

# SECOND NATIONAL WOMEN'S CONFERENCE

**Andhra Pradesh**

**Assam**

**Bihar**

**Chandigarh**

**Chhattisgarh**

**Delhi**

**Goa**

**Gujarat**

**Haryana**

**Himachal Pradesh**

**Jharkhand**

**Karnataka**

**Kerala**

**Madhya Pradesh**

**Maharashtra**

**Meghalaya**

**Nagaland**

**Orissa**

**Rajasthan**

**Uttar Pradesh**

**Uttarakhand**

**West Bengal**

*STAKEHOLDERS  
meet on*

18<sup>th</sup> - 20<sup>th</sup> February, 2007  
Vishwa Yuvak Kendra, Chanakyapuri, New Delhi

## **Making the PWDVA Successful**

Implement & Enforce  
The Protection of Women  
from Domestic Violence Act, 2005  
in all States of India

*Narrative Report*

**National Secretariat PWDVA, 2005**  
C/o **action india**





## *"From words to action"*

It is well known that legislation and policies need to be backed by sustained advocacy and enough resources to deliver the results envisaged. Rules and regulations need to be framed and enacted and the challenges of timely and effective implementation and monitoring, also met. This has been reaffirmed by the former UN Secretary General's Study, 'Ending VAW: from words to action', which was launched on 9<sup>th</sup> October 2006 and followed by adoption by the General Assembly, on 19 December 2006, of an action-oriented resolution on the "Intensification of efforts to eliminate all forms of violence against women" (A/RES/61/143). This gives a new momentum to the work of the UN to address all forms and manifestations of violence against women.

**Narrative Report**  
**Second National Women's Conference**  
**18-20th February, 2007**

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Our special thanks also to the members of the Steering Committee, whose support and active participation kept us moving in the right direction at all times. We also thank all of our chairs, speakers and resource persons, whose insightful discussions made it possible for the conference to result in strong recommendations and a clear road map.

We thank our donors for having financially supported the organizing of the event, especially the Global Fund for Women, UNIFEM, Oxfam GB and the Ministry of Women and Child Development, Government of India. Last but not the least, we express our thanks to all staff and consultants of Action India for their continuous involvement and support.

We would like to express our appreciation for the wonderful music created by the Angel Band for the conference. Our sincere thanks to Nandini Hebbar N. for diligently proofreading the complete report.

We end with a hope that the associations and partnerships forged before, at and after the Conference will go a long way towards making our campaign to end domestic violence in India a success.





## **HISTORICAL BACKGROUND**

**1980:** The Indian Women's Movement breaks the silence on domestic violence and demands legislative reforms. Amendments to the Dowry Prohibition Act were made. Dowry Prohibition Officers not appointed, "dowry murders" continue unabated

**1992:** The first draft of the "Prevention and Protection of Women against Domestic Violence" is prepared by the Lawyers Collective.

**1994:** The National Commission for Women takes up the draft bill on domestic violence.

**2003:** The NDA government brings in a bill on domestic violence that is anti- woman and protects men who hurt women in self-defense or to protect their property. Also, domestic violence defined as an act which is "habitual." This bill sparks intense protests and is referred to a Parliamentary Committee for review. With the change of government the NDA bill dies.

**2003-2004:** The signature campaign from 8 states collects 2.5 lac voices from the ground to demand an early passage of the Bill.

**2005:** The UPA Government passes the Protection of Women from Domestic Violence Act (PWDVA). The Act receives presidential assent and enters law books. After the Government of India passed the PWDV Act in October 2005, the task ahead of the women's groups was to see that the Act was notified at the earliest. Keeping this in mind, Action India calls First National Conference on PWDVA in February 2006 to pressurize the government for early action.

**2006 (February 21 and 22):** Over 300 participants from 23 states of India attended the First National Women's Conference (NWC) on PWDVA, 2005. The national DV Act Forum is formed. A complete report of the First National Women's Conference can be accessed on the UNIFEM Solutions Exchange website at: [http://www.solutionexchangeun.net.in/gender/comm\\_update/res01-110706-15.doc](http://www.solutionexchangeun.net.in/gender/comm_update/res01-110706-15.doc).

**2006 (July):** A National Secretariat on the PWDVA is established in Delhi C/o Action India to facilitate, co-ordinate, network and keep the momentum going in regard to the PWDVA.

**2006 (26th October):** After sustained pressure from women's groups, the rules to the PWDVA are notified and the law comes into force.

**19th & 20th February 2007:** Stakeholders Meet at the Second National Women's Conference.

### ***National Secretariat on PWDVA, 2005***

Action India started its work to set up the Secretariat for the DV Act Forum after receiving the mandate from the First National Women's Conference in February 2006. It was with the combined efforts of the National Commission for Women, Lawyers Collective, and the Secretariat, that the Rules were notified and the PWDVA was brought into operation in mid October 2006. The National Secretariat was set up with the overall aim of effective coordination of the campaign to implement the domestic violence law. Now, with the PWDVA coming into force, the new challenge has been to see its effective implementation and ensure that women access and use the law to stop domestic violence.

The Second National Women's Conference (NWC) was held from 18<sup>th</sup> to 20<sup>th</sup> February 2007, to deliberate upon and review the implementation of PWDVA in each state after the first four months, and to evolve a common strategy and road map for future action. Activists from 23 states and union territories of India attended this conference. The conference aimed at activating stakeholders and crucial players involved in the implementation of the PWDVA to provide a common platform to bring civil society and government functionaries face to face with each other. At both the conferences, the Indian Women's Movement made it very clear that leaving issues such as implementation and enforcement to the government is not in the interest of women. Our past experiences have shown that we need to build constant pressure, keep constant vigil, and do a close follow up of implementation issues to make the justice system envisaged under the Act responsive to the needs of women.

The Second Conference identified crucial stakeholders for this meeting as the Judiciary, the Protection Officers under the PWDVA, Ministry of Women and Child Development Government of India at the Centre and the departments of Women and Child Development in respective states, National Commission for Women and State Commission for Women, Planning Commission & State Finance ministries, National Legal Aid Services Authorities and State Legal Services Authorities, Police, Political parties and MPs/MLAs, media in all forms, Service Providers, NGOs, state networks, human rights groups, civil society, communities, families and men.

The First NWC was a strategy meeting. The Second NWC was a stakeholders meeting. We gained commitments from individuals responsible under the law for their respective actions and a future road map was laid out for civil society. The participation of judges in great strength made us believe that access to justice delivery mechanisms and persons in power is possible. At the Second NWC, we learnt that collecting information from each state is easy provided we have good partners and committed people working on the ground. Collectively assessing the progress made and identifying hurdles and roadblocks can help this campaign move forward. The Second NWC brought together people from 21 states to create a common vision for the enforcement of the PWDVA in its true spirit and the State reports from different parts of the country presented best practices that were could be replicated by other states.

The Second NWC worked on the premise that no law is perfect and eventually based on judicial and other interpretations, all laws need to evolve and be amended. But, it is too premature for us to talk of this within 4 months of the notification of the law. The day's urgency is to find out ways and means of making the PWDVA work in the present system, so that women can live a life that is dignified and respectable and hence free from all forms of violence in the home. This was the basis of the deliberations at the Conference.



*Victims of violence  
(Mother, daughter, wife, sister)  
NGO & Women Activist  
Trade Unionist*

*Protection Officer  
Counsellor  
Police  
Health & Service Provider*

*Magistrate & Judge  
Lawyer  
Bureaucrat*



**18th Feb 2007**

**CONFERENCE  
STEERING  
COMMITTEE MEETING**

**MEETING WITH  
THE JUDICIARY**

Setting the Agenda and  
Objectives of the Conference  
Action Points

**OPENING SESSION**

*held at Conference Hall, YMCA*

**Chair** - Ms Jyotsna Chatterji

**Speakers**

Ms. Indira Jaising- Senior Advocate	4
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Ms Neerja Bhatia- Judge, Delhi	22
Ms Preeti Aggarwal Gupta- Judge, Delhi	23
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**Participants**

Justice Ajit Bharihoke- Registrar General, Delhi High Court  
Ms Poonam Chaudhury- Judge, Delhi  
Ms Anuradha Shukla- Judge, Delhi  
Ms Ruby Alka Gupta- Judge, Delhi  
Ms Navita Kumari Bagha- Judge, Delhi

**Making the PWDVA Successful**

18<sup>th</sup> - 20<sup>th</sup> February 2007

**Second National Women's Conference**



*18th Feb. 2007, 3-5 p.m.*  
**STEERING COMMITTEE MEETING**

On 18th evening, the members of the steering committee met to discuss the needs and expectations of the Second National Women's Conference. Members unanimously agreed upon the need for a national body - the National Secretariat on PWDVA. The Secretariat is currently housed at Action India's office in New Delhi. The structure, role and future functioning of the Secretariat was discussed and the expectations and role of the Steering Committee taken up. The Steering Committee tried to make the conference inclusive by preparing the road map collectively, in order to set up each state's responsibility, and to understand the linkages required between different stakeholders.

All members accepted the important role being played by the present secretariat and agreed that sustained networking and constant vigil was necessary to maintain the momentum of the movement to enforce the law. The following points were highlighted:

- Sensitization, pressure building and monitoring are the three key roles
- Annual monitoring and review of the state secretariat work
- Systematic tracking of cases and judgments
- Keeping records and traces of landmark judgments on an annual basis
- Reflect on how the Act adds to the empowerment of women
- Collect and document arguments made by lawyers
- Develop an e-mail network and website on domestic violence

### Action Points emerging from the Steering Committee Meeting

1. A national forum to take the campaign forward in the coming year represented by the National Secretariat. This campaign would be supported by other organizations; the roles and responsibilities will be shared and decided at a later date.
2. Mid-term review of the National Secretariat to be undertaken and modalities to be decided later.
3. Annual stock taking of achievements and modes of operation, identifying lacunae and problems faced in the functioning of the National Secretariat.
4. Similar coordinating groups having two/three members as representatives to be set up at the state level. The body has to act as the link between the state and centre. State-level steering committees to lobby in their state and then inform the national, which would work with National Secretariat and links with the Centre.
5. Focus on developing regional networks – sharing of responsibilities at the regional level.
6. Strategy building for having greater interface with government departments to ensure greater accountability towards the implementation of the law.
7. Developing strategies to have dialogue with judiciary
8. To make communities and networks more gendered through the inclusion of men
9. Formation of e-group of steering committee members necessary.

*18th Feb. 2007, 6 p.m.*

### OPENING SESSION

#### Welcome

**Gouri Choudhury** - This is the opening of the two-day conference which is planned for tomorrow and day after. This session is especially for the judiciary so that we have a thorough understanding of why and how this law was made. We also try to understand all the criticisms that have come up within a few months of the law being announced so that we can go back and deliberate upon it for the next two days and to look at what is being attempted by the government in the different states; what more needs to be done; what is the role of the NGOs; and the role of lawyers. This is really a meeting to understand how we should move forward so that in the next two days we can build strategies that we can coordinate at the national level in order to ensure that this law is ultimately implemented and enforced in a way that will benefit women. We are, to a great extent, aware that there is going to be contrary views but at this meeting hopefully, we are going to look at, as the banner says, “how to make the law successful.”



**Jyotsna Chatterji**- We have gathered here to see how the PWDVA is implemented and what is the infrastructure required for it. We are indeed very happy that we have senior friends with us. I now invite Ms Indira Jaising, Senior Advocate, to make her presentation. We all know the kind of pioneering work that she has done to make this law a possibility for us. We would like her to speak on the means and ways of making the law successful.

## Keynote Address

### Indira Jaising



The how and why of the law is an issue behind us. If there is a law there is a law, there is no need to discuss how and why the law, though we are all aware that the nuances of law are now well known to many people, even to those who participated at the drafting process. At previous conferences I have been told things like – Oh! Ms Jaising, we did not expect it to become a law and many people just saw it as a genuine exercise in advocacy and law making. I found that there was a level of disbelief amongst many people when it actually became a law. But it is a law and it is not just a law but actually being used by people in

length and breadth of the country. I guess that in the two days to come, you will be debating how you have used it. I will speak on how the law has been used and the problems encountered. I will retrace some of the fundamental concepts that went into the conceptualization of the law in the hope that this will inform our activities and how we use the law.

The law was **designed to be a civil law**- I think people have not understood this completely. I have heard it being described as a criminal law by the media. I also heard criticism of this law based on an incorrect understanding that it is meant to send people to jail and that we are reinventing Section 498A in a different avatar. All that is not actually the case and I would like to explain why it was conceptualized as a civil law. It is directed towards providing compensation and support to women and it is not intended at its early stages to penalize the perpetrator. In contrast to existing criminal laws, (in particular sec 498A) which is dependent on the state, the police and prosecution for enforcement, any civil law is victim driven. It can be put into motion by the aggrieved by direct access to court for relief. **A civil law is a far more democratic form of access to justice.** This is the reason why it was conceptualized as a civil law. Experiences have shown that 498A has problems which are insurmountable and these are not problems, incidentally, of implementation but problems built into the structure of criminal law. All criminal laws have to begin with a complaint to the police; it cannot begin in any other way. Of course you can file a case under section 200 and go directly to a magistrate for inaction on the part of the police but not otherwise. And later perhaps, I will tell you why I find this totally unacceptable. We all know the silence of the police, and I have come to the conclusion that this silence serves a function. It is not an accidental silence – by silence I mean that they do not act on a FIR. I think silence plays a very important role in violence against women. It is meant to be a strategy of ignoring violence against women in the hope that the complainant will just forget about the violence and disappear. Now if that stage is over, then you have to get into the phase of investigation where again, the police have the sole prerogative to investigate. And after an investigation it is the issue of charge sheeting and prosecution and at each stage you are dependent on the state for each of these activities to be put into motion. I think for people like us, all of you present here are very seasoned activists in the women's movement and have studied the issue of violence against women both in theory and in practice, surely you must know that the **state certainly has a patriarchal way of functioning** and this includes ignoring FIR; removing the agency of women and vesting it in the hands of the state namely the police; and it includes removing the agency of

women and putting it in the hand of the prosecutor. These are some of the reasons for conceptualizing it as a civil law- because it restores the agency that rightly belongs to her, redefines her injury in the way that she perceives herself to be injured.

The law **redefines domestic relation** - the law recognizes that women's rights are violated not only in their capacity as wives but also as mothers, sisters, daughter and live-in partners. It covers all relationships under definition of the domestic relationship, and I was happy to read that they are many people in the category of elderly who have now started using the law. There have been cases where elderly mothers have gone to court and accessed this law claiming the rights to reside and their right to maintenance. In that respect, it marks **a major breakthrough in recognizing the reality of violence which occurs against women and seeks to provide remedies.**

The law **gives right to reside in the shared household**- The most oppressive form of violence is the dispossession of women from the shared household. The expression 'shared household' is used obviously to cover mothers and sisters. We could not have used expressions like matrimonial homes because the relationship that the law covers goes beyond matrimony. Are we suggesting that under no circumstances can a woman ever be dispossessed from a shared household? The answer to that is 'no'. There is a possibility within the law, because the specific language used is that she cannot be disposed except by procedure established by law and we all know what is the meaning of the expression 'procedure established by law' – the person who has to dispossess has to access the civil court and obtain an order saying that for XYZ reason the woman has to leave the house. This is in contrast to physically putting women out of the house and this is again based on the fact that we call ourselves a society governed by the rule of law. It has to include this projection that there can be no physical dispossession because that will amount to taking law into your hand.

**One of the most important remedies visualized under this law is to stop violence, particularly violence of emergency nature, and therefore we have the 'stop violence order' in the form of protection orders. The intention of course, is to give a woman facing domestic violence a space free from violence where she can evaluate her options and choose her future course of action. It is meant to be an immediate and emergency law.** It is important to emphasize the fact that it is meant to be a law dealing with emergencies and she can obviously take recourse to any other law, be it divorce/custody/maintenance. All options are open to her in addition to this law.

Now we come to a major issue, being debated all over by the women's movement - that is the issue of access and appointment of Protection Officers. Again, a much debated and contentious issue. It is true that at the drafting process there were very important points expressed that we don't need protection officers. The views expressed were that they would end up being bureaucrats or they would end up being people who were utterly useless like the Dowry Probationary Officers. We had to take a call on that – do we or do we not put in the law for Protection Officers? We took a decision to do that and I will share with you the reasons for doing so. All of us are aware that India is a country that has laws and laws and yet, laws in India are never implemented. I have heard this argument a million times

and have struggled with answers to this argument and after struggling a great deal I have come up with the following answers:

There is something really wrong with the ways in which laws are made. The laws are written but they do not have within them a built in infrastructure for the activation of the law. If we are serious; if we mean business; and if we are futuristic in our vision, then we need to talk about laws which put in place, systems and structures which will be of assistance to people. Therefore, we have to conceptualize the role of a Protection Officer. It is meant to be an inbuilt mechanism accessing the system. So why are laws not implemented? Because women are not able to access the justice delivery system. They have to be enabled to access the system and therefore the law must have an inbuilt infrastructure to do this and hence the role of the protection officers is envisaged as a support system to the women in using the law. **Protection Officer is to serve as a link between the women and the court.** This is again important there was a great debate, who should the Protection Officer be accountable. Should they be accountable to the Ministry for Women and Child Development, should the person be accountable to the Home Ministry or should this person be accountable to the judiciary. We took a call and it was decided that **the Protection Officer should be accountable to the judiciary** because it is meant to be a resource at the disposal of the judiciary, they are meant to be the ears, the eyes, arms and legs of the judges and therefore they should be accountable to the judiciary for providing all necessary support to the judges to enable them to pass an order which is truly in the interest of the women and acting in accordance with direction given to them. Protection Officer is to act as a link between the women and the court to enable her to access the support structures provided under the Act.

On the other hand, the role of the Service Providers, that is the NGOs working for women who choose to register under the Act continues as it is and there is no change in the role of NGOs. Far from there being a change in the role of NGOs, there is an empowerment and empowerment comes to those who choose to register under the Act as service providers. This empowerment comes in different ways:

1. Any direction given by them to a medical facility would make it obligatory for the medical facility to provide medical services to a woman who is facing violence
2. Any direction given by them to a shelter home would make it obligatory for the shelter home to provide shelter
3. It gives the NGOs immunity for acting in good faith

This provision has been put there, born out of the experience, I have to say of people working in 'Vanagana' who assisted a woman whose daughters were being molested by their father and when they attempted a rescue operation they were charged with kidnapping and defamation. We felt that it was high time that NGOs who work for the benefit of women are given certain kind of protection law which would prevent this kind of civil litigations against them, provided they act in good faith.

So I think these are major steps forward that this law visualizes and puts in place. It also keeps in mind the fact that women find it easier to approach NGOs rather than the traditional implementing agencies like the police or the courts. It gives authenticity to the records of the NGOs in as much as it gives the NGOs the right to document a Domestic Incidence Report (DIR). One might almost go to the extent of saying that a DIR would take the place of the civil equivalent of a FIR. This of course casts a



huge responsibility on NGOs to record faithfully without exaggeration, record only what is relevant and maintain these records in a manner that is acceptable to the court and capable of being produced in courts. Of course, knowledge of law and training of the Service Providers would be of help.

There is a **single window clearance** under this law in supporting women's access to justice. Section 26 lays down that civil relief can be claimed in any pending proceeding, which means if there is a divorce proceeding pending; if there is a partition suit pending; if there is a custody application pending; if there is a 498A application pending, an application under this law can be made for a protection order or for an injunction restraining dispossession. There is need to state that some of these provisions have not been tested out so far but I am aware that many people have made applications in pending proceedings but, they are facing problems. When proceedings are filed in civil courts, judges are telling them: 'but this law is meant to be activated by magistrates so why you coming to us? Asking them questions like do we use a civil procedure? Do we use a criminal procedure? All these questions are getting answered on a day to day basis in actual pending proceedings but the obvious idea was to prevent multiplicity of procedures which have been a major source of obstacles to women in accessing justice.

Now we come to the issue of counselling mentioned in Section 14 of the Act. Again it is a very contentious issue. This section itself states that the magistrates may at any stage of the proceeding direct the respondent or the aggrieved person either to singly or jointly undergo counseling with a service provider who possess qualifications and experience in counselling. This could be problematic provision given that counselling is used as a tool for women to accept violent situation and get back to the marriage. Counselling ought to be for the abuser and not the victim and that was the proposal that was made at the draft stage. Much to our dismay it was not accepted and finally reads that counseling can be either joint or single which means that either the woman alone can be counseled or the abuser alone can be counseled or the two can be counseled together at the discretion of the judge. **We must understand, to begin with, that the woman and abusers are in an unequal situation and no joint counseling is possible in that situation. It can lead to further disempowerment of the unequal party.**

**In fact mandatory counselling is one of the methods of correcting abusers behavior. Mandatory counselling is in the form of punishment.** If that is what it is then why should the women be counseled? That is the question that I would like to ask. Such counseling would end up only in "convincing her to accept a situation of disempowerment as being normal and continue in a violent marriage". This is especially dangerous given the fact that even under the existing dispensations, judges and the crimes against women cell of the police constantly call for reconciliation sessions at which they are made to agree to settlements. Therefore while directing counselling, under the Act, adequate caution must be exercised to ensure that there is no further disempowerment. Now how did we deal with this issue? After the Act was passed we were asked by the ministry to draft the Rules. We took the opportunity to put into the Rules the factors that are relevant to counselling, to be a pointer as to what counselling is about and this is what we have said: in Rule 14 on the topic of counselling, factors volunteering counselling shall include that of furnishing an undertaking by the respondent that he would refrain from causing further violence and that no justification would be accepted for domestic violence. Now if

you can see this is absolute reverse of the Bill that was drafted by the NDA government where they said defence, self defence is a justification for domestic violence. Here we have reversed the equation and have said that no judge would accept self-defence as a justification for domestic violence. Once they come to the conclusion that domestic violence prima facie has taken place then no justification can be given for that violence. **The whole objective of counseling is to get the abusive partner to give an undertaking that there will be no further domestic violence. The need for this form of counseling would involve the re-establishment of the basic trust and the sense of safety to be given to the women who faces violence. Most victims in Indian context face further traumatization both through the system of restitution and justice as also from family members and society at large, their potential for pathological grief and severe persistent depression increases manifold.** I would like to give you an example of a case that I handled incidentally in the High Court. This was the case of a woman who had faced repeated domestic violence. She had left the matrimonial home but unfortunately her six year old son was left behind with the father and all that she wanted was her son. I filed a case under section 498A and at the same time her husband filed case for custody of the child. The judge asked her to try reconciliation. I advised her not to go to her matrimonial house but she said to me that if I don't go back the judge will get annoyed and he would not grant me custody of the child, let me go back. She went back, and in less than a week she was dead.

Let me tell you how she died. She was burnt to death by her husband. It was very convenient for her husband as he owned a kerosene business. The story told by the husband was that on that day she had come to his office and created nuisance. She then threatened to commit suicide. There was kerosene lying all round, she poured it over herself, set herself on fire and she died.

Now the custody of the child had been given to the father and the girl's father filed a case under 304B and the case is still going on. So what are the lessons to be drawn from this example? Firstly, that it is high time that judiciary understands the problem of women in domestic violence and believe her when she says that there is fear for her life. Secondly, there is need to identify criteria for safety plans or indicators which would indicate early warning systems of domestic violence being on the cards. Thirdly, the challenge is to get the judges to accept these realities and of course that's one of the challenges and the conclusion that I draw from this is that **the journey from 498A to 304B is a very short one, it is just a few steps, you walk from 498A and you fall into 304B.** If you see the study done by TISS, you find that in the city of Mumbai, most of the cases under 498A are registered only after the women is dead with 304B. We need to look at this question very seriously in the presence the judge and metropolitan magistrates who are with us at this evening.

Now I ask the judges, in the light of data and statistics, what do they mean when they say that women are misusing the law? In the judgement of justice J.D. Kapoor in which he says a lot of women are misusing the law and its time to stop this misuse. It is called myth of misuse. I challenge any judge to produce statistics of so called misuse of law. I would urge them to see statistics under 304B and compare them with statistics under 498A from which they would come to the conclusion **that far from being used**

**498A is a dead letter and if at all there is any so called misuse, it is by the police** and if at all you need to pull up anybody, pull up the police. I have to unfortunately say that lawyers also urge their clients, when they come to them, to put in things in the complaint which may or may not be true. I was hoping, I don't think we have entirely succeeded in that effort, to come up with a very simple statute- simple computerized form/simple applications which perhaps a woman can fill on her own and file and that just as courts accept letters as petition under section 226 and under article 32, **magistrates will start accepting DIRs filled in by the women themselves, as applications under this Act so as to reduce the scope of women being misguided as the Protection Officers are not there.** I am not suggesting that lawyers should not be allowed to handle cases under the domestic violence law and it is not mentioned in the Act. **It's a multiple option law in that a woman can access it herself or else can approach the following to enable her access it: Protection Officer, police, lawyer, Service Providers or can even go directly to the magistrate.** A multiple channel of communication has been set up under the law and it is upto the woman to choose which is more suitable to her. Again this is in keeping with the concept that access to justice has to be democratic, so I would just like to say that women over the years have been unable to see that this whole question of misuse is not a bona fide argument. They have been bringing out data, documents and statistics dealing with the myth of misuse and countering it with data. I am afraid this is nothing to do with data. It is really to do with deliberate, orchestrated creation of a myth and that myth is that women are misusing the law. Myth serves a very important function – function of denying access to justice. I really would urge that it is not asking for the moon, not asking for the sky, it is only saying that when an application comes before you, look at it with your eyes wide open and decide for yourself whether the facts on the table warrant the giving of an order. What one is asking is that you do away with your biases and look at it as you would look at any set of facts.

I would now quickly move on to **the post Act scenario-** it's a baby, it's only four months old. And you would pardon me if I am not able to give you any detailed analysis of this law. Before you do an analysis it should be allowed to function and allowed to take its own course. Immediately when the Act came into force there have been several issues that have been highlighted as problematic, the chief concern being the implementation and enforcement of the Act. Cases have been filed across the country and already several interim orders have been passed. However like all laws this law is going through the initial phase of resistance. The impact of the law will be felt a little later. However, I believe this is definitely a moment for rejoicing for all us sitting here before we take the issue of challenges that lie ahead. We must acknowledge that there are several states that have put Protection Officers in place, Delhi of course being one of them. I have known of judges who have passed ex- party interim order upon being convinced that a case is being made out. I have known of Protection Officers who have done their study and given the DIR and I have known of Protection Officers who have accompanied the person to the residence of the abusers and ensured that the notice has been served. It is in these small ways that justice is denied, they simply don't serve the notice or they simply don't serve the order and that is why in this law we have created the duty of Protection Officer to ensure that the notice is served. I know there are problems with this, I know that it will be very difficult for protection officers to serve notices on millions and thousands of people but these are things that we have to sit and work out.

I just give you few examples. Kavita is with us and she has sent us information about Rajasthan where courts have passed interim orders. Of course there was resistance to passing of orders. Unless Protection Officers are appointed we can't give an order but then with great difficulty we convinced the judge, as I told you there are multiple options, it is not mandatory for the Protection Officer to be in place before a complaint can be filed, anybody can file a complaint with or without a Protection Officer. Judges are convinced about that and they are giving orders even though Protection Officers have not been appointed. Monetary relief has been granted under certain orders. In Delhi there have been orders granting temporary custody to women who have filed under this Act. There have been temporary interim orders given in UP in case of Muslim women who were thrown out of their homes along with their children, courts have granted interim ex-party residential orders restoring women back to their residence. There have been ex-party interim orders in Bangalore where it was an order preventing stalking of women, order preventing the abusive partner from entering the employment premises of the school. There have been orders in Mumbai on petitions filed by us giving protection and residence orders. In this case the husband was foolish enough to send a legal notice stating that at the end of the day he would throw his wife out of the house. I was thrilled to see that, and I said that what more do I need to get an order and I hoped that in this one case we will not be denied an order. We were not denied the order. But not all husbands are so stupid. We must look at the hidden agenda, recognize it and try to convince judges that there is a hidden agenda. To conclude by saying a few words about the SC judgment known as the Batra Case. It has created a lot of confusion in the legal community and it has created a fear that our hard earned victory might be diluted. We have to think of strategies to deal with this judgment. I am referring to the **SC judgment on the definition of shared household in the Batra judgment**. In this case it appears that the husband and the wife were living together with his mother in the matrimonial home. He filed a petition for divorce and it appeared that he moved out to a rented premise in Ghaziabad. The deserted wife, who had been thrown out, entered the matrimonial house and applied for an order restraining her mother-in-law and husband from evicting her. What you also have to know is this, was a case that arose much before this new law was passed. And credit to the court for an order was granted restoring dispossession. He went on in an appeal and the first appellant court reversed the order and the matter was carried to the Delhi High court and there was a very good judgment of the Delhi High Court which we were hoping to use as precedence for all times to come. The injunction was restored and there was a very interesting analysis that said simply because the husband has moved out does not mean the matrimonial house no longer remains the matrimonial home rather it continues to be so. Next, the matter goes to the SC and there it went before Justice Sinha and Justice Katju and I really don't know who was arguing and how the case was argued. At some point during the argument, by that time this law had come into force, the lawyer for the wife arguing for the case pointed out to Section 17 of the Act and said that not only am I fortified by the existing law but also fortified by the definition in the new law in Section 17 which says moved out or has moved out and so it is irrelevant that she is not living there anymore. I must tell you that **the purpose of including the expression 'has lived' was to deal with women who have been dispossessed**. However what we see in the judgment are two major issues:

1. There is detailed discussion on the ownership pattern of matrimonial homes
2. There is the finding that the mother-in-law had paid for the purchase of the home by herself alone and hence it was her self acquired property.

Now what is staring at your face is **the fact that the section says ownership is irrelevant to the question of relief under this law or to the question of residence because this Act does not create any property right, it simply creates the right to residence and the right to not be dispossessed without due process of law.** However, the court uses that as an argument to say that it could not grant the injunction and the High Court was wrong in granting injunction. Then, there is what I consider to be an attack on all of us in the women's movement. We have never told Justice Sinha and Justice Katju that we have drafted the Act but somehow reading newspaper they have come to know that the Act has come after lot of lobbying from the women's movement and therefore they make it a point to say that the Act is clumsy. It is clumsy and absurd because it is not drafted by the law department of the Government of India. I thought that it was vetted by the law ministry before it was passed and I do not see that Government of India would have passed a law without looking at it and of course there are people sitting in the Lok Sabha and Rajya Sabha who had voted for it. So whether the target of this barbed attack was the women's group or the MPs or the law ministry we don't know, but may be someday we will find out. But they did say that it was a very clumsily drafted law. Why do they come to the conclusion that it is a clumsily drafted law? They say that if this is the interpretation of 'has lived', mind you, here is a woman saying that she wants to go back to her matrimonial home, what if she stays in her brother's house for a day, she would then say that her brother's house is her matrimonial home. I think what the SC ignored, is the fact of conjugality and what it ignores is what we call conjugal relations and when we talk of a domestic relationship we mean a relation of conjugality in the context of marriage or a relation of consanguinity in a relationship of non-marriage and therefore it would be impossible for a women to claim that although she lived in her brother's house for a day it would be her matrimonial home and that she now had right to stay there permanently. There is a distinction in using a home as a matrimonial home or shared household and using it as a guest. I would have thought that learned judges would have known of this legal distinction but it seems they may not, so they have given this judgment. And to avoid any absurd interpretation they have said that the law is badly drafted.

