

NATIONAL WOMEN'S CONFERENCE

Organized by: Action India & National Centre For Advocacy Studies

The Implementation and Enforcement of
The Protection of Women from Domestic Violence Act, 2005
February 20th and 21st, 2006, New Delhi

NARRATIVE REPORT

Foreword – Director Action India - Gouri Choudhury

The organizers were overwhelmed by the tremendous positive response to the call for the constitution of a Steering Committee. Composition of the Steering Committee representing 23 states. The common ground shared by the Steering Committee members was our involvement in the legislation of the DV Bill over the last decade. Though there were bound to be differences on specific issues, we could confidently state that there was a common goal and commitment to stop domestic violence. A woman's perspective on gender based violence is essential.

A shared history of the women's movement had brought us together on the common platform against Violence against Women. In brief, there was an unspoken/unwritten agreement that we had responded to the call for National Women's Conference because there was an urgency to act. The precarious situation of the passing of the DV Act 2005, without notification of the date in the gazette, was sufficient to arouse concern. The delay in the formulation of Rules and lack of information on procedures was something to take note of immediately. The collective thinking space provided by the Steering Committee became a clearing house for national joint action across states.

Our demand: Implement & Enforce the DV Act.

The mandate of the Steering Committee was to steer the two-day Conference to its logical end. Despite the spontaneous nature of exchange and sharing of doubts on some questions, the chairs successfully led the discussions to a fruitful understanding. This was summed up and presented to the plenary, and placed before the concerned authorities, experts and dignitaries.

For more details refer to the **Conference Concept Note (Annexure -1)**

Steering Committee meeting from 9.30 – 10.00 a.m.

Chair: Razia Ismail Abbasi

Members Present were: alphabetically arranged

S.No.	Name	Organsiation / State
1.	Anjali Deshpande	Delhi
2.	Bharthi Roy Chowdhury	Delhi
3.	Debashree Sarkar & Asmita Basu	Delhi
4.	Geeta Devi	Karnataka
5.	Gouri Choudhury	Delhi
6.	Hafiza Muzzaffar	J & K
7.	Jashodhara	U.P.
8.	Jashodhara Bagchi	W.Bengal
9.	Jyotsna Chaterjee	Delhi
10.	K.N. Tiwari	U.P.
11.	Leena Prasad	Delhi
12.	Madhu Joshi	Delhi
13.	Minoti Sarma	Meghalaya
14.	Nandita Knowar	Assam
15.	Naseem	Delhi
16.	Neelam Chaturvedi	U.P
17.	Payal Saxena	Rajashtan
18.	Priya Narula	Rajashtan
19.	Radha Bathram	Tamil Nadu
20.	Razia Ismail Abbasi	Delhi
21.	Rukmin Rao	A.P
22.	Shakun	Karnataka
23.	Shanta Mohan	Karnataka
24.	Sunila Signh	Delhl

Gouri Choudhury: The PWDVA is a result of 30 years of campaign by all of us on violence issues. Now our goal is its implementation – this is the real challenge and the objective of this NWC. We should all work for the next two days towards achieving this goal.

Razia Ismail Abbasi: I represent the Indian Alliance for Child Rights. How does the girl child come into the Act is what I am here to find out. All groups, including lesbian groups, have been invited to this Conference in order to make it more participatory and result-oriented.

Pam Rajput: We need to move towards the real objective of the Conference – focus on how and what needs to be done to ensure the implementation and enforcement of the PWDVA, 2005.

Shantha Mohan: I represent the National Institute of Advanced Studies, Bangalore and I see this as the beginning rather than the culmination of our efforts. We are all looking forward to working together on this issue.

Discussions

- ❖ We all should not think of amending the Act or analyzing it – the Act is a reality. Presently, our focus should be on seeing that the Act as it is becomes a positive reality. This Conference does not intend to get into the contents of the Act – we need to pass that discussion. Our aim is to ensure that the Act is implemented and work out mechanisms for the same and to see how the Act can be made a positive reality.
- ❖ Our role vis-a-vis this realization is important. We are all responsible to make this Act work for women so that the law becomes a helpful reality.
- ❖ We need to check what it means to have a new minister and a different Ministry of Women and Child Development. The present secretary is to retire this summer. Who is the next incumbent?
- ❖ We need to work out a blueprint and road map – the overall objective being to make this Act a people's Act.
- ❖ The challenge is in thinking together – and act together - that is the real job of the Steering Committee. We all need to assess our own strengths and take up specific roles and take up our jobs seriously in our respective States.
- ❖ We need to see what the role of the Steering Committee is after the 2 days' deliberations—can we become critical promoters and monitors? We have an on site role at this Conference.
- ❖ The agenda of the NWC was vetted by the Committee
- ❖ For J & K we need to take up the outcomes of this Conference to ensure that the law is extended even to that State.
- ❖ The State Women Commissions should be pressurized to take up this law seriously.
- ❖ We should focus more on the processes and document the same. For reasons of time constraints, we should not get into the contents of the law. We should accept them as they are and focus more on the Rules – draft form and try to finalize the same for their early passage.

Points of Consensus

- ❖ Early notification of the Act is essential – all members agreed on this.
- ❖ We should make it clear that this is a Central Act and once notified, will come into existence in all States – each State need not make its own law
- ❖ We need to first push for the Rules – then demand notification of the Act.
- ❖ At the end of the Conference we can work out the strategy for each State.
- ❖ Demand extension of this Act to J & K also.

In Retrospect: Conference Core Group - We feel that members of the SC should have met before (19th evening) atleast for two to three hours as this was a National Conference and not all members knew each other's views on the issue. A dinner together would have further strengthened their capacity to communicate and would've provided more time for a healthy exchange of ideas.

