ask the sponsor for help if they need it.

## **II. When abuse happens**

### **If I am abused by my sponsor**

Sometimes, dependence of the sponsored person on the sponsor may create suitable situations for abuse and control of the sponsored person. But the government does not want the sponsored person to live in an abusive situation. That is why it is clearly mentioned in the sponsorship undertaking and agreement that the sponsored persons who are being assaulted or abused by their sponsor “should seek safety away from their sponsors even if this means that they will have to apply for social assistance benefits.” It also says that the sponsored person can take “legal action” against the sponsor if the sponsor fails to provide support as promised.

### **He always threatens to deport me**

Many women are convinced that the one who can bring them into Canada can also send them back. This is not so. The sponsorship agreement clearly says that a sponsor “cannot force Citizenship and Immigration Canada to remove” any person whom he/she has sponsored. Your sponsor himself can be charged with criminal offense for your abuse, and a criminal conviction can lead to his removal from Canada. Both sponsor and sponsored persons, if they have not yet acquired Canadian citizenship, can be ordered to be removed from Canada and may even lose their right to appeal in certain cases.<sup>v</sup> However, if you do not have a legal immigration status in Canada, you can be arrested and detained in some situations. Try to seek legal help as soon as possible if you are in this situation.

### **What if I am not yet a permanent resident of Canada?**

If his application to sponsor you is still in process, he can withdraw it. This will put your immigration status at risk. If that happens, all is not lost. You can apply for *Permanent Residence from Within Canada: Humanitarian and Compassionate Considerations*. This application has special consideration for victims of domestic violence. Read this clear statement: “Family members in Canada, particularly spouses, who are in abusive

relationships and are not permanent residents or Canadian citizens, may feel compelled to stay in the relationship or abusive situation to remain in Canada; this could put them in a situation of hardship. Officers should be sensitive to situations where the spouse (or other family member) of a Canadian citizen or permanent resident leaves an abusive situation and, as a result, does not have an approved sponsorship.”<sup>vi</sup> However, what you need to know is that the assessment of this application is more complex than other applications. Seek legal help if possible if you need to apply under this class. If you have a family member or close relative in Canada, he/ she can support your application by submitting a sponsorship for it. If you have no such person to support you, you can submit this application without sponsorship also.

### **Why is it more complex?**

It is more complex because you need to prove your case with evidence. The evidence provided by you may or may not convince the assessing officer. The assessing officer, however, is advised to consider the following while assessing your request: police reports of abuse and charges against or conviction of your spouse; medical and shelter reports showing abuse; the degree of your establishment in Canada; the hardships that will result because of your removal from Canada; laws, customs, culture and circumstances in your country of origin that make it difficult for you to return there such as risk to life; what support you have in your country from your friends and relatives; and if you are pregnant and/or have children living in Canada.

The guide to this application says that Immigration may not request additional information before deciding your case. So, you must provide all the information that you have with your application. It may take many years to process such application. You do not have the right to appeal if this application is refused.

### **Some measures that the government has taken to prevent abuse by sponsors**

If the sponsor has been convicted of any sexual offence, or an offence involving family violence, or has defaulted on a court order for spousal or child support, he/she may not be eligible to sponsor. A person who sponsored a spouse, common-law partner or conjugal partner, cannot sponsor another spouse, common-law partner or conjugal

partner before three years have passed since the former spouse, common-law partner or conjugal partner became a permanent resident.<sup>vii</sup>

### **What if the sponsored person abuses the sponsor?**

Government is cognizant of the fact that even sponsor can be abused by the sponsored person. So, in situations where this is the case and the relationship has broken down, the government may choose not to take action for recovery of the debt that the sponsor may have incurred due to sponsored person obtaining social assistance.

### **III. Some common forms of abuse of immigrant women**

Abuse often gets worse because of the barriers that immigrant women face, such as, when they do not know English to find help, cannot find their way around and approach service providers, or are afraid that help seeking may somehow impact their immigration status. They may not be employed and may not have enough job skills to find employment. Their abusive sponsors often do not allow them to learn English or any job skills that may give them financial freedom. They may be forced to do free labour such as accounting for their husband's business. In addition, they are also vulnerable to other kinds of abuse that are related to their immigration.

#### **Fraudulently arranged international marriage**

This has become a new form of abuse of immigrant women, especially in South Asian communities, although often men are its victim too. In this situation, a Canadian citizen or permanent resident goes to his country of origin, arranges marriage by providing false information, extorts dowry and comes back to Canada. He does not sponsor his bride to Canada, or brings her here and abuses her to get more dowry from her relatives. Such marriages are also used for gaining entry into Canada. Sometimes, women are forced to marry someone to facilitate his immigration. Do not participate in such unlawful activities. Seek help from professionals if you are being forced to do so.

#### **What is dowry?**

The term dowry in the sense that it is commonly practiced means any property, money or valuable security given or promised to be given as a consideration for marriage, by the bride's family to the bridegroom or his family before, at the time of, or after the

marriage. The custom of dowry is followed in many South Asian countries such as India, Pakistan, Bangladesh, Nepal, Mauritius etc. In India and many of these countries, giving or taking of dowry is a crime. In Canada, taking property or money by threat, accusation, menace or violence amounts to an offence of extortion that is punishable by imprisonment under the Criminal Code of Canada.

### **What is a forced marriage?**

A forced marriage is a marriage where a person is forced to marry against his or her wishes and without consent, or with consent obtained by force or fraud. Often parents, relatives or community may use violence, threats, emotional blackmail, even abduction to force a person to marry against his or her wishes.