That even in cases like this the court has to go beyond the apparent and look for these answers- why did the husband move out? was it a strategy? how soon thereafter, did he file a petition for divorce? why was the flat in which the two were living kept vacant? did the mother-in-law need it to satisfy some genuine bona fide need? if she did then I would say "give her the relief" because we are concerned with the rights of all women. But none of these questions were gone into and at the end of the day all we have a judgment that says that for 10 years we have been engaged in a law which is absurd.

There is the **Bansal judgment** of the Magistrate Court, just to show you that the Batra judgment is already having its impact, the magistrate beautifully lays down the circumstances which would warrant the giving of the order and then says that I am sorry I can't give it in the light of judgment of

the SC. The balance sheet as far as I can see is that there are many unanswered questions, I cannot give answers to all because I believe that is an exercise that we all have to take jointly, there is no clarity whether the procedures which are going to be used are civil or criminal or both. There is a provision in the law which enables courts to evolve their own procedures. The question of jurisdiction in pending proceedings- judges have not been able to sort it out, some of them are granting relief, some of them are saying no, go and file before the magistrate. There is need for the appointment of Protection Officers as expeditiously as possible preferably qualified social workers. There is need for working out strategies which will help in the appointment of Protection Officers; there is need to register NGOs as Service Providers; lobby for appropriate budgetary allocation; and there is need to spread awareness of the law. By that I have to point out to a very important provision in the law that has come out for the first time in law making. There is a section in the law that cast an obligation on the police, on the courts, on the Service Providers and on everybody to inform the aggrieved woman about the provisions of the law and on the government to publicize through sponsored media. This might appear very irrelevant but from my experience I find that information is empowering and the moment you convey such information to people they are able to negotiate their own dispute without going to courts. So it is an important obligation cast by the law to various people to inform about the provisions of the law and possibilities and availabilities of the orders, and how printed forms of the application will be available in all court rooms to enable people to file those applications. We cannot have a situation where these functions are being duplicated and if the special cells were created to mediate between the parties before registering an FIR, then they ought not to be there, if there were intended to give free litigation services then those free litigation services must now be given under this law.

Conflict would be created with the provision in the light of customary practices. We need to look at customary practices and how the law enmeshes with these practices, conflict between the legally married woman and another woman who has entered the shared household has already surfaced in a big way and I have been asked this question that why can't we file an application getting a woman who is living in an adulterous relation out of the matrimonial home, out of the shared household? My answer is that it is we who wanted a provision over there which says that 'you can't file an application against a woman'. We have to find ways and means of dealing with it.

We have been also asked this question- that you have given the rights to woman who is in a live-in relationship in the nature of marriage; what if there is a marriage and a relationship in the nature of marriage- what are you going to do about it? I leave you to think about that as I have overstepped my time and that we need some clarity and hope we can all try to work out.

**Chair-** Thank you for informing us once again about the law, the fact that law should be democratic. That this is a civil law and not a criminal law. In practice there may be several problems that we may have to deal with. I now invite Justice Gita Mittal to make her presentation.



## Chief Guest

### Justice Gita Mittal



I cannot comment on the SC judgment. It is the law of the land and certainly binds me. I will interpret it in the court; let my judgment speak for it. The points raised by Ms Jaising may certainly have not been laid before the apex court. Perhaps the judgment might have been different had someone else argued it. Perhaps the judges will have another issue to consider these points.

It certainly has to be read in the light of the law that exists. Before I go on to what I came prepared to inform you all, I must react to what Indiraji has gone a long way to comment on the SC court judgment which resulted in conversion of case from 498A to 304B. It would be incorrect to say that all judges are biased or all judgments have been against women. It is very difficult. I will tell you at the end of the presentation as to what a judge or judicial function is about and what you don't visualize when you read only one judgment without knowing the situation or context under which the judgment has been rendered. Secondly the judiciary by and large has been extremely responsive to the needs of the society and this is from the judges of the lowest courts to the Supreme Court. Of course, **there are areas where how the society perceives the need may be different from how the judge perceives it to be.** But by and large, judgments in India have gone a long way in furthering the needs of society and particularly to the needs of women in distress and disadvantaged women who have knocked at the doors of the judiciary. There are constraints but I will deal with it at the end but before that let me point out what I came prepared for.

Domestic Violence is an issue that transcends boundaries of race, religion, class and sexual orientation. Women are being subjected to extreme acts of physical violence, which takes place within the sanctity of their home. The violence is severe, painful, humiliating and recurrent and most often than not the victim is too overcome by feelings of fear, shame and powerlessness, to do anything about it.

The seriousness of this problem is supported by globally collected statistics which reflect an alarming state of affairs. A United Nations international survey titled, 'Domestic Violence against Women and Girls', estimates that in each country 20% to 50% of women suffer domestic violence. The World Health Organization has asserted that violence against women causes more death and disability among women aged 15 to 44 than cancer, malaria, traffic accidents and war. In 2000, Amnesty International in a report of Human Right sWatch, 'Broken Bodies, Shattered Minds: Torture and Treatment of Women' indicated that: "Violence in the home is a truly global phenomenon. The figures may vary in different countries but the suffering and its causes are similar around the world". According to World Bank figures, **at least 20% of women around the world have been physically abused or sexually assaulted.** Official reports in the USA say that a woman is battered every 15 seconds and 700,000 are raped every year. **In India, studies have found that more than 40% of married women reported being kicked, slapped or sexually abused** for reasons such as their husbands' dissatisfaction with their cooking, cleaning, jealousy,

and a variety of other motives. At least 60% women were killed in domestic violence in Kenya between 1989 and 99 and 35% of women in Egypt reported being beaten by their husbands. For millions of women the home is not a haven but a place of terror.”

These statistics confirm the fact that the issue of domestic violence is a global phenomenon. One of the prevalent misconceptions, just like the misconception of bias in the judiciary, is that domestic violence is a private affair that does not warrant state interference. Historically ours has been a patriarchal society where physical abuse was not looked upon as an evil, it was to some extent even considered a right of the man to ‘discipline’ the woman and children. This was not limited to the Indian society. The English Common Law, this is very interesting and I am quite surprised, had a rule of thumb as a criterion for measuring domestic abuse. The “rule” authorized a husband to beat his wife with any reasonable instrument, including a rod not thicker than his thumb. The rule found its way into American Common Law in the first half of the 19th century. In 1824, the Mississippi Supreme Court held that authorities could not subject a husband to assault and battery charges if he complied with the “rule of thumb” standard. (*Bradley v. Sate*, 2 Miss.156, 157 (1824)). This is but a small example of the laws that were framed earlier which to some extent further encouraged domestic abuse. This serious problem of domestic violence has to be addressed by the society as a whole. In India we have seen the Constitution recognizing the rights of women and attempt to address this menace which is prevalent in a big way

**It is only recently that the law has actively begun to accept “domestic violence” as a “serious social evil” which needs to be addressed by society as a whole.** While legislation have been enacted in a variety of countries to address domestic violence, the implementation of such legislations has not been very effective because of certain inherent problems such as the reluctance of the victims to testify against the abusers out of fear, the insensitivity of the officers dealing with such cases, or the lack of coordinated efforts among police officers, sociologists, psychologists and activists.

The Indian government has made some positive attempts towards the protection of women since the commencement of the Constitution. One such attempt is the Dowry Prohibition Act of 1961. It has since been amended twice, once in 1984 and again in 1986. The 1986 Amendment requires the police and a judicial magistrate to investigate every unnatural death of a woman married less than seven years. Parliament has also criminalized dowry-related violence against women as evidenced by the Indian Penal Code, amended in 1983. The Indian Penal Code was further amended in 1986 to explicitly provide that dowry deaths are punishable with imprisonment of seven years to life.

However these laws were neither created nor are they able to address the problem of domestic violence in India. A need was felt to legislate on this subject. The Constitution of India as well as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Universal Declaration of Human Rights, both of which have been adopted by India, guarantees substantive justice to women and **a law on domestic violence is an important part of this framework of human rights.**

The NDA Government had introduced in the 13th Lok Sabha, a bill on the subject on 8th March 2002. The Bill however lapsed on the dissolution of the 13th Lok Sabha in February 2004. On the UPA Government assuming office, the Department of Women and Child Development re-examined the provisions of the said bill in the light of the concerns expressed by women's rights groups and introduced a new bill in the 14th Lok Sabha on 22nd August 2005. The Bill was passed by the Lok Sabha on 24th August and by the Rajya Sabha on 29th August. It received the assent of the President on 13th September.

Thus the "Protection of Women from Domestic Violence Act, 2005", after a protracted struggle finally came into force with effect from 26th October 2006. This has been of course because of the effort of women's movement and Ms. Indira Jaising. **This Act is primarily meant to provide the wife or female live-in partner, protection from violence at the hands of the husband or male live-in partner or his relatives and the law also extends its protection to women who are sisters, widows or mothers.**

I have personally not dealt with a single issue under this statute. My introduction to the statute came from hearing Ms. Jaising when I was at the National Judiciary Academy and she had come to inform the judges about the statute. I have had very little time to work up on this and my resources on this statute are inadequate. What I will be speaking is the experiences of judges in Delhi who are dealing with this statute. I would point out areas which you need to look at immediately; otherwise each one of these issues is going to be cause for a long legal debate which will result in delays in implementation and non-availability of benefits of the statute to the people.

The Act provides that you have to file a complaint or an application before a Magistrate and at the same time the courts dealing with pending issues are also empowered to entertain petitions. But so far application under this Act, I have been informed **that, in Delhi approximately 302 cases have been filed under the PWDV Act 2005 since 26th October, 2006 which are pending in the four courts of Delhi. Out of these, 36 cases are pending with the magistrates in Tis Hazari Courts, 164 at Karkaduma Courts, 69 at Rohini courts and the balance at the Patiala House Courts.** Needless to say, these figures do not include the applications which may have been made in the pending proceedings before a matrimonial or the civil court.

I have had occasion to discuss the implementation of this statute with judicial officers who are dealing with cases under the Act. From a reading of the statute and my discussion, several areas which require attention emerge. I have attempted to list some of them and intend to share them with you today. Certainly, if the spirit, purpose and intendment of the Act is to be achieved, these issues need to be immediately addressed. Now I will enlist very briefly what I have been told by judges in Delhi as to what are the problems there are already facing.

**First is the severe lack of notified Protection Officers.** There is one judicial officer who issued notice to state government and got 16 officers for the North-West district. She is here today- Ms Nirja Bhatia. She says the Delhi government notified officers but these were not officers trained to render services under the law. **They had no clue as to what the statute was about, had no experience of**

dealing with family members. There were officers under the level of UDC, people from normal administration and this was just an additional charge given to them. They have no infrastructure, no office and no support structure whereby they can actually do what they are required to do. So if they are required to give a report to the magistrate in a particular case and leave their office, rest of their work suffers. It is their secondary duty and no additional fees are paid to them. Then how are they to effect service? Service of a notice is a technical matter. Law provides the manner in which service is to be effected- whether you can tender it to a family member, whether you can fix it at the place of residence, how will you deal with a husband who is trying to avoid the service? Therefore there is no training and no infrastructure. **The reports that are rendered as per the judges dealing with the cases is that they go to the site and who ever is more persuasive, the lawyer of the husband may be more persuasive or it may be the lawyer of the wife who is able to influence the report.** But even worse was that despite the continuity which is acquired under the statute the officers were changed within three months. The new officers who came in gave reports entirely contrary to that submitted earlier. **So there is tremendous dilemma before the judge who has got this two conflicting reports by two untrained personnel.**

Another very interesting factor, **a lot of you doing field work need to provide more assistance to the judiciary if you require constructive work from the judiciary. It is a fact that not a single complaint has come through an NGO.** There are only applications which have been filed through lawyers. I have been talking to people running NGOs. I have been practicing law for 23 years before I was elevated to the bench and I have actively worked on women related areas and other issues- what is being said is that **there are hardly any NGOs or personnel from NGOs who actually go to the court with the woman who is making the application. So actually what is happening is that the entire burden is cast on the magistrate to discharge all the duties and functions under the Act, without any effective assistance given to the judge to discharge such an onerous task and duty.**

Apart from the fact that Protection Officers are changed in routine, they are ill trained and ill equipped to discharge their functions, they act as a mouth piece of either party depending on who is more persuasive. There is no adequate assistance to the judge to render effective relief to women in distress.

**There is no listing of Service Providers. The NGOs need to get more active on this as they can play a vital role in enabling the court to take a prima facie view as to having the truth placed before the court.** What is the best evidence of a woman who is suffering domestic violence? It will be herself or those within the domestic environment and these will be close family members of the other side. It will be hardly that wife's **relatives or friends who will be permitted into the house where the woman is subject to domestic violence. This is where all of you have a very important role to play and the legislature has provided such an interesting interplay consciously to enable you to play more important positive role and has given you the recognition.** I think there is hardly any legislation which does so and again you have provided the provision which enable the magistrate to give shelter to the woman but has anybody thought what if there is no shelter home. **In Delhi you only have one or two shelter homes which are very**

**badly managed and hopelessly overcrowded and there is no room for a woman who is trying to escape domestic violence.** In these shelter homes there will be women in distress for other reasons either rescued from situation of trafficking and so on, women who are otherwise in the mainstream but are compelled to leave their home on account of domestic violence have to be rehabilitated. **What I remember is that two years ago there were 88 government buildings which are listed for which the government has no use. Perhaps you can take it up with the Delhi Government and those can be converted into shelter homes.** So what kind of an order can a judge pass, you don't have to revert the woman; it may not restore the woman to the matrimonial home as it may restore her to degradation, humiliation and exposure to domestic violence, she needs help of an organized shelter home where she can live with some dignity and respectability. So the need is to restore peoples' self respect in a big way and probably the confidence that they can get on with their life even if they are compelled to leave their matrimonial home.

Again from the reading of the statute, **a very important provision is that of medical assistance to the woman in need but who is to give the medical assistance- whether it is the government medical facility or private medical facility, if it is private medical facilities then who bears the cost?** So then you need to go back to the legislature, to the government, to the finance ministry that is going to provide you the assistance, these are certainly very important issues but certainly not to be argued in the court room but there are areas where you can give effective and quick relief to a large number of women. I have come across a large number of cases where the women were compelled to give up their jobs or could not complete their education because they got married or some other reasons and when such a woman is put on the road the bleakness of the problem cannot even be imagined. It was in keeping with these situations that the legislature has provided these **reliefs but the judge cannot help you unless you make sure that those facilities exist and the administration is moved to provide those facilities.**

A provision has been incorporated in Section 20(4) of the statute which requires the magistrate to send a copy of the order for monetary relief to the In-Charge of the police station within the local limits of whose jurisdiction the respondent resides. Now again Ms Jaising has to educate me and the other judges as to **why an order granting monetary relief has to be communicated to the SHO of the police station. He has no power under Section 20 subsection 4, he has no power of enforcement.** An FIR is registered and then informed to the magistrate but this statute requires an order which is passed has to be sent to the SHO, they are unable to perform the normal function and I do not see what the need is other than giving him one more clout of doing what they do otherwise in the husband's hand.

Now some of the orders that are postulated are extremely difficult to execute or to maintain a vigil over, **an order of non-communication that you will not get in touch with your spouse is extremely difficult to enforce.** For instance, under Section 18 a Magistrate is empowered to prohibit the respondent from attempting to communicate in any form with the aggrieved person.

One area which Ms. Jaising must keep in mind, which is going to provide so much difficulty to the

judges who deal with these cases that **Section 31 says a breach of an order shall be an offence which is punishable with imprisonment extending to one year. At the same time under section 31(3) the magistrate has been empowered to frame charges under section 498A of the IPC or any offence under the Dowry Prohibition Act. You have made this as an offence under section 32 as cognizable and non-bailable.** Now there is a direct conflict here, an offence which is punishable with imprisonment for one year is called in criminal law as a summon case. The procedure for trying such an offence is totally different from trying a case under 498A of the IPC. You see there is this glaring lacunae in this legislation on which every prosecution will be stayed as to what procedure the magistrate is to adopt.

There is an ambiguity and a conflict which requires to be clarified. I think even **the definition under 2(q) of relative of the respondent and male partner** also needs to be looked at a little more closely as this will also be the subject of legal debates as to whether all the person cited as relatives are covered or not.

Now again **section 27 enables the magistrate to pass an order beyond the local limits to which his/her jurisdiction is confined.** Now who is to implement such an order? The legislation is totally silent, it could have been resolved in a very simple manner; such an order may be treated as a precept for a transfer. This may cause difficulty in enforcing orders which may be passed especially in matters involving immoveable properties located in a state other than the state where the court seized with the complaint is located.

The definition of “shared household” under section 2(s) is extremely wide. In a recent judgement entitled SR Batra Vs. Taruna Batra, 2006 (13) SCLAE 652, the Supreme Court has held that the meaning of the word ‘shared household’ can only mean the house belonging to or taken on rent by the husband or the house which belongs to the joint family of which the husband is a member. It has also been noticed by the Supreme Court that the definition of ‘shared household’ in Section 2(s) of the Act is not very happily worded and appears to be the result of clumsy drafting but it has to be given an interpretation which is sensible and which does not lead to chaos in society.

This section needs further clarification as to exactly what is intended. There has already been a comments and complaints related to offences prior to the statute, there is no limitation provided. It has been read into it as 498A by judicial interpretation. Therefore, complaints are being filed on allegation relating to very old incidents. This issue may also be a ground for protracted legal debate. It may be a ground on which prosecution orders are stayed. These are orders in the nature of civil orders; as interim custody of children; protection of matrimonial home and maintenance etc.

**Another ground of legal debate is that there is no statutory provision or rule which provides the procedure which is to be followed by the Protection Officer or the Welfare Officers.**

**The statute is also silent as to the evidentiary value which is to be attached to the reports given by such officer or the mode of their proof.** For instance the Land Acquisition Act says the sale deed of is



read as an evidence. So what is the evidentiary value of the report of the Protection Officer? This is important when the judge has to access the material at the end of the trial and give an order of final relief. This issue may not be important for interim orders when the judge is only arriving at a prima facie view.

Under section 26 of the statute, a relief which has been made available under Section 18, 19, 20, 21, 22 may also be sought in any pending legal proceedings before a civil, family or criminal court . A High court judge may be called upon to adjudicate proceedings for maintenance under the Hindu Maintenance and Adoption Act. A family court is presided over by a District or an Adl. District Judge. The only provision of appeal provided in the statute is under Section 29 of the Act which says that an appeal will lie in the Court of Sessions only with the orders of the magistrate. **The Act is totally silent as to where an appeal will lie against orders passed by any other court**, under the Hindu Maintenance and Adoption Act or an ADJ under the Guardian and Wards Act or under the Hindu Marriage Act wherein such an application is made in a pending case.

Then there is an issue as to whether a writ court is availed or whether you have to file an appeal. Now again we have to look at the drastic powers conferred on the magistrate. The Guardian and Wards Act very carefully confers certain powers and carves out a jurisdiction conferring certain judicial powers only to the magistrate and cases there under are entrusted to the Distt. Judge or to his delegates who are judicial officers of the rank of Addl. Distt. Judge. Now so far as this law is concerned all powers are conferred upon a magistrate. The Guardian and Wards Act requires a detailed enquiry before a Court and clear finding by a judge as to an order being made purely in the welfare and interest of the child. Perhaps we need to see whether such a provision can be brought into this Act and the provision expanded to expand the scope of inquiry.

Also from the reading of the Act shows that it has non-obstante provision in several sections. The provision of Section 21 contains a non-obstante clause which enables the magistrate to exercise jurisdiction and pass orders which could result in conflict with the orders passed by any other court. So far as procedure is concerned, we call it a civil legislation but it is absolutely clear that the Code of Civil Procedure is not applicable to proceedings under this Statute. **It says that procedure under criminal procedure will apply at several places.** Therefore there is grave possibility of conflict of jurisdiction and judgment in the event that a Civil Court is seized of the matter or has decided a matter relating to issues which are also raised in parallel proceedings before a magistrate under the PWDV Act, 2005. For instance a case of custody under the Guardianship Act and a similar petition filed before the magistrate, there is no provision as to which proceedings the litigants is required to adopt, whether she will proceed with the application under this Act or she has a right to continue in the earlier proceedings. This Act has a non-obstante clause that says notwithstanding any Act enforce, the provision of the Act will take force. You need to look at these issues before some stay are given in some court on good legal ground and certainly these are issues not based on any biases against the statute but this is presumptions as to what you need to look at and address.

The Amendments Act of 2005 has introduced the concept of plea bargaining in India under chapter XXIA of the Code of Criminal Procedures. However, **the statutory amendment specifically states that the plea bargaining is not applicable in cases of offence against women and children below the age of 14 years under section 265A of the Code of Criminal Procedure, 1973.** Offences under DV Act are cognizable. The Act contains no provisions for compounding but this was the prime argument against Section 498A that it be made cognizable and compoundable. This issue went up to the Supreme Court repeatedly and courts have devised the methods whereby 498A offences are being compounded. It is extreme injustice if the woman is willing and wants to go back despite her making a complaint and her-in laws are willing to take her back. But I would be reluctant to do so as long as the complaint is pending.

**Women are deprived of a very important statutory benefit. Rapprochement and compromise which is the need of matter, is not permitted by this legislation.**

The issues which I pointed out above, all raise questions which argued at great length by either side and may become cause of prolonged judicial debate in courts, thereby delaying adjudication on the real complaints of the parties. Consequently, in my view, these areas require to be addressed immediately and care requires to be taken to ensure that the purpose of the statute is not lost in legal wrangles.

It is being said that even normal bickering is being complained under this statute before the Courts. It enables a complaint to be filed on the plea that her husband asked the complainant to take leave from work because their son was unwell. Mr. Soli Sorabjee in an article has rightly pointed out that the “definition of verbal and emotional abuse, which includes inter alia insults and name calling, can cause problems in the absence of any definition of these terms.” He goes on to say that, “definitions which are overbroad and bristle with ambiguities, should be narrowly and precisely defined, lest the Act becomes a paradise for lawyers and a nightmare for the enforcement authorities.”

Having said all this, I shall however fail in my duty if I don't apprise you of the judicial functions which are being ably discharged by the judges in all courts. **This statute has conferred jurisdiction on a criminal court, that is the court of the Magistrate and empowered it to deal with matters which were otherwise within the jurisdiction of courts higher in the hierarchy.** Thereby, a woman in distress has to compete for judicial time with the numerous criminal cases in the already heavily burdened courts. Matters relating to family and home are more time consuming than cases involving other issues.

Each time a legislation is enacted; there has been a strong emphasis to effectuate a judicial **impact assessment.** This would require a projection as to the anticipated number of cases which the new legislation may generate and the judicial time required for the number of courts to decide on the issues. Unfortunately, yet again, to the best of my knowledge, no such assessment has been required to undertake matters of such sensitive import. The judicial function of a judge does not end within the court hours. A judge's function extends way beyond the official time which includes correction of orders, reading of law, dictation of judgment and huge volumes of administrative work.

I have been informed that in the Patiala House Courts, a single magistrate has more than 10,000 cases on his board. I am finding that with 1500 to 2000 cases on board, if a judge gives dates of five months to a case, then he or she would have 40 to 50 cases listed on a day. Therefore, giving shorter dates would only increase the number of cases per day. The only trained authority under this Act is the Judge with woefully inadequate infrastructure. I leave it to you to calculate the amount of time which is available to a judge in a single day, to spend on each case, if even 40 cases are to be heard between 10 a.m and 4 p.m.

Therefore, in order to render this statute more meaningful and to ensure availability of the urgent relief which it promises to women in distress, **it is imperative that before going any further, an assessment is effected of the quantum of cases which may be generated and ensure that there are sufficient judges all over the country to impart justice to them.** As per newsitems in several newspapers, the implementation of the Act has commenced.

On 13th December, 2006, it was reported that the Supreme Court has dismissed a PIL challenging the validity of the recently enacted Domestic Violence against Women Act on the grounds that a PIL cannot be entertained on such issues. According to the petitioner no laws can be notified without having been passed by the two houses of Parliament.

Again on 27th November, 2006, a newspaper reported that a court provided relief to a 20 year old Dalit college girl under the DV Act by allowing her to continue her studies without interference from her parents and relatives. After initial hearings, Upper Chief Judicial Magistrate (No. 8) Purnima Gaur in her verdict asked her father to provide Bimla, Rs 2000 every month for her studies and not torture her to stop her studies. Bimla is a resident of Chomu House and student of Kannoria PG Girls College.

Yet another report dated 15th November, 2006, stated that Santosh Chauhan, a resident of Jawahar Nagar in Rajasthan, had lodged the State's first case under the DV Act last week, accusing her husband Hiralal Chuahan of torturing her physically and mentally for dowry. A city court has ordered the husband to pay maintenance to his estranged wife in the first case lodged under the DV Act in Rajasthan.

Before parting, I must note **that legal reform and court orders cannot help victims of abuse. We must encourage social reform and create awareness at all socio-economic levels in society in order to provide complete and holistic solution to this problem.** Merely getting a protective order for a victim of abuse is not enough. Rehabilitation and reform is vital. This should encompass Government aid, legal reforms, shelters for battered women, women's rights organizations, empowerment programs for women and awareness training for police officers, medical professionals and judges, all of whom should work in tandem towards resolving this issue of domestic violence. And to reduce such violence to a minimum, correct training and education of the children in correct values is imperative.

I would like to say something on the myth of misuse. **What is socially right may not be legally right.** A judge is bound to discharge his/her duties and render judgment on what is legally right although what may be socially right may be what he/she may believe in. That's where you might think bias is stepping in.

I am positive with each of your efforts and contribution; much headway shall be made towards the objective sought to be achieved by all the stakeholders. Speed is certainly not easy.

**Chair-** Justice Gita Mittal has told us that our excitement about the law is not enough. We have a long way to go, many loopholes to plug and many actions to carry out before this law can actually become a weapon for women in distress. We thank her for her insightful presentation.

Now we have with us two magistrates who will be sharing their experiences with us.

### **Ms Neerja Bhatia**

I have been dealing with Mahila Court for the last four years. I do agree there is the need to help women in distress. We do feel that women are battered, they are coming to us with their genuine prayers, and it is not that in all cases that the law is misused. There are some shortcomings in the law that I will speak on.

The provisions of section 125 do not provide that we would be giving maintenance to step children. Here in this Act, step children have been included in the definition of child. So probably step child in these cases would be entitled for relief from the father. So inference can be drawn to the extent that he can seek relief from the step father.

Besides that, one of the provisions says that where monetary reliefs are to be accorded, relief under section 125 will also be seen. Rules that are appended to the Act, under rule 6(5) provide that applications under Section 12 are to be proceeded according to the procedure that is similar to that of Section 125 CRPC. So in such cases, the relief of maintenance is available to the complainant of aggrieved person would be under section 125. We already have section 24 of HMA where there is matrimony, Section 18 of the Guardianship Act and this is a new provision which is enacted for the benefit of women. Now if we see practically, the income from where we have to make an assessment for the purposes of grant of maintenance is going to be the same. Now supposedly, if all four authorities grant little relief in all such provisions, what will actually happen is that to some extent there will be conflict which should be considered here while looking at all other aspects. This is my feeling. Despite problems, women want to share their life with their husbands. In those cases the only area available is counselling. **We do not have any machinery firstly to provide counselling sessions and to monitor the impact of counselling.** In certain cases, because the woman is living with the husband this impact of counselling is to be monitored for a longer period whether there is any reform in the behaviour or not. Again, we have no assistance, there is nobody coming and telling us that subsequent to the counselling session there is any modification in the behaviour of the

person who has been indulging in this kind of act. As has been shared previously, some of the cases arise because the husbands are alcoholics and indulge in such kinds of acts. So, if at one point of time if that habit has been given up, whether it has not been taken up again whether there is some kind of monitoring that has to be made. This has to be looked at also.

### Ms Preeti Aggarwal Gupta

I would be speaking generally since no such case has been marked to me though I am dealing with Mahila court for central and north district. Whatever I have been able to gather after hearing the discussion and going through this Act, I have found the most remarkable feature of this Act being **'the right to shelter' of any woman**. I feel as a regular Mahila court magistrate, though not dealing with cases under this Act, that is the case of worry for women with kids. **Alone, it is possible to take recourse to parents home but with kids and with large family of their parents, it becomes difficult to accommodate and therefore such women are driven into compromise which they otherwise would not like to.** The second aspect which I find exciting is **the right of the magistrate to take cognizance on the effect on non compliance of the protection orders of the court**. Here the term for imprisonment stipulated is one year. Since I have cases of maintenance under section 125 of CRPC, I do not know whether this would be more effective regarding compensation because under section 125 there is 30 days imprisonment for default. So practically, we find it difficult at times as it would mean life imprisonment for a man if he is actually not able to pay. And often we who are sitting on the chair have been sending cases of execution to the record room after realizing that though the order was made for maintenance but the man deliberately or out of his habit is not able to earn and provide all the necessities that he is legally obliged to.

The other thing that I would like to emphasize is the **myth of misuse. In this particular act it is much easier for the court to arrive at a conclusion of misuse which is reflected by way of injuries or MLC of the women but it gets much more difficult to hold a prima facie view as a court, where there are allegations of verbal and emotional abuse, it is practically impossible.** For a court giving a protection order asking the woman to go and stay in her matrimonial home is easy, but to sit as a guardian all the time 24 hours a day protecting a woman from verbal and emotional abuse is actually not possible. A person who is inclined not to live with the woman and is being forced to live with her cannot be expected to behave himself and not mentally harass her.

**Chair-** We are very much obliged to our judges for having shared their experiences with us and we hope to work together in the direction of empowering women by helping them live a violence free world. Thank you so much.

We now have with us a very important person, Professor Nabaneeta Sen who will be sharing some of her reflection and writings with us just to remind you that we are woman and man, person with equal right who need to move in harmony. If you look at the posters by Action India that this law is not against men but it is to create a happy home – a home where people can live together in happiness. Nabaneeta Sen will now read her writings for us.



I really had a wonderful evening where all my questions have been answered. I have no connection with the legal world and **when you talk of legal rights and social rights you also have to think of what is morally right.** If just keep harping on social and legal rights then you are missing something else. Women's rights are only human rights and all the human rights that women are deprived of and try to get them. They are all dispossessed in general but I really feel this is a very good law that we have and it is wonderful work that you are doing. I have to apologize that I do not have any of my poems with me. I see myself being described as feminist poet, I am a feminist but my poems are not feminine and I write all my stuff in feminist writings. For today what I have for us is few examples of domestic abuse from folklore, from women's songs; where women sing of their own pain. I do not want to read papers but will just give examples.