1st Day- 20th Feb 2006

INAUGURAL SESSION

Welcome by *Gouri Choudhury*

Chair by *Razia Ismail*

The NWC started off with a celebration of 30 years of Action India, the organizers of the NWC. The Founding members of Action India took pride in the fact that for thirty years the organization has been able to work together in the women's movement.

Gouri Choudhury (GC): For 30 years three of us have been together – this is cause for celebration. In India there is no one movement as such – many little streams come together to make the movement against violence in India and Action India is just one of them. The campaign for the Domestic Violence Bill has taken up by Action India's work to a national level. This effort has today resulted in the National Women's Conference (NWC) and is a culmination of the three years advocacy campaign across eight States.

Bharthi Roy Chowdhury (BRC): We are very delighted that the Government of India has enacted this Domestic Violence Law. It has been the result of a long struggle. I started in this movement with a vision of a society that recognizes women as equals, a society that recognizes our identities without any discrimination - a society that is free of violence and fear - a fearless and violence free home. We have travelled a long road.

Our society recognizes and addresses violence done by strangers but till date, violence that takes place at home remained a silent zone. We have been often told not to raise much hue and cry about a husband harassing his wife because that was a small issue – after all he had not beaten her nor had he killed her. We have been often told that some amount of family tensions is a normal thing. But to our minds, violence against women is not merely physical beatings – it also includes killing one's emotions and desires, relinquishing our dreams and living a life without any identity in a choiceless situation, with lots of boundaries and limitations. Women are forced to live a life dictated by do's and do nots. Every family and every woman, irrespective of the economic status or caste or other factors has had to adjust and tolerate violence in her family at some point of time. It is only now that we have got a complete law to address this situation of every woman.

When I joined Action India 30 years ago, we worked for the rural women in villages and small towns. All of them have told us one common thing – the desire to live in a home that is free from violence – where there is no fear and threat of being thrown out at any point of time. The question that women have repeatedly asked us is which is our own home and where do we have a right to live? After marriage our parents also do not welcome our long stay. At our in-laws' house, we can be thrown out any time empty handed. If strangers inflict violence on us, we come to our homes for remedy and rescue. But if our own relatives beat us, where do we go? Women have shared with us complete helpless situations where they don't wish to live a life of fear and violence but they have to suffer in silence and tolerate every kind of torture merely because they're choiceless and have no options. This PWDVA, (Protection from Domestic Violence Act 2005) therefore, is very significant. We have this after a long struggle. But we have a tougher fight ahead. To properly implement and benefit from this law, we need another movement towards this.

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Sharda ji: I joined Action India in 1979 with the aim of making changes in society. I was the daughter of a big lawyer. But caste was very prevalent at home. As a child, my mother once beat me up because I played with the sweeper's child. I wondered what wrong had I done. My father earned money from all kinds of cases – he fought cases for every one and all castes. If the money that he got home was not dirty, why was I becoming impure if I played or sat with the lower caste people? This motivated me to fight for a better society. After marriage, my desire to work for social issues allowed me to join Action India – the goal and mandate of this organization appealed to me. Today we have come a long way since 1970s.

Sunila Singh : NCAS has been supporting advocacy campaigns for the last 10 years now. Our invisibility in gender issues is because we support and do not initiate campaigns. We have decided to support advocacy and lobbying campaigns of Action India.

SONG: Action India group sang the 30-year-old song of the women's movement - **HE JI RE**

A poem was read out:

Another Woman

Carol Geneya Kaplan

Today another woman died
and not on a foreign field
and not with a rifle strapped to her back,
and not with a large defense of tanks
rumbling and rolling behind her.

She died without CNN covering her war.
She died without talk of intelligent bombs
and strategic targets
The target was simply her face, her back
her pregnant belly.

The target was her precious flesh
That was once composed like music
in her mother's body and sung
in the anthem of birth.

The target was this life
that had lived its own dear wildness,
had been loved and not loved,
had danced and not danced.
A life like yours or mine

That had stumbled up
From a beginning
and had learned to walk
and had learned to read
and had learned to sing.
Another woman died today
not far from where you live;
just there, next door where the tall light
falls across the pavement.

Just there, a few steps away
where you've often heard shouting,
another woman died today.

She was the same girl
her mother used to kiss;
the same child you dreamed
beside in school.

The same baby her parents
walked in the night with
and listened and listened and listened
for her cries even while they slept.

And someone has confused his rage
with this woman's only life.

INNAUGURAL SESSION

Chaired by Razia Ismail Abbasi

GC: We have participants and representatives from 24 States of India. All participants have a big role to play at the NWC. At the NWC, our focus should be on building strategies towards the implementation of the PWDV Act. I am sure that if the participants are able to take back to their respective states the outcomes of the two day NWC, we will be closer to our goals of making every home free from violence in the next 2 to 3 years. Each one of us needs to mobilize our strengths at our own levels. The Government will have to implement this law. Unlike other laws, which have remained on paper, all of us have determined not allow the same to PWDVA. We are resolved to take this law to the ground and make it a reality. The role of the participants is thus very important in terms of action at their own levels. ***This is a strategy and advocacy meeting.*** We should all, by the end of the two days, be able to take back with us a road map for our regions. We all need to be very clear as to what we want and how we have to achieve that. Each one has a different role to play. We should try and reach out to the policy makers and those responsible for implementing the law.

As organizers of the NWC, we have put in a lot of effort to try and get the important dignitaries to be before you. Though we have commitments from them, we are not sure if they will actually come or not. But we need to be focussed in our two days' discussions and be prepared to present to them what we want them to do. It is thus important that we have some goals targetted with clarity and consensus.

Partnerships and Strategies on Combatting VAW in South Asia

Ms Chandni Joshi - Regional Programme Director, UNIFEM

She recollected how we, the same women, had all got together at the time of Beijing Platform to work out a common Charter. Most of the partners were present today at the NWC. She was happy to note that not many countries have progressed the way we have in India. Being together again, she said, an agenda on domestic violence and the new law is being built. She congratulated Action India for completing its 30 years and for organizing the NWC, bringing together important partners and dedicated womens' right advocates from different parts of the country. She agreed with GC that the women's movement was not one single entity but rather it was a collection and joint force of many streams. Some are slow while others are powerful and fast. But what is important is that all the streams are joined and stand together as a force. The womens' movement today is both vibrant and effective.

