

National Secretariat, C/o Action India

REPORT OF THE FIRST WORKSHOP HELD ON “DEVELOPING A DELHI STATE MODEL: APPLICATION OF THE PWDVA-2005”

Date: 14th July 2007

Timings: 9:30 am – 5.30 pm

Venue: U.N. Hall, Lodhi Estate Complex, New Delhi

Organized by: National Secretariat c/o Action India

Partners: Delhi Legal Services Authority & Social Welfare Department

Supported by: UNIFEM & Solutions Exchange

Background:

The workshop was intended to be orientation and training along with information exchange on the PWDVA at the Delhi state level between the chief functionaries of the PWDVA, Namely Pos and civil society, mainly the service providers. The Concept Note circulated at the Workshop gives the detailed objectives and intended outcomes of the Workshop. Please refer to **Annexure A**.

The **Information Kit** had the following materials distributed to all participants:

1. Concept Note
2. Program Agenda
3. FAQs on PWDVA
4. PWDVA Act and Rules – in English and Hindi
5. List of Protection officers appointed in Delhi
6. List of Social Welfare department offices in various zones of Delhi
7. Plan outlay – diagram of the stakeholders involved under the PWDVA
8. Circular issued by the Andhra Pradesh Police w.r.t the duties of the Police
9. Recommendations of the meeting held on 25.11.2006 wherein the outcomes related to the same subject.

The Participants:

The workshop, as stated, was meant primarily for the newly appointed POs. The Process to get the POs involved to participate was started way back in May 2007 with letters and detailed proposal being submitted to the Department of Social Welfare, Govt of NCT, (DSW) which is the nodal agency, responsible for the implementation and execution of this new law in the state of Delhi. From May onwards it took the National Secretariat three months to get the file moving and after a personal meeting with the officers of the DSW, the date was finally chosen as second Saturday of the month of July, i.e. 14th July 2007. This was so that the POs have no court dates and hence will find it convenient to attend a whole day meeting. The date of the meeting was fixed in consultation and approval of the DSW. On the 13th of July the Secretariat office was told by the DSW that the program has been officially approved and that all the POs will be attending. Letter is Annexure B. But to the shock of all other participants, on the workshop day, only one PO

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turned up, Ms Kiran Sharma from South Delhi. This was a drawback of the meeting and was criticized by everyone.

The workshop was made possible with the cooperation and partnership with Gender Community – Solutions Exchange. The major participants were the para legal workers, case workers, counselors and representatives from NGOs and CBOs based in Delhi and working with DV cases.

The chief guest of the Workshop was Ms Manju Goel, Former judge of the High Court at Delhi and now appellate tribunal, Electricity. We were privileged to have her with us and the participants were happy to have such a senior and reputed person share her experience and views on the subject. Justice Manju Goel has received one year training in gender and law at the University of Warrick, London, U.K. in a program that was carried under the auspices of the National Judicial Academy, British Council and Government of India.

For the complete list of participants, please refer to Annexure C

The Workshop began as per the Program Schedule. **Ms Bonani Dhar** from Solutions Exchange welcomed the participants and explained the goals of the gender community and also the objectives of the workshop. This was followed by an introduction of the workshop by **Ms Gouri Chowdhury** who gave the history of the DV Law campaign and how all participants were involved and equal stakeholders in the making of this law and now has an equally important role in its proper implementation.

Justice Manju Goel began her address by stating that she wears the glasses of law and hence has a different perception of things than the participants present. She mentioned that she too was very keen to meet and interact with the POs but since only one was present, it would be a limitation for the workshop. She relied on her many years of experience in dealing with cases at the trial courts as well as the High court on dowry, violence and marital discord and that hence law and women has always been integral to her work. She stated that she was committed to justice for the women. She also was keen to find out the impact of the new DV Act and how it was being used differently then other laws relating to women.

She was of the opinion that **the institution of POs can be used to implement all other laws relating to women.**

She was concerned that women have to be protected within their own homes and realized that this is a very difficult situation. She referred to the recently media highlighted case of Pooja from Rajkot where the woman has been inflicted violence not only from her in-laws but also her own parental house. The fact that this case finds prominence on the front page of newspapers is not due to the fact that she is suffering but because of the interest in her photographs. This is the form that violence against women can take.