Besides domestic violence, there are different kinds of persecution - if you are married and do not have a child and there is social persecution in nature of questions like "why do you not have a child/grand child?" There are other kinds also- a friend's daughter committed suicide, she was 40 years, she wasn't married, all her cousins were married and she was thinking why she wasn't getting married and when the last cousin got married she committed suicide. **This is domestic violence committed by the whole family –men and women. How do you stop it and how do you legally define it? Where will you place it? This is how we are placed; it is the whole social system through which we have internalized so much of the patriarchal system.**

I will read poems sung by women when they are in the field in Marathi, Bengali and Telegu. In Bengali there is a proverb, '*let the ashes of the daughter be scattered first then we will think whether we can say one good word about her*'. That is a proverb, and if you are living with that idea all your life how can you be an achiever? Another proverb in Bengali, "*Now that I will die and be reborn let me born as a doll because as a woman you have not been a human being. May be a doll's life is better.*"

The other day Syeda Hameed read a little purvi song: *Oh! My creator! I am appealing to you in my next life, do not make me a woman, rather throw me into hell.*

These women songs come from intense domestic abuse and let's speak about it. Let us look at the Marathi song on Sita: '*Rama gave me his love on a tiny tamarind leaf, Kokai poured poison in Rama's ear so he chews paan all alone, all by himself while Kokai waits behind the door like a scorpion.*' Kokai is the evil mother-in-law, Kaushalya isn't, and she is kept separate because of the association of goodness with her. You know that a tamarind leaf does not contain much love. Rama chews paan by himself means that he spends leisure time all alone and does not share it with his wife.

There is another song reflecting on the ways of depriving of domestic happiness. This is a song



from Maharashtra. Sita was tortured, Sita is the name of every woman and is a persona. Sita was tortured by one and all, they fed her only bitter neem leaves for 12 years, they didn't let her wear kumkum, her hair was all tangled up, and they did not let her wash it. So we can see that this is a different kind of torture, she is not allowed to eat, to clean herself, not allowed to groom herself or make herself beautiful for her husband, so she is also denied sexual pleasure. This is a song saying all this; I think all magistrates know that this is happening. Women are in exile right in her bedroom, Rama has not shared the bed for 12 years, she is locked up behind doors, and Rama has his own business. Poor Sita is wasted away. So you can see the degree of abuse where this woman is not allowed to share her bed, not allowed to step outside to make friends, her husband neglects her, he is busy with his work.

We were talking of dispossession; dispossession begins right from the day of 'sahara' (support). Sita was dispossessed and exiled in a forest. Exile and abandonment is the story of every woman and that story must change and that story cannot go on. We cannot continue saying that it is the story of women, we have to change the story. This is the story of men themselves, it is the story that men have written and this is the story that women must rewrite. This is the way I feel, that there is a need for re-writing these stories and our judges are doing that. I am very grateful to you all because these are things we want to do but do not have the power.

There is another poem on exile and dispossession. This is a Maithali song written for Sita:

*Sita goes one mile, Sita goes two miles, the third mile the pain arises, new life wishes to be born, girls call the midwife quick. Oh! Who's that? The tree comes out, the tree came out of the forest, so you are my friend- the tree – my one well wisher then you take my golden bangle and cut the chord of my baby. It is terrifying-the loneliness, the lack of help. You know this is a very common thing, the moment of danger and distress and you know how many women die during childbirth.*

Another one is about nutrition, this is Marathi but all over it is the same.

*Sita has given birth, the hills and forest are rejoicing and she has no one to support her, where will Sita find the bed? so you make a bed of rocks. Where will she find nourishment? There is no one to cook and she is all alone.*

This suggests the total loneliness of women in general unless women stand up for themselves and these days we have lot of lovely feminist men and I am sure the world is changing. I see my students, the boys have really changed and they now believe and feel in what we feel and believe. The world is changing, I am very optimistic.

This one: 'Sita is alone in the forest, she is hunting for roots because she has given birth and has nothing to eat.' These are not my poems but my translations. I will finish with two poems –one Marathi and the other Bengali. The Bengali poem was written in the 16<sup>th</sup> century and the Marathi poem is a contemporary one, it was collected in 1966. The 16<sup>th</sup> century Bengali poem says, Sita talks about herself: 'I have no father and I have no mother, I was found in tip of the plough, I do not know who my parents are nor who my brothers and sisters are, in the stream I flow from shore to shore.'

What does Sita say in Marathi: *'I have no father, I have no mother, I have lived my life in forest eating wild fruits. I have no sister or brother. My soul has become an exile.'*

This is what women feel, we have to bring them back from exile.

**Chair-** There is another poem that we need to listen to and then we go for dinner. This is by one of our magistrates, **Ms Barkha Gupta:**

*Taakat ka andaaza jism se kya lagaya  
Taakat ka andaaza jism se kya lagaya  
Milna hai jise raakh mein usne kya ehssaas jagaya  
Aye dost mere kareeb, aa kar to dekh, is ruh se najar  
milakar to dekh  
Mera aurat hone ka ehssaas bhi tuje naa aaye ga  
Insaan huin main aur insaan se najre insaan hi mila payega*



(My body cannot the measure for my strength; for my body will turn to ashes. My dear friends look into in my eyes, I am a woman and you will not even realize my womanhood. A person I am and only the human in you can meet the strength in my eyes.)

### *Questions & Suggestions*

**Kavita Srivastava-** I will make observation on what Ms Jaising has said. I have personally dealt with 40 cases in Jaipur, Bikaner and Jodhpur. I think it is very difficult to establish in cases where she is already dispossessed from her matrimonial home since there is no direct provision for re-possession, so that's a very difficult task for many of us to establish. Since we have situations where the judges prefer to give rent rather than giving the right to residence and this is something that we are struggling with because there is no line in the law which says re-possession. The most important issue, at least in 15 cases that I have personally dealt with, 8 of them have been stayed in the appellate court. There are several interesting things:

1. We have not been given any provision on how and in how many days an appeal will be settled and no procedures has been laid down for settling of appeal
2. We have got many stay orders but in one the district judge of the Jaipur district court said, an interim order cannot be set aside and he said that an order is an final order but this is a district judge saying but all other four session judges have stayed all interim orders. The question is that the term 'order' written in Section 29 is appeal, does it mean final order because lot of interim orders have been set aside.

The other point is the his vs. hers issue. Rajasthan courts have started treating his as her and they have taken this definition of section 2, what they have done, there is this Section 13 of General Clause Act

where the word male used includes female. Also Rajasthan High court in an earlier judgment that reads as her, and we have cases where an 80 year old woman was charged for cross cases. It is important to examine different sections, which we will do over the two days and get some responses now.

**Ques:** Can the judge give the report even without the investigation, should the investigation be done by the PO, how is the investigation to be carried out?

**Response -** There is no PO required, there is no question of report or investigation. The word investigation is totally misplaced. **You are filing an application, there is an affidavit in reply and on the basis of looking at those documents the court decides whether a prima facie case is made out, I do not see any scope of investigation.**

**Anuradha Kapoor-** You just mentioned that when there is an adulterous relationship, because we put in a clause that we can't have an application against another woman, we can't use the law. But you can do it through due process of law. Then what is the due process of law?

**Response -** Not under this law but by filing a separate suit.

**Ashim Ray-** I will just make two or three broad points on how unions can contribute to the implementation of the law. I am a trade unionist and my union believes that we should get involved in seeing the law being implemented. Let me give examples of how we have treated this issue, so I come back to the possible relationship that exists. I can correlate from various experiences from our union world that one of the earliest symptoms of domestic violence seen is related to alcoholism. Whenever there is high degree of alcoholism in a particular worker, there is the tendency that we get complaint of domestic violence from his family, especially from his wife. One of the things we did, and this did work as a rectification process, is to see that his wages were impounded and it was given to the wife and the union would make an understanding to see that a share of the worker's wages is given to his wife directly as this gives her a bargaining point to negotiate the process in the family. Now I really want to understand how one can use this kind of mechanism in relation to this law. This is an area where the union can be involved.

Secondly the larger point, which has been repeated, is how the union relates to the Service Providers and Protection Officers. It is important for the **union to understand that this is going to be an issue of concern, how do build up internal organizational culture which resists this kind of domestic violence?** I am not going to claim here that our unions are not male dominated, organized unions in the factory sector are dominated by male members. In such a situation, what should be the mechanism of the union to relate to Protection Officers and Service Providers, because if we have a direct relationship then the mechanism for it would evolve. I think if we really want to implement this law our unions have to be convinced about it and there has to be an integrated effort to implement the law.

**Response** - Both the questions are relevant and I will not be able to answer to the second one right away. I myself have been a trade unionist, so I am aware of the dynamics of it and those dynamics were very evident when it came to the issue of sexual harassment at work place-almost like a conflict between the unions and the woman who had been sexually harassed. The two immediate responses- **one of the biggest problem is that most women do not know the wages of their husband, what is the salary, what is the PF, what is the gratuity –nothing at all. Access to that information can be facilitated by the union. Of course the employers can be asked to deduct salary at source and make it directly available to the woman.** These are the two major ways in which the trade union can actually facilitate this in an organized way rather than the woman individually going and knocking at the employers' door to get information. **The employer is not going to give information if the woman goes individually but if the union representative goes and make a demand that give us information of this particular worker they will do it.**

The second issue of building relationship with Service Providers and Protection Officers. Well, there is direct access anywhere in the sense that you can have a very direct communication with Service Providers in your local area wherever the place of employment is, and hopefully there will be an NGO located in that geographic area and **if you can build a link between your union and the local NGO a lot of this work can be done.**

### *Summing Up by Chair*

Thank you very much. We have ended today's discussions reminding ourselves that Sita is abandoned, Sita needs support, Sita is hunting for a roof. This is what the domestic violence Act informs us. This is why we are here so that tomorrow we can sit together; find out the strategies for the implementation of the law, what are the kinds of infrastructure that is required? What is our role as NGOs and people with concern? Thank you all for coming, please participate with us in our discussions, we need your help and support. Thank you so much once again, thank you Prof. Nabaneeta and all friends, not just friends but partners in trying to make the Act implementable and useful for women. Our special thanks to the members of the judiciary from Delhi and also our honourable judges from the Delhi High Court for coming to the meeting and providing us the much needed support in making this new law work for women.



What the SC in Batra Case ignored is the fact of conjugality and consanguinal relations.

The law says ownership is irrelevant to the question of relief or to the question of residence. **The Act does not create any property right, it simply creates the right to residence and the right to not be dispossessed without due process of law.**

We must look at the hidden agenda, recognize it and try to convince judges that there is a hidden agenda. The judgement is an attack on all of us in the women's movement.

**Ms. Indira Jaising**

## BATRA V. BATRA

The definition of "shared household" under Section 2(s) is extremely wide. In a recent judgement entitled SR Batra Vs. Taruna Batra, 2006 (13) SCLAE 652, the Supreme Court has held that the meaning of the word 'shared household' can only mean the house belonging to or taken on rent by the husband or the house which belongs to the joint family of which the husband is a member. It has also been noticed by the Supreme Court that the definition of 'shared household' in Section 2(s) of the Act is not very happily worded and appears to be the result of clumsy drafting. It has to be given an interpretation which is sensible and which does not lead to chaos in society.

**Justice Gita Mittal**



The law is designed to be a civil law. It is directed towards providing compensation and support to women and it is not intended at its early stages to penalize the perpetrator. In contrast to existing criminal laws, (in particular Sec 498A) which is dependent on the state, the police and prosecution for enforcement, any civil law is victim driven. It can be put into motion by the aggrieved by direct access to court for relief. A civil law is a far more democratic form of access to justice.

**Ms Indira Jaising**

Section 31 says a breach of an order shall be an offence which is punishable with imprisonment extending to one year. At the same time under section 31(3) the magistrate has been empowered to frame charges under section 498A of the IPC or any offence under the Dowry Prohibition Act. You have made this as an offence under section 32 as cognizable and non-bailable. Now there is a direct conflict here, an offence which is punishable with imprisonment for one year is called in criminal law as a summon case. The procedure for trying such an offence is totally different from trying a case under 498A of the IPC. You see there is this glaring lacunae in this legislation on which every prosecution will be stayed as to what procedure the magistrate is to adopt.

**Justice Gita Mittal**

## CRIMINAL LAW V. CIVIL LAW





## MYTH OF MISUSE

The journey from 498A to 304B is a very short one, it is just a few steps, you walk from 498A and you fall into 304B. By comparing statistics under 304B and under 498A the conclusion can be arrived at that far from being used, 498A is a dead letter and if at all there is any so called misuse, it is by the police and if at all you need to pull up anybody, pull up the police.

Myth serves a very important function of denying access to justice. I really would urge that- it is not asking for the moon, not asking for the sky, it is only saying that when an application comes before you look at it with your eyes wide open and decide for yourself whether the facts on the table warrant the giving of an order. What one is asking is that you do away with your biases and look at it as you would look at any set of facts.

**Ms Indira Jaising**

**In this particular act it is much easier for the court to arrive at a conclusion of misuse which is reflected by way of injuries or MLC of the women but it gets much more difficult to hold a prima facie view as a court, where there are allegations of verbal and emotional abuse, it is practically impossible.** Then for a court giving a protection order asking the woman to go and stay in her matrimonial home is much easier. But to sit as a guardian all the time 24 hours a day, protecting a woman from verbal and emotional abuse is actually not possible. A person who is inclined not to live with the woman and is being forced to live with her cannot be expected to behave himself and not mentally harass her.

**Neerja Bhatia**



**19th Feb 2007**

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*19th Feb. 2007*  
**INAUGURAL SESSION**

#### **WELCOME ADDRESS**

**Bharati Roy Chowdhury**



At the Second Conference the objective of the deliberations is devising ways to make the PWDVA a reality for every woman, so that those women who are victimized and suffering get real benefits. I urge every person here, who is positive about the Act and wants to make the society violence free, to join us in making a resolution to end violence everywhere. We need to begin with our home followed by our office, our neighborhood, our whole society and country.

We will make a promise that we ourselves will not do any act of violence and will stop others from being involved in any kind of violence against women. By doing this, the Act will indeed become successful.

**Gouri Choudhury**

Last year we had met in February. This year we meet in February again with a specific motive to influence the budget session in Parliament. Every time we gather in Feb with the hope that if we are in greater numbers, representing our states, we shout loud enough to get our voices heard in the parliament. Today we have Ms Brinda Karat from parliament, who will tell us how to strategize the implementation of the PWDVA.



Last year we talked about budget allocation on kinds of infrastructures needed and what would it cost. We still do not have a very clear picture on the required budget allocation. The fact is that an adequate amount of money has to be agreed upon to be given to the states before this law can be implemented.

## CHIEF GUEST ADDRESS

Brinda Karat



I request Gouri to give me a copy of the recommendation that emerges from the two day conference so that I can use the platform available to take the campaign ahead.

I would present three important issues:-

**1. Need to strategize-** We have to decide on strategies on which we can take ahead the campaign for the implementation of the Act. When we see the environment in which the law is being implemented we see so many hurdles that we start thinking from where to start. The first and most important question is about the strength of women and from our past experiences we have learnt that all the stakeholders, that we identify, have a crucial role. This is correct but at the end it is the woman who takes the struggle. Here, what I mean is that **my concerns are not limited just to rights of women but also concerned in taking the voices of the women across the nation. All the laws to protect the rights of the women aim at strengthening citizenship and nationality.**

I feel in the last four five years there has been a fragmentation in the movement. We are all raising our voices on different issues. That is fine, but the energy with which we were working together, is somewhere getting lost. **There is need to join together all the struggles in one movement and speak in one united voice. I want that when we talk on the strategy of implementing the Domestic violence Act there is need to think once again on how to work together though working in different areas. Our unity is our strength and the only path to take the struggle ahead and make our effort successful.**

**2. Struggle against backlash-** The Bill had been tabled in the parliament after a long struggle. Even on the day when the Bill was passed there was a hue and cry in the parliament. One of the main issues in the parliamentary debates on the Domestic Violence Act was 'in the nature of marriage'. The question raised was how is the law giving recognition to relationship outside marriage? The only issue taken up in the debates was that law is giving strength to "illicit" relations. The parliamentarians were concerned with how the law is breaking the institution of marriage and family.

I am also a member of Women's Empowerment Committee. When I joined the committee I was told that the committee had taken a decision that after having a discussion with the UPA government they will try to remove the provision that covers relationship outside marriage. And the rules should not be prepared without the changes. Thus it is evident that the **law is not being taken positively by the parliamentarians. The political commitment required for getting the law implemented is absent in our politicians.**

We should not think that once the law is passed we don't need the political commitment. Today is an age of coalition politics and there are different political parties in different states. If we want that the law is implemented in every state, we have to develop strategies and do advocacy with different state departments in terms of removing the misunderstandings around the law and ensure that state government takes action for implementation of the Act, or else **there are many standing to sabotage the law. No doubt the police and the judiciary are with us in our struggle but without political conviction, implementation will be difficult.**

**3. Financial support-** There is need for finance for setting up the office and infrastructure for appointing Protection Officers. I have come to know that in some states the police have been appointed as Protection Officer and in some places the officers in Social Welfare Department are being appointed as Protection Officers.

The Tamil Nadu judgment stated that unless Protection Officers are appointed, the Domestic Violence Act cannot be implemented. **So according to common people's understanding Protection Officer is the main part of the DV Act whereas this is not the case.** At the time of budgeting and finance we have to look at other aspects. It is correct that the main demand should be for fresh appointment of Protection Officers, but what I understand from my experience how far this is going to be done is questionable. **Firstly we have to raise the demand in the budget and secondly till we do not get new cadres of Protection Officers we have to think of the other alternatives available, which are implementable alternatives.** Some of us from the women's group (the Seven Sisters) had met the finance minister, Mr. Chidambaram, and discussed with him the need to allocate funds immediately for implementation of the DV Act. He informed us that the government is already doing 'gender budgeting' so we need not ask him for a separate budgetary allocation.

Gender budgeting is important because the claim of doing gender budgeting is hoax. In the name of gender budgeting many other activities are going on. In the last year, the government made a claim that there was an increase in the union government budget from 2.1 to 5.2 for women's development.

On what grounds are they saying this, has to be clarified. **The complete expenditure of the Social Justice Ministry, under whatever area made, has been put under the gender component.** The expenditure on social marketing of contraceptives, including the sale of condoms, the ICDS program which is for children in which around 400 crores was spent, was put in the gender component. This is a patriarchal understanding that children mean gender component.

When we talk of budget and finance in the conference, we have to talk on gender component because the entire concept of gender budgeting has been made to turn on its heels. Without understanding the needs of women and on the basis of disaggregated data that includes issues which are not concerned with women nor are of any use to them. We need to focus on what is the meaning of gender component. **In my understanding, the meaning of gender component would be that all the backup for implementing the domestic violence law like short stay homes and other infrastructure that can be made easily available to women in distress. In terms of policy and strategy we have to include gender budgeting in the agenda.**

I hope that we will work together in making the law effective and be able to get out of the shocking incidences happening under domestic violence. We will take the campaign ahead. I request you to give me a copy of the recommendations that emerges from the two day conference so that I can use the platform available to take the campaign ahead to make the lives of every woman safe and secure

There is no political will and there is need for creation of will and commitment, else the Act will be sabotaged. The strategies have to begin at the state level where the demands for budget have to be made and this has to be coordinated with the centre.

## TESTIMONIES OF SURVIVORS OF DOMESTIC VIOLENCE



**Alka Pande** – I work as assistant editor with Indian Express in Lucknow. My story of suffering and my journey to lead a dignified life with my children is the story of every woman facing domestic violence. It is about alcoholism that leads to violence.

I don't think this is my story alone. Today, when I look back I see women in almost every household facing some kinds of violence, silently witnessing and undergoing repeated violation of her soul and body. A few gather courage to come out of such situations, others take it as their fate, blame themselves curse their bad luck and suffer in silence.

I am not a legal person but we have heard the legal experts talking about the features and shortcomings of the law. What I will do is point at some of the salient features from a psychological understanding. **It is very difficult for a woman who is suffering violence and who is a wife to come out on her own. This is so because not every woman is educated, she does not have technical qualifications to get a job.** In many cases and as it happened to me, there is humiliation and nobody takes you seriously when you say you want to come out because you are suffering emotionally, physically and financially. People start talking that you might be having an affair; that you may be trying to break free; and that is why she wants to come out of her home. Then you can't bring your children with you and this is the problem that I faced. When I moved out of my home, I left my children behind because I did not have a place to live, I had no job and I had to take shelter in my friend's house till I managed to get a job. I was away from my children for two years till I found a job and managed to get a one room set and I had at least a refrigerator where I could keep milk for my young children. It is not easy.

**The Act is there but the Act alone cannot help a woman in itself. There is need to change mindset in society. The Act comes into action when damage has already been done to the woman.** The Act talks about how to help but I am talking of protection and taking an early step. That is if we are serious then we have to start right from childhood, by bringing up daughters in the same ways as our sons, by giving equal opportunity to our daughters and giving them the right to speak and take decision on their own. That will give them courage to come out of difficult situations in later life. Love and compassion at home will give them courage and confidence in life.



**Nazreen-** I come from Lucknow. I was married seven years ago. In the beginning I was tortured by my husband and in-laws, mentally and physically. Last time I was tortured in August, and then I had a small daughter that is the time when I decided to come out and bring up my daughter on my own. This step was not tolerated by my husband and on 3rd November when I was going to school he threw acid on my face. That was the darkest day of my life. I was in hospital. An FIR was lodged but in the beginning it was not under domestic violence but only under 326 and 498. Because of pressure from media it was filed under domestic violence. This was the first case in UP. On 6th November, my husband came to the hospital and threatened to kill me and my daughter if I didn't take back the case. I did complain to the police officer but nothing was done. The IO of my case came and told me that I was not telling him the truth. Why he doubted me I don't know but since that day I am suffering till date. Finally, my husband surrendered in the court but every second day he sends across the message to take back the case or when he comes out of the jail he would kill me and my family. I have given written complaints with the police. Now he is saying that he is going to file a case against my family. I am suffering but I will fight till I succeed or die.

**Vimlesh-** I am working as a paralegal worker with Action India for the last nine years. I got married 16 years back and I will present before you my journey of the last 16 years. In my in-laws house, I was ill-treated from the beginning and was subjected to physical, mental and sexual torture. I have been suffering every moment. **I was suffering at both my in-laws house as well as in my parental house. A woman suffers violence in both places though the nature is different.** Nobody is able to either understand the problem nor listen to the pains that a woman suffers. In fact the entire society- the police, neighbourhood everyone gets together and sides with the men and gives importance to men. They all are of the opinion that no matter what happens the woman should go back to the man and take care of his home from where she was thrown out at 3 in the night with her children. That time no one came to give support and help.

One day I was forcefully thrown out of my house and they also broke my teeth. It was then that I took a decision that I would not go back to that house and would fight for my rights on my own. I was hopeful that someone would give me the support to take forward my struggle. Then I was working in Aaganwadi and one day while walking on the road, I came across Action India's Mahila Panchayat poster which gave me the feeling that I would get justice. I then contacted Action India and became a member of Mahila Panchayat. This was not liked by family; my parents were upset that I would be working with Mahila Mandal, a place where women learn to speak. But I took the decision to work in Action India. **In Action India I came to know the importance of woman.** The society that comes out of the womb of woman becomes her enemy and makes her a servant. I took a resolution that I would make my own identity and fight for my rights both in my in-laws house and in my parents place. **We are not safe within the four walls of our own homes with our own relatives.** Through Action India I got legal help from Lawyers Collective – a group of lawyers and my case is going on. I am determined to struggle and succeed.

Action India has given me the strength and confidence to take ahead my struggle for justice. I am happy working for Action India and giving the support to other women who are in difficult situations. I wish that all organization join together effort to fight against domestic violence.

## SOLIDARITY GREETINGS

The initiative to have a national conference has been supported by UNIFEM, OXFAM GB, MoWCD and Global Fund. We thank all our supporters and acknowledge their solidarity.

### Chandni Joshi from UNIFEM



Dear friends and colleagues, good morning and greetings to you all! The glimpses from the lives of our survivors has given us more strength and we are determined in our effort to end all violence in our society. The journey from your home to this conference requires a lot of courage, to come out of the violent home requires courage and determination. In the three stories we heard, that woman will now speak.

Oxfam has started the 'We Can' campaign at a global level. When we came to know that 21 nations in Latin America, have developed the Domestic Violence Act we were surprised and wondered how they could have done such a work. Till then domestic violence was enjoying its privacy, in the household closet. To take it out of the private sphere was a very important, it was like a dream. But the dream has come true and now we are in the Second Women's Conference on domestic violence.

It seems hard to believe that it was only a year ago that we were together to celebrate the passage of the Domestic Violence Bill and to develop strategies for effective implementation. I hardly need to tell you what a great pleasure and privilege it is for UNIFEM to partner this journey with the vibrant Women's movement to see the Bill became a reality - and now of being a part of this process to facilitate actual implementation with Lawyer's collective.

To the many women's human rights advocates who are here in such strength, my congratulations once again – I salute you all in solidarity. The leadership of Ms. Renuka Choudhury, Honourable Minister, Ministry of Women and Child Development, Government of India; the support of Ms. Deepa Jain Singh, Secretary of the Ministry of Women and Child Development; the vision and dedication of Ms. Indira Jaisingh of the Lawyers Collective; the expertise and commitment of so many women's rights advocates that I see here, gives me every reason to be hopeful of the outcomes of this Conference.

I would like to thank Ms. Gouri Choudhury of Action India, who has once again taken the initiative of bringing us together through this participatory platform. It provides the space necessary in the process towards developing the mechanisms, which would assist in translating the Act into a reality. I'm really looking forward to the next two days.

It observes that the interaction between women's advocacy and UN initiatives has been a driving factor in establishing VAW as a human rights issue on the international agenda; it also identifies priorities and mechanisms with regard to the way forward. There is acknowledgement that VAW has not been given the kind of priority that it needs at all levels, in order to enable a significant change. In addition to leadership and political will, the Study calls for a considerable investment of resources and a more cohesive and strategic approach from all actors, including governments, the international community and civil society.

More specifically, the study identifies ways and means to ensure more sustained and effective implementation of State obligations to address all forms of VAW, and to increase State accountability. It pays tribute to the grassroots work of women's organizations and movements around the world for drawing VAW out of the private domain into public attention. It also notes that the progress in the international legal and policy framework has not been accompanied by comparable progress in implementation.

Effective and efficient implementation is indeed, the crux of the matter – and that is one of the reasons why this Conference is so crucial.

With regard to using the PWDVA, it gives us great pleasure to inform you that the Lawyers Collective (Women's Rights Initiative) and The Society for Social Uplift through Rural Action (SUTRA) from India, were the selected grantees for the UN Trust Fund to Eliminate Violence against Women in 2006. This Fund, which is administered by UNIFEM, was set up by the UN General Assembly 1996, as part of the UN's effort to address gender-based violence.

The Lawyers Collective initiative will seek to enable a standardized response to the implementation of the Protection of Women from Domestic Violence Act 2005 (PWDVA) by developing a bench manual for magistrates in order to deal effectively with applications filed under the PWDVA. It will also develop training manuals for Protection Officers and Service Providers. These will incorporate comprehensive guidelines on providing support to women facing violence in accordance with the provisions of the PWDVA.

SUTRA will link the implementation of the PWDVA to the prevailing Nyaya (Justice) Panchayat mechanism in the state of Himachal Pradesh. It will undertake a study to comprehensively review the present structure of Nyaya Panchayats in Himachal Pradesh, recommending gender just solutions and strategies for using Nyaya Panchayats to implement the Act. SUTRA will also build the capacity of 200 Mahila Mandals and 200 Ekal Naree Shakti Sangathans. Both these projects will work closely together and in partnership with the Ministry of Women and Child Development and the National Commission for Women in India.

I would also like to take this opportunity to inform you that at the first visioning workshop of Solution Exchange, which is a part of the UN's knowledge sharing initiative, the implementation of the Domestic Violence Act, was one of the three areas of priority that were identified. Over 72 responses have been received so far, in response to the presentation of PWDVA as a topic to the community for e-discussion. These responses will be helpful in planning the blue print for action, which could be spread out in most states of India. This platform could also be used, to add to the ongoing brainstorming, discussions and debates related to actualizing the Act optimally.

We hope that this Conference will help NGOs develop clear strategies for state-level implementation of the Act accompanied by matching resources. This is an opportunity that needs to be seized.

## Madhu Joshi from OXFAM



Thanks for giving me this opportunity. On behalf of OXFAM and WE CAN campaign I would like to congratulate Action India for sustained and dedicated campaigning because of which so many organizations have networked for the campaign. Today we have a law that recognizes violence occurring within the four walls of home as a public matter and requiring intervention of the state. The battle for recognizing the private matter as public matter has not been easy. And this is an occasion for recognition of the effort of many many person and organization in the country that has succeeded in bringing about this change. I would also like to add that the struggle has just begun and the struggle is not only for the implementation of the new law but also against the backlash that the new law is subject to. The fight against these backlashes is the biggest challenge before us and we have to join together in this effort.

## Deepa Jain from MoWCD

I on behalf of MoWCD would like to congratulate Action India for organizing the Second National Conference. The government is fully committed that the Act is implemented in letter and spirit. We would seek partnership between the civil society organization and the government for the effective implementation of the Act.



## PLENARY 1: STEPS TAKEN BY THE GOVERNMENT

### Introduction by C.P. Sujaya



This is the first plenary session of the day. We have with us two important dignitaries representing the government. **The theme of the session is to highlight the steps taken in the state for implementation of the Act.** In the concept note of the conference there was one line that needs to be emphasized. The experiences of the women's movement for the past twenty years show that we cannot rely on the government in 100%. From time to time the women's movement along with advocacy and struggle has to encourage them. For the next two days, we will see the interesting dynamics of the accountability from the government and from the women's movement.

### Presentation by Deepa Jain

The chair talked of dynamics and the role of different stakeholders. I would like to say that no hard and fast or vertical lines can be drawn in terms of roles and responsibilities. There is a role for all of us. The government has a role and is committed to playing its role. It has to some extent fulfilled its role. The first step in this direction has been the notification of the Protection of Women from Domestic Violence Act, 2005. **This is an important milestone in the history of women empowerment in India. It is a milestone for two reasons: firstly, the country has taken a huge step in recognizing domestic violation as violation of human rights and a violation that no civilized society can ignore. India is one of the handful of states to have such a legislation. The legislation passing of the Act was a step in the recognition of the violation of civil rights. The PWDVA is a blueprint for other countries where there is no such law.**

**Surveys and studies have shown that domestic violence is on increase in India. One in every five married women experiences domestic violence, there is crime against women every three minutes and a woman is molested every 15 minutes.**

These are only cases that have come to light. It is against such a background that the significance of the new Act has to be seen. Domestic violence is different from other gender based violence in that violence is done by a member of the woman's family. Due to societal and family pressure women are forced to keep it hidden. The result: the alternative for such women suffering from domestic violence is different. Often they have no support from their parental family. In any case, because of lack of access to resources a large section of women are vulnerable ipso facto. So now that we have a law, we have to ensure that it is implemented and enforced so that the women for whom it is enacted are aware of it, have easy access to it and use it effectively. This is the real challenge before us all. We all know that the implementation of social sector legislations, especially those relating to women's rights, are facing huge difficulties. The Act has just come into being and we already have a lot of backlash.