### **Is arranged marriage a forced marriage?**

Arranged marriage is a time-honoured, culturally sanctioned, and legally protected custom in South Asian countries. It is arranged by the parents, relatives or friends of young men or women on the basis of their compatibility in respect of their age, education, family background and desired goals in life. Parents often spend several years looking for a suitable match for their son or daughter. Use of force or fraud makes an arranged marriage voidable or illegal.

### **Who can help me?**

If you are in Canada and fear that you will be taken abroad and forced to marry against your will, you should contact the police or a social worker. If you are abroad and are being forced to marry, you should contact the nearest Canadian government office abroad, or Emergency Operation Centre at 1-800-267-6788 (in North America), or make a collect call to 613-996-8885, where available. If you are a Canadian citizen or permanent resident and are being abused or confronting other problems in your marriage life in a different country, you can contact government of Canada's consular office that can provide you with a list of lawyers, social services, shelters etc. If you want to come back to Canada, or are concerned about the laws abroad, or need other assistance, you can contact 1-800-267-6788 in North America or make a collect call to 613-996-8885, where available.

**He threatens that if I leave him, he will get me deported by reporting me to the Immigration and saying that I have used him to come to Canada.**

What can help you in this is evidence of abuse and support from your social and professional network. You need to diligently collect evidence of abuse such as any police report of violence, medical report, report of a counsellor or social worker, statement of witnesses, shelter reports etc. If you are being harassed for more dowry, try to collect evidence that shows demands for or transfer of money and other valuables, such as, receipts of valuables given to your sponsor or his family, statement of bank accounts showing transfer of money, and tape recorded or written demands for dowry, or other such proofs.

#### **IV. International child abduction**

**My spouse threatens that he will take my 12-year old son out of Canada.**

A person whether a parent or not, who removes a child from the care and charge of a parent or legal guardian without his/her permission or knowledge, is guilty of the crime of abduction. There is often a possibility of one spouse trying to abduct the child to take revenge upon the other. The risk of abduction increases if the spouse, who is trying to abduct, and the child have the nationality of another country and have relatives and friends there. Parental abduction is punishable by imprisonment up to ten years.

**What precautions and preventive steps can I take to prevent abduction?**

If you are in such a situation you should stay very alert and try to collect and keep important information and documents about both your child and your spouse. Keep a copy of any court order regarding custody, access, divorce or separation orders, your marriage certificate, identification information, i.e. birth certificate, pictures (you should take picture of your child every 6 months), specific details of physical appearance, details or copies of their travel documents, contact information of your spouse's relatives, friends or business associates in Canada and the other country.

You can also request the court to keep the child's passport with it. If the child does not have a passport or needs a visa to travel, request the embassy or consulate of the concerned country to inform you before issuing the passport or a visa. You may also

request Canadian Passport authorities to list your child in the Passport Alert List to alert the authorities.

Teach your child how to use a phone especially a payphone, and how to make a long distance call. Have him memorize your own and other important phone numbers that will connect him with the authorities in Canada for rescue and help. Keep on reminding your child that you love and care for him/ her deeply. The abductor may try to pollute the child's mind against you to distance the child from you and make the abduction easier.

### **My ex has taken away my child.**

You need to act very fast. The process to locate and return an abducted child may be complex, long and expensive, especially if the child has been taken out of Canada. The shortest and easiest way to get your child back may be to negotiate with your spouse to return the child if you can contact him. If this does not work, or you are sure that it will not work, seek help from authorities.

### **I do not think that he is ever going to return our child to me. Also I am not able to contact him as I do not know where he is.**

You need to talk to a lawyer and report the abduction to the police. Police may issue a search warrant for him.

### **What should I do if my child has been abducted out of Canada?**

The government of Canada runs Our Missing Children Program to locate and secure the return of children who are missing or abducted. Under this program you can get help from four government agencies.

**Canada Border Services Agency** may sound a national and international border alert for the abductor and the child. **RCMP** has National Missing Children Services that links with Interpol to help the police in Canada to co-ordinate police investigation in other countries. RCMP also has a Travel Reunification Program that provides funds for return of the abducted child to Canada if the parent or guardian cannot afford the cost. The **Department of Justice** has set up a Central Authority in Ottawa and in all other provinces and territories to oversee and secure the return of internationally abducted children to the lawful custody of a parent or guardian under the Hague Convention on

the Civil Aspect of International Child Abduction. All countries who have signed the Convention, have set up a Central Authority in their territory. A Central Authority in your province/territory will forward your application for return of the abducted child to a Central Authority in the other country that will see that legal proceedings are initiated against the abductor and you are represented through a lawyer at a cost to you. If the proceedings are decided in your favour, arrangements will be made for reuniting the child with you.

**Foreign Affairs and International Trade Canada's** consular services will help you at your request. You can call it 24/7. When you report, an officer will take charge of your case. He will work in co-ordination with RCMP, local police, Canadian consular office in the country where your child has been taken and the Central Authorities in Canada and abroad. The consular office may help you to visit your child in that country if that country is a party to the Convention. If the country is not a party to the Convention, the Canadian consular office there may send one of its officers to visit the child and report on the child's wellbeing. It may also provide you the information about that country's laws, legal system, customs, and practices regarding international child abduction, and give you a list of lawyers who can represent you in any legal proceedings against the abductor. The consular office may update you on your case.<sup>viii</sup>

## **V. Legal remedies available to immigrant women**

### **If I am a sponsored person, can I still apply for divorce?**

A permanent resident is a citizen in waiting. You have all the rights that a Canadian citizen will have to seek legal remedies. You can apply for divorce on the grounds of cruelty, adultery, or living separate and apart.