The PWDV Act is an outcome of the movement's hard work and commitment. The Lawyers Collective, headed by Advocate Indira Jaising, led the process and gave us the language and articulation for the law. The passage of the PWDV Act is a victory of great historical significance in the journey of women's rights. Its existence also reaffirms our belief that nothing is impossible if we are determined.

The gains of the PWDV Act are considerable, the most notable ones being the links to women's rights to residence and protection and inclusion of DV beyond the ambit of marital relations. Another important thing that it has been able to do is to break the boundaries of secrecy and silence. The PWDV Act brings into public domain the violence that is perpetrated in the private domain of the family; hence it is of importance.

However, this journey is still 'works in progress. It is well known to us that legislations and police alone are not sufficient to deliver the results envisaged. They need to be backed by sustained advocacy and enough resources. The challenge is in the timely and effective implementation and monitoring of the law. The NWC presents a tremendous opportunity to all of us to come up with strategies with regard to this. Action India and NCAS have taken up the leadership in bringing us together and we all need to support them in this.

Data on DV is hard to find because of the secret nature of the violence. A recent WHO multi-country study on women's health and DV compares data across countries. This report treats DV as a globally major public health issue.

Today's environment is enabling and new horizons are being explored. This is visible in the enactment of the PWDV law in India and Sri Lanka and advocacy demands going on in Nepal. We are trying to move forward by working with police and judges, to explore masculinities and are now extending our reach to unconventional stakeholders such as inter-faith leaders' forum formed in Bihar. For UNIFEM, this has been an outcome of its multi-stakeholder approach. The Forum uses its position to raise awareness on social issues and the ills of DV. They do this through sermons and interactions with their communities. This model is also being replicated in Nepal with the World Hindu Federation.

UNIFEM's partnership with the SAARC Secretariat has been formalized through a MoU. Along with the NGOs and women's groups, they form a part of the biennial collective journey to track progress on the implementation of the Beijing Platform for Action. The Secretariat, along with the Government of the SAARC countries, are setting up a SAARC Gender Database which will be projected as a G – Data Shop to facilitate engendered planning, advocacy and identification of gaps and challenges.

Creating unique partnerships and alliances has been very helpful in our work. A unique model has emerged from the Gender and Judges journey with SAKSHI – which is a Judge – NGO partnership. It has been decisive in transforming “formal” equality to “substantive” equality. Collaboration with academic institutions such as TISS and the Maharashtra Police has demonstrated new models for social change.

The strategy of involving community as a whole through the neighbourhood watches or zero tolerance / violence zones have been successful. The family, neighbourhood and organized groups’ network is the first site of responses for women facing violence. Mahila Panchayats provide excellent spaces for women to meet at a particular time to arbitrate on cases of VAW. Community Vigilance Systems is also a strategy to prevent violence and promote protection.

Initiatives in South Asia against Domestic Violence

Allison Aldred - Regional Director, South Asia - Oxfam GB

The important focus of the NWC after the passage of the Protection of Women from Domestic Violence Act, 2005 is to have a dialogue about how to now ensure the effective implementation and enforcement of the Act. Violence against women is endemic in South Asia and takes many forms. Perhaps the most extreme expression of this violence is the fact that we estimate 50 million women are missing from the population of South Asia – women who are not alive because of some form of violence perpetuated against them – be it foeticide, female infanticide, inadequate nutrition and health care, neglect or abuse, honour killings and dowry deaths. At the same time we know hundreds of millions of women in South Asia face domestic violence as a normal part of their daily life – an experience cruel and damaging in itself and an experience which has the effect of limiting women’s participation in every aspect of life – at the household, the community, social levels.

Most countries in South Asia have recognized the importance of bringing about a legislative environment that protects women. The passage of the Domestic Violence Bill in India is an important milestone in giving women explicit rights and protection from domestic violence and I would like to recognize the huge amount of work and commitment that many people here have contributed in bringing about that legislation. At the same time, we are aware of legislation in Nepal, in Bangladesh, in Sri Lanka and in Pakistan that recognizes women as equal and provides protection before the law. But we see little evidence of that protection.

The legislation, the policy measures, the national programme, the allocation of resources, and the institutional mechanisms introduced over the past two decades in South Asia have not yet brought about an environment in which women have equality, nor one in which women can readily achieve their rights, including protection from violence. Today, change is required at many levels:

- We certainly need the introduction of legislation and policies that value and protect women.
- We need the development of services and support for women experiencing or at the risk of violence.
- We need efforts to change ideas, beliefs, attitudes and behaviours which underpin violence.
- We need policy makers and influencers and believe violence against women is not acceptable and must be stopped.
- We need opinion makers of every sort – community leaders, religious leaders, and Bollywood stars – people at every level to believe that violence against women must end.
- And we need ordinary people – women and men across South Asia to believe that violence isn't normal, is not acceptable and can come to an end.

In this regard, Oxfam is pleased to be associated with the ‘We Can End All Violence Against Women’ campaign. As part of this campaign, hundreds, we hope eventually thousands, of organizations across South Asia are working to change ideas, beliefs, attitudes and behaviours about violence – to bring about widespread acceptance that domestic violence is not normal, is not acceptable and must end. Over the life time of the ‘We Can’ campaign (up to 2011), we intend to enlist the support of 5 million Change Makers, ordinary people who commit to working to end violence in their own lives and to influence ten others around them (be it in their family, their peers, their community, their colleagues), and work to end violence in their lives. We are reaching out and enlisting the support of Change Makers through a wide variety of popular campaigning actions and mobilizing activities – theatre, talks, media, communication materials and rallies. In this way, the ‘We Can’ campaign aims to reach out to 50 million people across South Asia symbolically linking one person for each one of the 50 million women who are not alive because of violence perpetrated against them.