Section 11 of the Act sets out the duties of the centre and states and the governments are making an effort to comply with these provisions. Broadly, the Act requires that the government gives wide publicity to it, sensitizes the government agencies particularly the judiciary and the police and ensure effective coordination between concerned ministries and departments. The first challenge then is to create awareness about the new legislation. The government has taken the initial steps by sending the Act and the Rule to all the union territory and state administration by asking them to appoint Protection Officers in each district, to register Service Providers quickly, publish the names and phone numbers of the Protection Officers and Service Providers in the newspapers, put them on websites, give wide publicity to the provisions of the Act and a number of other such steps. A performa listing out the essential indicators relating to the implementation of the Act has also been circulated out to the state and union territories and they are expected to collate information on these lines. This includes information on the number of POs, number of Service Providers registered; the number of complaints received and so on. We have received information from some states regarding the implementation of the Act. A few examples are:-

- Protection Officers have been appointed in Arunachal Pradesh, Lakshwadeep, Madhya Pradesh and Delhi
- Notification of Service Providers in Goa and Lakshwadeep
- Dissemination of information of the Act in Himachal Pradesh, Karnataka and Arunachal Pradesh
- Sensitization of police and judiciary in Gujarat and Himachal Pradesh
- Translation into regional language done in Gujarat

There was wide coverage of the Act for two weeks after the Act was passed in the parliament. These are only the first few steps. Much more needs to be done, further steps either in the pipeline and steps that need to be taken upon can be highlighted:

1. Translation of the Act in all regional languages so that it can be easily disseminated and easily understood.

2. Preparation of a user's guide to the Act containing Frequently Asked Questions (FAQ) and their answers, an illustrative list of possible scenario and the steps that can be taken by the victim, by the POs, by the SPs to tackle the problems faced.
3. Develop response mechanism that ensures immediate access by the victims
4. Electronic and print media take up one FAQ per day and examine it from different perspectives and scenario and suggest how to tackle the problems
5. Syndicated columns in daily and vernacular newspapers along similar lines
6. Develop training manual for POs, SPs, police and judiciary separately
7. Panchayat and sarpanch have to be informed about their role and about the provisions in the law that they can use.
8. Women panch and sarpanch have to be involved in spreading awareness of the Act
9. Awareness has to be created that domestic violence is a public health issue
10. A network of victims supported by civil society can be established as support system in time of crises such as when guidance is needed in divorce proceedings and child custody. A victim's psychological network net needs to be set up.
11. Annual public review of the Act with the objective of overseeing its implementations including a mechanism for judiciary monitoring and compliance of the Act. This will help to point lacunae and weakness as no legislation is static, it has to evolve. We on this particular Act, need to learn, as time goes on, what are the issues that will come up and what are the specific issues that need to addressed. The annual public review help in pinpointing lacunae.
12. Annual Awareness week with emphasis on the best practices that different stakeholders have been doing. The focus should be on women's issues and specifically on domestic violence
13. Formation of mobile court so that women in rural areas can access the law
14. Inter-ministerial meetings between all the different concerned ministries and a mechanism has to be evolved for regular coordination and meeting for greater responsiveness and accountability. Accountability is required for effective implementation of the Act.

Many of these steps need to be taken by the government both at the state and centre. It is not just the Central government, in the Centre steps are being taken but state governments also need to look at their mechanism as well, how responsive and accountable they can be. In addition, NGOs and very importantly the civil society has a huge role to play in making the law effective and ensuring it is not another piece of legislation gathering dust. It has to be owned and made effective by all the stakeholders whether inside or outside. We owe it to the women of this country.

### Presentation by Syeda Hameed



It has been mentioned earlier that we cannot depend on the government cent percent. The NFH data is being used widely but many critics it as the sample size is small but it does give some data on domestic violence.

The budget is going to be tabled in the parliament on 28th February 2007, and due to confidentiality I cannot mention any numbers. What is being put across the



newspapers is only media conjuncture. Deepa made a very interesting remark that there is no static law and every law evolves from our experience and expertise. We are all suffering violence in some form or other though we are unconscious about it. With time the law gets deeper into our problems. It is an important point to be kept in mind so that we increase our understanding on the law. To end violence we can just be satisfied with a law but have to change mindsets of people to change the way they see social relationships. The notification of the Act no doubt is a giant step but there are many lacunae and problems. We in the Planning Commission, are trying to see that the law is recognized by all government departments and the government takes it seriously. This requires political and administrative will.

For the 11th Five Year Plan that is going to begin next month, we are committed to get budget allotted not only for the domestic violence Act but also for all the other legislation concerned with women's issues. Many Acts have been written in the early 19th century but are not working for the women rather just lying in the books. The Dowry Prohibition Act, The Immoral Trafficking Act and other similar laws have not become a reality. We have to plan out ways and means of making these legislations effective.

I would like to share my experience working with the government. We are having dialogue with the state departments on daily basis when they come to us for getting their plans approved. We provide them annual and additional support based on their plan and their priority. We continuously ask them to report on the amount spent in their respective states on implementing the DV Act, especially in states where the position of women are vulnerable. At times we get no response and sometime we get good responses, like Tamil Nadu has informed us that 198 women police station have been opened, legal helpline has been opened, funding is being given for rehabilitation and support to the victims of domestic violence. I see here that mental health is an important aspect related with domestic violence. There is need to give greater attention to mental health. Mental health is not restricted to Jammu & Kashmir and North East but spread across India. Some states have informed us that they are running schemes in partnership with civil society. We then inquire what their role in the partnership is.

It is important for regular meeting of all stakeholders to discuss their experiences and specific problems that each of them are facing. Therefore I subscribe to the idea of an annual awareness week but then it should not be just a week for get-together but should be an ongoing activity. Not only in India, but across South Asia it is believed that domestic violence is not a serious issue, rather it is a trivial matter. Here in the hall we are all aware of the seriousness of the issue but the world outside is not serious. It is an attitudinal problem and there are different ways to change attitudes- media campaign, education and communication and all these things have to be funded. Here comes the role of resource allocation.

**It has been mentioned earlier that law needs to be supported with funds. In the 11th Plan we are thinking for budget allocation specifically for implementation of the law. We are thinking seriously on formulation of schemes for domestic violence with the concerned ministries.**

The pressure that you are creating here today in the conference should be ongoing. Your voice should reach the government. There has been lot of discussion on the allocation of funds for appointment of Protection Officer. We have heard that officers in the government are only being given the additional role of Protection Officer. State chief ministers have said that we do not want to create additional office to deal with and it can be given as additional work of existing employees. But the problem is that this will not work as the work dumped on someone who is already over worked. This is what happened in the case of Dowry Prohibition Act. Therefore Protection Officers have to be fresh appointments with exclusive role.

For the 11th Plan we have made working groups and women's working group has been taken ahead by the WCD. Besides there is also a Steering Committee report that lays emphasis on having a chapter on women and children of which domestic violence is a part. The suggestions of the 'working committee' on empowerment of women:

- Formation Legal Aid Cells at panchayati level
- Training and monitoring of Protection Officers
- Linkages with State Women Commission for support to victims of violence
- No fees to be charged for filing case under PWDVA
- Streamlining cases under Dowry Prohibition and DV Act

These suggestions will be incorporated when we start writing the chapter. So we actually commit to ourselves for allocating funds for the implementation of the Act. The Approach Paper to the 11th Plan has incorporated a gender aspect. The paper is on the website of the Planning Commission. All the States have endorsed the paper at the NDC meeting. The principles in the paper will go into the Five Year Plan and then allocation of resources will become natural. Therefore, I would mention that the grants made for 2007-08 is notional money only and it by no way mean that the amount will not increase but rather the system will be in place. Once notional money has been committed, we have set a foot in the door and in the years to come will go through it. We are continuously making efforts at funding and see that we have schemes and programmes for implementation. But we need your continuous support and help even now. The inputs, findings and recommendation can be used for creating pressure on the government as this is a very representative sample having participants from so many states. The turn out is obviously going to be very impressive and I look forward to receive the recommendations evolving from the conference and try to keep up the trust you have shown in us.

### *Introduction of Survivor by the Chair*

Naseem, a resident of Ajmer in Rajasthan is a living example of domestic violence. She was married at the age of seven and few months after marriage she was subject to physical abuse because of dowry demands. Her husband also maintains relationship with another woman and now wants to kill her. She has managed to escape from his clutches and is living with her parents. So, we see here the connection between dowry and domestic violence in this case.

**Naseem-** What I am going to say is very bad for women. But what to do I have to share with you. My husband wanted to get me raped by others...

(Started crying, was not able to share her experience. It expressed the magnitude of the suffering that women undergo being victim of child marriage, dowry and domestic violence.)

### *Questions and Suggestions*

**Naseem from Action India-** Ms Syeda mentioned that at the time of planning annually you ask the state to give explanation on expenditures under state plan. I recommend that we can have shadow reports just as we have under CEDAW. A mechanism should be developed at state level because we can get information on the kind of work being done at ground level only from state representatives. Ms Brinda Karat informed us that in the adjustment being done under gender budgeting, including other programmes under ICDS and social marketing of condoms to give exaggerated picture on the expenditure for gender programme is a matter of politics. To protest against this requires a joint effort of NGOs and women's groups.

**Chair-** It is a good suggestion. It is about building link, like having a link between dowry and domestic violence, there is a need to link CEDAW reporting system and domestic violence.

**Deepa Jain from MoWCD-** I talked about annual public review was about the system of raising questions on action taken by the government

**Sheba George from Gujarat-** There is lot of abdication on the part of the state in service provisions and somewhere when it comes to women's issues it becomes a basket case, it is being shifted to NGOs and women's organizations. The governments at state and district level are not able to give the infrastructure required, a woman cannot take her children to the short stay homes. Women are without assets and resources even after 60 years of independence. There is absence of institutional arrangements, no access to information, language has got co-opted and there is no delivery on the ground. It is absolutely abdicable on the state. We cannot accept that women are not going to get resources as individuals and citizens of the country. It is a part of the constitutional provision of India that we are safe and free from violence.

**Mamta Jetli from Rajasthan-** My question is to Ms. Deepa Jain. The WCD has been made the nodal agency under the provision of the Act. My suggestion is that GOs and NGOs don't work as two separate bodies but work on a common platform, have regular meetings with proper representation from both GOs and NGOs. The second suggestion is that information should be given so-motu about the meetings of women's group as to get ideas of what is happening and also there should be more system of getting recommendations and suggestions. The problem we are facing in Rajasthan is that with the change of chairperson of the WCD, the role of the department also changes, there are no grounds for appointment of chairperson, as to who should be made the chairperson and what are the required qualification for the post. If the representative of WCD starts giving negative responses, then the situation becomes difficult, therefore there is need to set up minimum qualifications.

**Daradyn from Meghalaya-** I was trying to see the linkages between the Dowry Act and the DV Act.

Last week a case under dowry and domestic violence was registered in Shillong district magistrate court by a woman from Nagpur- a non-resident who got married to a Sardarji, a permanent resident of Meghalaya. She has two small babies –one year old and six months old. She registered a case with the police and made a statement in the judiciary but has been thrown out of her husband's house and we went to meet her, she had taken shelter in the gurudwara where she got shelter only for three days and on the third day had to leave with her babies. The irony is that the judiciary and police refused to look at it as domestic violence case. They kept terming it a dowry violation act.

### *Summing Up*

The link between dowry and domestic violence has to be made. Not only between these two Acts but between many other Acts. From the past experiences I like to say that the issue of gender sensitization has to be understood through impact analysis. Even today the police, judiciary and counsellors work on the basis of traditional thinking system, like the duty of wife to go back to their residence is a 30 year old belief and is against the concept of gender equality but is still being believed and practiced by many counsellors and government officials. We have put in lot of resources on gender sensitization, either from the donors or from government, we are doing sensitization of police, panchayat, judiciary but we need to look at the effects and parameters of gender sensitization. Secondly, civil society has an important stake in analyzing the impact of gender budgeting and gender component of the plans on the grassroots activities/programs. It is also a stake because when the government is asked to evaluate its own programmes, there is always the problem of arriving at actuals- the allocation is insufficient, inadequate provisions for shelter but then in the budget there is allocation for short stay homes and hostels, family counselling centers are being run by the Social Welfare Board. But why are they non-operational? And we need to think how we can make these provisions workable for the victims and survivors of domestic violence. It is something that only the civil society can take up, of course in partnership with the government. We demand allocation of resources and for gender sensitization but do not do impact assessment. It has to be actual implementation and that at least 50% can be done with the stakeholders and the other 50% within the government. Actually 100% implementation is with the states, the central government can provide guidance, back supporting against backlash. When we look at the role of the relation between centre and state, in fact the government representatives have informed us that fighting against backlash is the prime responsibility of the central government. We have to differentiate roles and yet learn to be together.

### **PLENARY 2 & 3 : STEPS TAKEN: CONTINUED**

#### **Introduction by Jaya Srivastava**



In the last session, the Chair talked about the responsibility of the states and 100% implementation depends on the state rather than the centre, that can only provide complete support. In this session, we have representatives from the state government to share with us steps taken in their respective state, for the implementation of the Act. We can get a good picture on what this new law has been able to do in the last 4 months. One year is very limited for the Act to get operational. It takes time for the people to understand the various provisions and start using them. But it would be worthwhile to learn from the people on the dais with me as to what is happening in their areas.

## Presentation by P.H. Sarvakar (Gujarat)



I would like to thank Action India and the government of India for organizing the national conference.

In Gujarat, the mechanism for the implementation of the Act are the various concerned departments, namely the State Women and Child Development department, Mahila Commission and also the Gender Resource Centre (GRC). The GRC is an autonomous body established by the state government. The Chief Secretary of the state is the chairperson of the body and at present I am the director of GRC. Through the GRC, we try to publicize and disseminate information on women and law and also provide technical support to the government.

The government has declared a 'Gender Equity Policy', based on the policy declared by the central government. It is a well drafted policy and has been praised by the central government. It is posted on the state government websites. In the policy, we have framed the action plan guidelines and time frame for the activities undertaken by different concerned agencies/departments. Secondly, we have started gender responsive budgeting with ten key departments. For example, education, tribal development, women and child development have been selected in the Finance Minister's budget speech, we have put the issue of domestic violence and other women's issue as new items. Therefore, we expect the government to allocate sufficient funding.

## Actions Being Taken

**Appointment of Protection Officer (PO)**-The Provision for the appointment of Protection Officer is a new provision and NGOs have put sufficient pressure in seeing that POs are appointed. But it is not possible to appoint fresh POs. It has not happened in any state. What can be done is to utilize the existing infrastructure and we are already in the process of getting POs appointed. The Social Defence Officers in the rank of gazetted officers are being considered for appointment as POs in 25 districts. The argument is that the existing officers are already burdened with work and cannot devote time to domestic violence but then it is their work and they have to do it. The Social Defence Officer has got manpower and his own office for other activities of the Social Defence Department and he has got all infrastructure in his office.

There is no need at this stage to allot any extra budget. Though the State Government has submitted a new item for Rs. 10,00,000/- in the budget of 2007-08 for this purpose, to provide a budget head.

**Promotion and Publicity of the Act**- Government has published the Gujarati version of the Act which is being widely disseminated to the various stakeholders such as the Government Departments, Offices, Police, District heads, MPs and MLAs, PRI Members and NGOs.

- The NGO partners in the State have been often oriented through the Gender Resource Centre – an autonomous body of the department
- The Department has invited civil society organizations for discussing and finalizing the rules and regulations of the Act.
- The Gujarati version of the Rules and Regulations under the Act is near completion and will be circulated to all concerned

**The Service Providing organizations-** The State Government has got ten Nari Sanrakshan Gruh/ Rescue Homes of its own. There are some 100 Non Governmental Agencies which are registered under various Acts. The Government is considering using these agencies/ institutions (after proper scrutinization) as Service Providing Agencies.

**Available Institutional Services are:**

- 4 Government run State Homes
- 7 Reception Centers
- 9 Preventive and Rescue Homes run by Non Government organizations and granted by Government
- 1 Non-granted Preventive and Rescue Home
- 100 Licensed institutions for women & Children

**New Schemes**

**Multi Purpose Women Welfare Scheme -2006-** Amalgamation of all three schemes (Legal Aid Centre, Yuvati Vikas Kendra, Mahila-Margadarshan Kendra) and thereby amalgamation of three centers into one center handling all issues related to women welfare.

- Availability of counselling and guidance for all age groups of women from one center
- To provide all kind of services from one center to women
- To provide free legal aid in co-ordination with Gujarat State Legal Service Authority to women
- To provide various benefits of various schemes of various departments by coordinating agencies to women under ONE roof.
- Women helpline at all District places in first phase.
- Planning to establish Women's HelpLine at all centers in second phase.

In Gujarat one lakh widow-victims of domestic violence have been guaranteed an amount of Rs.500 per month and Rs 80 for two children. We also cover them under insurance schemes. So we have already taken steps to prevent domestic violence. Besides, we have arranged for training of sex workers in fashion technology from NIFT and also link up with industrialists to provide them employment. Out of 28 sex workers who got training, 18 are employed.

In Gujarat, there will be no problems and hurdles for implementation of the Domestic Violence Act. And whatever problem comes in our way we can solve it in partnership with civil society. And we plead to the Central government to provide sufficient funds to the state for proper implementation.

**Questions and Suggestions**

Comment by Chair- The multipurpose women welfare centre is a combination of three schemes- Mahila Marg Darshan, Legal Cells and Yuvti Vikas Centre. These involve many other issues besides domestic violence. So the concern here is, how it can deal specifically with domestic violence?

**P.H. Sarvakar-** The legal cell will provide help in filing cases under DV and we also have Protection Officer here. The welfare schemes include shelter homes. I have data for the past three years. And we have had around 2400 cases under domestic violence and we have given them shelter in the Nari Rescue Centre.



**Sheba George (Gujarat)-** The number of shelter homes is not in public knowledge and women are not aware of their existence, so they are left on the road. There is lot of problems in the shelter homes, it is crowded and the women can't take their children with them. If the Act has to bring some impact, then the residence in the protection homes has to be settled. In comparison to the claims made by the government the reality on the ground is very different. Secondly, there is need to give clarity on the state budget, how much has the state to provide budget for the Act? On what basis is the demarcation of one crore to be done? Are population demographics going to be the criteria? And when you are clubbing the existing schemes on women development, legal, youth and women empowerment, what will be the impact on the budget- will it increase or decrease? There is need to separate the different issues to address the component of domestic violence. Thirdly, the appointment of Social Defence Officer as Protection Officer is just not enough, we need to provide infrastructure –separate officer, system and structure because the volume of the cases will increase now. There is going to be a curve- increase in reporting, need to work on these cases and then only will there be decrease. So before there is a fall there is going to be rise. And lastly the judiciaries need to be clearer on its role in providing justice to victims of violence.

**Leena (Gujarat)-** The Social Defence Officers appointed as Protection Officers have been appointed in the district and sub districts. The appointment has been made after interview but then they are not proficient in carrying out their work. They are already burdened and have no time and energy to deals with domestic violence cases. They are having no knowledge of the law and when a woman approached them they send them to an NGO.

**Sarvakar-** The budget has not been tabled so I can give no information on the amount. But I have already told that I have put a new item in the budget and there is a provision in the budget and so can demand for money. Secondly, we also do publicity of the services available. Let me tell you what are the facilities that can be given to women victims- lodging, boarding and medical services. Even when there was no law on domestic violence, we did provide support to them.

It is the role and responsibility of the social defense officers even if they have work they have to carry out the work of protection officers. They are provided with infrastructure and offices to carry out their work. The argument that police and judiciary are not aware of the new law is not correct. The Central government has done enough publicity of the Act and we have also sent a copy of the Act and Rules to the legal department and to the high court. And we can still do publicity of the law. We are planning to have training workshop with NGOs, legal department and state department in the coming months.

### **Presentation by Vidya Prasad (Andhra Pradesh)**



I am happy that the meet has been arranged with stakeholders that are connected with the implementation of domestic violence. Almost 50-60% of the work has been done for the first time after Independence of India. Therefore the Act itself in two places- Sec 9 of the Act says the aggrieved person should be informed by the Protection Officer that they have the right to take the help of Legal Service Authority. And similarly, under Section 11, the duty assigned to the government the state as well

government should undertake coordination between and sensitization of police, judiciary and others. It is totally a new concept and there are some cobwebs in the mind and clearance is required as to what is the role of the judiciary. The judiciary for the first time is entitled with jewel work. For the first time the judges are made to get out of the ivory towers and do social work, the second thing is that magistrates are required to be sensitized as to the implementation of the Act. The Act has just been notified so there are some initial problems and we are trying to solve them.

Briefly I will tell you the role of Legal Service Authority. The Legal Service Authority Act was passed in 1987 duly amended in 1994 and implemented in November 1995. The Act has three roles to play: to provide (1) legal Awareness (2) legal assistance (3) legal aid. These three aspects are required to be carried out with the judiciary. We have been organizing legal awareness camps in remote places. Similarly legal aid should be provided to that section of people who are having certain qualifications. The third thing is that for cases that are before us as well as the cases that will come before us, the judiciary is conducting Lok Adalats. As far as legal awareness and legal aid is concerned, Section 4 of the Legal Service Authority Act says that any woman can approach the authority for the purpose of legal aid. Everything will be taken care by the Lok Adalat committee.

The Legal authority service functions at three levels :

1. **National Level**- The National Legal Service Authority. In the Supreme Court we have the SC legal services. At the centre the entire country is led by the Honorable Chief Justice of India. There is the executive chairman at the national level who is the second judge of the SC
2. **State Level** – There is the State level Legal Service Authority. The members are drawn from senior judges of the High Court. I am member of the State Legal Service Authority.
3. **District Level** - The **district judge is the chairperson of the district legal service authority**. Andhra Pradesh is the first state in the country to have separate secretaries of the cadre of senior civil judges doing this alone. They are disassociated with judicial work, they are not going to court and not delivering any judgments but exclusively dealing with legal services work. At taluk level, we have **mandal legal service committees where magistrates are working**. The **senior most judicial officer of the place is the chairman** and will give all assistance. And proposal has come to set up legal service committees in **all the 11 mandals** in the state. The state government has almost accepted to give us **30 crores** of rupees for establishing separate mandal legal service authorities. What more is to be done?

At every level as when as we receive applications for legal aid we cater to their needs, we are seeing that no women are deprived of justice on accounts of poverty and illiteracy. Our aim is to implement Article 38A of the constitution that states that no citizen of the country will be deprived access to justice on account of illiteracy or poverty. I have been hearing since morning that there are many loopholes and problems confronting the society. There are problems relating to women, problems of prisoners, problems of children and problem of mental ill-health. In one case, a prisoner was languishing in the mental hospital for years, the Legal Service Authority came to his rescue and provided him help and support. Similarly, as and when any problem is cropping up at national level or state level or district level you have different officials to see that legal aid is provided. Section 12 provides that any woman having any problem can come to the Authority and take legal aid. That is what is intended in the Protection Officers’

duty. Therefore the **Legal Service Authority should be linked up with Domestic Violence Act**. We have been organizing in the states, legal awareness camps for the protection officers, service officers, NGOs. At the state level, the state government organized conference on the issues. The women's organizations has taken great care for the last 20-25 years for the enactment of the Act and it is on our shoulders to see the proper implementation. At the state level, we conducted a meeting with government officials and we have been explaining the Act to the Protection Officers. The project directors have been appointed as Protection Officers in all **23 districts. They are doing extremely well**. And we have been coordinating with them. This is the work the Legal Service Authority has been doing.

As far as the role of the magistrates is concerned, we have been instructing them how they have to deal with cases under the Act. **We have to bring about a common nomenclature, common procedures, common relief and immediate expeditious relief** as mentioned in the Act so that problems are solved. Therefore a sort of **coordination is required between the judiciary, NGOs and GOs both at state and central government**. This level of coordination is already being done in Andhra Pradesh and needs to be taken over in all states. The tears from every woman in the country can be wiped out by the judiciary and we are doing this in coordination with other stakeholders. These kinds of discussions are required to be carried more frequently on an annual basis for sharing our experiences and problems. Therefore coordination will bring out a grand way of successfully solving the problems of all women. Till every woman victim of domestic violence gets full relief our task is not complete and we have to march and march forward.

### **Presentation by S. Umapathi (Andhra Pradesh)**



I am a police officer from Andhra Pradesh. I have put in thirty years of service. I have been associated with Women's Protection Cell. My designation is IGP, Women's Protection Cell. The Women's Protection Cell deals with all sexual harassment and domestic violence cases, we monitor the progress.

In Andhra Pradesh, 10% of all crimes committed are crimes against women. **In 16,400 FIRs there are 16,000 FIRs are on crimes against women. The national average is around 8-12%.**

**Many speakers have talked about synergy that is we have to work together. What we did – Secretary WCD, Director WCD and Secretary of LSA, CIDs have all come together not once or twice but several times and talked on the ways to implement and make the Act successful.** In our country, many Acts have been forgotten, let us not make this Act suffer the same tragedy. Let us make the Act workable, an Act where we can give some relief because it says for three days notice to be served, 60 days for interim order to be given.

We have a Domestic Incidence Report (DIR) index similar to FIR index where we mentioned the procedure to be followed. The DIR index has been sent to the government and they are considering it. All the project directors of ICDS appointed as Protection Officers in 23 districts are senior rank officer from WCD. There is one problem, the PDs have other job responsibilities also. But luckily, they are sharing the same office as the district magistrate.

It has taken a lot of time for the Act to come, let us see the Act is put into practice. The DIR index is a must. The entire Index shows what happens to the case once registered and a number allotted, what is the relief granted? If relief granted and violation done, then what happens? Is police case filed or not? Many people are of the opinion that within the Act there is no role of the police, but this is not correct. Police have a significant role to play. Andhra Pradesh Police has circulated a circular to all 157 police stations stating that they are duty bound to inform to every one who comes to the police station and give information on the procedures, relief and orders that can be taken course to. In the Police Academy ,we have conducted 10 workshops in which the inspectors were informed of their role. We made it clear to them that if someone comes to them they have to provide information and not send the person to the PO. If the complainant wants to file an FIR, they should help her in doing so under section 498A. And also tell them about the availability of Service Providers, name and contact details of the PO.

We are having a new experiment in Andhra Pradesh; in each district we have a committed person from the Legal Service Authority. There is also the right to file a case and make it a daily diary entry promptly at the police station. Whatever the petition the complainant comes with, it has to be entered in the diary. Then also have to assist the woman in filing the DIR index and even assist the woman to get medical attention; if the woman has bruises it is the duty of the police officer to ask the constable to take the woman to the hospital.

**The DG, Andhra Pradesh has given budget for opening women's helpline. By the end of March, all the women helplines will be functional. And one helpline will be in the police control rooms that also have people from the NGO. In case of a complaint, the police van from the control room will visit the site of accidents. The POs who are in the district HQ are to be informed.**

The government is thinking of making the Mandal Revenue Officers (talukas) as POs. We have suggested that Mandal Officers should not be appointed as POs because they are already overburdened with work. There is talk on making tehsildars as POs.

The DIR copies to be entered in the DIR Index. It is in the Act that when a DIR is made, the copy has to be sent to the police. The police files the DIR and so that it is done systematically we have made the DIR index. If there is breach of order then FIR can be filed. Both the FIR which is for criminal offences and DIR for civil remedies can be filed together.

We have trained Assistant Police, we have 166 APPs and all have been trained. We have also trained the inspectors. The APPs are saying that it is a civil legislation and they have no role, we have clarified to them that they also have certain role under the Act. Though cases are filed in the magistrate court which handles criminal cases, this is a civil law.

Thus the **role of the police** under the Act are:

- ✓ To assist the aggrieved persons to make a DIR in the Performa.
- ✓ To send the victim to hospital for medical aid/ exam.
- ✓ Police to protect the victim if directed by Court (Sec. 19).

- ✓ Police to assist implementation of protection order (Sec. 19)
- ✓ Police to render all possible help at place of occurrence (Rule 9)
- ✓ Police to assist PO in seizing weapon of offence (Rule 10f).
- ✓ Police to take cognizance of breach of protection order u/s 31/32 (Rule15) and issue FIR.
- ✓ Police to follow all Cr.P.C. Provisions for investigation & trial.
- ✓ DIR copies received by Police to be duly indexed in a DIR index.
- ✓ Assistant Public Prosecutors have been duly instructed to appear on behalf of aggrieved person.
- ✓ Police is at liberty to take legal action at any stage of proceedings when cognizable offence is reported.

There are some **practical problems** in the implementation of the Act:

- Service of notice/summons is difficult to obtain. They do not have assistance for doing this. We have to visit the village and publicize the rules
- Sec. 2 (q) “respondent” means any adult male person in domestic relationship with aggrieved persons. We get complaints that the mother-in-law is the main accused and the father-in-law is a good man. The Act does not cover mother-in-law/ sister-in-law. It is only against adult male members. My experience shows that many complaints come in which the mother-in-law is the main accused.
- Only breach of protection order is an offence. What when there is breach of other orders? If there is breach of residence order, custody order and monetary then is it not an offence? In Hyderabad, the advocates are of opinion that breach of other four orders is not an offence. There is no clarity on this
- Court attendance by POs, waiting for case to be called. The POs complain that even when they reach the court by 10 a.m. there is no order till 12 p.m. There is adjournment of cases. There is no court attendance and no assistance

#### **Status of Domestic violence in Andhra Pradesh**

- **In AP 320 DIRs were registered by POs.** When the Act was passed, it was said that cases registered under 498A will decrease. But there is no substantial reduction in Sec. 498 (A) IPC cases except 6 districts.
- Impact is yet to be felt.
- Courts are yet to understand the essence.
- APPs are yet pay adequate attention because of the long pending cases. There are too many adjournments.
- All stakeholders are working together, we have network of NGOs that support our action.

We are with the NGOs. It is a reality! It is a reality! It is a reality! If it is a reality it has to be there.

#### **Presentation by Alka Srivastava (Uttar Pradesh)**



I will talk on what the WCD has been able to do in Uttar Pradesh.

- The district probation officers have been appointed as Protection Officers. On 2nd November the notice was passed and the POs have been briefed about their role and duties.
- We have conducted seminars on legal awareness which have been attended by both NGOs and GOs.

- There are 31 short stay homes that are run by the voluntary sector and recognized by the UP Social Welfare Board that has been registered as Service Provider.
- There are 61 counselling centers that have been nominated as counsellors as per provision in the Act.
- There are 5 short stay homes and 8 shelter homes that has also been nominated for providing shelter to victims of domestic violence
- The Rules have been publicized and the information on POs, Service Providers and shelter homes has also been disseminated
- The State Women's Commission is the nodal agency and has been receiving cases under the Act.
- These are the steps taken for implementation of the Act. There is the problem that the probation officers are already burdened therefore they should be fresh appointment so that POs can work more effectively.

### **Presentation by Sanjay Sharma (Delhi)**



I am here to speak on the role of the Legal Service Authority in implementing the Act. But before that, I would like to answer two questions. Mr Umapathi has spoken of two limitations in the law. The first is that no action can be taken against the women relatives like the daughter-in-law, mother-in-law, and sister-in-law. The definition of respondent states that the wife or any woman living in relation to the marriage can file a complaint against the female relative of the husband or the male partner. This means that in the law there is the provision that a case can be filed against the female relatives. Secondly, he told us that only breach of protection order is a cognizable, non-bailable offence. This is incorrect. According to Rule 15 and sub Rule(7), there is a deeming clause that says, the breach of any order and resistance to final order shall be deemed as breach of protection order. Thus the breach of any order is an offence just as the breach of protection order.

The passing of the new law reflects the recognition of domestic violence by the legislation. They have realized that domestic violence occurs in the Indian homes. There was the disbelief that domestic violence is a private affair, occurs at some time. Domestic violence is nothing but a power game. It is the desire of man to subordinate woman. The man does not allow the woman to receive education, become economically self reliant, or wants her to reach the outside world.