### **He married me in India but never sponsored me to come here. Can I apply for divorce? Where can I apply for divorce?**

If you have been married to a Canadian man of Indian origin who married you in India but never brought you to Canada, and you want to divorce him, you can apply for a divorce in India or in Canada. If you are legally present in Canada on a temporary visa but do not have a permanent status or citizenship, you can still apply to the courts in

Canada for divorce, custody and access, child support, spousal support, and division of matrimonial property.

### **Will I also be eligible for spousal and/or child support?**

Canadian courts recognize that when one spouse decides to move to join another spouse, he or she may have made significant sacrifices. He/she may have given up a job or career or family and other social supports. Besides, in a new country, he/she may not speak English and may face other challenges to find a job and become self-supporting. That is why it is observed that spousal support is generally granted if a case involves sponsorship of one spouse. As a matter of fact, in such marriages, length of marriage does not become a deciding factor for determining the eligibility for support. So, even if the married life of the spouses is very short, the sponsored spouse can still get the spousal support. If there is a contract between the sponsor and the sponsored spouse that the sponsor will not pay spousal support to the sponsored spouse, the court may ignore it. It may still order the support because the sponsorship agreement between the sponsor and the government of Canada overrides the private contract between the spouses. To get support from both parents is the right of a child. A child is always entitled to seek support from both the sponsoring and sponsored parents whoever is financially capable of meeting the needs of the child.

### **What will be the amount of child support and for how long will it be paid?**

The amount (quantum) and the duration of the spousal support is decided on the basis of an assessment of basic needs of the spouse such as food, clothing, shelter, medical needs, how much money and time the spouse needs to upgrade the skills or qualifications to find a job, and what the income and liabilities of the sponsoring spouse are. The court may grant the support only for the unexpired period of sponsorship agreement or for a longer time depending on the specific facts of a case.

If the sponsored spouse is not a landed immigrant, her status may be an obstacle in her getting a job. The court may also take this into consideration. The court may refuse to award support in a case where it is proven that the applicant performed a fraudulent marriage only to seek immigration to Canada.

## Conclusion: **Who Can Help Me?**

### **I. Do I need help?**

It is not easy for a victim of family abuse to be able to deal with the many problems created by it. Trained professionals can provide substantial help in this. Besides, different problems need to be handled by experts from different fields. For example, you may need the services of a doctor, a psychologist, a social worker, a career counsellor, a legal counsel, a law enforcement officer, all at once. Finding help is crucial to being able to deal with abuse and its impact. In some situations, not seeking help can put the life of your children and your own life at risk. All over the world, a shockingly large number of women and children are killed in domestic crimes. Many of the problems, if not dealt with timely or appropriately, can result in long-term damages. Besides, if you are not willing to follow the advice of the helping professionals, or you are not prepared to do so now, you do not have to. But it is important for you to know your options.

### **II. Where do I start my search for help?**

You can start your search by calling 310-1818. This is a toll-free, 24-hour Family Violence Info Line. Here you can get information about different agencies and services that can help you. You can also start your search by seeing a counsellor or social worker at a domestic violence agency. You can call Edmonton John Howard Society, Family Violence Prevention Centre (423-1635), The Today Centre (455-6880), City of Edmonton (496-4777) or 211. Family Violence Prevention Centre offers many useful services to the victims, including outreach, victims' assistance, help with legal proceedings etc. The Today Centre is a partnership of many agencies offering support to the victims and provides a wide range of services. Alberta Works (644-5135), through its Escaping Abuse Benefit program, provides financial support, emergency transportation/ accommodation and many other services to the victims. Many immigrant agencies such as Changing Together (421-0175) and Indo-Canadian Women's

**Note: The information provided about services or agencies in this chapter is not exhaustive. It is not possible to list all the agencies or all their services. The information has been taken from the agencies' information brochures and websites that can be consulted for further information. All Edmonton phone numbers should be dialed after the area code 780.**

Associations (490-0477) also offer such services. Some others are Multicultural Women and Seniors Services Association (465-2992), and Islamic Family and Social Services Association (430-0220). Multicultural Health Brokers Cooperative Ltd. (423-1973) offers services in many different languages. The best thing about seeking help is that you can start your search for help anywhere. In Canada, there is a vast network of agencies that can offer help. They refer their clients to each other depending upon the needs of the clients.

### **III. Who can help me?**

In Canada, government has established many agencies that assist victims of domestic abuse and provide a wide range of specialized services. Apart from domestic violence agencies, there are several others that can also assist you in this. For example, if a police officer assists you to leave your home in an emergency situation, he/she may refer you to a women’s emergency shelter. A women’s shelter can further refer you to government subsidized housing or social assistance or a subsidy for your child’s day care. It can refer you to a career counsellor who can help you get into a suitable job training program and also access loan or subsidy for your tuition fee and living expense. Even your family doctor can refer you to a social worker or police. This way, if you approach any one agency, you can have access to the extensive network of service providers who offer services that can help you in your situation.

**I am in an emergency situation and need help immediately.**

**If you are in immediate danger, call 911.** Police non-emergency number is 423-4567.

All crisis numbers are listed in the telephone directory. Some of these are:

Family Violence Information Line/Children Intervention Services Help is available 24/7 in many different languages	310-1818
Child Abuse Hotline	1-800-387-5437
Kids Help Phone (5-20 yrs)	1-800-668-6868
Kids Help Phone (under 18 years)	1-800-387-5437
Kids Kottage (crisis nursery; 24/7)	944-2888
Sexual Assault Centre of Edmonton (24/7)	423-4121

The Support Network - Distress Line (24/7)	482-4357
Prevention of Family Violence & Bullying	1-888-456-2323
Seniors' Abuse Helpline (24/7)	454-8888

For senior abuse, you can call Elder Abuse Intervention Team (477 2929).