As attitudes and beliefs of millions of people across South Asia start to change, we believe we can be more confident of the effective implementation and enforcement of legislations like the Domestic Violence Act, and of women being free to access and benefit from the mechanisms it provides.

Presentation - Legislating Domestic Violence in India and Highlights of the Domestic Violence Act - *Asmita Basu: Lawyers Collective, WRI*

*(Copy of the Bare Act on PWDVA 2005 was provided in the Conference Kit)

When the bill was pending in the Parliament, we had held a meeting with parliamentarians to push for the early passage of the Bill. There was absolute unanimity amongst all parties for this kind of a law and we did not have to work too hard to convince them. The discussions were more on the contents of the law.

This presentation is on what the new law is and how it can be implemented.

- ❖ It is a civil law for protection orders and not meant to penalize or punish.
- ❖ It does not recognize any new rights except the right to residence.
- ❖ It provides only temporary and emergency relief.
- ❖ It recognizes the right of the woman to live in a violence-free home and that she should not be facing violence.
- ❖ It is a law in response to the needs of the woman.
- ❖ It has certain crossovers from civil to criminal law – so when the protection order or Magistrate's order is violated, criminal law will start.

RULES

- This is a Central law and hence the Centre is framing the Rules – but the appointment of POs will be by the State Governments.
- The PO is the first point of contact for the woman – hence a very important cadre.
- The Rules specify the rights of the victim and the duties of the authorities under the Act.
- The Rules specify the procedure for exercise of powers under the Act including eligibility and appointment of authorities, manner of counselling, disposal of applications, service of summons etc.
- Section 37 of the PWDVA, 2005 authorizes the Central Government to make Rules for carrying out the provisions of the Act

Heads for which Rules are to made listed under the Act

- Eligibility, appointment, terms and conditions of service etc. of the Protection Officer
- Form and manner of making a Domestic Incident Report
- Form and manner of making applications for protection order
- Duties of the Protection Officer

- Registration and regulation of Service Providers
- Form of making applications
- Means of serving notices
- Qualification and experience of counsellors
- Form of affidavit to be filed by the applicant.

Draft Rules proposed and forwarded to the Government by Lawyers Collective provide for

- Qualifications and appointment of Protection Officer under the Act
- Shelter and medical assistance to the aggrieved person
- Functions and duties of Protection Officer
- Registration of Service Providers
- Form and manner of making complaint (Domestic Incident Report - DIR) and applications for reliefs under the PWDV_Act
- Service of notice and summons.
- Appointment of counsellors and counselling
- Safety plan for the aggrieved person
- Enforcement of orders passed under the Act and consequences of breach of protection order.
- Computerized user-friendly forms for making complaints and applications.

Shelter and medical assistance to the aggrieved person

- The shelter homes and the medical facility are under a legal obligation to provide shelter or medical facility to the aggrieved person.
- Copy of medical examination report to be provided free of cost to the aggrieved person

Qualifications and appointment of Protection Officer under the Act

- Protection Officer either to be a government servant or a social worker working for women and child welfare, with a post graduate degree in Humanities or Law.
- One or more Protection Officer within the jurisdiction of each Judicial Magistrate.

Functions and duties of Protection Officer

- To inform aggrieved person of her rights under the Act.
- To provide all forms and applications and assistance to the aggrieved person.
- Make a safety plan and take adequate measures in view of the safety plan.
- Enforce the orders of the Court as and when directed by the Court.

Service Providers include shelter homes, medical facilities and counselling services.

- The Service Providers should be registered and fulfill the statutory requirements for running a medical facility or a counselling center etc.

Form and manner of making complaint - (Domestic Incident Report) and applications for reliefs under the PWDVAct

- Complaints and applications under the Act can be made by filling in the prescribed forms.
- The forms can be availed of from any source including Service Providers, Protection Officers or Police Stations.
- The aggrieved person has a right to seek assistance for filling in the forms or filing the applications before the Court.
- The aggrieved person can also file the complaint or applications directly before the Court.
- In case the aggrieved person files the complaint or applications through the Protection Officer or a Service Provider, she has a right to receive a copy of the complaint or the applications free of cost.
- The service of the notice or summons shall be by handing over the same to the respondent or any male member of his family.
- The summons / notice can be delivered by registered post.
- Court can direct service in accordance with the Code of Criminal Procedure or the Civil Procedure Code or employ any other effective way of service in view of the facts and circumstances of the case.

Appointment of counsellors and counselling

- The Court can direct counselling for an amicable of the matter by the parties.
- Counselling can be directed on admission of alleged misconduct and undertaking not to repeat the same by the respondent.
- The objective of the counselling is to ensure that the domal.

Enforcement of orders passed under the Act and consequences of breach of protection order.

- The breach of orders of the court under the Act shall amount to cognizable, non-bailable offence warranting immediate arrest and summary trial.

Computerized user-friendly forms for making complaints and applications

- The forms for making complaints and applications are in computerized format and user friendly.
- The aggrieved person can easily provide the required details.
- Filling in the forms will take care of all the legal requirements to be fulfilled by aggrieved person.

OPEN FLOOR

- ❖ NRIs important point of negotiations. We need to see how the woman can be covered here by this law
- ❖ For the first time, we have TV programmes on domestic violence issues
- ❖ We need to try and reflect on the 11th Plan as well
- ❖ The role of the police is important only after a breach of an order but when the woman goes to the police, he can register the DIR and then refer it to the PO

Vote of thanks given by Sunila Singh - NCAS

PLENARY - 1

CEDAW & the Domestic Violence Law in India

Chaired by Jyotsna Chaterjee

Presentation – Madhu Mehra - PLD

For ten years we have all been working on CEDAW now and we all know what it means. With the ratification of the CEDAW, India has not only acknowledged the need to address domestic violence as part of its commitment to eliminate all forms of discrimination against women, but is also obliged to do so. The Convention imposes an obligation upon all ratifying States to 'respect, fulfill and protect' the rights and freedoms enshrined in it.