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Justice Goel also referred to the other case of Imrana where she has been raped by her father in law and now she cannot maintain any relationship with her own husband. This was tragic and needed to be tackled in law.

She said that it is rather sad that men have taken such steps because society needs to understand that these laws such as the DV act are not meant to be men against women but is in reality a fight between justice and injustice and between the exploiter and the exploited. Justice Goel emphasized that often the exploiter is the women and often the protector is the man but this needs more deep thinking. Justice Goel was of the opinion that the participation of men in such kind of meetings is very important so that the women organizing such meetings can also assess whether what they are doing is right or not. Justice Goel said that these kinds of laws are necessary so that the progress of humanity and development of the country takes place. These are thus very important issues and need attention of everyone. **We need to stop these men V/s women fight from both sides: men's groups and women's groups.**

In the opinion of Justice Goel, the abuse of section 498A started the very first day it was brought into force. This law like 498A has also been protested since day one. We need to limit the application of 498A to certain family members. The fact remains, that all laws can be misused. Lawyers misuse its application for the sake of client satisfaction by expanding its scope to far fetched relatives such as provoking husband over the phone. This should be limited when 498A is amended. At the same time, 498A remains an important provision for women as it takes care of many situations that she may find herself in. despite such laws, violence has increased. Not many women come up to the courts. Laws are misused due to inherent loopholes in them and also due to fertile brains of lawyers who apply them. **The need therefore is to implement the new law PWDVA and at the same time stop its misuse.**

In terms of making Delhi a model for the PWDVA, she gave the organizers her best wishes and advised that **the POs should be treated as "officers"** – be given all kinds of facilities such as TA, DA, Mobiles, vehicles, office staff and infrastructure. The POs need to have the decision making powers as officers and ability to make discretion in times of need. Only then can they serve the purpose. The PO cannot be an officer without staff and facilities. **The PO should look like a person empowered by law herself** – only then will she be able to help and protect other women – else she will be a person in need of protection herself. **The POs should have missionary zeal.** As officers they should be committed, and see their task as a meaningful job. **These are the first batch of POs and what they do and what they get will leave precedence behind them for the future POs of Delhi.** Therefore the need is to make them as strong as possible. This will go down as history.

In this light the training of POs becomes very important.

Justice Goel then remarked that the recent judgement of the Supreme Court with respect to shared household has led to confusion. In Delhi maximum households are single tenements. If there is domestic violence in these one rooms the issue is whether she can

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stay there or should she be pulled out. And if she needs to move out then what are the alternative arrangements. What are the infrastructures put in place by the government of Delhi for such a woman? The shelter homes – quality and numbers is a big question in Delhi. The Govt's Nirmal Chaya is not the right place for victims of DV. **Justice Goel suggested that we include the identification of such safe and sound shelter homes in Delhi in our recommendations.** This is important because women suffer in silence as she has no alternatives and no proper place to go after leaving the home where she is being tortured.

Bulbul Das from AIWC suggested that we should plan to protest against the SC judgement.

Justice Goel responded by saying that we should take steps against the problem and not against the judgement. She recollected a case where the girl went back to her matrimonial home and she died there. The judges got phone calls asking whether she was sent back to die – so this is a very complicated issue and we need to think seriously.

Soumya from Amnesty suggested that we look at the community of lawyers and their trainings also.

Another remark made was that the absence of POs at today's meeting made a big question on the commitment level of the Delhi government and we need to strategize accordingly.

The vote of thanks was given to justice Goel by core team member **Ms Sunila Singh** and currently Program Officer of Torture Program, FnST International.

Ms Suman Bhist from Kriti took a comprehensive session on understanding gender. Since this was meant more for the POs, and with the single PO attending, the questions were not many in this session.

POs session.

This session was limited to interactions with the single **PO, Ms Kiran Sharma**. She informed that in emergency cases police have their contact numbers but till date no such case has been received that required emergency dealing.

All insisted that we make the participation of representation from SWD a mandatory thing for such workshops. The present POs were:

1. Fresh/ young MSWs
2. No court exposure
3. No knowledge of procedural criminal laws
4. Not aware of Delhi's geographical layout – time spent in searching homes

It was suggested that the **AIWC counseling helpline 10921 can be linked with the POs.**

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The issue arose as to whether the 16 POs should work shift wise ---

The need to reach every home was brought out through advertisements in TV and local media.