### **What is counseling and how can it help me?**

Generally speaking, counseling is providing information and advice to help someone. Many people can provide counseling - a therapist, a psychologist, a social worker, a career advisor, or someone providing settlement assistance to newcomers. When you go to see them, they will try to find out what your needs are. Depending on that, they will either provide the required service and/or refer you to other service providers. All these people have certain areas of training and expertise, such as domestic violence, drug and other addiction, mental health, bereavement, children's issues, etc. That is why their services are specialized. You can contact the following agencies for various types of counseling services.

Catholic Social Services	420-1970	
City of Edmonton Community Services		
	Assessment and Short-Term Counselling	496-4777
	City after hours support distress line	482-4357
Cornerstone Counselling Centre	482-6215	
Edmonton Bereavement Centre	454-1231	
Edmonton Mennonite Centre for Newcomers	424 7709	
The Family Centre	424-5580	
The Hope Foundation of Alberta	492-1222	
Jewish Family Services	454-1194	
Psychologists' Association - Referral Line	428-8255	
The Salvation Army Community and Family Services	424-9222	
The Support Network - Walk-In Counselling	482-0198	
University of Alberta – Faculty of Education Counselling Centre	492-3746	
YWCA Edmonton – Counselling Centre	423-9922	

**If I go to a counsellor, people will think I am crazy.**

As a matter of fact, the people who access counseling are generally well-informed people. They know how beneficial counseling can be in certain situations. One piece of good information can change a person’s life. Counsellors are a great source of information because of their education, experience, network, and continuous upgrading. They are trained to not judge you. They will not blame you for your abusive situation because they know that you are not responsible for it. They will not force their solutions on you. They will help you think clearly and critically, provide you key information, give you confidence, assist you in making and following your decision, and refer you to others who will further support you. They will keep your information confidential and, unless they see a critical situation such as a threat to your life, will not share it without their clients’ permission.

**I need free or cheap legal help.**

There are many agencies in Edmonton that offer free or cheap legal help.

<b>Legal Aid Alberta</b> This agency offers a variety of programs and services. It may provide you a lawyer to represent your case in matters of Family Law, Civil Law (immigration), and serious criminal charges. You need to qualify for this service. If your application for coverage is refused, you can appeal the decision. Also you can apply for a new coverage even if you have outstanding bills that you haven’t paid to LAA from previous cases.		
<b>Family Law Office</b> It offers advocacy, crisis intervention, information, referral, and also representation in matters related to family law – divorce, matrimonial property, custody, etc.	415-8800	
<b>Alberta Law Line</b> This is a centralized telephone service where trained non-lawyers, called Legal Resource Agents, provide legal information and referrals to Albertans. Legal advice can be provided by staff lawyer if you qualify.	644-7777	
<b>Emergency Protection Order Program (EPOP)</b> This program helps to obtain Emergency Protection Orders in situations of domestic violence. It is a free program and has no eligibility requirement.	422-9222	
<b>Duty Counsel Program</b> This program provides a lawyer who can offer information and advice and also represent you at your first court appearance if you do not have a lawyer. He can also assist you if you are under arrest or detained. This service is free and available 24 hours a day with translation services in many languages.	427-7575	

<p><b>The Edmonton Community Legal Centre (ECLC)</b></p> <p>It offers free legal services to low income Edmontonians in the areas of civil and administrative law – landlord tenant conflict, immigration including matters related to temporary foreign workers, employment law, debt law, human rights issues, income support applications and appeals, and small claims.</p>	702-1725
<p><b>The Family Law Information Centres</b></p> <p>These centres provide information about child and spousal support, custody and access and other related issues.</p>	414-0101
<p><b>Lawyer Referral Service - Law Society of Alberta</b></p> <p>This program assists people to find a lawyer. When you contact the lawyers referred by the program, you do not have to pay for the first half-hour interview with them.</p>	1-800-661-1095
<p><b>Student Legal Services of Edmonton</b></p> <p>It offers legal information and assistance to low income people in matters related to landlord/tenant issues, family law issues, uncontested divorces, relatively minor criminal offences and some other issues.</p>	492-2226
<p><b>Dial- A-law</b></p> <p>You can hear pre-recorded tapes on general legal information on various topics of law. Written copies of the tapes can be mailed out to you at your request.</p>	1-800-332-1091
<b>Maintenance Enforcement Program</b>	422-5555
<b>Family Justice Services</b>	427-8343
<b>Family Mediation Services</b>	427-8329
<b>Alberta Arbitration and Mediation Society</b>	433-4881
<b>Mediation and Restorative Justice Centre</b>	423-0896

OakNet: Abuse of Older Adults [www.oak-net.org](http://www.oak-net.org)

RoseNet: Law & Abused Immigrant Women [www.rosenet-ca.org](http://www.rosenet-ca.org)

VIOLET: Law & Abused Women [www.violetnet.org](http://www.violetnet.org)

**I need to appear at the court and I don't know how to prepare.**

Appearing at the court is intimidating for everyone. But also remember that there is a lot at stake, and so it is important to prepare well for this critical event in your life. Court cases involve a lot of procedures. It may be time-consuming hard work to understand them and prepare accordingly. But in the end, it will all pay off. The following agencies/programs can help you in this:

<b>Legal Aid Alberta</b>	
<b>Family Violence Prevention Centre (Edmonton John Howard Society) Victims' Assistance Program</b>	423-1635