When a State respects, fulfills and protects rights and freedoms of women to bodily security, integrity and freedom from violence, it means that all State agencies, organizations and individuals in that State recognize women's rights and freedoms, that there is an environment that ensures the enjoyment of these rights and freedoms, such that it enables the exercise of these rights and freedoms.

In relation to domestic violence, the Convention therefore structures the Indian Government's obligation in these three broad categories required for fulfillment of women's human rights: that of Respect, Fulfill and Protect.

The obligation to respect implies recognition of the issue through enacting laws. The laws hitherto in existence gave only partial recognition to the problem of domestic violence. There was no recognition of domestic violence against women other than wife, and even with respect to wives, in practice it came to be equated with one relating to dowry demands. The definition of domestic violence in the Protection of Women from Domestic Violence Act 2005 (hereinafter referred to as PWDV Act) is comprehensive in not only including varied forms of violence within its ambit but also extending it to women, other than wife, who are in a domestic relationship. Moreover, the Act no longer views domestic violence as a private matter and thus gives 'any person' the authority to give information about domestic violence to the Protection Officer.

Recognition of an issue and laying down standards with respect to the same is only one part of obligation under the Convention. The other part i.e. fulfillment relates to actually realizing those standards of conduct in practice and ensuring homes free of violence for women. Thus, for enabling women to enjoy their rights, it is necessary that arrangements are made and support systems are established to create an environment where they are able to enjoy secure existence within their homes. For instance, in the context of domestic violence, the obligation to fulfill would include change in attitudes, power relations, securing women's rights in the private sphere, establishment of counselling centres, raising awareness etc. In this regard, the PWDV Act limits itself to directing the Central Government to give wide publicity to the provisions of the Act and to conduct sensitization and awareness training for police and members of judicial services on issues addressed by this Act. Besides this, it provides for recognition of voluntary associations working towards protection of rights of women as Service Providers. In creating conditions to enable women to enjoy security and safety within households, there is still much to be desired. Provisions or policies may be made supplementing the Act with other measures to bring about changes in attitudes etc through a multi-pronged strategy.

As the title of the legislation suggests, the PWDVA provides for the protection of women from domestic violence. Under the Convention, the obligation to protect necessitates mechanisms to redress violation of rights. The redressal for women victims of domestic violence, as provided under the PWDVA, is not limited to criminal prosecution but extends beyond punishing the perpetrator to addressing varied needs of the victims. The PWDVA envisages different types of orders that may be passed by a Magistrate viz., protection order, residence order, monetary relief, custody order and compensation order. It also provides for punishment if protection order is violated. The need for a place to reside, financial security and custody of children often act as barriers for women in moving out of a violent

relationship. Protection of these rights while addressing violence is a major step in securing the rights of women victims of domestic violence. Besides these orders that may be passed, the PWDVA also envisages a network of agencies like Protection Officers, Service Providers, shelter homes, medical facilities etc to provide different services to women.

The PWDVA is thus a major step in the recognition of the problem of domestic violence and in providing redressal to the women victims of violence. The obligations under the Convention, however, extend much beyond these to make arrangements and create conditions for enjoyment of security by women at home for which other measures are needed. Besides this, the obligations are also not limited to making good laws addressing a problem but effective implementation of the law, so that there is change in the actual situation, which would in turn necessitate formulation of comprehensive Rules under the Act, allocation of funds for different agencies set up by the Act, and actual change in the statistics as the final indicator of change in the situation on the ground.

Ms. Shanta Mohan : Despite the clear existence and understanding of VAW, there still is lack of data and lack of evidence on domestic violence. The public-private divide is so conspicuous that the State often does not wish to interfere in what is considered a private sphere. In spite of legislation, it is in all probability the police, the enforcement agencies, the judiciary and almost every stakeholder would continue to think that it is a private matter and that they should not interfere in this particular form of violence. And therefore, in this context, we realize that the State obligation under Article 2 of CEDAW, that the obligation should not be restricted to government agencies alone but all individual enterprises and private organizations – all should be equally recognized in exercising and protecting the rights of woman. So, this in a way expands the private sphere into the public one and the State cannot be inactive on issues that remain within the four walls of the home.

Coming to **State inaction and obligations**, I would like to point out that inaction actually comes out from this kind of a perspective that we have spoken about. Now with the PWDVA, there are going to be many sessions. I mean a lot of discussions on the rules and regulations and how to monitor the State. But what I think is very important at this point is to see that how do we ensure accountability from the State. And for that what we need to do, I would say, in this context, is that one should, all of us, should be familiar both with the application and the use of substantive equality framework. Often it is easy for us or for the State to show progress but unless you apply it in terms of de facto equality, in reality it goes unnoticed that we have a lot of discrimination still operating at the ground level. Now I will take just a few minutes to explain the substantive equality framework – this means that we

need to identify the disadvantages that a woman faces and the disadvantages she faces in the context of DV. As already mentioned in the morning, there is inter sectionality of rights. Restrictions in the enjoyment of one form of right may often have impact on other rights of women too. And therefore one needs to identify what kind of disputes exist between men and women and what are the disadvantages which perpetuate this kind of disparity that women face and what kind of impact it has had on women and what has the Government or State done to bridge this disparity and to eliminate the disadvantages women face so that they enjoy the rights completely and fully. Now when you look at this – inaction on part of State leads to unequal nature because ultimately what ever you do you need to result in either reducing DV in this case or increasing the enjoyment of rights of women. So if you do not in reality in the form of results notices this change then any form of intervention by State or any form of legislation that is formulated by the State becomes useless. So this being the framework, what we do in whatever form at our end, becomes monitoring of State and people. One is that we need to see that there is difficulty in implementing the law in itself. We need a lot of discussions on the Rules and what kind of procedures we want and strategies we want to adopt.