Domestic violence has been covered under the law earlier also. Refusal or neglect to maintain wife or female relative is covered under section 125 Cr.Pc, the guardianship court for custody of children, for monetary relief file a HNM petition. This law makes two important points: firstly, domestic violence has been accepted as a serious problem not only in India but in the globe. Secondly, the relief was given under different law now has all come under a single law in a limited time. Thirdly, besides protection, there is also prevention of reoccurrence. Any type of violation is an offence. The law has given us a tool by which we can deliver justice to victims of domestic violence. But just passing the Act is not enough there is need to change mindset and attitude. From my experience as metropolitan magistrate, I am of opinion that the law has not reached the actual victims for whom the law is made else our law will be a dead letter and remain a mere piece of paper.



This law for the first time given legal recognition to the Service Providers and has put the responsibility to get the law implemented. I have given several trainings and have found that the police feel that they do not have a role in the law. The DIR Index made by the DIG, Andhra Pradesh is a very good thing. I am committed to apply this in Delhi. I pledge that the DIR will reach every police station in Delhi tomorrow itself.

There is the belief that domestic violence is a new concept. It is not so it has been happening since ages, it is happening in every house. The definition is new because we have reached where we had to reach.

Under article 39(A) of the constitution it is the right of every citizen to take the help of the judiciary. To provide free legal aid to the poor and downtrodden the Legal Service Authority Act has been passed. Under Section 12(c) of the Act a woman can get free and competent legal services from the authority. The Authority is also providing legal advice and counselling services in Marriage and Family matters etc.

## **The role of DLSA**

### **Legal Aid**

- The Authority is appointing experienced and competent Advocates, preferably female lawyers having wide experience in maintenance, dowry, marriage, civil, guardianship and domestic violence cases.
- The Authority is organizing workshops and seminars for imparting legal training to empanelled advocates on the role of the authority and their duty to act in domestic violence cases.
- The Authority is proposing to organize orientation and training programme for Judicial Officer in partnership with Delhi Judicial Academy on Domestic Violence etc.

### **Lok Adalat**

- The Authority has been organizing Lok Adalat as per Section 19 of the Delhi Legal Services Act, 1987 for settlement of following disputes pending in the courts as well as for settlement of disputes at per-litigation stage.
- The Authority has been organizing and holding **Lok Adalats**- Matrimonial Lok Adalat for settlement of cases at pre-litigation stage and cases pending in the courts.

### **Legal Awareness**

The Authority has been organizing various legal awareness programmes from time to time to sensitize the public including women about their legal rights. These programmes are:

- Legal Literacy through advertisements, electronic media, print media and publication articles in various newspapers.
- Celebration of Women's Day, Labour Day & National Legal Services Day etc. in partnership with Governmental and Non-Governmental Organizations.
- Nukkad Nataks, street plays, skits, etc. to educate and generate public awareness on social and legal issues like Female Foeticide, Child Labour, Domestic Violence against Women etc.
- Documentary films namely "**Satyamev Jayate**" on legal aid & "**Desh Ki Shaan Hai Beti**" on women's issues.

- A radio programme is also being broadcasted on FM Rainbow for making the general public including women aware about their legal rights and the laws passed for eradication of social evils.
- Legal Literacy Mission through pamphlets, booklets, banners magazines and Nyaya Kiran.

### **Marriage and Counselling Centres**

The centers are an effective supplement to the justice delivery system. The Authority has set up **26 Marriage & Family Counselling Centres in Delhi** in partnership with Governmental and Voluntary Agencies for resolution of family and matrimonial disputes thereby ensuring family peace and social harmony. Authority has appointed public spirited advocates for counseling and conciliation.

### **Mobile Legal Services**

The Authority has introduced the concept of “**justice on wheels**” by starting Mobile Legal Services Van to educate women, children, labourers, social and economically weaker sections of the society about their legal rights and law. These Vans are manned by trained and experienced Officers, Counsellors, Social Workers and visit schools, slums and colonies of Delhi. The Mobile Van also visits Police Stations to ensure that there is no violation of Human Rights and to train and sensitize the police.

### **Telephone Helpline**

The Authority has made functional **24 Hours Telephone Helplines** to provide legal guidance to common people round the clock from the trained officers, social workers and panel advocates of the Authority. People can contact us by using our toll free number i.e., **12525**.

### **To Establish A Separate Cell For Domestic Violence And Female Foeticide Cases**

The Authority will setup a separate cell for women aggrieved of Domestic Violence and Female Foeticide. The cell will comprise of experienced and trained advocates. Authority will ensure that timely and competent legal aid can be provided to the aggrieved women.

### **To Ensure Elimination of Domestic Violence And Female Infanticide/Foeticide**

The Authority will launch a campaign through its Mobile Legal Services, public advertisement and door to door campaign in partnership with schools, colleges, police and voluntary agencies for making people aware of the menace of domestic violence and female foeticide and its legal and social effects.

### **To Organize Debate Competitions**

The Authority will organise debate competitions, painting competitions and essay competitions in partnership with schools, universities, law colleges and voluntary agencies on Domestic Violence and Female Foeticide.

### **To Organize Orientation cum Training Programmes**

The Authority will organise seminars, workshops and lectures to educate and train Protection Officers, students, police, doctors, local NGOs and advocates about the law prohibiting domestic violence and female infanticide/foeticide and procedure for bringing such offenders to justice.

### **To Prepare Informative Material**

The Authority will prepare articles, pamphlets and reading material for educating the general public about this illegal practice and its legal and social consequences.

### **To Seek Views/Suggestions And Implementation**

The Authority will seek advice, suggestions and views from eminent jurists, voluntary agencies, women and child activists, law schools, social activists and governmental institutions for preparation and implementation of the services ensured to the aggrieved women by the Act.

### **To Collaborate With RWA Etc.**

The Authority will collaborate with RWAs, religious institutions, Rotary/Lions Club, local social workers, electronic and print media etc. for spreading legal awareness.

### **To Collaborate With Eminent Celebrities**

The Authority will collaborate with cricket stars, tennis stars, eminent jurists, religious and spiritual teachers, singers, film personalities, political leaders to educate the public for espousing the cause of elimination of domestic violence.

### **To Exhibit Information At Public Place**

The Authority will propose to the Government of India for exhibition of material prepared by the Authority and Voluntary Agencies in Government Offices, Police Stations, Court Complexes, Schools, Colleges, Markets and at Public Places.

### **To Prepare Video Spots**

The Authority in collaboration with Film Division, media and voluntary Agencies will prepare spots or CDs on Domestic Violence for public exhibition and for telecast on visual media.

### **House To House Campaign**

The Authority in partnership with its partner Voluntary Agencies and Department of Social Welfare etc. would carry out a house to house campaign in Delhi for eradication of domestic violence.

### **Installation of kiosks/book stalls in schools**

The Authority will install kiosks or stalls in annual functions of schools for imparting legal knowledge and distribution of informative material as the students are future of India. Counsellors of the Authority and Mobile Van also visit the School to educate children on legal and social issues.

The Authority has organized orientation cum training programmes in partnership with Delhi Police and Department of Social Welfare for the Police Officers and Protection Officers on 20-12-06, 17-02-07. The Authority has organized a training programme for the Protection Officers and Police Officers on 24-02-07. The Authority will impart training to Service Providers as and when requested.

### **Celebration of Women's Day on 8th March, 2007**

The Authority is organizing Hindi and English Debate Competition on Female Foeticide on 8.3.2007 in which NGOs, schools, law schools and colleges are participating.

### House to House Survey & Street Plays

The Authority will tie up with Punjab Academy, Kala Institute, NGOs AAYAM, MARG, Adharshila Welfare Center, NCW, DCW, voluntary agencies, Bachpan Bachao Andolan, law schools, Department of Social Welfare, Residential Welfare Associations, NGOs, theatre groups, Vivekanand Law Institute etc. for carrying out a house to house campaign for creating public awareness on social and legal issues, availability of legal services and counseling, child labour, domestic violence against women, Female Foeticide apart from holding street plays, skits, exhibition of CDs, distribution of informative material etc.

**Chair-** It is evident from the presentation that efforts are being made by the DLSA.

### *Questions and Suggestions*

**Rukmini-** The question is addressed to the officers-police and judiciary. We are trying to move a criminal justice system to give support to the women in the civil sector, to give a right to children, right to residence etc. that has to be done within the period of 60 days. Now the question is, how will you make this happen? It has been pointed that the protection officers are writing an information report. Now when the officer changes, the new one asks to write a new report. So there are two conflicting DIRs. So can you make some positive changes to ensure that DIRs are written properly? How do the magistrates have the confidence to take action as they are hesitant? They don't know on what to base their judgment?

**Vanaja-** I am may be repeating but asking the question in a different way. Yes, POs are appointed in Andhra Pradesh, DIRs are filed but the thing is how far the women are justified? As a practicing lawyer what I am observing in the court is that the magistrate does not know the Act, they are asking what to do next? And the POs, as far as my feeling is, that there should be around 1000 POs to be appointed but only 23 have been appointed and those are sitting in the district headquarters in the collectors' office and women from rural area are not accessing justice. There is a study by Gramya where there is data showing the high number of cases where POs are refusing to file a case and saying that they do not have any instruction and have not got circulars from their superior authority. The last point is that magistrates are giving very long adjournment; I have 25 cases at hand and I am only taking them to the magistrate as we do not have enough POs, courts are crowded and we are demanding that we have separate call period other than the daily work, there are so many practical problems. Yes, in Andhra Pradesh we have very good implementation officers at the higher level but then work has to be done at the ground level.

**Darilyn Syiem from Meghalaya-** Many cases are pending in the court, sometimes police have no time to put up a case, police have many other duties and sometimes the magistrate is busy with developmental work. So what to do to speed up the case?

**Response from Umapathi-** The question on 60 days, whether the magistrate can do it in 60 days? Where there is a will there is a way. In Andhra Pradesh right now, we do not have extra budget but within the budget we are trying to do everything. Suppose I have money only for two shirts then I will not buy two shirts I will buy only one shirt. This is the kind of thing that we are doing, trying to tailor our

activities as per our budget. 144 new APPs are being recruited to fill up all the vacant positions. In another six-eight month we will be able to handle the issue of overcrowding of the courts as the APPs will take up the cases.

### Manual for DV

The issue of residence order once given, who will supervise whether she is being taken care in the home? The PO has to go and do the check up but many POs have been approaching me and saying: how can we go to their houses? The husband is a rowdy fellow, uses abusive language and so on. This is still a fluid area. The Rules have come but the manual has to come, the procedural manual has to be in place. Every law there should be a manual, in Andhra Pradesh we have the police manual, likewise the PWDV Act should also have a **procedural manual** indicating the procedures to be followed. This is the next thing that we should demand for to be grounded and adopted across the country, so that the same procedures are followed by all stakeholders. There are many problems to be handled but given the state of things, given the budget let us do the best, asking for extra budget won't work because no government has extra money, it is very difficult thing to get more budget. Let us use our own resources and do it. The first important thing is training of police, lawyers, POs and magistrates. **The home guards can be given to the POs on payment from WCD and those homeguards can do process service**, they can approach the court, attend the call work, certain things have to be delegated and certain empowerment have to be done. New GOs have come, outsourcing GOs that is if you cannot appoint, no government is accepting permanent appointment, then outsource individuals on payment basis and give him the job to be done. There should be **empowerment**, there should be **delegation** and there should be **outsourcing**. These things have to be done in order to make the Act go forward.

**Response from Vidya Prasad-** We have yet to see the availability of two DIRs, we have not come across such a situation. And the law does not say that when there is change of POs, the second officer asks for fresh DIR. There is lot of **case law to be developed in the law** which is at a very nascent stage and it is our endeavor to see that the best is done. The question as to which of DIR to be believed on, my answer is that refer to Section 32(2) Cr.Pc says that upon the **sole testimony of the aggrieved person the court may conclude the offence so the evidence of the aggrieved person is given a very great importance**. It has been provided for the first time, it is not there in rape cases.

The social welfare department has appointed just 23 POs. Let us see at the state level it is increased. In Andhra Pradesh we have **developed paralegal volunteers**. We are taking educated women, professors, socially competent person, doctors, and youth and giving them training every month. We are taking SHGs also, seeing that these people at the ground level acts as conduits between the judiciary and common people. Therefore we want to see that at least MSW/BSW (Master and Bachelors of Social Work) are taken as POs. Appointing one or two POs will not do because the number of cases received is very high. We have to try in our state that we have many more POs.

Then the issue of delay in disposal of cases, in many cases time is stipulated. For a CMA to be disposed off the maximum time is of 3 months. If the courts are overcrowded it has to be brought to our notice, we will try to improve. I have already told that instruction has been given by Legal Service

Authority for the purpose of numbering the cases as well as dealing with the case, we can conduct the proceedings in camera and can instruct the magistrate, after taking instructions from executive chairman as well as the chief, that the case be separately be called and action be taken. We also give instruction for speedy trial of cases expeditiously. *The 60 day period stipulated is very less time and serving notice in three days is impossible. In spite of this a separate procedure is envisaged under the Act saying that affixing notice on the notice board as in case of Order 5 of civil procedure court and the affixers report by the PO is sufficient service. This has to be taken into consideration. Again appointing one PO for one district is not workable.*

Next is the execution of order that is the introduction of women again in the same house. Execution can be taken under the provision of the Act and there is no problem. I think there is need to develop case law. First try in some incidence about introducing women again. Under general law there is a case law that a person dislodged from the house can be introduced. The magistrates are empowered to introduce the woman to her house by the time the application is filed. It can be implemented there is no problem in that. It is the intent of the Act. The very purpose of the Act, we should appreciate, something introduced for the first time is that a woman without going outside the house, without dislodging can claim relief, interim order, emergency order can be passed. You knock the door of the magistrate with help of DIR, ask to give an order and get it implemented by the police. These orders are given in parallel to any civil law. The Emergency Order for the first time has been introduced in the DV Act. All present here should take cognizance of the Act and take it to their respective states.

### *Summing Up*

State representatives have informed us on the concrete steps taken in their respective states. The impact may not be clear right now but if these steps are followed then in the years to come it will be seen how effectively the PWDVA, 2005 protects women in situations of domestic violence.

## **PLENARY 4 - REVIEWING STEPS TAKEN: WHAT MORE SHOULD BE DONE**

### **Introduction by Kalyani Menon-Sen**



The distinguished panel is going to look at the implication of the Act from the perspective of three key actors (1) mass organization (2) NGOs and women's groups (3) state planning board.

### **Presentation by Srilata Swaminathan**

My dear friends in NGOs and GOs, I am the odd person here because I neither belong to NGO nor to GO sector. I rather belong to AGO (Anti government organization). I belong to the women's wing of the Communist Party (Marxist-Lenin) and we consider ourselves as revolutionary *jung-sanghathanist*. We do not consider ourselves as NGO as we do not take salary for the work that we do and I would like to see how many of you will continue to work when your organization gets no funding. Our work is based on the support and strength of the citizens of our country. I have been in the field for the last 36 years. I have studied the Act pretty deeply.





The paper circulated has been written years ago. This Act is a brilliant act as far as legal acts go on paper. The drafting and input has been done very precisely and carefully. The only flaw in the Act was the clause 'in camera' proceeding. That is the proceeding will not be in public but in the open, whether demanded by the victim or the accused. This has to be changed. The choice should be in the hands of the woman whether she wants in-camera proceedings or not. I have seen from my experience that all in-camera sessions the aggrieved is the only female present, everyone else present are male. The woman gets so scared in front of so many men and has to face hostility of the men. Therefore, an in-camera proceeding does not always ensure security to the woman victim. The woman should have the right to take her relative or a social worker with her in case of in-camera proceedings. If this is added I cannot find a better dream law.

This is like a dream. The law is in place, its provisions are perfect but who will implement the law? And how will it get implemented? We have heard that more than 1000 POs are required and we have only 23 POs. I have been told that in Delhi the LDCs (Lower Division Clerks) are the POs, the same LDCs who are responsible for corruption and nepotism in the government. How can they work as POs? India has the largest number of laws but none of them are effectively implemented. So the problem is in implementation.

There are three main obstacles facing implementation of the Act: (1) Caste discrimination (2) Class exploitation (3) Gender discrimination. All three has to be eliminated to bring an end to violence against women. Women of the country have to be made economically empowered so that when thrown out of the house, they can take care of themselves and their children. Women have to be involved in economic enterprises and have an income of their own.

Regarding budgetary allocation, there is no dearth of money in this country. In the coming budget the expenditure under defence is going to be increased. We can demand money from the huge share for defence. The other area from which we can get money is the NPA (Non Performing Assets) that includes loan taken by large scale industries from our government and the bank and has not been able to return. And almost two lakh crores rupees are with NPA. The women's group can put pressure on the government that these investors and industrialists who are doing fraud with the government be forced to repay the loan taken. If this is done there will be enough money for all the schemes and financial hurdles in the implementation of the Act will be solved.

Lastly, I would say that the society is holistic and we cannot separate the economic from the social and politics cannot separate between public and private, they are all linked. Domestic violence by itself cannot be eliminated. Unless we improve the economic situation, bring social change and political commitment violence cannot be ended. There has to be economic and social equality.

### **Presentation by Mohini Giri**



It is a day of pride that I am addressing so many empowered women. When I started work some 68 years back, there were two or three women sitting with veils on their faces, they could not think of wearing salwar kameez and were draped in sarees. They were always indoors and whenever they came out it was like the rising sun. Today, I can see so many rising suns; somebody asked the question is India shining? The answer is if our women are empowered then yes, India is shining.

I was asked to speak on the role of National Women's Commission. But I do not think it is correct to address this gathering about it, every one present here knows and is familiar with NCW. The NCW was formed because of the support and struggle of women's group. Today we have a dozen of laws but none of them are effective in ending the suffering of women. This is a question before the NCW, why is it failing in its role to get the law implemented.

The role of NGOs has been to show the direction to the government and pressurize them to act. We had a meeting with women's groups where we discussed the limitations facing NCW. Some of them are:

- The chairperson of the commission is from the ruling party so with the change in government the chairperson changes and so does policy and mode of functioning. I advise that the selection committee to be formed should be apolitical and without any political affiliation.
- The NCW has the right to summon people. But what is the right to summon people when you cannot investigate and when you summon a person and he does not turn up? There is no means to get hold of the accused; the commission cannot monitor the victims in their homes, they have to take help of the police. The commission should have the power of summoning with authority and also the power to punish and then the power to investigate.
- The chairperson should have status, by that I mean, should be from the rank of a minister, secretary or of similar rank.
- The member secretary's position is not clear whether the rank is below the chairperson or not.
- The commission has no financial autonomy; it is just a part of WCD and has to work under funds allotted by WCD. Therefore there is need to give financial autonomy.

### Presentation by Mridul Eapen



The role of the State Planning Board in budget allocation is very direct. The budget is nothing but a translation into schemes of what is proposed in the plan as planned outlay. So plan outlays are translated into schemes and are made part of the budget. The question is, where do plans get formulated? Here I can speak in the context of Kerala because of the fact that I have really gone through the planning process. Let me say that the planning process in Kerala rests with the Planning Board. The Planning Board therefore plays a very important role in allocating resources which are then converted into schemes in the budget. What has been this process of the Planning Board in formulating the 11th Plan? This is the plan in which I have been involved because this is the time when the Planning Board has been reconstituted. It is the Planning Board that prepares the plan and how is it done and where do we enter with out agenda.

The Planning Board first prepares the Approach paper that gives the thrust of the plan. What are the priorities? The Approach paper is then widely discussed among members and outsiders to add things and make suggestions for change. The priorities are set depending on the world view, which after all, also reflects the world view of the government. Once the priorities are framed, after discussion with the Planning Board and with consultants/experts from civil society and also discussions at the decentralized

level with the Panchayats. Once the Approach is firmed up, then comes the allocation in which the major responsibility is of the Planning Board. The allocations are also done keeping in mind the priorities of the Planning Board. There is also continuation of allocation from the 10th Plan for the ongoing schemes and plans. But the government also reflects new priorities. Because the government and the Board were different from the one during the tenth plan there was change in priorities and once again the emphasis was on the social sector. This was different from what was going on earlier. The planning process therefore reflects directional change and this change plus the fact of the process being very participatory, it becomes much more congenial for the women to intervene. Anything that is participatory gives a wider space to the women to intervene. The planning process **was participatory in the sense that for each sector of the economy, a planning committee was appointed which took outside people also, from experts and people involved in research. So the steps in the planning process are-**

**Approach paper → Priorities → Allocations**

There is lot of bargaining and negotiation where the allocation can be increased. There is an ongoing process of the plan and one can't change directions very radically. What was decided was that since our approach was very different from the earlier approach; we should identify the certain specific thrust areas for specific allocations. Gender awareness, sensitization, remedial measures and women empowerment was one of the thrust areas that we called as 'flagship schemes'. Under the 11th plan, one of the twelve flagship programmes was gender. There is allocation from other schemes, for instance, for empowerment we said that we should have some good training different from the existing 'finishing' training.

The general belief is that Kerala is more progressive in terms of women's status as all the indicators show in terms of education and health Kerala is very advanced, but in terms of violence it has the highest number of cases. The micro and macro level study shows that Kerala has a very high rate of domestic violence. Even dowry, that was unheard of few years back, is taking place in the state and there is a very high demands and dowry death is becoming visible. There is lot of social oppression of women and in the Planning Board we all agreed that the feudal patriarchy systems have to be eliminated if we have to do anything for the women. This flagship scheme is accepted as one of the schemes where we will have specific allocations.

The engendering of the planning process started with the induction of women members into the Planning Board. I am the first woman member of the Planning Board. Secondly, the women members can intervene at the stage of the approach paper. Of course when the paper is disseminated among other members, one of the criticism raised was that somehow the gender component was not coming out very clearly. The approach that we proposed to the Planning Board was that women should be made visible in each sector of the economy whether it is agriculture, industry, energy, power and other sectors. In the social sector they are visible but in the economic sector they are not, so we should make their contribution more visible and reflect on how policies impact women in these sectors. We had therefore tried to make the women visible in every sector and focus on specific gender issues that we find in Kerala. We intervened at the approach stage that is influence the priorities. We consciously put women who have some sort of gender sensitivity in the committees. The committee further constituted working

groups in specific areas, for instance, there was a working group on gender, health and housing. This was a way in which women's voices could be heard by having separate working groups on gender. That means that a potential head of account in the budget whereby the allocated funds reaches the department involved in implementation of women's programs, starting with the Domestic Violence Act having in place all the infrastructure required.

**Two major issues in influencing allocations for gender issues that arise are:**

- Necessary to have a team of members who are gender sensitive which was not an issue in this case. All of us agree that despite near total literacy in the state, little effort has been made to direct literacy towards building up a gender sensitive social environment challenging the survival of feudal-patriarchal attitudes and institutions which perpetuate violence against women in the state.
- When one is looking at the total plan and the paucity of resources given the needs, the class issue looms up larger than the gender issue; should Rs 5 crs be set apart for setting up the machinery for creating gender awareness / sensitization and providing remedial measures for the victims or can we use it to meet housing needs of the poor houseless/landless? Especially when one estimates costs for small ad films which would have considerable impact through the television etc.

This is not to deny the importance of the major gender concerns which need immediate redressal; however a balance has to be maintained for which reason we also intend to initiate programmes for economic empowerment of women in subsequent phases. So the total name of the programme is **Gender Awareness cum Empowerment through 'Decent' Employment**. This also implies the need to mobilize resources from all possible sources so as to save Plan resources: in particular central government schemes, since money should be available for publicity, training etc.

This in brief has been the experience in Kerala planning and budget allocation. We have been able to set apart a certain amount for what we broadly call Gender Awareness for which a new head will be given. Of course everything now depends on the Planning Commission approval of the Plan and proposals. Also can we push for more, perhaps in terms of ACA?

**I do firmly think that the Planning Board has a crucial role to play in allocations to gender issues; however, my effort of making all sectors gender responsive has not been entirely satisfactory. What I think very essential is, a more clear idea even among people like me who claim to be gender sensitive, on what are the needs of women in the different sectors of the economy. And how a particular proposal would impact on women? Such an exercise would ensure better results from the expenditures.**

*Questions and Suggestions*

**Albertina (Goa)** - Before the government passes a budget there is an economic survey. Is the Planning Board involved in doing the survey? And what can be done to integrate a component about certain date on violence in the DV Act for the budget?

**Janavi Tiwari- Disha (Uttarakhand)** – My question is directed to Mohini Giri. We want that the Women's Commission should have women members who are more sensitive to women's issues. We have the law

but those who are responsible for implementation of the law are not serious. We, from the grassroots, feel lost when the response of the Commission is not very positive. So the question is what are the steps to be taken to make the commission more responsive to the needs of the women so that, it works more effectively?

**Response from Mohini Giri-** I had made it clear that if we have to make the NCW more powerful then, we have to place such women in the Commission who are gender sensitive. The issue of building linkage between the state and the centre, there is meeting with the all the state chief ministers and also we have meetings with State Commissions on women. We discuss all issues related to women, status of women in the state, issue of trafficking and other problems. It depends on the power available to the chairperson to implement the recommendation emerging from these meetings. That is why the selection of the chairperson should be done very carefully. And, we also have to make the Commission autonomous. There is need to bring certain uniformity in the functioning of State Women's Commission.

The National Women's Commission and the State Women's Commissions can work together in a peaceful combination by respecting each other's work. The women of the whole country have to be looked by the NCW and the Commission has to look into the specific problems of the state. Madhav Rao Scindia in Beijing conference made a promise of having a Commissioner for Human Rights and the commissioner would be linked up to the level of Panchayat. This would create a link between the centre and the Panchayat. The Panchayat plays an important role by immediately reporting of incidents taking place in their village and on the basis of the report received, the National and State Commission can act accordingly.

**Response from Eapen-** It is a very contentious issue. If you look at the Planning Board much of the plan outlay is externally aided project from the central government. The plan outlay of the state is a very small number. Then you have to ask for much more and one of the ways of doing is through ACA- Additional Central Assistance where you can bargain for little more. The other way is to suggest for specific schemes and also suggest for new programmes in the social sector. The Planning Board prepares the economic survey. The plan documents also give a write up, for instance, on gender in which we deal with major issues in which violence is one. There is a link between economic review, budget and plan outlay.

**Kamla Bhasin-** There was a comment made; protection is alright but what about prevention? The only way of preventing domestic violence is to challenge the present neoliberal, imperialist economic policy which is really harming women and reducing their powers and are disempowering them. It is required to look at things in a holistic manner. We can only fight domestic violence while working to implement the Act, strengthen our struggle against the neoliberal paradigm, strengthen our struggle for democratization and there is the demand for democracy from our home to the international level. As feminists, we also believe that there is a direct link between religious fundamentalism, violence and domestic violence and since here in this group we are from different movements, it is important to look at our struggle holistically.

**Geetha Devi (Bangalore)**- Ms Eapen has said that after the approach paper is done and priorities examined the budget is allotted. What is the impact of the schemes on women? How many women are able to access them? How is the State Commission working? Where are the loopholes? Are we doing any kind of review? What are the reviews done for the next budget? Further many a time the budget allocated is not utilized properly.

**Asha (Jodhpur)** – The ICDS and Mahilla Vikas are separate programmes and have a good impact. In every state, we have to make the women's commission as an autonomous body. Secondly, there is need also to have an advisory committee with the State Women's Commission having members from grassroots level. The government has enough money from foreign lenders but is reluctant to spend on the social sector. Short stay homes have been made but governed by the government, if these are maintained by NGO it will have different results. The XI plan should be addressed specifically to domestic violence. This recommendation should go from here for formation of a cell having financial autonomy for granting funds and managing schemes.

**Response from Eapen**- The thinking has been so similar to what we have been going through. We have been thinking on similar lines and for each of the flagship there is a monitoring committee and the schemes will be effective from 2007-08, the first year of the five year plan.

The second thing was the dissemination of information on available resources. This is something that we need to think about. How to publicize information of the schemes as part of strengthening our resources? We are thinking of setting a Gender Resource Centre taking into account the work of different departments. Kudumshri is one of the largest women oriented programme in Kerala that can take on certain responsibility and then an NGO like Sakhi can take on responsibility of training and monitoring. We are thinking in the five years of doing social audits, because just increasing number is not working, allocating certain amount is not enough, we have to monitor what is that amount achieving change in women's life. We are now more interested in understanding the institutional barriers and structures available with us that can be utilized.

### *Summing Up*

I would close the session with points and relate the discussions to domestic violence:

- It is strongly clear from all the presentation that there is a danger of discussion on the Act being confined to the usual suspects –Law Ministry, Department of Women and Child Development, NWC, NGOs. We need to keep underlining that the entire government bears the responsibility for the implementation of the Act and we need to build a strategy to make them do that and definitely, planning is one of those strategies.
- It is not only a matter of schemes within a budget it is also a matter of establishment costs, infrastructure cost within the budget of various ministries for setting up the infrastructure for implementing this Act. We had discussions on the judiciary. Impact assessment which is being done in terms of the new magistrates that have to be appointed, new court rooms that have to be set up, new shelters, new establishments and institutions and we have to think of ways of finding money for that.



## PLENARY 5 - WORKING WITH THE DWDVA: NEW INITIATIVES

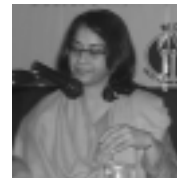
### Introduction by Geetha Devi



This is the last session for today. Since morning we have been talking about the working of the Domestic Violence Act. There is lot of panic, apprehension and critique that we are hearing against the DV Act. This is just a baby giving problem, give it time and we will be able to fight back all the criticism. It happens with any law, say it is land reform, there is lot of opposition and lot of obstacles but I am sure we will be able to overcome them.

### Presentation by Anuradha Kapoor

The network that I am going to talk on is not limited to the Act but does work on the issues of domestic violence. It is a collection of organization from different part of the country working on domestic violence.



SWAYAM has been working on domestic violence for the last 11 years. Different organizations have been working in isolation and there are no discussions on the different strategies used by these organizations. That is why the need for the formation of the network was felt necessary. The cases of domestic violence received from different parts of the country can be taken up by the network. Secondly, every one dealing with domestic violence deals with these common problems, say a woman who stays in Gujarat but gets married in West Bengal and if she faces a problem then it is required that the case is followed in both the states. Therefore the need for building linkages between organizations in different parts of the country so that victims get maximum help and support. Thirdly, we can work together on the implementation of the Act then we can impact changes at the policy level. There is need for creating awareness and changing attitudes and mindset to make the Act successful. Networking is required not only at the national level but also at the international level. Many Indian women get married to NRIs and shift to foreign countries where they are subject to domestic violence. It also happens that many a time the man leaves behind his wife in India and divorces her. The women have no way left out. So we felt that networking with organizations working with domestic violence even at the international level was necessary.

In December, we had a meeting in which called organizations with whose works we were familiar with and formed a network named *AMAN –global voices for peace in the home*. There are 18 organizations in our network. There are organizations from Delhi, West Bengal, Kerala, Maharashtra, Assam, Nagaland, Uttar Pradesh and Rajasthan. Countries represented so far: USA, India. The name of the member organizations are –Jagori, Vishaka, Swati, Majlis, Sehad, Humsafar Centre for Women, Tamil Nadu Women's Collective, Human Rights Law Network. The network is non-funded and no money is charged for membership. At present the secretariat is with SWAYAM but it is revolving and every year it can change and charge taken up by another organization.