Trained Domestic Violence Court workers help victims who have been subpoenaed, tell them about court process and accompany them to the court.	422-0721
<b>Elizabeth Fry Society - Court program</b> The program workers explain court procedures and terminology; they also offer practical assistance and emotional support.	422-4775
<b>United Victim's Assistance Foundation</b> The agency provides body guards and personal protection. Women who are being harassed or stalked can find help here. It can also provide escorts to court and shelters.	408-2220

### **I have no place to go.**

You can call Alberta Council of Women's Shelters at their toll-free number 1-866-331-3933 to locate a shelter near you or talk to someone from a shelter near you who can provide you information and guidance. Besides housing, shelters also provide a wide range of services such as crisis intervention, risk assessment, counseling and support groups, access to emergency medical and dental care, housing support, specialized programming for children witnessing abuse, school programs, legal services, food and clothing bank. The following is a list of shelters in Edmonton and neighbourhood for women and children:

Lurana Shelter (24-hour crisis line)	424-5875
A Safe Place	464-7233
WIN House (24-hour crisis line)	479-0058
WIN House for immigrant women	474-1434
Seniors' Safe House	702-1520
La Salle Residence - second stage shelter	482-2190
Wings of Providence - second stage shelter	426-4985

### **But shelters are not a permanent solution. What will happen after that?**

It is true that shelters offer only emergency housing but their primary goal is to make sure that you and your children are safe. You can stay longer at second stage shelters. Shelters can assist you find any alternative housing arrangements. In Edmonton, Capital Region Housing Corporation (420-6161) offers a number of programs to provide housing solutions to people who have modest means. These include affordable and community

housing where you can get an accommodation in housing owned by this agency. Financial eligibility is required to qualify for these programs. This agency also administers many other programs that can subsidize your rent if you are not living in the buildings owned by this agency. Its HOME program provides information, guidance and support to people to buy a home and can offer financial help toward down payment.

**I need assistance for daily needs.**

Edmonton Food Bank (Edmonton Gleaners Association) (425-4190), Bissell Centre (423-2285), Herb Jamieson Centre (429-3470), Salvation Army Family Services (424-9222/472-6743), and The Mustard Seed (426-5600) are some of the agencies that can offer emergency food and short term assistance. Goodwill Thrift Stores, Salvation Army Thrift Stores, T.E.Bissell’s Thrift Shoppe, Value Village, Bissell Store, Marian Centre, Society of St. Vincent de Paul are some of the agencies where you can get free or cheap clothing or other household item. Family Violence Prevention Centre has a furniture grant program (669-1535) through which it makes available gently used furniture to victims of family violence who want to leave their home due to abuse.

**Are there specialized services for children?**

You can get many different types of specialized services for children.

<b>Children’s Well-being and Protection</b>		
Alberta Children and Youth Services provides a wide range of services for children and families. Child intervention services aim to support well-being or children.		
	<b>The Family Enhancement Program</b> offers ongoing screening and assessment to lower-risk families to ensure that children and youth remain safe in the family environment.	422-2001 or 1-800-387-5437
	<b>Protective Services</b> are needed in cases such as child abuse and neglect by parents or guardians or when parents’ whereabouts are not known.	
<b>Zebra Child Protection Centre</b> A team of Edmonton Police Service, Alberta Children’s Services, Crown Prosecutors, CARRT, medical professionals and volunteer advocates offers services such as investigations, interventions, prosecutions and support. It also provides children and their non-offending parents/ guardians with essential social, medical and mental health services and supports.		421-2359
<b>The Edmonton Police Service Child Protection Section</b>		423-4567
<b>Child at Risk Response Team (CARRT) – Edmonton Police Service</b> Each team has one constable and one Child Welfare Investigator. One of the services that it		423-4567

provides investigations into cases involving children at risk caused by neglect and/or physical/ sexual abuse.		
<b>Counseling</b>		
Foundation for Families in Transformation	448-1180	
Kids on Track Association (5-15 yrs)	481-2942	
Mill Woods Family Resource Centre (5-12 yrs)	413-4521	
Pilgrims Hospice Society (4-12 yrs)	413-9801	
West Edmonton Christian Assembly (5 yrs+)	489-2579	
YWCA (4-18 yrs)	423-9922	
Aboriginal Consulting Services Association of Alberta Teaching Circles for Children Who Witness Abuse (6-17 yrs)	448-0378	
Sexual Assault Centre of Edmonton Counseling (3-17 yrs)	423-4102	
<b>Play Therapy</b>		
Catholic Social Services (2-18 years)	424-3545	
University of Alberta - Clinical Services	492-3746	
<b>Mental Health</b>		
Alberta Health Services		
	Child & Family Mental Health (5-18 yrs)	735-7999
	Children's Mental Health Community Response Team (under 18)	413-4733 427-4491
	Regional Children's Mental Health: Crisis Line (5-17 yrs)	427-4491
	Intake (5-17yrs)	342-2701
Canadian Mental Health Association Social Recreation Programs (6-12yrs)		414-6304
CASA Child, Adolescent and Family Mental Health		438-0011
Royal Alexandra Hospital Mental Health Services		735-4181
<b>International Child Abduction</b>		
Our Missing Children Program		1-877-318-3576
Canada Border Services Agency – Border Alerts		1-888-502-9060
Department of Justice Canada – Family, Children and Youth Section		613-941-2337
Royal Canadian Mounted Police – National Missing Children Services		1-877-318-3576
Foreign Affairs and International Trade Canada – Consular Services		1-800-387-3124

	1-800-267-6788
Passport Canada	1-800-567-6868
Provincial, Territorial and Federal Central Authorities (for the Hague Convention Cases) Alberta	422-3715

**I need career counseling to upgrade and look for better opportunities.**

There are many public and private colleges in Edmonton offering various vocational programs. These programs are of varying lengths and cover a vast area of vocational skills from massage therapy, dental assistance, healthcare aid, truck driving, paramedic training, esthetician, law and medical assistant etc. Some of these can be completed within a year. In order to get a listing of all Edmonton post-secondary institutions, go to the website [www.alis.alberta.ca](http://www.alis.alberta.ca) of Alberta Learning Information Service. This site also lists office locations where you can meet a career counsellor. This is an exhaustive resource and also includes options for financial assistance, work search etc. For information on career planning, work search and educational options, you can call 422-4266.