I would like to emphasize that ***inter sectionality and inter connected rights*** be taken into account because for instance, if women do not have matrimonial property rights, then framing PWDVA, which does not give her rights to property, can have negative impact on her own enjoyment. So also education and right to employment and livelihood and right to be present in the decision-making processes at political forums and so on are important. ***Actually we need to look at all the Articles as given in the Convention and connect with the PWDVA in order to have a comprehensive addressal of the issue.*** Then the other one that I was thinking is that we need to have indicators. Often we do not know what do we need to monitor the State. There is so much of confusion that ***evolving indicators, keeping the indicators as base, communication of information in terms of these indicators, monitoring the State frequently, and regulating and ensuring accountability from State, would be a systematic and conscious effort from all of us.*** If we do not do that, then it would come up once in four years and we are lost in the same track that we are today.

Apart from monitoring the State, it is also facilitating the State. We need to see this as a positive aspect – then only can we ***develop a systematic and regular communication and feedback system.*** Such a kind of interactive participation will be important. I think this will also help in ensuring transparency and finally, we need to facilitate the State integrate these monitoring indicators in their planning process so that they themselves are consciously

looking at their own actions in terms of creating a violence-free environment at home for women. Women must also be empowered to assert their rights – it's not enough that onus is put on the State unless women themselves assert their rights. Therefore, networks, building alliances, solidarity groups amongst women and civil society organizations become important mechanisms, which should in all principles transcend all barriers of caste, class, religion and region and so on; and these are the only ways in which women can seek accountability from the State to protect their rights and give them the space to enjoy the rights and also to ensure that they are in a position to keep checking the Government of the day.

Discussions

We briefly need to remind ourselves that although CEDAW does not specifically mention VAW, the general recommendation No. 19 is important for our purposes. Under this recommendation, the CEDAW Committee has elaborated upon violence against women, VAW in different sectors and in its different manifestations. This clause says that when State party reports on equality in family life under Article 16, it must also report on domestic violence. State obligation means Government's responsibility or 'sarkari zimmedari'. Freedom from violence does not come only from the making of the law; implementation, along with adequate resources, is important.

We will finally succeed only if we manage to protect our women. Fulfillment comes with actual protection. The Government should be told this. Ongoing monitoring is hence important and a useful task.

The Government of India will definitely want to report this time on having made a law on Domestic Violence; last time, they had nothing to say on the subject.

Every four years the national governments that have ratified CEDAW **must** submit Status Reports to the CEDAW Committee.

The need is to come up with crucial indicators such as incidence, kind of action taken etc – legislations, policies, programmes, schemes etc. We also need indicators to measure these actions taken to see how effective they have been. Therefore, the process of results is important. Have there been any changes, what is the extent of change visible, and also take these indicators in terms of efficiency and implementation. If this is done and worked out, it can be very useful.

PLENARY –2

PWDVA - 2005 & ITS FINANCIAL IMPLICATIONS

Siba and Yamini from CBGA, Delhi

Now that we have the PWDVA and we have spoken about State accountability, we need to ensure effective implementation though putting in place adequate infrastructure and other resources to support them. We need to think about where to get the resources, how much and by when? We should be clear in our demands.

We should in our own States put pressure on the Government to allocate resources for the PWDVA.

Procedures Involved under the PWDVA

Step 1: Informing the Protection Officer: Any person who has reason to believe that such an act has taken place or is likely to take place can inform the Protection Officer.

Step 2: Aggrieved woman should be informed of her rights under the law: A police officer, Protection Officer, Service Provider or Magistrate who has received a complaint shall inform her of :

- Her right to make an application for obtaining relief by way of protection order, an order for monetary relief, a custody order, a residence order, a compensation order;
- The availability of services of the Protection Officers, Service Providers, including shelter homes, medical facilities, etc.
- Her right to free legal services under the Legal Services Authorities Act 1987; and her right to file a complaint under section 498 A of the Indian Penal Code.

Step 3: Making the Domestic Incident Report and other responsibilities of the Protection Officer: The Protection Officer makes a Domestic Incident Report to the Magistrate and forwards copies thereof to the Police Officer in charge. She/he ensures that

- The aggrieved person gets all the benefits mentioned.
- A list of all Service Providers is maintained and that the aggrieved person has access to counselling, shelter homes and medical facilities where required;

Step 4: Once the matter is with the Magistrate: The Magistrate shall fix the first date of the hearing, which shall not ordinarily be beyond three days from the receipt of the application by the Court, and shall endeavour to dispose every application within a period of 60 days from the date of the first hearing.

Step 5: Informing the respondent of the date of hearing: A notice of the date of hearing shall be given by the Magistrate to the Protection Officer who shall serve it on the respondent and on any other person as directed by the Magistrate within a maximum period of two days.

Step 6: Other options with the Magistrate: The Magistrate may

- Direct either of the parties, singly or jointly, to undergo counselling;
- Seek assistance of a person, preferably a woman, engaged in promotion of family welfare, for assisting him in discharging his functions;
- Conduct the proceedings in camera.

Step 7: Where does she stay in the meantime? Aggrieved person has the right to reside in a shared household, whether or not she has any right, title or beneficial interest in the house and shall not be evicted.

Step 8: How is she protected in the interim?: The Magistrate, after giving both parties an opportunity of being heard, and satisfied that domestic violence has taken place, can pass a protection order or a residence order, direct the respondent to pay the aggrieved person monetary relief and in addition, can pass compensation orders, custody orders and ex - parte orders.

- The Magistrate shall ensure that a copy of any such order shall be given free-of-cost to the parties.