### AMAN'S strategy

- To build alliances and share resources at the regional, national and international levels to address domestic violence

- To help increase choices and resources for survivors of domestic violence
- To build public support against domestic violence
- Advocacy at the national and international levels to address Domestic Violence and related issues

### AMAN'S Activities

- To maintain a list of organizations dealing with domestic violence so that when we get a case of domestic violence we can refer it to the concerned NGO in that state that can be of total help to the victim. To act as a referral body both at the national and international level
- To share strategies used by different organizations in handling cases of domestic violence so that we can learn from each other's experiences. It can be done through case studies. For example, Kavita told us that they have handled many cases of domestic violence in Rajasthan but in West Bengal cases of domestic violence were not being registered. So we talked to the lawyers in Rajasthan, how they were doing it? And on that basis we briefed the lawyers in West Bengal? After that they started taking up cases of domestic violence. Thus to evolve a system of exchange where we can share information.
- To develop a common understanding of values and principles for working. Also to resolve the difference of perception and attitude between the counselor and the victim to arrive at a common understanding of the problem being faced.
- Capacity building of member organization in different areas legal understanding, legal aid and other innovative areas of working with women.
- To raise a voice against domestic violence, to change mindsets and attitudes to bring change in patriarchal society. This requires a strong campaign by all the organizations and women's groups.
- To develop strategy for linking up with the National Secretariat formed for the implementation of the PWDV Act. This is required to develop national level policy for making the law successful.
- To have international level advocacy for NRI women. The laws of foreign countries do not apply to India and Indian jurisdiction do not extend to foreign countries. So what is required is for two governments to formulate policies/laws that are applicable in such cases.

It would be great if women's groups and organizations present here become members of the network. We invite those organisations who are working on Domestic Violence to become members of the network. Please write to SWAYAM for details at: [swayam@cal.vsnl.net.in](mailto:swayam@cal.vsnl.net.in)

### Presentation by Bonani Dhar



I will present here the Solution Exchange which is a knowledge management initiative of the United Nations team in India. We have ten communities of practice based on the millennium development goals and on the basis of government priorities. The ten communities are: Gender Community, Food and Security Community, Water and Environment Community, Decentralization, Poverty and the like.

The Gender Community of the Solution Exchange is an e-community of developmental practitioners, those who are government officials, academicians from universities, NGOs, civil societies, lawyers, doctors and others. It is a vibrant community of 1500 members and we raise burning issues pertaining to empowerment of women.

At Solution Exchange we discuss various issues and also come up with solutions. On this e-community we also had a Gender Visioning Workshop that is meeting face to face with the community members. This was held on 30th November and 1st December 2006 at the platform, we met 200 members that gave a human face to the community. There were presentations and group discussions after which the group suggested some recommendations. It went to e-discussion where members responded overwhelmingly and about 75 responses have come in from the community.

### **E-Discussion Objectives**

- To get a collaborative effort
- Wider Perspectives
- Knowledge Base of the Community Members
- Commitment from the Members to prepare a strategy
- A campaign to be taken forward by States and commitment from the Secretariat

### **Gender Visioning Workshop Finding**

- Resource Delivery mechanism
- Networking, Advocacy and Lobbying
- Training, Awareness and Education

#### **1. Resource Delivery Mechanism**

**Institutional Model-** The members have stated examples of SAYOGINI and Helpline of the DCW, SHG in Andhra Pradesh where the president gets an ID and gets recognized by the police and also which helps to give the victim shelter. The members also shared the SUTRA model where 100 Mahila Mandal and Legal Nari Sanghathan where capacity building is taking place and the best part is the legal awareness camp in the rural areas to tell the woman what the Act is all about.

**Protection Officers-** The members said that there has to be a Protection Officer appointed, preferably a woman and they should be fully oriented about the Act, know every chapter of the Act and should know what to do when and should be gender sensitized as well.

**Magistrates-** Adequate number of magistrates required and women magistrates with full orientation and sensitivity toward gender justice.

**Budget Allocation-** An area specific-need analysis with various stakeholders including Ministry of Women & Child Development, Ministry of Social Justice, Dept. of Health, Police, Law to pool in resources.

**Shelter Homes and Service Providers** to be notified. The standard of hygiene of the shelter homes should be such that women want to live there. There should be a holistic approach, the shelter home should be a point where she gets all help –medical treatment, counselling and help of a lawyer. And the shelter homes should be carried out by women's groups like Mahila Samakhya in Andhra Pradesh.

### **Networking, Lobbying & Advocacy**

- Media Advocacy
- Planning, Implementation, Budget & Monitoring
- Negative communication to be avoided
- Community Radio can be highly effective
- Public Private Partnership
- Network with rights based groups in all segments– women farmers, SHGs, milk federations, village level workers, Mission Shakti

### **Training, Awareness & Education**

- Experience of Rural Litigation & Orientation to Women's groups have been found successful
- Capacity Building of existing Human Resources–PRI, ANM, School Teachers, etc.
- Training of Protection Officers, Police & Judiciary
- Shaping up children's mind in imbibing gender equality

### **Key Recommendations**

- Introduce Basic Information Kit
- IEC Campaign for Behavioral Change Communication
- Women's helpline
- Launch Website–Ministry of Women and Child Development and UNIFEM
- Appoint Women Judges
- All Government Hospitals, and Health Centers to be notified
- SUTRA Model–Sensitize Traditional System of Nyaya Panchayat, Caste Panchayat
- Establish one stop Crisis Intervention Cell
- Contact Women Farmers
- State Budget to indicate fund availability

### ***Questions and Suggestion***

**Albertina (Goa)-** Ms Bonani talked about identifying the worst affected districts and I am not very comfortable with it because we have complicated forms of domestic violence and what indicators are we going to use to measure them? The definition of law has been expanded in the law and it will take sometime. I am very uncomfortable with comparison between states. The other thing is that I am not very familiar with the concept of caste panchayat. I can understand the role of panchayat but don't understand the basis of caste panchayat, if it is based on notion of caste then how can we work with something that is from its base problematic?

This exchange is good for new information but the question is with so much of information and suggestions generated what are we going to do? How are we going to utilize this and what are the plan of actions for this?

**Response from Bonani Dhar-** What I presented here is the thought of the members. I am here on behalf

of the members. Domestic violence cuts across caste, class and creeds, it happens within the four walls, and even at times outside but people do not come. So the question of worst affected districts doesn't come up but it was members' perceptions that I put in front of you. Caste panchayat is a traditional method of delivering justice and again based on the members' perceptions.

The information generated through e-discussions is disseminated to all members, add value and give it back to the members for utilizing the information in their own cases. The discussion generated is being value added and does not end here, we are taking the main points generated here and going for a workshop. The next stage of action is to form a core group in each state that will take the action forward. We have to do justice to all information that we have received. The workshop will take a form of concrete strategic planning.

Many of the members are already here and anyone who wants to become member can write to me or Sarika at [bonanidhar@un.org](mailto:bonanidhar@un.org), [sarika@un.org](mailto:sarika@un.org). You can be signed in as members and then can see all that is happening. We have given it a logo- synergizing knowledge with action that is whatever knowledge is generated is synergized into action.

### *Summing Up*

There are discussions on the new technological ways of sharing of information. There is also talk on formation of the websites where information will be posted explaining in detail the procedures to be followed, at what level what services to avail and other details. To address the problem facing the implementation we should form a team of committed people who listen to these queries across the nation. Need to build support system for the lawyers and magistrates. There is lot to be done to make the law successful.



# ECONOMICS OF THE ACT

- Gender budgeting is important because the claim of doing gender budgeting is a hoax. In the name of gender budgeting many other activities are going on.
- The expenditure on social marketing of contraceptives, including the sale of condoms, the ICDS program which is for children in which around 400 crore was spent, was put in the gender component. This is a patriarchal understanding that children mean gender component.
- When we talk of budget and finance in the conference, we have to talk on gender component because the entire concept of gender budgeting have been made to turn on its heels. In my understanding the meaning of gender component would be that all the backup for implementing the domestic violence law like short stay homes and other infrastructure that can be made easily available to women in distress. In terms of policy and strategy we have to include gender budgeting in the agenda.

**Brinda Karat**

- In the 11th Plan we are thinking for budget allocation specifically for implementation of the law. We are thinking seriously on formulation of schemes for domestic violence with the concerned ministries.
- For the 11th Plan we have made working groups and women's working group have been taken ahead by the WCD. The suggestions of the 'working group' committee on empowerment of women:
  - Formation Legal Aid Cells at panchayati level
  - Training and monitoring of Protection Officers
  - Linkages with State women Commission for support to victims of violence
  - No fees to be charged for filing case under PWDVA
  - Streamlining cases under Dowry Prohibition and DV Act
- These suggestions will be incorporated when we start writing the chapter. So we actually commit to ourselves for allocating funds for the implementation of the Act.

**Syeda Hameed**



Two major issues in influencing allocations for gender issues that arise are:

- Necessary to have a team of Members who are gender sensitive which was not an issue in this case. All of us agree that despite near total literacy in the state, little effort has been made to direct literacy towards building up a gender sensitive social environment challenging the survival of feudal-patriarchal attitudes and institutions which perpetuate violence against women in the state.
- When one is looking at the total plan and the paucity of resources given the needs, the class issue looms up larger than the gender issue; should Rs 5 crores be set apart for setting up the machinery for creating gender awareness/sensitization and providing remedial measures for the victims or can we use it to meet housing needs of the poor houseless/landless. Especially when one estimates costs for small ad films which would have considerable impact through the television etc?

**Mridul Eapen**

Regarding budgetary allocation, there is no dearth of money in this country. In the coming budget the expenditure under defence is going to be increased. We can demand money from the huge share for defence. The other area from which we can get money is the NPA (Non Performing Assets) that includes loan taken by large scale industry from our government and the bank and havenot been able to return. And almost two lakh crore rupees are with NPA. Women's groups can put pressure on the government that these investors and industrialist who are doing fraud with the government be forced to repay the loan taken. If this is done there will be enough money for all the schemes and financial hurdle in the implementation of the Act will be solved.

**Srilata Swaminathan**

The only way of preventing domestic violence is to challenge the present neoliberal, imperialist economic policy which are really harming women and reducing their powers and are disempowering them. It is required to look at things in a holistic manner. We can only fight domestic violence while working implementing the Act, strength our struggle against the neoliberal paradigm, strengthen our struggle for democratization and there is the demand for democracy from our home to the international level. As feminists we also believe that there is a direct link between religious fundamentalism, violence and domestic violence and since here in this group we are from different movement, it is important to look at our struggle holistically.

**Kamla Bhasin**

**20th Feb 2007**

**PLENARY 6:  
STATES REPORTING ON  
PWDVA**

**PLENARY 7:  
STATES REPORTING ON  
PWDVA**

**PLENARY 8:  
STATES REPORTING ON  
PWDVA**

**PLENARY 9:  
STATES REPORTING ON  
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## PLENARY 6 - STATES REPORTING ON PWDVA - 1

### Chair Sreekala



### Presentation by Sampreeti Barman (Assam)

I will present the recommendation made by the Assam State Women Commission –how to implement and enforce the Act. The recommendations made are:

- To publicize the list of Service Providers which has not been done. The Service Providers must have legal status and the commission should take initiative to display the list of all Service Providers.
- Demand for separate budget allocation for the implementation of the Act. The government should club the Act with the Dowry Act. The planning commission should make a provision for financial planning at each level.
- Training of Service Providers, judiciary, magistrates and police in the procedures for implementing the Act, gender sensitization and counseling of the victim's family and relatives.
- Centre for trauma counselling should be established with professional counsellors. There is not a single trauma counseling centre in the state of Assam. This must be ensured by the state government.
- The number of shelter homes should be increased.
- The victims of domestic violence needs protective environment along with rehabilitation to empower her to stand on her own. This portion has been overlooked by the Act, only the word relief has been used repeatedly.
- Women need economic empowerment to bring an end to their suffering. The data on the support structure under the Act is yet not prepared. Evaluation of various cases under the Act is very rare. A systematic and data based scientific analysis of the cases is required. This is felt by all the concerned organizations.
- The need for the formulation of Core Group which will be responsible for all issues under this Act. The core group will help, evaluate and monitor state level database and dissemination for support system.
- Training module for gender sensitization and legal awareness campaign should be prepared by qualified persons.
- Awareness generation regarding the provision and implication of the Act is must for functioning of the Act. Awareness campaign of the Act has to be done.
- Media has given the initial coverage of the passing and notification of the Act. Media is the only medium for greeting news of various crimes committed against women in various parts of Assam. Media's role is important in spreading awareness of the Act and its impact.
- Cases under the PWDVA should be finished within the stipulated time frame as mentioned ion the Act.
- Monitoring system and transparency of the judiciary must be maintained by the concerned authority.

The state has declared district Social Welfare Officers as Protection Officers, this was done by government order in November 2006 but they are overburdened with other work. I don't think it will be sufficient for them to work as POs because there are only 27 district officers and there are lot of cases. In the Women's Commission more than 300 cases are pending and in the last 8-9 months 150 more cases were registered. With so many cases the district officers are not adequately equipped nor are they trained.

Armed with the PWDVA we are moving towards a more civilized and homogenized society rather than a barbaric society. But the scene in Assam is horrific and within four months, 11 women have been murdered by their own spouses. No translation of CEDAW has been done in Assamese language. I want to emphasize on one more thing; the plight of Muslim women in Assam. Nobody is talking about them but more Muslim women are suffering than the other women, their situation is different because their issues are related to fatwas, maulvis and other religious matters. It requires to be considered. There are many cases pending in the Assam State Commission for Women with regard to human right violation of Muslim women by their religious and personal laws. There is a case where the woman was raped by her father-in-law and abandoned by her in-laws family but nothing has been done to give her justice. For more than one year she has been suffering. Her parental family has given her shelter. Many other cases are there where Muslim women suffer. After Sacchar committee law on the plight of Muslim women in India the government should reform the Muslim personal laws with a humanistic approach and plan and frame policies to account for the loss of livelihood due to impact of globalization, privatization and rapid growth of corporate world. More emphasis should be paid on the education of the girl child. All these are important for the implementation of the Act.

### **Presentation by Seno Tsuhah (Nagaland)**

Some two weeks back when I got the concept note for the conference I thought I can finish in less than 30 seconds as nothing has been done in Nagaland. But I am happy that lot of things have been done in other states and I am happy to be part of the conference.

Protection Officers have not been appointed so far but it is under process that the Administrative Officers at the block level will be appointed. This is yet to be notified and announced. It is still in the process.

The nodal agency for the state has been identified as the Women Development Department. The department has been recently separated from the Social Welfare Department. It was a branch under the Social Welfare Department till 2003.

The other provisions regarding the support services are in a pathetic condition and there is nothing that we can talk about where they are given shelter or medical facilities. **The PWDVA is just lying in the office of the Secretary of the Ministry of Social Welfare.** When I tried making inquiry in seeking information on behalf of the state, I learnt that **everything is under process.**

We have sent our recommendations for the immediate appointment of POs with intense orientation and training and sensitization programmes for different stakeholders. Legal awareness campaigns and strengthening the support systems, building networks are some of the actions that require urgent attention. People who are already on the move should work together supporting each other. There is need for social analysis whether it should be done by stakeholders or not. In Nagaland, there is no acceptance that there is any discrimination against women or unequal treatment given. For many years it has been denied in Nagaland that there is any discrimination against women and a strong assumption that women are equal to men. It is only in January of this year that the State Women's Commission has been set up. That itself shows that to pull up the issue of domestic violence is very difficult. I would like to conclude by saying that nothing is being done yet something is in the pipeline. Let us all join hands together and support each other to make the world a free world from domestic violence, from any kind of violence.

### **Presentation by Darilyn Syiem (Meghalaya)**

The state of Meghalaya is 35 years old and has its capital in Shillong. The State Commission For Women was set up in May 2005. The introduction of the PWDVA has had very little reaction from the public and the state government and till date there has been no registered case under domestic violence from local people. The only case registered was from a woman from Nagpur. However this does not mean that there is no violence in the state and that women are free from violence in the home or in the public sphere. We have been working on the issue of domestic violence for the last 10 years. There is domestic violence in the state of Meghalaya and I am a survivor. Regarding the implementation of the Act, I would say that there has been no **collective action from women's groups**. However, from our North East Network we have been talking with the State Women's Commission and with the Social Welfare Department for the need to implement the Act at the earliest. So far there has been one awareness programme on the Act by the Women Commission. The Act has been also translated into the local language. The Awareness programme included participants such as community leaders, religious leaders and women's group. The Women's Commission has also done a awareness programme for the police and as a result of this 100 women police have been inducted in the state police. There are 5 Women's Complaint Cells that has been set up in Shillong. There has been no state level meeting organized by NGOs or the government. The nodal agency has been identified and that is the Social Welfare Department. This is not surprising because anything to do with women's issues has always been done under the Social Welfare Department and the department, when we visited, said that they have regulated and ordered that the District Social Welfare Officer be appointed as Protection Officers but this is still in the process. These officers have the responsibility of identifying and recommending the name of one NGO from each district to work as Service Providers, and the name of two presidents or secretaries from NGOs as members of the district level committee.

There is no budget allocation for the implementation of the Act. The State Women's Commission and the Social Welfare Department are working in two different directions. In terms of infrastructure for abused women, there are no shelter homes, no short stay homes at all. From the North East Network we have brought a resource directory of support services in the state. There is a list of them but they are existing and not functioning. In fact, the only shelter home in the state is in Shillong is now a run down

place. The only short stay home is the one run by the YWCA but that is not government one. But this also has a problem as they do not allow the women to take their children with them. There is no family counselling centre except for the Christian organization that runs counselling for drug addicts and alcoholics.

There has been an alarming increase in crimes against women in the last five years, but women do not report them and women do not speak out. The culture of silence is very strong in the state and they call this family violence and leave it to be dealt in within the family. There is no core group and the media asks for evidence to prove that domestic violence is taking place. When they ask for statistics on how many cases have been registered in the police station then we are helpless and can't prove that violence is taking place. But after the introduction of the Act the media has become more open to creating awareness. The Doordarshan has allowed us to sponsor a broadcast on domestic violence. CEDAW has not been translated into the regional language and there is no political will to know about CEDAW in the government.

### **Presentation by Sutting (Meghalaya)**

I come from the state of Meghalaya, where the indinegeous community practice matriarchy. The Sub-Committee of Domestic violence works hand in hand with North East Network for sensitization on violence against women. The important first step is sensitization of concerned groups that includes government officials, members of NGOs, women's groups and the masses to bring greater awareness. The following have suggested :

- A body to be constituted that encompasses everyone right from the Protection Officer to the grassroot level, which work with a view of concerted effort, responsibility and accountability.
- The state level bodies organize more awareness programme on the issues.
- To evolve state level strategies to work in tandem with community leadership, ensuring the leadership sees that cases of violence against women are handled properly.
- Some members at the community level should be appointed as POs

Let us pledge to work with commitment to end all forms of violence.

### ***Questions and Suggestions***

**Geetha Devi (Karnataka)-** You have identified various steps to be taken in the state towards implementation of the Act. What is the role of the Women's Commission? Has the commission taken any action?

**Ashish Dey (Assam)-** I belong to that part of Assam that is badly affected by domestic violence. It is a system of the area and I have a large number of cases. Yesterday I came to know that POs have been appointed. But in a hearing on 6.10.2006, the first two cases of domestic violence were filed on 28.10.06 and the judicial magistrate asked me to supply a copy of the Act, I obliged and supplied the copy but the judge told me that there is no Protection Officer, no Service Provider in the district. Then how can I pass the order? The state is not working at all in regards to the implementation of the Act. FIRs are being



refused to be filed. The police are apathetic and do not want to recognize domestic violence. This is the state of affairs in the state. The state believes that domestic violence is a problem of the outsiders and not the ethnic community and therefore they are not taking any steps.

**Response–** The State Commissions are recommending bodies and cannot pass any judgments. This is the main hindrance for Women’s Commission. We take cases, counsel them and also forward them to the courts but we cannot pass any judgement. In a national workshop of the Women’s Commission held in Shillong, it was recommended that the Commission have more powers to investigate the cases, summon the offenders and attest their properties. That will also not finish our problem because we do not have the power of judgement. There are lots of cases but we can’t do anything and we are helpless as we are just a recommending body.

**Soma Parthasarthy-** Are women involved in the decision making, and how are those spaces being used to influence the environment on violence against women? Because that would be different from tribal areas where women are not involved in decision making.

**Mridul Eapen-** Does it make any difference to women in terms of decision making and other autonomy measures we have under the matrilineal system?

**Response from Sutting-** Regarding the position of women in Meghalaya, they have no power of decision making in our community. In the community meeting of the Dorba, they are invited and take part but not in terms of taking decision for policy making. Men are the ones involved in the decision making and they are members of the executive body. In the matrilineal system women have right to property and children but when it comes to how children should be educated and major decisions then it is largely decided by the uncle of the clan or the family. That is a tradition but since many families are living in nuclear families, decision making is joint if it concerns family but if it concerns community it is done by the men. I make a suggestion that the State Women’s Commission should be given more powers to take initiative to reform the community practices that discriminated.

### *Summing Up*

North Eastern states have some specific issues because of their customary practices. It will be interesting to see how the Act will be used in the matrilineal system because lot of women stay in their maternal home and there is violence in these homes also. These issues are just not related to the North East but are related to larger issues and require more debates. I will sum up the major issues that came up in this session:

- There are no mechanisms put in place to start using the law
- Support services are lacking and there is no budget allocation
- There is urgent need for training and awareness of POs, police and the judiciary
- The culture of silence and denial is one of the major problems that need to be handled in a holistic way
- The experiences of other states need to be built and networked

## PLENARY 7 - STATES REPORTING ON PWDVA - 2

### Introduction by Soma K. Parthasarthy



I am very happy that more and more friends are getting involved and we are going to have a full house. We have a large territory to cover in this session. I welcome the entire panel and let us start looking at what has been going in the various states and what is the action agenda ahead.

### Presentation by Poonam Kathuria (Gujarat)

Many states have already made their presentations and recommendations have already come in. And Mr. Sarvarkar has already told us what is going on in the state of Gujarat. I will be brief and speak on action taken in Gujarat. We had a major advocacy strategy to include more and more women in the campaign. This is so because **many of us work on women and development but somehow miss out violence against women.**



And secondly **working on gender issues nowadays means SHGs which is problematic.** We have had meetings for discussing the rules and regulations of the Act. We have a Gender Resource Centre in Gujarat. The Resource Centre along with Gujarat Women's Commission and Kutch Saurashtra Network organized a workshop on the implementation of PWDVA (2005). It was attended by judiciary and law department officials, social department officers and NGOs. We made a base to include more and more groups. Once the rules were in place, we had a meeting with Secretary of the Women's Commission. We felt that the State Government has already decided what their plan of action is going to be and are already in consultation with the NGOs, we should just get the women's groups to ratify their decisions. **There is an attitude of minimal compliance so that the centre does not blame them.** There is administrative will at the Centre but the State Government is not convinced. They feel that women's groups have created a useless issue. The Act says that there is need for one Protection Officer for each district but from our experience we find it is inadequate. We are saying we need one PO in every block but the government is not ready for it yet. So we put in the demand that in **every judicial magistrate area must have one PO.** Advocacy is also getting minimalist and it is going into the negotiation mode. But there is still an unequal power relationship between the negotiating parties. Governments are saying there is lack of resources and we are also coming out with what is needed. We need to keep sight of the requirements and then negotiate with the government.

The other point is that **no NGO should become a PO.** The governments are saying that they will give the role to the NGOs. NGOs should only perform the role of a watchdog. You must remember that there is one year imprisonment and a fine of Rs 20,000 if the PO does not comply with its duties. It is a role where they have to interact with the judiciary. It requires a different kind of skills, it is not just providing legal aid and counseling. Rather, it involves dealing with women who are victims of violence and extending protection to them. This requires a certain kind of power and legitimacy that flows only from the State Government. Either the states provide the required sets of skills or make fresh appointments.

The state governments are doing showcase policing. They are showcasing equity and equality; right to information and domestic violence Act but getting away with murder. On the ground, there is total non-compliance of these policies. There is need for constantly keeping sight of these policies and not being happy with them. We need to build linkages between domestic violence and other violence as domestic violence is the root cause of all other forms of violence be it communal violence, non-preference for girl child , opposition for inter-caste marriage and so on.

### Presentation by Alok Mitra (West Bengal)



In December 2006, we had a very good meeting on Protection of Women from Domestic Violence Act 2005 in Kolkata. Action India facilitated the meeting and we had participation of the Chairman of SALSA, the Chairperson of the State Women's Commission, the Chairperson of WB Women's Development Undertaking, and director of Social Welfare, the head of Dept of Women's Studies Calcutta University, the police, and NGOs. It was a two day interaction and included participants from Orissa and Jharkhand who were vocal and very clear. Many suggestions came up from the group which included suggestions on POs, Service Providers, training and enhancement of shelter homes, specific budget, functional courts, and NGOs' role and so on. We subsequently took up discussion with various government officials who could influence the implementation of the Act. We interacted with different officials: **Director of Social Justice & Empowerment, Chairman & Secretary of SALSA, DALSA, Chairperson State Women's Commission, Director Public Prosecution, District Social Welfare Officers** who have been appointed officially as POs in different districts. The outcome of the meeting was that the officials **said that they are open to dialogue and keen to implement the Act effectively**. But the main constraint is the **lack of a separate budget allocation** till date, for implementation. There is yet no serious discussion on this.

**Protection Officers: As per order dated 10th Nov, 2006 issued by Jt. Secretary, Dept of Child Development and Social Welfare, the existing District Social Welfare Officers have been appointed Protection Officers for the district.**

To illustrate the enormity of the task with the DSWO, now being designated PO:

- 24 Paraganas (N) District- Population of 1 crore with 20 lakh families 5 courts
- Overburdened with current duties, no time/budget for huge PO task
- Feedback from DSWO that
  - At least one officer is necessary for 1 court or one PO for population of 4-5 lakhs based on zones in districts
  - Smaller populations in hilly and riverine areas to be under one PO
  - Skills to identify economic and psychological torture, adequate time training necessary for this
  - Adequate infrastructure and provisions

### Nodal Agency

- The body responsible to be nodal agency is yet to be decided.
- Suggestion from the state level workshop to **designate the State Women's Commission** .

### Service Providers

- No further action from the state agency **as yet to register NGOs who run short stay homes and SWADHAR schemes as Service Providers.**
- NGOs willing and actively networking amongst themselves and with Govt Depts. at district, block, community level.

### Core Group

- Yet to be formed as per suggestions from the Workshop.

We found out the exact number of cases registered and pending to find out the volume of work carried out till now. This will help to plan our future action. We find that cases are increasing year by year. These are free legal cases and Lok Adalat cases. The following are the figures:

### Lok Adalat Cases

- **No. of cases coming to Lok Adalat are steadily increasing.**
- As many as **14,292 cases have been disposed off through 2,884 Lok Adalats in 2006.**
- Maximum number of cases handled are related to bank loans and matrimonial disputes.
- **Cases registered under Section 498 A January to July 2006– 3317**
- **Arrests made- 6135 persons**

There is a huge task before us and we are only at the tip of the iceberg.

### Infrastructure Available

- **34 Short stay homes as per Govt. approved list. 6 more homes pending approval.**
- JJ Act Homes- NGO run – 21, Govt homes -21
- SWADHAR homes-11
- Family Counseling centres- 44
- Women's Helplines - 6
- No evaluation has been done of these homes of late. Assessment of quality of care in these homes is necessary.
- Training of care providers very essential to improve services.
- Linkage with Help Lines necessary

### Training and Sensitization

- Bengali Translation of the Act has been made and needs to be further refined, printed and disseminated widely.
- Manuals, Modules & IEC materials for sensitization and training to implement the Act need to be developed effectively.
- Training of various stakeholders such as judiciary, advocates, ICDS functionaries, NGOs and POs is very important to ensure implementation.

## Role of Media

A press conference held in partnership with SWAYAM, JWP, and WIF was well covered. However, **the press was not very familiar with the provisions of the Act.** Sensitization workshops need to be conducted in order to ensure appropriate coverage.

## Budget

The government functionary themselves have said that every thing is in short supply and we need much more in order to operationalise the Act and provide justice to women in distress.

## Presentation by G. Sucharita (Andhra Pradesh)



Andhra Pradesh has been active in the campaign for the PWDV Act. NGOs, activists and other groups have been involved in several campaigns for the Act. After the Bill was enacted, **A.P had two state level meetings and one Zonal Meeting** in collaboration with Action India. The initiatives taken in the state are:

- Developed an Information Kit on the Act and disseminated widely to NGOs, police, WCD officials, lawyers and media people. The kit is being used in trainings and workshops also
- Organized a couple of press meets to share our concerns and recommendations for effective implementation of the Act Some of the groups in collaboration with legal services authority, giving trainings on the Act at various levels
- We have been in continuous interaction with WCD officials at state and district level – sharing field experiences
- Met central and state ministers of WCD and submitted recommendations
- Regular interaction with POs at district level
- Regular interaction with police at district and state level on implementation part of the Act

**Recommendations given for Effective Implementation of PWDV Act 2005 in A.P is:**

### Protection Officers

- One PO at mandal level. A.P has 1098 mandals and 180 municipalities, a total of 1278 POs are required.
- Every PO should have an office and assistance, a proper set up to function efficiently
- The POs need to impart rigorous training on various women's issues, on gender sensitization and on effective implementation of the act before they are sent to deputation/posted

### Magistrates

- At present huge number of civil and criminal cases are pending with the court and we **do not have sufficient number of courts and magistrates to give quick justice.**
- More number of courts and magistrates, preferably women to ideally address the problem and give immediate relief to women who take the help of this Act.

### **Budget Allocation from State Govt.**

- A detailed budget was worked out in setting up a PO office including salary which came around Rs. 5,00,000 per each PO office, including an initial infrastructure amount of Rs. one lakh. For the entire state it comes up to **64 crore rupees for 1278 PO offices.** The group felt this is not really a big amount for the state govt. to allocate for protecting women from violence in the state.

### **Shelter Homes**

- **All the government and non-government run shelter homes are to be notified of the PWDVA.**
- **The existing number of shelter homes may not be sufficient, the govt. should establish new should homes according to the need.**
- Before notification, ensure that each shelter home has proper facilities to address the needs of women, gender sensitive personnel in the home, and safe and secure environment for the women.