While choosing a career training program, first check labour market demand and your personal suitability for that career through counseling and your own research. Training programs consume time and finances. In the end, they should improve your career/job prospects. Besides, if you are using government grant for them, it may be difficult to get this fund again.

In addition, there are many immigrant/settlement agencies that offer job training and work search programs. They also offer English as a Second Language courses. Catholic Social Services can provide detailed information about ESL programs offered in Edmonton. Following is a list of immigrant agencies that are members of AAISA (Alberta Association of Immigrant Serving Agencies) and are listed on its website: [www.aaisa.ca](http://www.aaisa.ca)

ASSIST Community Services Centre	429-3111
Catholic Social Services	424-3545
Centre d'accueil et d'établissement du nord de l'Alberta	669-6004

Changing Together: A Centre for Immigrant Women	421-0175
Edmonton Immigrant Services Association	474-8445
Edmonton Mennonite Centre for Newcomers	424-7709
Indo Canadian women's Association	490-0477

Welcome Centre for Immigrants (462 6924) is a partnership organization and offers many services to assist newcomers. Other organizations, such as Canadian Arab Friendship Association (473 7214), also provide assistance to newcomers.

You can contact the above settlement agencies for information on immigration. For such information, you can also call 1-888-242-2100 or visit the website [www.cic.gc.ca](http://www.cic.gc.ca). If you plan to hire an immigration consultant, be sure that he or she registered as a consultant.

#### **IV. What should I expect from these agencies?**

People may sometimes feel that they were not effectively helped by the service providers they accessed for help. Service providers work within a system and are bound by their professional boundaries. A police officer cannot arrest or file a complaint without evidence. A court cannot punish an accused until the last doubt about his innocence has been removed. Some of the procedures are very lengthy and tiring. There is a better chance of getting help from the system if we understand the rules and procedures of the system and are able to use them effectively in solution seeking. The path to solutions can be long and lonely but we can get there only if we keep going in spite of the failures. Every failure brings us one step closer to success. It is possible to find solution only if we seek it.

#### **V. Domestic violence: Is it in my culture? A South Asian response**

##### **Is it in my culture?**

No culture encourages or sanctions abuse of women and children. When we are saying that a culture does it, then probably we are referring to the malpractices or popular, though harmful, beliefs of that culture. Such malpractices need to be stopped because, if they are not stopped, they can destroy that culture.

There are some beliefs that may make one feel that abuse of women is acceptable in South Asian cultures. Many people believe that South Asian<sup>ix</sup> cultures do not offer women a position of equality with men. They hold women subservient to men, undesirable as daughters, and unable to sustain themselves without the help of a man. Such beliefs lower women's self-esteem, discourage them from seeking help to end their abuse, and foster a sense of helplessness in them.

What also discourages them from solution seeking is the belief that family honour is linked to women's conduct in the society. Even if they are facing abuse and violence in their family, they should not make it publicly known, and should not make any attempt to seek help outside their own families. This behaviour is applauded by some as self-sacrificial and such women are glorified and presented as role models to other women. This kind of socialization prevents women from making an effort to prevent their abuse.

Cultures have their basis in religions. In order to understand if or not their culture sanctions violence toward women, women may examine the original precepts of their religions. Let us briefly examine the precepts of four of the religions commonly followed by South Asian Women.

### **Christianity**

Before the time of Jesus Christ, in Judean society, women were considered inferior to men and had a very low status in society. Though Jesus did not specifically address the issues related to women, his life is full of instances where he talks to women, blesses them, and treats them equally with men.

He cured a woman of an evil spirit and called her daughter of Abraham. (Luke 13:16) By using this phrase Jesus gave the woman an equal status with a man who was respectfully referred to as son of Abraham in Hebrew. While forgiving sins of a woman Jesus referred to "all" people (which included both men and women) as children of wisdom. (Luke 7:35 to 8:504)

He raised the dead twice, both times for women. One of these women was a widow from Nain whose son was restored to her by Jesus. (Luke: 11-17) The other two were

Mary and Martha whose brother, Lazarus, was restored to life. (John 11:1-22) Why was it that only women got his divine blessings of life for their beloved ones?