Step 9: What if the protection order is breached? If the protection order has been breached, it shall be punished with either imprisonment or fine or both.

Step 10: Who will ensure that all this is done? The Central and the State Government shall take measures to ensure that—

- Provisions of this Act are given wide publicity through media
- Central and State government officers including police officers, members of the judicial services, etc., are given periodic sensitization and awareness trainings on issues addressed by this Act;
- There is effective coordination between the services provided by concerned Ministries and Departments dealing with law, home affairs, health and human resources, and that there is a periodic review of the same.

Entities Involved

- Aggrieved Person and Respondent
- Relatives and Friends of both
- State
- Protection Officer
- Police Officer
- Law enforcement related (police, judiciary, jails)
- Civil Society & State (State cannot be absolved of its responsibility)
- For counseling
- For shelter
- For medical facilities
- As welfare experts.

Financial Commitment for

- Institutionalization of the Process
- Protection Officers
- Salary
- Travel
- Research
- Photocopy

Limiting Guidelines

- Do not have substantial information on the extent of and specific issues related to the problem
- Available information is overlapping across issues
- The success or failure depends on the level of participation and democratization of the process
- We largely think, act and behave in the broad paradigm of patriarchal social structure
- The external realities
- Assumptions
- All our estimations and financial recommendations largely depend on various assumptions based on available statistical information on several issues related to the Act
- Selection and registration of Service Providers where building up the infrastructure base
- Legal justice
- Appointment of additional Judges
- Maintaining transparency in the system
- Infrastructure base

Financial Commitment for

- Sensitisation & Awareness building programmes
- Publicity of the processes
- Research and documentation
- Possible burden on the jails and police infrastructure
- Periodic sensitization of police and judicial officers
- Punitive action

Bottlenecks in the judicial system in India

- Highlights of the 189th Report (2004) of the Law Commission on Review of Court Fees
- Total Pending Cases: More than 2 Crores in 13,000 District Subordinate Courts
- 10 lakh of such cases are heinous offences such as murder, rape etc
- 30 % of these cases have been pending for more than three years.
- 10% of these cases are more than 10 years old.
- Conviction rate in the offences under IPC fell from 65 % in the 1970s to about 40 % in 2000.
- Plan Investment in the administration of justice is inadequate
- The State Governments are spending an aggregate of over Rs. 361 crore per annum on the under trials at the rate of Rs. 55 per head per day
<<http://pib.nic.in/feature/feyr2001/fmay2001/f010520012.html>>
- 11th Finance Commission approved Rs. 502 crores to set up 1,734 additional Fast Track Courts in 2000
- By 2003, these Fast Track courts could dispose 1,60,487 cases.

OUR DEMANDS

Budgetary - for the Year 2006-07

- Institutionalization of the Process: Rs 26.55 Crores
- Legal Justice and Punitive Action: 146.09 Crores
- Sensitization: 4.15 Crores
- An Allocation of Rs. 126.85 Crores in the Union Budget 2006-07
- An Allocation of Rs. 49.94 Crores in the State Budgets (Combined)

POST LUNCH WORKSHOPS

Introduction to the workshop

The Protection of Women against Domestic Violence Act, 2005 (herein after referred to as the PWDV) was passed by the Lok Sabha and Rajya Sabha in August 2005. It received presidential assent in September 2005. The law, however, is yet to come into force as the Rules under the Act have not been framed and enacted. This workshop was aimed at discussing and finalizing the Rules submitted by the Lawyers Collective to the Department of Women and Child Development (Central Government).

Ms Indira Jaising's Presentation on the Rules for the Protection of Women against Domestic Violence Act, 2005

Ms Jaising commenced the workshop by defining Lawyers Collective's involvement with the drafting of the law and later lobbying for its enactment. A process of consultation, carried on for nearly a decade, resulted in the formulation of a Draft Bill that was submitted to the government for enactment. Though the UPA government accepted the overall framework of the Draft Bill, at the time the Bill was introduced in the Parliament, it was realized that some of the proposed provisions had been removed.

One of the major points that had been altered was the definition of "applicant" which allowed for applications to be brought on behalf of the child. This raises the issue of the kind of protection available to children under the Act and whether this Act could be applied in cases of children facing domestic violence. During the consultation leading up to the Act, a question had also been asked, whether a child could file an application on its own behalf, if the mother does not want to file.

No one was aware of the stage at which these provisions were dropped as there were limited interactions with the Ministry after the Draft Bill had been submitted. As soon as we realized that this provision was missing, we approached the Secretaries and suggested some crucial Amendments. However, we were told that that any Amendment proposed by the government at that stage would have to have prior Cabinet approval. This process is time consuming and if followed, it would have been unlikely that the Bill would have got passed in the monsoon session. The Ministry suggested that the Bill be tabled and passed in its present form and that any Amendments that need to be made could be moved at a later session of Parliament.

With the Presidential assent in place, the Bill has now become an Act of Parliament. However, there is a difference between an Act of the Parliament and an Act which is in force. For an act to come into force, a notification is required, setting the date on which the Act comes into force. This has not yet been issued for the Protection of Women from Domestic Violence Act 2005.

The Act clearly states that the Central Government will draft the Rules. The Department of Women and Child Development of the Central Government (“DWCD”) had approached the Lawyers Collective for the drafting of the Rules under the Act. The Rules were drafted and submitted to the DWCD. The Lawyers Collective had also circulated the Draft Rules to the NGOs and individuals. Unfortunately, no feedback has been received for the same till date. The present workshop was therefore crucial in providing a forum for discussion on the Rules.