Accessibility of POs was discussed and the list of 16 POs with their phone numbers and addresses was pointed out to be a handy piece of information to all participating NGOs.

There are times when the POs feel alone and supportless. The NGOs offered to help in this regard. For service, identifying homes, meeting complainants / respondents – POs be given **support of paralegals – Mahila Panchayat workers through out Delhi ready to assist**

Dr. Manjeet Bhatia suggested that students of Delhi University could be involved to act as agents for information dissemination.

It was concluded that we need **strategized structures** in place to implement the PWDVA in Delhi. The government should have issued guidelines in this regard till now.

The role of the police was also discussed stating that it is wrong to say that police have no role in this law. The A.P circular which clarifies this point was discussed. **Soumya** suggested we move towards **amending the Delhi Police Act to bring in the role of police under the PWDVA and incorporate the assistance of Police to POs.**

For the availability of budget for this law alone it was suggested that we use the RTI to get this information.

The **Mahila Panchayat network which is spread over 40 localities in Delhi** was discussed and suggested that they link up with the area wise POs.

Core group member and Director JWP, Ms Jyotsna Chatterjee chaired the next session.

Ms Reny Jacob, member of Delhi Commission for Women informed that there are about 27 counselling centres in Delhi. She also demanded that the **district social welfare officers should be asked to supervise the POs and guide them if required.** The PO clarified that this was already being done. She also suggested that the **assistant PP in court should be directed by the law department of Delhi government to argue the cases under PWDVA and assist the PO.**

She informed that the **DCW was calling for monthly reports from the DSW on this law.**

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Ms Brar, advocate and DCW member suggested that **women should be empowered so much that she goes to court herself**. This law does not require any lawyer to assist her. The forms are very simple and can be filled by any women herself.

Mr Sanjay Sharma Metropolitan Magistrate and Project Officer, Delhi Legal Service Authorities informed the participants about the contribution of DLSA in the implementation of this law. He said that the authority was committed and had conducted three trainings with the POs along with active participation of NGOs. Several legal camps on this new law have also been arranged by the DLSA to widely disseminate information among rural and poor people of Delhi.

This was followed by a session on the role of the Police, which was chaired by **Ms Sarika Dhawan** from the Solutions Exchange

Ms Leena Prasad informed the participants that as soon as the complaint is received, Police shall inform the aggrieved person (Sec.5)

- (a) Of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;
- (b) Of the availability of services of service providers;
- (c) Of the availability of services of the protection officers;
- (d) Of her right to free legal services
- (e) Of her right to file a complaint under section 498-A

The Police are also bound by law to assist the victim in making Domestic Incident Report (D.I.R) in the prescribed form and forward it to the Magistrate through Protection Officer (P.O), or service provider or victim can directly represent to Magistrate for passing appropriate Protection Order as prayed by the victim. The Police can also take the women to hospital for proper medical aid and provide Protection to Victim and Assistance in Implementation: The Police shall assist in the implementation of the Protection Order if directed by the Court. In emergency cases, if PO needs police assistance, then Police shall visit the place of occurrence and render all possible help in recording Domestic Incident Report (DIR). If any order of the court is violated the police have to register a FIR and proceed accordingly. Thus the police have a clear role and cannot shake off their hands. **If we want DELHI police to do their job, we need to advocate for the standing orders from the commissioner of police in this regard, just as it has happened in A.P.**

The group work came up with the recommendations which is attached herein as **Annexure D**

OUTCOMES

1. **More clarity on the working of the PWDVA – such as the need to break the myth that PWDVA is against men- It is not a fight between men and women but about justice vs. injustice and also that while implementing PWDVA we need to STOP its misuse]**

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- 2. POs need to be treated as OFFICERS by the Delhi Government and should be provided with all facilities. Pos should be given** Power to take own decisions and act with own discretion rather than be sent by Magistrates to serve summon
3. Need for more POs in Delhi. A total of 18 cannot serve the population of Delhi
- 4. Infrastructure** -Make alternate 'Safe Homes' for victims of DV – shelter home in Delhi. We need to identify one of the many government buildings lying vacant and not in use and demand that it be converted to a Shelter Home only for victims of DV where the woman can live with their children also.
- 5. Need for the Delhi Government to recognize the huge force of paralegals available in the form of 1200 mahila panchayat workers and seek their assistance to help the POs in serving notices, and also locating the household and in follow up action reports**

Annexure A

Concept Note

Background

One in five married women in India experiences domestic violence from the age of 15.

