



## Report on Panel Discussion on

*Hiral P. Harsora v Kusum Narottamdas Harsora (2016) 10 SCC 165*

8th March, 2017 Seminar Hall, Campus Law Centre

On the occasion of International Women's Day -March 8, 2017- the Seminars, Debates and Discussions Society (SDS) of Campus Law Centre organised a panel discussion on the Supreme Court's judgment in *Hiral P. Harsora v Kusum Narottamdas Harsora [(2016) 10 SCC 165]*.

The panelists for the discussion were Mr. Ranji Thomas, Senior Advocate at the Supreme Court of India, and Ms. Asmita Basu, Legal Researcher and Consultant in the field of Gender and Human Rights. Prof. (Dr.) Usha Tandon, Professor-in-Charge of Campus Law Centre was the moderator for the discussion.



The guests for the day were introduced by Dr. Monica Chaudhary, Teacher Convener of the SDS and Mr. Namit Srivastava, Teacher Member of the SDS. The guests were felicitated by Prof. (Dr.) Usha Tandon.

The introductory remarks were given by Prof. (Dr.) Usha Tandon in her capacity as the moderator. She pointed out the gender-protective nature of **The Protection of Women from Domestic Violence Act, 2005**, popularly referred to as the **Domestic Violence (DV) Act**. She also briefly





familiarised the audience with the facts of the *Hiral P. Harsora* case.

Being the first panelist of the day, Mr Thomas explained the background and the context due which the Domestic Violence Act was enacted. He pertinently reminded the audience that gender bias was not peculiar to any one religion, which is why a secular statute like the DV Act is indispensable.

Ms. Asmita Basu built on Mr. Thomas's explanation of the need for implementing the



Domestic Violence Act. She pointed out that previously, aggrieved women had very few remedies under the legal framework. They had to resort to criminal law to seek justice. Section 498A of the IPC and section 125 of the CrPC were the two criminal law provisions availed by the victims in such cases. There was only one civil remedy

available- that of injunction against dispossession and eviction from the matrimonial home. As the road to these reliefs was time consuming, there was a need for a special civil law on the issue.

Ms. Basu went on to explain why a gender-specific law was enacted rather than a gender neutral one by differentiating between formal equality and substantive equality. She opined that the present judgment was based only on Article 14 without considering Article 15(3) of the Constitution of India, thereby titling the scale in favour of formal equality to the detriment of women.





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After this, the floor was thrown open to the audience. Many questions were addressed to the panelists by the eager members of the audience. Some of those included the shortcomings of the Domestic Violence Act and the misuse that the Act could be put to. During the discussions, it was pointed out to the audience that the Act looked at the



woman not as a "victim" but as a "rights-holder". The Domestic Violence Act is a special law which gives efficacious relief to the rights holder and is supposed to be used in addition to the existing laws in force.

The panel discussion was concluded with the vote of thanks, which was delivered by Ms.Isha Wadhwa, Teacher Member of the SDS.