

# **Domestic Violence and the Legal System in Germany**

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**Lecture at SLS 2014**

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## **Domestic Violence – Some Basics**

- **E.g. Berlin (≈ 34 lakh inhabitants) about 16.000 registered cases in 2011**
- **Number of persons concerned is lower due to recurrence in violent relationships**
- **In some place police has to show up once a week or so**
- **Probably high number of unregistered cases**

## **Domestic Violence – More Basics**

- **About 50 % of the cases: physical injuries**
- **Increasing number of reported cases due to awareness**
- **Awareness programs for citizens, welfare and service providers as well as for police officers (male dominated working culture and behavioral patterns)**
- **Broad concept of domestic violence in terms of gender, age, victims etc.**

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## **Victims of Domestic Violence**

- **Different from India: Legal regime not limited to domestic violence against women**
- **Victims: approx. 75 % women, but also children, elderly people, man, others**
- **Until a decade ago common approach was to “offer” women (and children) transfer to shelter home (which still is an option if woman wishes so)**
- **Today it’s rather the “aggressor” who has to leave shared household**

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## Legal Framework

- **No focused legal framework until a decade ago**
- **Today 3 „pillars“:**
  - **Preventive Powers of Police (State Police Law)**
  - **Federal Protection against Stalking and Violence Act (*Gewaltschutzgesetz* of 2001)**
  - **Criminal Code (only retroactiv)**
- **In charge: Police, (civil) courts, child protection agencies and others**
- **No „protection officer“ or comparable institution**

## Intervention under Police Law

- **In case of mental or physical danger for life, limb or liberty (criminal offence) police may act under State Police Act, as provided**
- **Any police officer, *inter alia*, has right to**
  - **Order immediate removal of „responsible“ person from a shared household and issue prohibitive order against return for up to 14 days (no extension)**
  - **Order can immediately be enforced by police officer by means of physical force, if necessary**
  - **Order can be extended to prevent any contact or communication in other places (school, office etc.) and other protection orders**

## **Protection Order by Civil Court (I)**

- **Civil Court issues protection order(s) only if aggrieved person applies for**
- **Legal threshold:  
Deliberate violation of mental or physical health, body or liberty of a person**
- **Court order will be issued within duration of interim police order if application is filed within short time**
- **Court order substitutes police order**

## **Protection Order by Civil Court (II)**

- **Protection Order may cover, *inter alia***
  - **Temporary removal from and interdiction of return to shared household and interdiction to return (6 month or longer, depending on ownership, rental contract etc.)**
  - **Interdiction of contact outside of household and at specified places (school, workplace etc.)**
  - **Interdiction of communication by technical means**
- **Preach of protection order constitutes offence, punishable with imprisonment up to one year, or fine**

## **Slides and Links**

**Slides of this presentation:**

**<http://www.hwr-berlin.de/prof/clemens-arzt/lehre/>**

**[Go towards end of page: „Lectures at Symbiosis Law School“]**

**German Criminal Code**

**[www.gesetze-im-internet.de/englisch\\_stgb/index.html](http://www.gesetze-im-internet.de/englisch_stgb/index.html)**

**German Criminal Procedure Code**

**[www.gesetze-im-internet.de/englisch\\_stpo/index.html](http://www.gesetze-im-internet.de/englisch_stpo/index.html)**

**Gewaltschutzgesetz**

**[www.gesetze-im-internet.de/gewschg/index.html](http://www.gesetze-im-internet.de/gewschg/index.html)**