Almost 52 percent of women suffer at least one incident of physical or psychological violence in their lifetime.

Every six hours, a young married woman is burnt alive, beaten to death or forced to commit suicide.

An estimated 15,000 women suffer from dowry-related violence every year.

Nationally, one molestation is reported every 15 minutes; one dowry death every 77 minutes; one rape every 29 minutes; one murder every 16 minutes; and one sexual harassment case every 53 minutes.¹

Recognising the wide prevalence of domestic violence the Government of India enacted the **Protection of Women from Domestic Violence Act 2005** ("PWDVA") which was brought into force on the 26th of October 2006. This law is a major victory for the women's movement in India as it was after a long struggle that its demands were fulfilled by the Government at the centre. In enacting the PWDVA, Government of India has recognized the need for legislation and **state responsibility** to enter the private domain to protect women and girls in situations of violence in the family. The enactment of this law marks an unprecedented move of providing civil reliefs in cases of violence. This law contains a comprehensive definition of the term "domestic violence", provisions recognizing a women's right to reside in the shared household and to court orders in the event of domestic violence occurring. In recognition of a woman's inability to approach courts to initiate proceedings, due to her status of

¹ Source: National Crime Records Bureau's unique 'crime clock 2005' which track criminal activities over 2004

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dependency, the law puts in place mechanisms of **Protection Officers** that allow her access to court procedure and support services.

The "Protection Officers" ("PO") are the chief implementers of this law. It is the duty of the PO to facilitate access to courts and support services provided by notified medical and shelter facilities as well as registered service providers. In addition, PO's are obliged to aid the court during the pendency of the proceedings and in enforcing orders. It must be noted that the **function of the PO is to aid the woman**. But the appointment of Protection Officers does not in anyway impede a woman's direct access to courts.

The appointment of PO's and the infrastructure to be allocated in order to ensure their effective functioning has been left to the discretion of **State Governments**. The state government of Delhi in general and the Social Welfare Department which has taken the responsibility of being the **Nodal Agency in Delhi** has been the first state to appoint full time Pos. to further take this process ahead, we wish to develop as a **Role model** for other states in the country to follow.

Under the PWDVA, the duty of Delhi government is to ensure effective co-ordination between different services provided by Ministries and departments and conduct periodical reviews of the same. It is important to monitor the manner in which this law is being implemented by both Central and State governments.

With full time Pos appointed in Delhi, it is also necessary that we ensure that they are functioning properly and are not facing hurdles and difficulties in the discharge of their duties. Several district court orders have been passed in Delhi but there is **no central coordination** of the above. Some orders have put the POs in a fix. For eg asking the PO to conduct a home evaluation of the household situated out of Delhi. How does the PO do this alone, without the

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assistance of police and evaluators? Some times, POs have been asked to be cross examined in court? Is this right? Many a times the POs find it difficult to trace the home address of the complainant or respondent. What help can she be given in this exercise and also in ensuring service is done on respondent and court orders are executed properly for the women. What facilities does the PO require? Can service providers and NGO networks such as the paralegal case workers of the Mahila Panchayat help the POs? if so, how? Can we develop a protocol towards this?

Monitoring and evaluation of the PWDVA is a must. What is the role of the Delhi Commission for Women? And how can the very active Delhi Legal Service Authorities be made partners to implement this law in Delhi? Towards this, we at the national secretariat feel that it is important to conduct regular and periodical workshops to consolidate a Delhi model for better PWDVA implementation in the coming years. Support from the Social Welfare Department has been forthcoming.

And hence this workshop. The aim is to bring together key stakeholders (protection officers; magistrates; NGOs and women's groups; media; Delhi state commission for women; Delhi Legal Aid Services Authorities; law enforcement agencies etc) to discuss and develop a Delhi model for implementation of the Protection of Women from Domestic Violence Act (PWDVA) in partnership with the Social Welfare Department.