The Gospel of Mark mentions about the female discipleship of Christ. (Mark 15:40-41; Mathew 27:55-56; John 19:25-27) Female Disciples of Christ were always by his side during crucial times. Mary Magdalene, Joanna and Susanna were companions of Christ during his ministry and used their personal resources to support him. They were a part of the inner circle of the disciples, which included 12 male disciples. (Luke 8:1-3)

## **Islam**

It is a unique feature of Islam that it recognized individual identity of a woman as separate from her husband or other male relations as early as the seventh century, whereas in many parts of the world, the women were recognized as a person in early 20<sup>th</sup> century. During marriage she could own, acquire and dispose of her property without the consent of her husband. The woman, like a man, has a right to inherit property, "Unto men (of the family) belongs a share of that which parents and near kindred leave, and unto women a share of that which parents and near kindred leave, whether it be a little or much - a determinate share." (4:7)

The Holy Qur'an states that men and women are equal: "Mankind, keep your duty to your Lord who created you from a single soul and from it created its mate (of same kind) and from them twain has spread a multitude of men and women" (4:1) and "Whoever does an atom's weight of good, whether male or female, and is a believer, all such shall enter into Paradise." (40:40) "Every soul will be (held) in pledge for its deeds." (74.38)

On wife and husband relationship, the Holy Qur'an says, "And among His signs is this: That He created mates for you from yourselves that you may find rest, peace of mind in them, and He ordained between you love and mercy. Lo, herein indeed are signs for people who reflect." (30:2 1) Further - "They are a vestment for you and you are a vestment for them." (2:187) Prophet Muhammad (Peace Be Upon Him) instructs the husband to behave his best in the family: "The best of you is the best to his family and I am the best among you to my family. The most perfect believers are the best in conduct and best of you are those who are best to their wives." (Ibn-Hanbal, No. 7396) "...But

consort with them in kindness, for if you hate them it may happen that you hate a thing wherein God has placed much good." (4:19)

## **Sikhism**

In Sikhism, women have been granted a status equal to men, to pray, become priest, perform religious ceremonies at the time of marriage and death. Gurus have spoken against "Sati Ritual" – forced burning of wife at the same time her husband is cremated, and "Purdah System" – women having to cover their face from men other than their husband, father, brother or children. The Gurus have also spoken against female infanticide and advocated for widow remarriage. They broke down the barriers of women by admitting them into the *sangat* (religious congregation) without any restrictions or reservations and encouraged the education of all Sikhs, men and women.

All women other than wife are to be considered as sister, mother or daughter according to their age. In marriage husband and wife are considered as two bodies and one soul. The Gurus instructed to treat all women with love and respect. "From woman, man is born; within woman, man is conceived; to woman he is engaged and married. Woman becomes his friend; through woman, the future generations come...From her, kings are born. From woman, a woman is born; without woman, there would be no world at all. O Nanak, only the True Lord is without a woman." (Sri Guru Granth Sahib, P.473) <sup>x</sup>

Guru Nanak lovingly addressed his wife as "Parjat" (fulfiller of all desires). Guru Amar Das said that a marriage is an equal partnership of love and sharing between a husband and bride: "They are not said to be husband and wife, who merely sit together. Rather they alone are called husband and wife, who have one soul in two bodies." (Guru Amar Das, Pauri, pg. 788) <sup>xi</sup>

## **Hinduism**

In ancient India, when Hinduism <sup>xii</sup> was in its most original form, women had a very high status in the society. The popular Hindu law book Manu Samhita says that Gods live in the houses where women are worshipped. Manu, the author of this book instructed: "Woman must be honoured and adorned by their fathers, brothers, husbands, and

brothers-in-law, who desire their own welfare”(3.55) and cautioned: “The houses on which female relations not being duly honoured, pronounce a curse, perish completely, as if destroyed by magic.”(3.58) The Hindu epic, Mahabharata says: “Women should always be adored and treated with love. There where women are treated with honour, the very Gods are said to be propitiated.” Further - “If the women of a family, on account of the treatment they receive, indulge in grief and tears, that family soon becomes extinct.” Women are called “deities of prosperity.” They can only give happiness and blessings: “A woman cannot offend.” (Virat Parva, 4.24.10)

Hindu scriptures allowed God’s worship both in male and female forms. Goddess Durga or Mother Goddess is seen as the supreme source of power and energy and is worshiped with as much faith in 21<sup>st</sup> century as she was three thousand years ago. According to the popular Hindu epic, Ramacharitmanas, God Ram invoked her for her blessings for victory in the great epic war.

Women were desired and respected in all their roles. Parents prayed for daughters: “...that a learned daughter be born to me!” (Brihad – Aranyaka, 6.4.17) and “The birth of a daughter is highly meritorious” (Matsya, 154.414 – 17) and “a girl is equal to ten sons.”(Matsya, 2.154.156 – 164) Manusmriti says: “Mother is a thousand times more venerable than the father.”(3.57) Women were also accorded a high place as the wife: “The wife, therefore, is a man’s great means of salvation.”(Adi Parva 1.74.39 – 43) “Wife is considered dearer than life. Like a mother, she is to be cherished and like an elder sister, she is to be respected.” (Virata Parva 4.3.13) “In all descriptions of misery, there is no medicine similar to a wife....” (Vana Parva 3.61.29)

Many malpractices such as child marriage or isolating women by *Purdah* (veil) started in the mediaeval times to protect women from foreign invaders. Women’s social liberties were restricted for their safety. Like ancient times, 21<sup>st</sup> century South Asian woman stand equal to men in law and religion. The state has legally banned evil customs, and through special legislations, is trying to protect the rights, liberty and equality of women.

**Can you believe that your culture teaches helplessness and asks you to tolerate abuse?**

## **VI. How to help the victims of abuse**

Victims of domestic abuse are like victims of any traumatic events. They haven't done anything to deserve to be where they are. They CANNOT be blamed for what has happened to them. They are valuable, worthy individuals who deserve admiration for their strength of character, and not judgment or pity. They need our support - physical, financial, emotional, moral. It is not easy to fight alone the battle against domestic abuse and deal with the many problems created by it. Dynamics of violence are complex. If we want to help and support the victims of family abuse, we need to educate ourselves about it. Wrong advice to the victims can make their situation worse and put their lives at higher risks. Besides, the victims are experts on their situation and capable of finding their own solutions. We can help them by providing support and information. Domestic abuse is not an individual problem. It is a societal problem. By helping and supporting its victims we are helping and making our own homes safe; we are keeping our own families out of harm's way.