### **Training Judiciary**

- **Coordinate with Legal Services Authority and Judicial Services Authority to incorporate the issue in their regular ongoing trainings and exclusive need based training to police and judiciary**

### **Service Providers**

Specific criteria for service provider

- For counselling, the organization must be gender sensitive and have experience working on women's issues
- For medical services all govt. health points like PHCs, CHCs, area hospitals, mandal and district hospitals have to be notified
- Apart from these, wherever govt. services are not available or not proper private health services, clinics and hospitals have to be notified as service providers

### **Awareness**

- Mainstream dissemination strategies with various govt. depts. – information and broadcasting, RTC, panchayats and municipalities, advertisements in all electronic media at prime time across all channels, in radio and print media

Some of the observations and concerns from field on implementation of the Act:

- The WCD of A.P. state has deputed Project Directors of WCD as POs. There are 23 POs in the state, one per district.
- Collaboration and role of police and public prosecutors/POs is not clear.
- Dissemination of correct information (should not become a mere counseling centre) is not done
- No monitoring mechanism to ensure that women get justice
- Apart from one day workshop POs are not given any intensive orientation/training on implementation of the Act, their role and responsibilities and on gender
- Till now magistrates have not been given any kind of orientation/ training/meeting/workshop about the Act



- Magistrates are not clear on the proceedings of DV cases
- There is not enough role clarity of POs, Police on implementation part of the Act
- Service Providers are given all the responsibilities – receiving cases, counselling, writing DIR, forwarding to PO and attending the case at Magistrates’ office, explaining the implications of the Act to all these etc, without any remuneration or recognition
- POs notified Service Providers in some districts, but did not in most others
- There is no resource allocation to Service Providers like travel, medical, shelter expenses of survivors etc
- The situation is similar in Hyderabad and as well as the other districts
- There is no specific time/day allotted to deal DV cases, even though it was requested
- A lot of women have come out after knowing about the civil nature of the Act and the immediate relief it should provide. However, in reality many cases were referred/booked under DV Act, but relief was not been given even after 60 days, no reconciliation process was done at PO level and the women were sent to NGOs
- NGOs are regularly called for meetings and seminars on the Act organized at the district level.
- Attending such meetings, seminars, dealing with entire DV cases have now become an added financial and personnel cost for NGOs, apart from their own programs
- Hyderabad district collector has allocated space in his office to deal with DV cases in the presence of the PO, one day in a week. The cases are dealt with at the PO office on other days of the week. It is working well as of now, but no one has been given summons.
- Only few cases have come to the level of magistrate. With one exception, cases have never been heard or summons sent.
- **TILL NOW NOT A SINGLE PROTECTION ORDER HAS BEEN GIVEN**
- The atmosphere in the courts is very uncomfortable for women – no sitting space, long waiting hours, lot of pending cases
- CID, WPC has developed an index for recording DV cases and circulated it in all PO offices and Police stations
- Legal Services Authority in their regular ongoing training programmes for paralegal workers, ANMs and other groups include the DV Act

### **WCD’s Future Plan**

- Soon MROs or DLOs too will be deputed as POs. The department is in the process of registering institutions as Service Providers.
- Training and orientation will be provided by WCD at all levels, including SPs, NGOs and individuals as well as government functionaries involved in the implementation of the PWDV Act 2005.
- The state level convention is the precursor to the effort to be followed by district and mandal level workshops. The dept. is also planning to network with other departments as well.
- The focus now is to create awareness and then build institutional mechanisms to address issues of Domestic Violence. And as the need generates funds, the mechanisms can be generated as and when required.
- **REQUEST IS MADE FOR A SPECIAL BUDGET FROM THE STATE GOVERNMENT’S CORE BUDGET IN THE FORTHCOMING BUDGET SESSION. We were asked to work out a budget.**

### For services in counseling

- Honorarium for counselling @ Rs. 500/- per case
- Travel to PO office/counselling place and DA @ Rs. 250 per visit (Worked out on average basis taking in to account all the districts and POs' office location)
- Stationery like register/file to record case information or copy of DIR if done apart from different formats which will be supplied by the WCD Dept. Approximately Rs. 500 per annum/year
- Communication/telephone to PO/office, victim, any other which may require case by case basis and in emergencies and follow-ups @ Rs. 250 per month

### For providing Shelter services

- According to the study and publication done by APWN there are :
  - 35 short stay homes.
  - 7 mahila paranganas.
  - 3 balasadans, 7 old age homes apart from govt. support homes.
- Accommodation @ Rs. 50/- per person per day
- Food expenses @ Rs. 50/- per day
- Miscellaneous expenses like soaps, comb, oil, surf, clothes if needed etc on an average of Rs. 20/- per person
- Medicines in case of emergency during the stay – actuals
- Travel for victim to reach shelter and back home – actuals

### Recommendations from participants from A.P, Tamil Nadu and Karnataka at Zonal meeting

- Every magistrate area must have a PO
- Not on deputation but by recruitment of full time POs
- POs must be gender sensitized
- Regular status report to be maintained by POs
- Clear guidelines for POs
- Monitoring committees at the PO level–  
State Legal Services Authority to be the nodal agency
- Support staff to be recruited for effective procedures
- Budget for PO to be incorporated in the forthcoming budget session
- Service Providers to be registered only after verification
- WD & C W should train and publicize on issues regarding PWDV Act 2005

### Presentation by Neelam Chaturvedi (Uttar Pradesh)



Till date **no POs have been appointed in Uttarkhand and Bundhelkhand district of Uttar Pradesh.** In many districts people are not even aware of the Act. Service Providers are only kept as POs in most places. **Four cases have been registered in Saharanpur, fifteen cases in Kanpur, few cases in Jhansi** on which routine investigation is being done. The entire system is in a state of apathy. The state government says they do have money and time. If an NGO takes up the case and comes to us with a complete file then we can file it in the concerned court. The print media in Uttar Pradesh took it up as a trivial matter and portrayed the

Act with cartoons and jokes. But later, after our efforts to build awareness they started to take it seriously. We had organized a parallel women's legal assembly in which we had discussion on the Bill, the rules and Act. Other NGOs have been involved in organizing workshops on the dissemination of the Act. **In the areas of Jhansi, Lucknow and Poorvanchal the average cases being registered on domestic violence is 15% of the total crimes recorded.**

Domestic violence has to be seen in relation to other social problems like unemployment and poverty because violence in the homes is due to several factors. The women were very excited on the passing of the Act but the negative attitude of the government made them depressed. But they still have the hope that the situation will certainly improve. I will narrate in brief what has been done in Uttar Pradesh.

- In three districts of Lucknow, Jhansi and Kanpur we have done wall writing in which we related domestic violence to alcoholism and social issues and raised awareness of the Act.
- PATH and Amity University organized a workshop on the Act which was very effective.
- In Kanpur there was a workshop in which people from 16-17 districts participated
- In Sharanpur, Vikalp has an organized meeting and street plays with state functionaries, youth groups SHGs and members of the judiciary
- In 7 colleges we have held Panchayats and organized road shows in Kanpur, Jhansi and Lucknow. We also organized street plays in 8 districts which received a lot of media coverage.

Seeing the functioning of POs, police, judiciary the people of UP have decided that we have to strategize the means to make them more effective. There is a recommendation for the formation of state level core group that will monitor these once every six months, advocate with judiciary and police, pressurize the government to change the mode of functioning and use the right to information on budget allocation for the implementation of the Act.

### *Questions and Suggestions*

**Jashodhara-** In the UP presentation more emphasis has been laid on the role played by the NGOs. There has been no mention on advocacy which we have been doing in UP. There Service Providers have been listed and all NGOs have been informed about this. But **no budget allocation has been done and I would say that we have done very little to pressurize the government to act. NGOs have had meetings to discuss and disseminate at their own level.**

**Manju Aggarwal-** UP has appointed NGOs for training of police and judiciary. Maybe other states can also take it up.

**Gouri Choudhury-** You have focused on the legal aid awareness and you mentioned Lok Adalats that act to speed up cases. Do you think that is the right forum to go for domestic violence cases?

**Response from Aloka Mitra-** It is not the right forum but what I was trying to focus was the high number of cases being registered under domestic violence. SALSA is supposed to reduce the list so they are using the Lok Adalats as a strategy to reach out to the community. We have to look out at a new strategy for outreach so as to reach more and more cases of domestic violence. The main problem is

outreach and I was trying to show the infrastructure is not adequate to meet the demands. Therefore, the strategy is to use legal services, Panchayats and other networks in reaching people. Lok Adalat is not the solution but only a strategy.

**Jyotsna Chatterji-** In West Bengal there are youth groups involved in political ideology training. Is it possible for us to look at these youth groups also as part of civil society to look into the issue of domestic violence?

**Aloka Mitra –** Yes indeed, in fact we are using the **youth groups and they are successful in pre-litigation counseling**. We have to use these alternate methods.

**Response from Poonam Kathuria-** I have received a criticism from Mr. Savarkar that I mentioned in my presentation those social defence officers who are going to be appointed as POs are not trained to deal with the judiciary, this is not correct. Mr. Savarkar is of opinion that the CDOs are well equipped to handle the judiciary as they are handling child marriage cases, Dowry Prohibition Act, Adoption Act and other Acts. I totally stand corrected but my concern is that if they are looking at this long list of issues, how much time and space do they have to handle domestic violence? If we look at violence as an all pervasive phenomenon and we would like more and more women to get protection. This is a list of six issues that a SDO in a district is already looking at. In Gujarat we have good advocacy in the sense that earlier, there was plan to appoint CDPO and we outwardly rejected so we are one step ahead in the sense that SDO is a better option but not necessarily a good option. Therefore we should ask for fresh appointment.

## PLENARY 8 - STATES REPORTING ON PWDVA - 3

**Chair : Ms Reva Nayyar, Former Secretary, DoWCD, GOI**



### **Presentation Sandhya Goutam (Himachal Pradesh)**

Himachal Pradesh is a small state. The situation in HP can be explained by saying that before the ice melted more ice has fallen. The Act has been passed, and the law is in place but **no initiative has been taken by the government**. The information that we have is that the ICDS supervisors have been appointed as POs by government notification. But till now we do not have any information on the mechanism and strategies adopted for implementation. The challenges faced by us, are similar to the ones shared in other states' presentations, that they are already **overburdened, ill-equipped and lack training skills for performing the functions**. From our past experience, the Projects Officers appointed as POs under the Dowry Prohibition Act failed to do their duties because of the lack of training and skills.



The other challenge before us is that of shelter homes. In Himachal Pradesh the **shelter homes are in pathetic conditions and are non-functional**. There are no meetings for consultation on Service Providers. They simply ask us to provide them with the list of our partners NGOs, there is no meeting on the criteria for selection and listing of SPs. There is no mechanism in place and the government is in no mood to start up any initiative for creating awareness on the Act.

SUTRA has taken up certain steps on its own for implementation of the Act.

- Meeting and consultation between NGO partners and network to discuss the mechanisms available and the strategy to be followed. This specially includes NGOs working with grassroots women's groups to initiate a dialogue at the local level.
- A meeting was organized by Human Rights Law Network where we discussed customary practices and the ways in which the Gram Panchayat can be involved in the implementation of the PWDVA and to decide on their roles and responsibilities. The Naya Panchayat deals with cases coming under section 125, so we need to strategize the means to use this existing structure of judiciary at the local level.
- We also discussed how we could **include rural development in domestic violence. This can be by providing training to local level functionaries and include them in the system of judiciary.**
- **The strategy and mechanism evolved by the state to take the new law into the remote areas of rural India.**
- **Community based advocacy and networking to build linkages with the state government and the panchayat to create greater awareness on the law.**

### Presentation by Naseem Khan (Delhi)



Before I present the status of the PWDVA in Delhi, I will give a brief background as to what is happening in Delhi. Earlier, Lawyers Collective was working on domestic violence and Action India has also been involved in such work for the past 4 years. If we look at it there are four agencies in four corners – Delhi Commission for Women, Social Welfare Department, Delhi Legal Service Authority and NGOs- that are involved and are very active. I would also mention about the Mahila Panchayat network because they have covered Delhi geographically to make Delhi safe for women. As of date there are **16 NGOs that are handling cases of domestic violence. Up to last year, 40 Mahila Panchayats solved 1164 cases and this year they have solved 1465 cases. From the figures it is evident that the pressure of workload is huge. A single PO has 20 to 25 cases.**

In Delhi there are 10 districts under the Social Welfare Department and **18 POs have been appointed.** Initially it was the welfare officers who were asked to perform the duties of PO but in January fresh appointments were made. The vacancies in the social welfare departments have been filled. **They have no other responsibility besides working on the PWDVA. The criteria for selection were MSW/MA Social Sciences and five years residence in Delhi. One coordinator from the Mahila Panchayat has also been appointed as PO. This is significant because the coordinator was already trained in PWDVA as part of the Mahila Panchayat.**

We had a meeting on **14th November 2006 which was attended by Lawyer's Collective, Social Welfare Department and NCW.** Ms. Jaisingh has made clear the strategy and the role ahead. Members of NCW played an active role as nodal agencies. Rashmi Singh, Jt. Director of the Social Welfare Department had assured that there would be fresh appointments and she has fulfilled her promise. NCW had agreed to be the nodal agency but as of today, it is the organization that provides the fund acts as the nodal agency. So, that is being done by the **Social Welfare Department which is the nodal agency. The role of Delhi Commission of Women is of monitoring and supervision.**

Two important issues are training of POs and seeing that their burden is reduced. They started taking up cases as soon as they were appointed. But they should be properly trained and informed of

their duties. **Magistrate Sanjay Sharma told us that three trainings of POs have been done. My suggestion is that in other states the POs should be oriented as soon as they are appointed. They can work better only when they are provided adequate orientation.**

The problem before us is that the number of POs is far too less when compared to the number of cases registered under the Act. What happens when the PO gets a case? He/she takes the case to the court. Thus they spend most of their time in court. **This calls for an alternative structure available for the women to take help in times of distress.**

There has been **no work on counselling**. There is a suggestion to constitute a panel of senior and retired female volunteers but then nothing has been done. There are only **3-4 shelter homes**, we have the right to shared household but do not have a place to take shelter. The **registration of service providers is not done, even though some work is under way**. The Delhi Commission has asked us to give them a list of service providers so that they can forward it to the Social Welfare Department. With regard to training, there is a requirement for training material and in the past few years a lot of material has been prepared. The sensitivity with which we have started the campaign has to be carried forward to all the stakeholders to make the law successful.

### **Presentation by Meena Shastri (Chattisgarh)**



In Chattisgarh, **nothing has been done by the state for the implementation of the Act**. When I enquired regarding the steps taken, the state representatives replied that appointment of POs and Service Providers is not going on and it is not in the process either.

I will describe some strategies taken by our organization which consists of lawyers, social workers, journalists and activists. The organization is named FLAG- Forum of Legal Assistance. It is devoted to provide legal support to grassroots organizations and other needy groups. We work on legal awareness, legal aid and legal support mainly for needy women. We are in the process of making a documentary film about exposing violence and its legal remedies also. We give one representation to the state in a month about the implementation of the Act, we organize seminars, workshops and also write articles in newspapers. We have to take harsh steps to ensure that the state starts taking the measures required for implementing the Act. One of my suggestions here is that such type of national gathering should take place in areas where there is non-compliance. We have heard that there is **compliance in Delhi because of repeated seminars which pressurize the government to take action**. Such kind of activities should take place in different parts of the country also.

### **Presentation by Shakun (Karnataka)**

The route followed in Karnataka is similar to that followed in other states. We have formed a **network of NGOs that have met the ministers, Secretary of WCD, Law secretary and other officials several times. In the last three months we have had six meetings at different levels. In November, when the Rules came out within about two weeks, the commissioner of WCD called for a meeting with the NGOs to declare and**





inform us that CDPOs have been appointed as POs. They asked our opinion on making women police officers, POs. We struck down both the options and said that we have waited for thirty years and can wait for another five years till the government is ready to implement the Act in true spirit. We do not want the implementation in letter. We also gave a letter of recommendations and told the government that if they have the political will, many of the provisions can be implemented immediately like training and publicity. All that the government has done is **notifying State Women's Commission as the nodal agency for registration of Service Providers** and the like. WCD is monitoring the activities of the nodal agency. The first action on the part of the government is that they have come up with a road map, which would be to have the nodal agency call for a conference of all the stakeholders. They will ask for a one day state level conference, and then come up with the steps for implementation. But they have already decided that they are no budget and no money and that there will be no fresh appointment in the next two years. Then there is no need for such a conference. Unless you have administrative will expressing the interest to do things, nothing will happen. Politics in Karnataka is in catastrophic, there is a coalition government, and the Kaveri dispute ensures that government has excuses to make for doing nothing. We have put forward two demands to the government– 1) give us the bill in spirit, and 2) give us money to implement it.

At the NGO level a lot has been happening, a group of women and human rights activists have formed a network spread across the state and have asked **each NGO to put pressure at the level in each district and each tehsil wherever they are located**. We have framed a set of recommendations to the government. Some of them are:

- The formation of a state DV committee to monitor and select POs. The committee will comprise of groups working on domestic violence, social activists and representatives from WCD, law department, home ministry and other concerned departments.
- There should be a state advisory committee for the DV Act with voluntary membership drawn from social justice, human rights, and legal rights groups. They must meet twice in a year to oversee the work going on.
- Convergence of all the concerned departments. Unless there is convergence between these departments there will be no proper implementation of the Act.
- Shared allocation of budget- when budget is allocated it should be to different departments and these departments should put their efforts to implement the Act. The budget should not be allocated to one department because it will seem like a sudden rise of allocation. It should be shared.
- Formation of an intra-department coordination committee which will be responsible for the government activities
- The qualification of the POs is that they should be literate with minimum three years experience of working on VAW and preference for women from marginalized communities. They should have commitment towards protecting women. And in Muslim dominated areas only Muslim women should be appointed as POs. We have said preference for women but men can also be appointed; there is no hard and fast rule.
- The number will depend on the population of the district. There are 840 police stations and we have said that each unit should have two POs because protection is needed even after office hours and a PO should be available 24hrs. Each PO should have an office assistant to do paralegal work and there should be a case workers. The expected cost for each PO's office is estimated around 5 lakh plus 1 lakh for infrastructure. And the total cost we have asked from the government is for outlay of 70 crore per annum.

- The Service Providers cannot be POs. The PO should not be member of any political party. They should have independent charge and monitored by the state DV committee.
- The SPs should be enabled to complain against the POs to the State DV committee and vice versa.
- Counselling is already in place. We have a Santhana Centre in every district that does counselling but there is very little monitoring of these centres. There is need to build up the capacity of these centres.
- There are several shelter homes but the conditions are pathetic. All the JJ homes have to be improved

We have been working with the HIV movement and we have been doing workshops with HIV victims on the DV Act. We have found that HIV women are highest among the disposed because as soon as their HIV infected husband dies they are thrown out of the house, they are not given any property or support. Therefore these women are in need of the Act. We need to reach out to HIV women, devdasi women and prostitutes.

We have told the government that we won't let them say that they have implemented the Act until they have the capacity and then look for capacity from NGOs. The Service Providers are worried because the government has provided no support to them and we have asked for a pro-active partnership between the government and NGOs. Karnataka already has the help desks which are functioning. We have been told that the state commission budget has been increased by 3 crores for implementation, we had asked for 70 crores.

The Act is very good because it lets NGOs partner with the states. However we should remember that **we should not be dependent on the Act alone to get justice for women affected by domestic violence and the government should not depend totally on NGOs to provide the infrastructure.**

### *Questions and Suggestions*

**Jahnavi Tiwari**—Till now there has been no mention of Uttarakhand which was a part of Uttar Pradesh. And it was due to the struggle by women that the state came into being. We have a lot of work in Uttarakhand though we have no data collected. I will share with you that women's groups have been involved in getting the Act implemented. DISHA joined the WE CAN campaign to end all forms of violence against women and the campaign for PWDVA is part of it. We have formed a **network of 13 organizations working on different issues and organized a meeting in Deharadun. We have formed Gram Samiti in the Gram Panchayat and Gram Sabha in Vikasnagar block of Sahajpur district of Deharadun which is a Muslim community. Thus having a platform to take the PWDVA to the community. We have also had meetings with different government representative and discussed their roles and responsibilities. We have conducted workshops and seminar in degree colleges. We have created awareness among the government officials that the new law is in place and has to be implemented.**

There is need for working together and therefore working out a partnership. Just saying that unless budget allocations are done we will not work is not the right strategy. We have to work with the government and start a movement at the grassroots level.

## PLENARY 9 - STATES REPORTING ON PWDVA – 4

### Presentation by Albertina (Goa)



Like in other states, **in Goa the police officers, the SPs have been appointed as POs. The good thing is the rank but the bad thing is the SP is holding additional charge.** The PWDVA was enacted keeping in mind the fact that many women do not want to go to the police station but want civic relief. So if they do not comply with it, there is problem. We have strongly disapproved of this. When I am speaking I am speaking as a citizen, as a lawyer and associated with NGOs and AGOs.

Given that things are happening various organizations have placed different demands. When the law was being discussed we focused on ineffective implementation. As a result some organizations have asked for appointment of POs for implementation of the Act. **The Goa State Women's Commission has taken the responsibility of coordinating and monitoring the activities of the government. The model has been made by SWC for the implementation of the Act.**

There is a **sub-group formed by the survivors accompanied with their families, organizations working with women and other groups like commercial sex workers, HIV positive women and child victims of violence. We have formed sub-groups of the organization and have meetings with them. There is a sub-group of various functionaries under the Act to discuss their roles and responsibilities and also on the problems they face.** There is need to discuss with those already involved as well as more groups who can take on the responsibility with greater commitment. We have **asked a management institute to do the costing so that we can work it out professionally.**

The dissemination can be through an interactive team from dance and theatre backgrounds. They should develop culture specific methods of spreading information and awareness. There is a kind of orientation designed for different groups so as to reach out to a maximum section of the population. The information and publicity department can come up with advertisements on the DV Act and what the specific facilities available are.

We started with **10 Panchayats as a pilot and then moved around to work with more groups.** Religious organizations have not been constituted but many people do go to religious organizations for getting help. There is need for orientation for counselling bodies and these religious bodies. We are working out a model that will be handed to the WCD.

### Presentation by Aleyamma (Kerala)

In Kerala two factors have to be kept in mind, firstly that domestic violence is very high, studies have shown that it is 40% to 60%, and secondly mental health problems, are acute, Kerala has the highest suicide rates in India. And 30% of the survivors have said that it is because of domestic violence that they are attempting to commit suicide. There is no separate department for women and children, we are under social welfare.



Right now there is **no Women's Commission** as when the governments change the Commission members **also change**. The new Commission has not been constituted on date. The process of implementation of the DV Act started only in February 2007. The activities going on in the state are:-

- The **district Probation Officers have been appointed as POs**.
- There was a **consultation with women's groups on 8th February, on 13th February there was a one day representative meeting which 200 people attended**.
- On 14th February there was a **one day orientation for the 14 POs. There were 3 women and 9 men POs. The orientation proved that training was a must for the POs. There was need to change the patriarchal attitude which was prevalent**.
- The Rule and Act have been **translated and copies were given to the government which has disseminated it with names of POs and their phone numbers**
- CEDAW has been translated
- The **Service Providers' notification was publicized in the newspaper. 40 NGOs have been registered but they are being scrutinized**.

In Kerala the most positive step is that of decentralization. **Vigilance cells have been formed in each panchayat, an initiative by the previous State Women's Commission. These cells address issues of domestic violence and have elected members comprising of local people, the police, the local doctor and representatives from women's groups. As many as 30 cells had been made functional last year as models and this year all the Panchayats in Kerala have a vigilance cell. Thus there is already a network existing which can be used for wider dissemination. The second positive thing is that the SHGs all over the state are well networked by the government into an organization called 'kudmushri'. These are the two broad mechanisms which can be used very effectively.**

The problem is that there is a **lack of shelter homes and resources. They have not been updated for five years.** There is lack of information which has to be worked out. The issue of violence as a women's health issue has to be addressed. According to a study done by Sakthi two years ago, every day two cases were coming to the hospitals as a result of domestic violence. Thus there is a need to address the issue.

### **Presentation by Kavita Srivastava (Rajasthan)**



In Rajasthan there is **no mechanism for the implementation of the Act. But that does not mean no work is being done. It is being done by lawyers, activists and women's groups.** But starting on what we have been doing I would like to highlight some of the shortcomings in the PWDVA.

The shortcomings of the law are that there is no mention of the procedure and time frame for appeal, as a result of which the women are not getting justice. We have to move for amendment on this. There is also the problem of non-compliance especially in emergency cases. We have got three FIRs registered for non-compliance which is again a difficult task. There is also confusion regarding previous acts of violence. In one case the High court passed the order that previous acts of violence have to be included but many a time it is not clear.

Further from our experience we realize that the right to residence is very difficult especially when the woman has already been thrown out of her house. Restoring her back into the same house is problematic too. The judges have also not understood the law properly; they say it mentions dispossession but not repossession. They fall back on the provision of providing alternate accommodation rather than give the right to residence.

Now that we **have no POs it is difficult to function**. Rule 28(2) says that the court can itself lay down the procedure and so we have got it done by magistrates. We have asked them to take the help of the police to file the report and also asked the court to provide counselor.

The biggest challenge is to change attitude to make the effort to go to court, spend the whole day in the court and get the order. This determination can come from women's groups. Only then we can succeed. The change can come only if we are leading the prosecution and act as complainants against the respondents in civil courts. This decade should be devoted to the judiciary, our own learning of the judicial systems and work in partnership with them.

### Presentation by Maitreyi (Rajasthan)



Till now the initiative taken by the Women's Collective in Rajasthan has been very good. We have written letter to the nodal agency demanding budgetary allocation, registration of Service Providers, appointment of POs and ways to implement the Act in spirit. **We have also taken the responsibility of preparing a database on cases filed under the Act, list of Service Providers, name and address of POs.**

The recommendations given to WCD are:

- **Appointment of one PO in all 238 blocks in Rajasthan supported with a trained counsellor and an office assistant.**
- The strategies planned are – **the formation of state level secretariat that will function to implement and monitor the work** of the government. It takes the responsibility of dissemination of information related to the Act.
- Training at the local - tehsil and block- level of all stakeholders including at the Panchayat and Sarpanch level.
- Developing of IEC material

For all this we need to coordinate with WCD and work out the future steps to be taken.

### Summing Up

One thing that is common in all presentations is the urgent need for training of all stakeholders, and the development of a training kit that will help in the dissemination of information related to the act. Where do we go from here? There are a lot of things to be done but we have to strategize our action as funds are limited and we can't create a revolution in a day. We have to plan our course of action in such a way that we are able to achieve our goal, the goal of making the law a reality for every aggrieved woman. So keeping the resources available in mind, we have to think of what our priorities are and where we need to focus.

## PLENARY 10 - PRACTITIONER'S PERSPECTIVE

### Introduction by Ms Manju Agarwal



After the presentation from different states we now have lawyers with us to share their experiences in the courtroom. This session gives us the practitioner's perspective to the law. Soumya will talk on the recently pronounced Supreme Court (SC) judgments.

### Presentation by Soumya Bhowmick

As mentioned by the Chair, I will tell you about the two SC judgements, one of them is directly related to the Act and the second has a reflection of the Act. The synopsis has already been provided in the conference bag.



**Taruna Batra Case-** Taruna Batra got married to Amit Batra in 2000. There were some dispute and Taruna file a divorce petition after which she wanted to go back to her matrimonial house. Let us see what the SC has said in the case:

- We do not have any law in India which is equivalent to the law in UK which is the British Matrimonial Act. Further it says that the right that may be available under any law is against the husband and not against the father-in-law or mother-in-law.
- The house that belonged to the mother-in-law and not to her husband and therefore she cannot claim any right to the shared household.

The lawyer of Ms Taruna Batra argued that the client should not be dispossessed from the shared house by giving reference to provision of 'shared household'. Both under Section 2(S) and Section 17 it was argued that since Taruna Batra had been living in the house she could not be dispossessed. But the court said that house in which Taruna Batra was living does not come under the definition of a shared household. The reason behind this understanding is that if we agree to the understanding that the house belongs to Taruna Batra as part of the shared household there will be cases that wherever husband and wives lives together in any property it will become a shared household. For example, if husband and wife live together as guests they can claim it as shared household, the court will not accept it. But when Taruna Batra asked for alternative accommodation which is given under section 19.1 (f), the court said that the claim can lie only against the husband and not against her in-laws and other relatives. In relation to Section 17 of the Act, the court said that it is of opinion that the wife is only entitled to a claim to right to a shared household and a shared household means belonging or taken on rent by the husband or house belonging to the joint family of which the husband is a member. The court said that since the house was not owned or rented by the husband the complainant is not entitled to any relief under the Act. This means that the court in its judgement has excluded the self acquired property of the in-laws from the purview of the shared household. In doing so, the court contradicts the letter of the law which has been given in section 2(s) of the Act. Here the definition of share household means the house where the aggrieved person has lived or lives at any stage irrespective of the fact that the respondent or the aggrieved person has any entitles or interest in the household. The interpretation, if it taken in the sense in which it is given implies that no woman can claim right to reside because it is not the property of the husband. So that's where the problem lies.



Again, the court's refusal to grant relief cannot be accepted because it is on the premise of joint property and hence not a shared household. This again is contradictory to Section 17(1). Moreover, this interpretation has the potential of being mischievous: the concept of household in India is still that of a family unit consisting of parents and married children. An adult son generally does not leave his parental house due to economic and cultural reasons. This means ordinarily, that the matrimonial home of the shared household is owned by a common ancestor, in that sense it is joint family property, not in the Hindu law sense of being ancestral property and different from self acquired property. In fact, these were the very reasons why the expressed provisions were made in Section 17 (1) of the Act.

In the other judgement, the court has defined dowry in a new way in **AppaShaib and others Vs State of Maharashtra**. Deceased wife Bhima Bai was subjected to torture and finally committed suicide. After the case was investigated and charge sheeted, the accused were found guilty by the Mumbai High Court and conviction was upheld by Aurangabad Court under section 304B IPC. The SC went into the question of whether the death was caused due to dowry harassment. What the mother and father have spoken was that whenever she came back to her parental home she would ask for money to be given to her in-laws for buying manuals. They did not have the money for meeting these demands. In this case, the court looked into the definition of dowry given in the Dowry Prohibition Act that means any property or valuables agreed to be given directly or indirectly before or at the time of marriage and in connection with marriage between concerned parties of marriage. Therefore, the demand of money on account of financial intricacies or for meeting some domestic expenses or for purchasing manuals cannot be termed as dowry, looking at the section of Dowry Prohibition Act.

If you look at the PWDVA the term 'dowry' has been used while defining domestic violence, it is the only place where the word has been used and that too defined in the Rule. It has been used under DIR form, it has been used in cases of verbal and emotional abuse and it has used in specific sense of domestic violence.

### Presentation by Sanjay Ghosh



There is need for effective understanding and communication for the PWDV Act. We are obliged to the government decision to have finally notified the Act on domestic violence. And as stated in Section 11 of the Act that it is the responsibility of the government to inform every citizen and coordinate with different departments and the media to disseminate information on the Act so that everyone is aware of it. When Amitabh Bachchan comes every day on the television and says that crime rate in Uttar Pradesh is low then every one starts believing him. **There is need for a concentrated effort to make women realize that there is no need to suffer domestic violence anymore.** Time has come to end the silence on domestic violence.