The **objectives** of the workshop are:

1. understand the working of the new law in Delhi at all levels
2. consolidate the steps taken by different implementing agencies and bring about convergence for the benefit of women
3. maintain a list of all counsellors, service providers, notified medical facilities, shelter homes, legal aid facilities in Delhi

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4. Analyse the already existing infrastructure and discuss and plan what more is required to be put in place
5. Provide common platforms to all stakeholders to share and gain from experiences.
6. Work towards giving all support to the POs as they are the main functionaries upon whom the success of the law is based. This is to guard against non-implementation in the coming years. Capacity builds our own paralegal workers to do this.

Expected Output

- ❖ Protection officers, magistrates, crime against women cells; Delhi state Commission, Dept. of women and child development) and Rights holders(Mahila panchayat members, NGOs and women's rights activists) in Delhi are better able to advocate for the effective implementation and monitoring of the PWDVA through networking, learning and knowledge sharing
 - ❖ Database detailing information on the implementation of the PWDVA in Delhi
 - ❖ Model for the state of Delhi is built
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RECOMMENDATIONS

General Recommendations

- Need to break the myth that PWDVA is against men- It is not a fight between men and women but about justice vs. injustice.
- Need to implement PWDVA coupled with need to STOP its misuse
- Participation of Social Welfare Department is must. The absence of representative from SWD shows total lack of commitment and no will to implement the Act.
- Strategy paper by Delhi govt. on implementation of Act
- Despite efforts for the last three months with SWD only ONE Protection officer participated.
- Developing strategies to seek government accountability.
- Developing co-ordination between NGOs, GOs & POs
- Students of Delhi University could become agents for information dissemination.
- No create stratezised structures & guideline to implement the law.
- Amend the Delhi police Act to include assistance to POs by police.
- Use RTI to find out the budget allocation by Delhi government.
- Find out why no NGO representative has been selected as PO
- Find out why no NGO has been registered as service providers
- Advertisements through television to take the Act to every home

Recommendation for POs

- Need for more POs
- Need to treat them as officers.
 - Meaning responsibility
 - Power to take own decisions
 - Act with own discretion
- Officers with 'office' & staff support
- Each one is given mobile phone & vehicle
- Have missionary zeal & commitment
- Feel that they have a meaningful job
- Being the FIRST batch of POs, need to lay the foundation for future POs

Infrastructure

Make alternate 'Safe Homes' for victims of DV – shelter home

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FIVE MAJOR OUTCOMES OF THE WORKSHOP

1. **More clarity on the working of the PWDVA – such as the need to break the myth that PWDVA is against men-** It is not a fight between men and women but about justice vs. injustice and also that while implementing PWDVA we need to STOP its misuse
2. **POs need to be treated as OFFICERS by the Delhi Government and should be provided with all facilities. Pos should be given** Power to take own decisions and act with own discretion rather than be sent by Magistrates to serve summon
3. Need for more POs in Delhi. A total of 18 cannot serve the population of Delhi
4. **Infrastructure** -Make alternate 'Safe Homes' for victims of DV – shelter home in Delhi. We need to identify one of the many government buildings lying vacant and not in use and demand that it be converted to a Shelter Home only for victims of DV where the woman can live with their children also.
5. **Need for the Delhi Government to recognize the huge force of paralegals available in the form of 1200 mahila panchayat workers and seek their assistance to help the POs in serving notices, and also locating the household and in follow up action reports**

Dear Bonani
Cc Gitanjali

We are sending you the five major outcomes of the 14th july workshop with POs.

We await a format from you in which we can write all the workshop reports for the Delhi Model.

As discussed, we also look forward to your comments on the draft circular to be submitted with the Delhi Police ASAP. We are trying to fix up an appointment with DCP Yadav of the Nanakpura CAWC and we shall let you know about the same as and when fixed.

We are in the process of drafting the strategy paper for the Delhi model and shall share the same with you very soon.

We would also like to follow up on the chart sent by us to you for eliciting information from states on the PWDVA to be put up on the Gender Community for e-E-discussions.

Warm regards
Gouri