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<sup>i</sup> Saunders, A., with Epstein, C, Keep, G., (ChildLine), Debbonaire T.(Women’s Aid Federation England). Preface by Pahl, J., (National Institute for Social Work).” *It Hurts Me Too” Children’s experiences of domestic violence and refuge life*; 1995; pp 47 & 48

<sup>ii</sup> Largely inspired by Lundy Bancroft; *When Dad Hurts Mom: Helping Your Children Heal the Wounds of Witnessing Abuse*

<sup>iii</sup> Lundy Bancroft; *When Dad Hurts Mom: Helping Your Children Heal the Wounds of Witnessing Abuse*; New York; Berkley Books; 2005; pp 269 & 270.

<sup>iv</sup> <http://www.cic.gc.ca/english//resources/manuals/ip/ip02-eng.pdf>

<sup>v</sup> Criminal Justice and the Immigration and Refugee Protection Act: Facts for Criminal Proceedings:

[http://www.cic.gc.ca/english//resources/publications/justice.asp#cont\\_idcont](http://www.cic.gc.ca/english//resources/publications/justice.asp#cont_idcont)

<sup>vi</sup> Section 12.7 of IP 5

<sup>vii</sup> <http://www.cic.gc.ca/english/resources/manuals/ip/ip08-eng.pdf>

<sup>viii</sup> All information regarding international child abduction has been taken from

[http://www.voyage.gc.ca/publications/child-abductions\\_enlevements-enfants-eng.asp](http://www.voyage.gc.ca/publications/child-abductions_enlevements-enfants-eng.asp).

<sup>ix</sup> South Asians in Canada come from India, Pakistan, SriLanka, Bangladesh and some other countries.

<sup>x</sup> [http://www.sikhs.org/english/eg\\_index.htm](http://www.sikhs.org/english/eg_index.htm)

<sup>xi</sup> [http://www.sikhs.org/women\\_q.htm](http://www.sikhs.org/women_q.htm)

<sup>xii</sup> The term "Hindu" in the post-independence Hindu law, governing marriage, divorce, adoption, maintenance, guardianship, and succession, describes followers of Hinduism in any of its forms, including Jains, Sikhs, Buddhists, Vaishnavas, Lingayats, and the followers of the Brahma Samaj, Prathana Samaj, or Arya Samaj.

## Reviews

"This manual has been much needed for a long time. It brings together all the important information in one place. I can't wait to share it with my clients."

- Sherry Benson B.S. W., R.S. W.  
Social Worker, Domestic Violence Intervention Team  
Community Services, North Division Police Station, Edmonton

"My parents were immigrant and I know firsthand the challenges that exist when families are exposed to a new way of life with limited supports. This manual is an excellent resource aimed at helping those facing the extra burden and challenges of domestic violence."

- Mike Bartkus, Staff Sergeant Reg.#1537  
Domestic Offender Crimes Section, Edmonton Police Service

"A comprehensive guide to help immigrant women understand the complexities of dealing with family violence and spousal abuse."

- Sandra Beggs, Registered Psychologist Alberta

"This manual is very well organized. The language is easy to understand and the information included will be very helpful to women who experience violence in their intimate relationship. By providing this manual for the abused women you provide a tool which hopefully will lead them to possible change and break a cycle of violence that they are experiencing. It is very important that a person who experiences family violence knows that there is a help and hope for better future."

- Grazyna Pakos  
Settlement Practitioner, Edmonton Immigrant Services Association

"An excellent resource for survivor's of domestic violence that also includes phone #s of agencies that can help you."

- Maryalice O' Hagan, B.S.W., R.S.W.  
Assessor, Unit D, Edmonton & Area, Child & Family Services Region 6

"...lots of good information in plain, simple language. Victims of violence will find answers to most of their questions."

- Sofia Yaqub  
Executive Director, Multicultural Women and Senior Services Association

"The helping profession would find this document a great Resource."

- Nesa Rollingson  
Employment and Immigration Supervisor

"Excellent guide for those who work with or help victims of domestic violence; professionals, friends, family, volunteers and the public."

- A senior service provider

"This book " A Self-Help Guide for Victims of Domestic Violence" is really very helpful for all victims, men or women.... All given information is very clear and can be understood by anyone. Every chapter has accurate meaning and every sentence is very appropriate."

- Dr. Kuljit Kaur

"This is a very useful booklet. It is to the point and is very important for new immigrants."

- Mrs Mann

"This information is very clear, and appropriate and really good to know It ... helps me to make my life easy."

- Anuja Shah

"Anybody going through abuse situation should stand up for their right and seek help before situation get worse...I do appreciate [this manual] because the information is clear, appropriate and accurate and the language simple and easy. In my thinking, this language everybody can understand. I would recommend that the custom workers should distribute this booklet to new immigrants upon their arrival at airport... The booklet will help them understand the Canadian rules and their rights. If anybody faces abuse, the booklet will guide them (him or her) to contact someone for help."

- Gurdeep K. Aujla

"The realization of women's right is a global struggle based on universal human rights and the rules of law. It requires all of us to unite in solidarity to end traditions, practices and laws that harm women... Yes, the information mentioned is very clear and appropriate. Moreover, this manual gives us an insight into the domestic violence and our rights related to marriage. I am sure people will get all the information required and can benefit most from it."

- Mrs. Basota