In a seminar organized by NFIW, I started with the example of Tamil Nadu where the government at the time of election promised to provide a television to every person. Elections were held and as promised television were given to everyone. A news reporter went to village to find out the impact on people after having a television. When the reporter asked what programs they show on TV, the answer was there were no programs as there is no electricity in the village. **The PWDVA is like having a television but without electricity. What is required is to have electricity to make it going.**

The law never demands anything but rather it is the society that demands and the law reacts. The society demanded a law for getting effective relief. When representatives from the judiciary and government speak at the conference they talk about their experiences and problems but we are all aware of them. Yet, we make a demand because the society feels that the structure and system of judiciary, bureaucracy and the administration has not been able to fulfill the demands of the society. There is no dearth of laws in our country yet the women's groups demanded for a new law. This is so because, women were not getting the relief from the existing laws on matrimony and violence. So we have to see that the new law is effective and implementable. And for this we have to strategize our steps as mentioned in the new law. The following steps will help in making the new law effective:

- Violence has been defined in the Act very specifically for the first time. **There is need to create awareness of the definition and understanding of violence.** It is mentioned in the Act that it is the main responsibility of the government but then why rely on the government? In India, we see that the Sunrise industry or the IT sector has been successful because they have not relied on the support of the government. **The task of propaganda and publicity can be done by the women's groups themselves, they need to do door-to-door campaigning and make and paste posters on the definition of domestic violence at all public places.**
- It has been recognized that the woman has the right to live in the house with security. The right to residence is not to be confused with right to property. Even the lawyers and judiciary are confused. They are talking amongst themselves of the misuse of law, giving an example that a couple will take a house on rent and then the wife will file a case under PWDVA and get a stay order protecting her not be removed from the said house. Yes, this can be done under the law. Indians are intelligent people and have found out means and ways of misusing not only this law but many other laws. Even Section 302 of IPC is misused but we do not stop cases under murder. There is no law that is not misused, then we should be abolishing the entire judicial set up from our country.
- A woman has to face a number of difficulties to assert her identity in the society. The social impediments are same across all socio-economic groups. A woman from an economically well-to-do family may have social and cultural taboos and a woman from a poor family has economic difficulties. So, many women do not have access to resources. So in the PWDVA **for the first time right to access is granted.** The Protection Officers have been given such important recognition under the law. The responsibility of dissemination of the law is with the POs, they have to inform everyone about the provisions in the law. I give an example, under the Pulse Polio campaign initiated by the government, people are assigned responsibility of giving polio to every child, and they go to every house and see that every child gets the polio drop. I have a three year old daughter and every time the campaign is on, she shows me her finger with black marks and says that polio aunty had come home. So if the government wants to do door-to door campaign it can be done. As it is done for pulse polio campaign, the government can do door-to door study of domestic violence and inform them that in case of violence they can take the help of protection officers who is like the polio didi/violence didi. The POs then do the needful like registering the case with the police, providing medical assistance, access to shelter homes and so on. The PO also has to make a safety plan to estimate the time frame for which the woman will be kept safely. The safety plan has to be prepared by having discussion with the victim and in accordance with what she desires if the woman wants to negotiate with the husband or wants to have counseling or something else. After counselling, there should be a home study, a follow up in case the woman has been sent back to her home.

If in Delhi we have just 16 POs and it is insufficient because the role and responsibilities of the POs is huge with 200 to 300 cases coming up every day, then the number of POs have to be increased. Secondly, if it continues to be an additional duty and without the required infrastructure, the law cannot be implemented. So unless electricity is provided there is no implication of having a television, it is useless. so unless required funds are allocated and system is put in place the law cannot be of any help to victims of domestic violence.

### *Summing Up*

From the session, it is clear that there is need for publicity and awareness raising of the law. There has to be a positive campaign to take the law to the people. In the coming year since there is increase in reporting on violence and to prevent violence, we need to build alternate models. In the advertisements of the National Rural Health Mission there is positive portrayal of a responsive husband because many men who have been brought up in a violent environment do not know about the dignity of women. Therefore, there is the need to explain to them the concept of 'harmony' in the family and that they should recognize the rights of others in the family. Many studies have shown that if we speak of negativity, then negativity only happens. We have to stop violence and create violence free zones. But when we say 'do not get violent', the picture in our mind is that of violence and if we say 'give us a life of dignity' then there is a different picture in our minds. We have to show the other picture to the men and sensitize them to change their attitudes towards women.

## **ROAD MAP AND RECOMMENDATIONS**

### **Chair – Prof. Malini Bhattacharya**



First of all, I would like to tell you how much I regret not being part of the larger delegation. I am glad that I have been able to capture the flavour of some of the discussions that have taken place in the last two days. According to the National Commission for Women (NCW), the PWDVA, 2005 came after a long struggle by the women's movement. It is therefore a welcome gesture that we are now together in trying to bring about its implementation. I would like to assure you that whatever assistance the NWC can provide, we would certainly provide, whether it is preparing manuals and handbooks, whether it is by means of organizing workshops at the regional and national level and also in instituting PIL against the judgment of the SC. In all this and in other assistance NCW would be very much interested in participating in the ongoing struggle to get the law implemented.

### **Road Map Presented by Jashodhara Dasgupta and Sheba George**

#### **STEPS AHEAD – CIVIL SOCIETY'S STRATEGIES**

- Networking among organizations working on DV
- Actually using DV Act for cases – try to have at least 30- 50 cases in each state in the next one year & building repository of cases throughout India
- Monitoring and review of using DV Act for cases – sharing experiences and barriers
- Formation of a Legal Think Tank to advise groups and lawyers on usage of the DV Act and trouble-shoot



- Put pressure for the implementation mechanisms to be put in place
- Linking with State Legal Aid Services and providing Women's Organizations as contact points for SALSA
- Using technology to share information – E-networks and websites
- Push the state govt. and Centre to allocate resources for implementation of the DV Act
- Adequate funds for
  - appointment of independent POs
  - For setting up Shelter Homes
  - For the procedures of handling cases
  - For monitoring and impact evaluation
  - For IEC / Publicity materials in simple and local languages

### **IMPLEMENTATION MECHANISMS**

#### **Personnel**

- Appointment of POs – early and full time
- Registration of Service Providers
- Notifying govt. and private medical facilities
- Identifying good counselors
- Appointing more women judges specifically for the timely implementation of this Act

#### **Capacity Building**

- Capacity building of all involved personnel – POs, SPs, health providers, judiciary, police, counsellors, Social Welfare Depts., Human Rights groups, NGOs/Women's groups etc.
- Involvement of women's organizations with a human rights perspective for designing the capacity building
- Awareness and involvement of Panchayat Raj workers, SHGs, aaganwadi workers

#### **Awareness and public education**

- Through electronic and print media
- Developing materials in local languages – posters, pamphlets etc
- Materials for awareness building
- Door to door Campaigns like pulse polio

#### **Coordination within States and Centre**

- Coordination among Social Welfare department, Home & Police, Women and Child Development, Finance, Health, Legal, SALSA, Human Rights Commissions, Women's Commissions, non-state actors involved (women's rights groups, human rights lawyers, concerned media persons etc.)

#### **State level strategies**

Focus on all or some of the following depending on state specific needs/priorities – should not be a shopping list (as each of these requires funds). This is just an illustrative list:

- **Advocacy with policy makers** – budgetary allocation, appointment of POs
- **Networking** - form a state level coordinating body to link with National Secretariat & also to monitor implementation in the state
- **Capacity development** – of the Judiciary, Police, PRIS, SHGs in order of priority

- **Raise awareness** of media, youth, faith-based groups in order of priority
- **Dissemination of information-**
  - Key aspects of the act; rules in local language;
  - DIR index; Form No. 2 – application; listing of Service Providers; contact details of POs

### *Summing Up*

The Action Plan for the Future has just been presented before us and it is the time that we put forward our queries and suggestions to improve on it. I have one point to make before I hand it to the floor. The Action plan is very comprehensive and there are many aspects/dimensions to it. It would be better if all those who are present here share their different perspectives instead of duplicating. Some organizations could look after some part of the Action plan and other organizations could work on other parts. We should make a chronological chart stating with what we have to do now and also our future strategies. There is need to lobby with government and pressurize them to take action. I would like to have a copy of the memorandum and recommendations emerging from the conference.

## **RECOMMENDATIONS**

### **Presented by Poonam Kathuria**

The following recommendations have been made to the govt. for the implementation of PWDVA in spirit and letter. The following set of recommendations were agreed upon by all participating members to be pursued and take requisite action for follow up.

#### **1) Allocation of Adequate resources for effective implementation of the PWDVA.**

A budget allocation at the center and state is *sine qua non* for the effective implementation of the PWDVA. *Initial Budget allocation of minimum requirement must be made in the forthcoming budget session of 2007.* The finance ministry in consultation with the women's groups should immediately undertake an exercise to calculate the minimum budgetary requirements for all key ministries and departments (WCD, Law, Health, Home) and create a specific budget line 'implementation of PWDVA'. The services and support to be provided by the PO, for example, transportation support to women victims, require budgetary provisions and norms of expenditure.

#### **2) Immediate and Fresh Appointment of Protection Officers (preferably women) and providing them with necessary infrastructure, to enable them to start functioning.**

Protection Officers should be appointed full time; one Protection Officer in the jurisdiction of each Judicial Magistrate. The role envisaged for the Protection Officer involves ensuring comprehensive protection to the victim on an immediate basis. This involves liaising with the police and the judiciary on a day to day basis. The person will be working and coordinating with a multiple set of Service Providers, as well as coordinating their services. This means that this is a senior and empowered position with responsibilities. The PO therefore should be a senior person with adequate staff and infrastructural support (including toll free phone nos, computer, and broad band facilities) whom the redressal mechanisms would respond to and the person has the ability to activate them. The process of selection of POs should be transparent with a body created with NGO representation.

**Location of the PO:**

The PO's office should be located in the court of the judicial magistrates as the PO is accountable to and is also working closely with the magistrate to get protection orders and their compliance. Women will find it easy to approach a court, than one that is located in the police station. Under no circumstances should the PO's office be located in the premises of an NGO or police station as it will weaken the position of the PO, in the execution of her or his responsibility.

**3) Notification of Service Providers and need to register them and publish their phone numbers and addresses.**

The Service Providers are organizations who will register for providing their services under the PWDVA. The services related to shelter, legal aid and psycho-social counselling are frequently required and hence should be located in each block. However, there may be instances when a woman may require specialized expert assistance by way of advanced medical help, or psychiatric counseling. These services should be mapped for the district and appropriate Service Providers/facilities should be registered and publicized.

**Notification of Doctors and Counsellors:** The central and state government should immediately identify the type of medical services/ counselors that are to be made available to the Magistrate for implementation of the various provisions of the PWDVA.

All Government and Government-aided Service Providers must be directed to be compulsorily registered under the Act.

**4) Monitoring Structure**

A **Special Cell** specifically in charge of overseeing the coordination amongst different government and non government actors should be established in each state and one at the central level too. The cell should facilitate inter departmental and inter ministerial coordination between departments of Health, the Law Ministry, Social Welfare, Home, Finance, Planning Commission, State Planning Boards etc. This cell should be headed by an officer and be accountable to the chief Secretary of each state and the entire implementation machinery and mechanisms of the PWDVA is over seen and monitored by this cell. This Special Cell should undertake annual review of the working of the PWDVA in each state by October 2008. This report should try and incorporate various aspects including the cases in court, judgments and arguments forwarded by lawyers. The Directorate of Women and Child Development, Government of India, should display the State-level Reports sent in so far as well as future reports on its website.

A **National and State Level Committee** consisting of Women's groups, eminent women lawyers, representatives from health, law and police should be set up under the chairpersonship of Secretary, Women and Child Development. The committee should have at least 50% participation of women activists and NGOs. The state committees should give their report every six months to the Ministry of Women and Child Development at the center. The National and State Women's Commissions should keep a watch on the responsiveness of the mechanisms set up by the states and the impact of the Act.



## 5) Operationalising the Act

There are certain aspects of the Act that require to be spelt out for the it to become operational:

- Notify special courts/fast track courts for speedy disposal of DV cases
- Courts to do an annual audit of DV cases/all cases pertaining to women.
- Shelter homes and their conditions has been a major concern expressed by all states both in terms of numbers and quality of services. Most shelter homes refuse to take in women with children. This norm should be done away with. There is need to establish at least one shelter home in every district through out the country.
- The rate of payment, the mode of services rendered by the Service Providers.
- An over all supportive environment at all levels is required for the victims to be able to reach out to the protection officers. Thus it is suggested that Gram Panchayats, Aanganwadi workers and SHGs are recognized as associates of the Protection Officer and are legitimized to give such support to the victim.

**Role of the Judges / Magistrates:** The PWDVA is a multiple option law. The judges dealing with applications under the law must understand the situation of the woman in a domestic violence situation. Judges should start accepting forms submitted by the women as petitions just as letters written to judges are treated as PILs.

**Role of the Police:** The police have an important and clear role to play, though not one of investigation like in other criminal cases. Protocols should be developed and circulated to all police stations like the memorandum issued by the DIG – CID of Andhra Pradesh.

## 6) Publicity and wide dissemination of the Act amongst the general public as well as development of IEC material.

The state should give wide publicity to the Act through the print and the electronic media as it is doing in the case of HIV-AIDS, Right to Information Act and the National Rural Employment Guarantee scheme. The state should develop IEC material on PWDVA in the vernacular language to further facilitate the process.

Efforts towards the following should be undertaken:

- Weekly programs on radio/TV/print media wherein picking up an issue relating to the PWDVA is taken up for discussions
- Forms under the PWDVA to be easily available in local languages
- Awareness weeks could be celebrated at the grassroots level
- Dedicated columns in the newspaper.

## 7) Training and orientation of all stake holders incharge of implementation of PWDVA with a gender perspective and as a human rights approach to justice

Women's groups and human rights organizations should be involved in developing the training modules, training of trainers and subsequently monitoring the impact of the training. The National and State Legal Services Authorities should take the lead role in this direction.

## Protection Officers and Service Providers

There is need for training and orientation of all stakeholders including Protection Officers and Service Providers in understanding the provisions and mechanisms of the PWDVA. There is need for orientation to gender based concerns and the mental, emotional and physical support that a victim of DV may require.

## Police and the Judiciary

Judicial magistrates, court officials and the police have an important role to play in extending the protection provided by the Act. There is a need to sensitize and orient these officers on gender issues and domestic violence.

The Government should immediately undertake a **judicial impact assessment** of the PWDVA to assess the increase in court cases in already overburdened criminal courts of the country and set up special courts and appoint more women judges to ensure speedy disposal of applications under the PWDVA.

**Manual on Procedures** to be adopted by police and courts should be developed

- 8) **Orientation and awareness** of other key actors such as the Gram Panchayats and the social justice committees, SHG groups and federations, Aanganwadi workers etc. in supporting victims of violence to avail of the act.
- 9) **Media advocacy** strategies should be developed in each state to partner with the media in local languages.
- 10) **The DIR Index model** adopted by the A.P. Police should be circulated in all states by the MoWCD with directions that the model be adopted. The Delhi SLISA has already announced at the Conference that this system will be adopted in Delhi with immediate effect. The Protection Officer should be in charge of maintaining the DIR index. Those cases that go to the Courts other than through Protection Officer, the Courts should send the details to the Protection Officer. The various functionaries and Service Providers under the Act should be obligated to give the information.

## *Special Guest : Ruth Manorama*



We are living in a violent time and violence is taking place in our homes. We are here to see how we adjudicate justice to women who need it. We are bringing a private concern within the four walls to public discourse. We have said enough is enough and now there is a need to struggle against domestic violence transcending caste, race, ethnicity, region and religion. We have come to a point where we cannot take it any more. **It is not that only victims who should say 'NO' but all women in solidarity say 'NO' to violence.** The PWDVA has come after a long struggle by the Women's Movement. We have been working for a long time. From East to West and North to South we have been working for several years, thirty years, forty or even more; our grandparents have been working for it. **The Domestic Violence Act is visualizing the violence suffered by women on a regular basis in the form of psychological and physical abuse in their homes. It really exposes the extent of violence.** Men are

asking why do women want Domestic Violence Act. Men also need an Act. My answer is men are the determinant, nature, magnitude and factor of violence that we women suffered and nobody else suffer. They are saying let us form a men's organization to deal with that. What my suggestion is to all men who are concerned with the Act is that they should stand in solidarity with women not only when your sisters are in pain or when your mothers are beaten but also as concerned citizen. I am giving a call to all men present here to join in the struggle. Why should domestic violence only be an affair of women? It should be an affair of all citizens. We should not sleep in peace, those who want peace should get peace. Similarly, we have to see that our women get justice and that the Act is implemented in letter and spirit.

**We need to propagate an organizational reform not limited just to NGOs but take community responses to end violence.** We should take up new roles in addition to the roles we already have. We should abdicate roles and responsibilities and not become victims of privatization. **This implies including all men and women in the struggle to end violence. Community response is important, the poor and the dalits have to be involved too.** We should encourage younger students and sensitize them to the issue of violence. Many states have started human rights education. It should be done all over the country. We need to break the culture of impunity by creating community response.

CEDAW is a convention to eliminate all forms violence. The Government of India is a signatory and hence it the responsibility of the state to ensure its implementation. The State is obligated to ensure access of justice to all women. The Government of India is a signatory to the UN Convention against the Elimination of Discrimination Against Women (CEDAW) and as such is expected to periodically report to the CEDAW Committee. This high power Committee of experts holds a review at the UN headquarters in New York, questions government officials and issues its comments on the report and the current status of women in the country under review<sup>1</sup>.

<sup>1</sup> The extract from the Concluding Comments and other documents related to the CEDAW review on the Division for the Advancement of Women 37th CEDAW Session was provided in the press kit during the conference. It can also be downloaded from : <http://www.un.org/womenwatch/daw/cedaw/37sess.htm> .



# BEST PRACTICES AT STATE LEVEL IMPLEMENTATION

## GUJARAT

- The State Women and Child Development Department, Mahila Commission and the Gender Resource Centre (GRC) are involved in implementation of the Act.
- The Government has published a Gujarati version of the Act which is being widely disseminated
- The State Government has got ten (10) Nari Sanrakshan Gruh/ Rescue Homes of its own.

## ANDHRA PRADESH

- DIR Index used in the police station to record all cases. A good model to be adopted in other states.
- Police issued a circular to all 157 police stations stating that they are duty bound to inform every one who comes to the police station and provide information on the procedures, relief and orders that can be taken course to.
- DG Andhra Pradesh has given budget for opening a women's help line, to be operational from March 2007

## KERELA

- Around 40 NGOs have been registered as Serviced Providers.
- The Rules and Act have been translated and a copy given to the government who has disseminated it with names of POs and their phone numbers.
- **30 vigilance cells formed, one in each Panchayat, to address issues of domestic violence.**
- **'Kudumushri' a network of SHGs across the state informed about the Act**

## DELHI

- Cases being handled by a Mahila Panchayat network of 16 NGOs at community level.
- 16 POs appointed for 10 districts, officers from social welfare board.
- **The only state where full time POs have been appointed**
- Courts have accepted cases filed directly by the woman or the NGO and granted relief to the person aggrieved.
- Several meetings have been held with POs by DLSA

## GOA

- State Women's Commission has taken the responsibility of coordinating and monitoring the activities of the government.
- Subgroups have been formed of the survivors and functionaries to discuss their roles and responsibilities and also on the problems faced.

## UTTAR PRADESH

- There are 31 short stay homes that are run by the voluntary sector and recognized by the UP social welfare board that has been registered as Service Provider.
- There are 61 counseling centers that have been nominated as counselor as per provision in the Act
- The Rules have been publicized and the information on POs, Service Providers and shelter homes has also been disseminated

## KARNATAKA

- State Women's Commission has been notified as the nodal agency for registration of service providers and the like.
- A Santhana counseling centre exists in every district
- Help desks are functioning across the state.

# PROTECTION OFFICERS APPOINTED IN DIFFERENT STATES

- **Gujarat-** The Social Defence Officers in the rank of gazette officers are considered for appointed as POs in 25 districts.
- **Uttar Pradesh-** The District Probation Officers have been appointed as POs. On 2nd November the notice was passed and the POs have been briefed about their role and duties.
- **Assam-** District Social Welfare Officers appointed as POs, this was done by government order in November 2006
- **West Bengal-** As per order dated 10.NOV.06 issued by Jt. Secretary Dept of Child Development and Social Welfare the existing District Social Welfare Officers have been appointed POs for the district.
- **Andhra Pradesh-** MROs or DLOs too will be deputed as POs
- **Himachal Pradesh-** ICDS supervisors have been appointed as POs
- **Delhi-** 18 fresh full time POs – qualified Masters in Social Work newly recruited
- **Karnataka-** CDPOs have been appointed as POs.
- **Goa-** Police officers, the SPs have been appointed as POs
- **Kerala-** The District Probation Officers have been appointed as POs.



## POST CONFERENCE DEVELOPMENTS

After the conference, the National Secretariat continued with the efforts to carry forward the campaign, and to take stock of the future course of action. The Core Group met at Action India and came out with the following:

**1. National PWDVA Campaign Steering Committee (NPCSC)** - This body will have representatives from organizations involved in the issue from each State. This national body is being set up to support and take forward the campaign for the effective implementation and enforcement of the PWDVA with its Secretariat PWDVA presently housed at Action India, New Delhi.

The NPCSC will be responsible for developing, reviewing and coordinating campaign strategies and national-level advocacy and policy level actions, national-level lobbying and resource mobilization for the campaign. The NPCSC will also coordinate the overall planning and management of the forthcoming National Conferences on PWDVA. It is proposed that this body will meet at least three times a year (and if possible more frequently). Since this is an apex body, representatives should ideally be decision-makers in their own organizations. As a principle, meetings of the NPCSC will be self-funded, with members paying for their own travel and stay.

**2. Campaign Secretariat-** This unit will be responsible for information-sharing, managing the e-discussion group and convening meetings of the NPCSC. The Secretariat will act as the bridge between the NPCSC and the State-level networks, and will also be the nodal point for lobbying with the GOI and central ministries and be responsible for documentation and maintenance of archival records of the Campaign. It was unanimously agreed that Action India should continue to host the Campaign Secretariat for this year until the next National Conference. A detailed TOR for the Secretariat could be drawn up at the first meeting of the NPCSC, which could be convened in the next two to three months and a mid-term review of the functioning of the Secretariat can be carried out by the NPCSC or any other body.

**3. For the next Annual and Third National Women's Conference, a Conference Planning Committee (CPC)** will be set up at least 10-12 months ahead of the Conference. The planning process could also begin with a regional meeting much before this. The CPC then takes the following responsibilities in addition to those decided at the meetings of the NPCSC.

- The responsibility for organizing different sessions could be shared out, with different organizations taking charge of each session – planning / identifying speakers etc
- Sub-groups could be formed to look after different aspects such as media, session management, reporting and documentation.
- Some practical suggestions for better management of the process, such as preparation of briefs for speakers and chairpersons, formats for reporting and ensuring effective translations, were also discussed.

**4. State-level Core Groups** - These are composed of representatives of local organizations and are platforms for joint action at the local level, sharing of resources and State-level advocacy and lobbying. The State Core Group is also the body that could nominate representatives to the NPCSC. Such Core Groups have already been formed in Kerala, Andhra Pradesh and Gujarat. At Delhi, the Conference Core Group, possibly with the addition of some other organizations is likely to become the Delhi State Core Group.

Members and state partners are urged upon to initiate the process of constituting State Core Groups at the earliest and start tracking the implementation of the PWDVA in each state. We cannot let the pressure go down at any cost. Let's build on the campaign. We have to focus on state and regional networking through these core groups.

#### **State level actions / Civil Society's follow up:**

The conference has marked a step ahead in the national campaign on domestic violence and all concerned stakeholders have become more serious in making the law successful. Based on the responses received by the Secretariat these are some of the state / regional activities going on to ensure effective implementation. Some of the positive *ongoing activities* are:

- DIR Index model adopted by Andhra Pradesh police being used by other states as a model
- Four fresh cases under PWDVA has been filed in Tamil Nadu
- In Delhi, almost 350 cases have been filed so far under the PWDVA
- Nineteen NGOs from small towns in South India had a meeting in Tamil Nadu to discuss the ways to use the PWDVA in their areas.
- PATH and UPVAN- a network of NGOs organized meeting in UP with the Secretary WCD for immediate appointment of protection officers and registration of service providers.
- Training session on domestic violence organized at NIPPCCED for NGO workers from 26 districts of UP.
- AALI, SAHYOG, HUMSAFAR and other NGOs in UP held a demonstration on the evening of 8th March and distributed pamphlets publicizing the PWDVA
- Representatives of the NGOs Suraksha and PATH have had several meetings with the Secretary of WCD, UP to discuss implementation issues.
- People's Watch organized a meeting with WCD minister and law minister of Orissa and handed to them the memorandum regarding the implementation of the Act
- MSKPP from Chattisgarh carried out a signature campaign on 8th March 2007 demanding immediate and effective appointment of protection officers, registration of service providers and dissemination of information on PWDVA.
- Meetings with several government functionaries including the Finance minister has been held in Goa.

#### **Media Coverage**

Our media expert consultants, Anjali Deshpande and Sujatha Madhok worked relentlessly to come up with press releases at the end of each day. These releases were sent out to as many press and media contacts as possible. We also had some media friends participating at the Conference itself.

The Conference reporting found place in the Hindu on 23rd February 2007 (also annexed at the end) and the news item can be read at: <http://www.thehindu.com/2007/02/23/stories/2007022315540400.htm>.

The Women Features Services also came up with a featured article titled “Hurdles Plague Domestic Violence Law” by Nitin Jugran Bahuguna and the brief of this is as follows: “Four months after the Protection of Women from Domestic Violence Act 2005 has come into effect, women leaders feel there is a long way to go before the law is effectively implemented. The government does not have the people to handle the cases that come up under the Act; state governments are dragging their feet; there are budget crunches. In addition, there aren’t enough judges (and even fewer who are gender-sensitive) to handle the cases. It seems like it will be a while until this law provides the protection it was designed for. Even now, politically there is no conviction in this Act and without sustained pressure from women’s groups on the government it can be sabotaged.” The full article can be read after accessing it from WFS office vide reference number WFS Ref: INDG219.



Finally, The PWDVA represents a watershed for women’s rights. It is a single window clearance law with multiple options available to women. PWDVA guarantees substantive justice to women with in international framework of human rights (CEDAW). It is therefore important that it is not wasted in administrative apathy. The civil society, NGOs, women rights groups and concerned citizens wish to partner in rendering all possible help to the implementing agencies in making the PWDVA work. But we cannot replace the government / state and political and administrative commitment of both central and state government is required. The campaign to implement the new law is determined to ensure the success of the law to meet its intended objective of eliminating domestic violence in India.

## SECOND NATIONAL WOMEN'S CONFERENCE

18th-20th February 2007

## QUESTION CARD

Your Name / organization : Kamlesh Mathur (Advocate) and Vishakha1. What is your Question / Comment? 102/10, Civil Lines, Ajmer (Raj.) 3650012. To whom is your question? 9444342513, 9293635, 2424313

- (1) घरेलू हिंसा कानून में पिड़ना को सत्रिपुर्वी (अर्थात् पीड़ित) शरीर  
धारा 125 के अन्तर्गत अधिक वजनी मिलना है तो हम इस कायदे  
विंगत को भी Highlight करना चाहिए, जानकारी देनी चाहिए।
- (2) धारा 125(A) को अब समाप्त कर देना चाहिए। क्यों कि इस धारा का दुरु  
हो रहा है। इसके अन्तर्गत पिड़ना शिकायत धार, महिला धार में करती है वह  
पुलिस द्वारा प्रताड़ित (आर्थिक, मानसिक, शारीरिक) एवं से हो रही  
पुलिस विभाग दोनों पक्षों से पीछे लेवट केस को रफा दफा था  
सकत रफा भय करती है। महिला को धार के द्वारा पूरा स्त्री धन  
(देख) भी वापस नहीं मिल पाता - न ही अपराधी को सजा।

(Please use backside space for more writing)

3) परिवार परामर्श केन्द्रों के अन्तर्गत में वृद्धि व युवा विभा  
न की कमी व अनियमितता की वजह से बच्चे के अधिकतम परिवार  
परामर्श केन्द्रों वं हो चुके हैं - कोर्टों में वेतन राशियाँ बढ़नी।

1) विधवा पेंशन में वजह से वृद्धि अल्पत आवश्यक है। प्रमाणिक

2) सम्पत्ति अधिकार का वादों में महिला को फायदा पहुँचे इसके  
लेख सम्पत्ति के विभाजन को तभी - विधिक मायता हो जब तक  
उनकी पुत्री को ~~सजा~~ मिले है तो सम्पत्ति हिस्सा दिया गया हो

3) परिवारिक मामलों के निपटारे में सम्य लीन मिथि में  
जैसे उपरोक्ता मालम अविनियम में है - निम्न पिड़ना को  
आहत में ~~अधिकारों~~ का लक्षण व उपयोग हो सके।

4) घरेलू हिंसा कानून में ~~अनियमितता~~ विकसित व नया - विधिक मिथि  
नियम समझिए ~~कानून~~ दी विभा जाना चाहिए। P.O की नियुक्ति को  
व्यवधान हो गलत है - फिर व्यवस्था व लक्षण सम्य लीन। Thank

- It was a wonderful conference. I will come to join again and again. It is a strength giving session by which we can broaden our views, equip our self to fight the violence against women in the society. You may register my name for such beautiful conference in future.
- Kindly keep us informed about the outcome of the conference through mail. This information is required with forums of commitment given by participating organization and designing the road map. I would greatly appreciate it.
- Suggestion : to hold National Conference in either English or have a translator otherwise it become boring and waste of time.
- Translation is a must for effective outcome.
- There should also be brief translations into English language.
- Too many Speakers and less time to speak - people who traveled for long hours could not speak for 2 minutes!
- Chair unable to control the speaker, need to identify chairs who can be strict in asking the speakers to stop in the stipulated time
- Selection of speakers in keeping the mind ability to deliver & deliver to the point
- Questions card does not work, the chair has to ensure that he/she is able to select speakers across the floor, organizers should be alert and see if the chair is not noticing people raising hands and at accordingly.

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## GLOSSARY

AGO	Anti Government Organization
AI	Action India
AIPWA	All India Progressive Women's Association
APP	Assistant Public Prosecutor
CDPO	Community Development Project Officer
CEDAW	Convention for the Elimination of All Forms of Discrimination against Women
CMA	Child Marriage Act
DCW	Delhi Commission for Women
DoWCD	Department of Women and Child Development
DIR	Domestic Incidence Report
DSW	Department of Social Welfare
DSWO	District Social Welfare Officers
DV	Domestic Violence
FAQ	Frequently Asked Question
FIR	First Information Report
GO	Government Organization
GOI	Government of India
GRC	Gender Resource Centre
HMA	Hindu Marriage Act
IACR	India Alliance for Child Rights
IO	Investigating Officer
ICDS	Integrated Child Development Schemes
LDC	Lower Division Clerk
MLC	Medico-legal Certificate
MoWCD	Ministry of Women and Child Development
MSW/MA	Master of Social Work/Master of Arts
NCW	National Commission for Women
NGO	Non Governmental Organization
NRI	Non Resident Indian
NS	National Secretariat
NWC	National Women's Conference
PO	Protection Officer
PWDVA	Protection of Women against Domestic Violence Act
SHG	Self Help Group
SHO	Station House Officer
TISS	Tata Institute of Social Sciences
UN	United Nations
VAW	Violence Against Women



*The NS PWDVA works with the assistance of a small group of volunteers in the nature of overall advisory and guidance team. The National Secretariat hopes to continue getting support from its partners in the time to come and actively join in our campaign to make every home a violence free space for women and children.*

**National Secretariat PWDVA, 2005**  
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