Overview of the Act

The origin of the Act lies in Article 15 (2) of the Constitution of India, which clearly says that “State can make special provisions for women and children” towards realizing the right to equality. This indicates the use of affirmative action to remedy a wrong. It is often said that India has several laws but they are not implemented. The problem, however, is not the lack of implementation, but the lack of a mechanism by which it can be implemented. Women have insufficient understanding of the law and lack of access to the courts. Hence it is necessary not only to enact a law but to provide the necessary infrastructural tools with which to access the law. The way of doing this is to put a mechanism in place in the law itself. In the Act, this has been done by creating the office of the Protection Officer and recognizing the role of the Service Providers. Affirmative duties have been imposed on the government to provide legal aid, medical facilities and shelter homes in the hope that women in distress be given all these facilities. The Act is a statement of commitment by the State that domestic violence will not be tolerated.

The framework and crucial aspects of this Act are as follows:

➤ Civil law

The PWDVA is a civil law. While the objective of criminal laws is to punish the offender, a civil law is directed towards providing reliefs to the aggrieved party; in this case, the woman who faces violence at home.

➤ **Definition of “domestic violence”**

The Act defines “Domestic Violence” for the first time in Indian law. It is a comprehensive definition and captures women’s experience of abuse and includes not only physical violence but also other forms of violence such as emotional/verbal, sexual, and economic abuse. It is based on definitions in international law such as the UN Declaration on Violence Against Women and a Model Code.

➤ **Recognition of rights**

The Act recognizes domestic violence as a human rights violation. It recognizes a woman’s right to live in a violence-free home. To realize this right, the Act recognizes a woman’s right to residence and her right to obtain protection orders under the law.

➤ **The reliefs provided in the Act are meant to provide immediate relief in emergency situations**

The Act does not make any changes in the existing personal law regime on family matters. The reliefs under the Act are in addition to existing laws and have been recognized with the objective of empowering a woman to tide over an emergency situation. Having obtained relief under the law, a woman can still go for relief under other laws later.

➤ **Access to justice and the availability of infrastructure**

Recognizing that a woman requires assistance with legal procedures and other forms of support, the PWDVA allows for the appointment of Protection Officers, and recognizes the role of Service Providers in providing medical, shelter, legal, counselling and other kinds of support services. The Protection Officer is the person in charge to assist women to avail of these facilities as well as assist her in obtaining the appropriate order under the Act.

➤ **Procedures to obtain orders, reporting of violence and the consequence of breaching the obtained orders**

The Act includes provisions for making Domestic Incident Reports which will serve as important records at the stage of evidence taking. The manner in which the applications for orders under the Act have also been mentioned in the Act. Finally, the Act provides that the breach of an order obtained is a criminal offence.

Formulation of Rules

The Rules formulated under any law have to be confined to the ambit of the Act. The Rules are mainly directed towards operationalization of the Act; therefore, the Rules cannot go beyond the scope of the Act. Aspects of substantive law cannot be brought into the Rules. Hence, new rights or procedures which are not referable to a provision in the Act cannot be introduced in the Rules.

Under Section 37 of the Act, the power to frame Rules is with the Central Government.

FRAMEWORK OF THE RULES

The broad categories under which the Rules for the Act have been framed are as follows:

Appointment and functions of the Protection Officer

Appointment of Protection Officers

There was a great deal of controversy relating to the appointment and the qualifications of the Protection Officer. The ideal situation would be to create a new cadre of paralegals to serve exclusively as Protection Officers. However it is not possible to put in place a new system in the Rules as such, since a 'new cadre' would require involvement of the Ministry of Personnel Affairs. Also, the question of whether responsibility of the new cadre will vest with the Centre or the State will arise since law and order is a State subject.

Hence, under Rule 7, it has been suggested that Protection Officers be appointed from a particular section of people who are already employed as government officials. These officials will be on deputation to serve exclusively as Protection Officers. Under the Rules, there is a mention of various departments and sectors from which such officers may be deputed. Emphasis has been given on voluntary deputations. Provisions for the appointment of persons employed in Non Governmental Organizations as Protection Officers have also been included. The issue that remains unresolved is who will be responsible for paying volunteers from the NGOs. If the remuneration is minimal, volunteers may be discouraged from applying to the post. As the State Government is responsible for the appointment of Protection Officers, this is a matter that will have to be put for its consideration.

Tenure of Protection Officers

Rule 8 provides for a minimum term of 3 years for serving as a Protection Officer.

Jurisdiction of Protection Officers

In Rule 8, it is made clear that there shall be not less than one Protection Officer for the area of a Judicial Magistrate. This provision also allows the State Government to appoint more than 1 Protection Officer, keeping in mind the area and the volume of the work involved.

Functions of the Protection Officer

Rule 21 enlists the functions of the Protection Officer. The primary function of the Protection Officer would be to protect the victim from any further act of domestic violence. The Protection Officer should serve as a liaison between the woman, police and the Service Provider. Caution must be exercised to ensure that the functioning of the Protection Officers do not impinge on the right to privacy and the autonomy of women complainants.

The duties of a Protection Officer have been divided into two parts:

Functions of the Protection Officer under the Act

On receipt of any complaint from an aggrieved person, the Protection Officer will have to make a Domestic Incident Report and forward it to the concerned authority for further action if the woman so desires.

It shall be the duty of the Protection Officer to also assist the victim in

- ❖ making a complaint or an application under the Act,
- ❖ accessing legal aid and obtaining medical /shelter facilities,
- ❖ becoming aware of her rights, remedies and services available under this Act.
- ❖ receiving all possible assistance

Thus, the Protection Officer is the authority charged with the duty of doing everything possible to assist the woman in getting the remedies provided under the Act and live a life free of violence. The Protection Officer will be the interface between the victim and the Court, and between the victim and the police, the medical facility and the shelter home.

Functions of the Protection Officers under court orders

On receipt of an order from a Court, the Protection Officer can conduct a home visit, and can make appropriate enquiries regarding the salary, assets, bank accounts, and emoluments of the respondent liable to pay maintenance. The Court can also direct the Protection Officer to assist the aggrieved person in regaining the custody of her children and assist the Court in enforcement of the order passed.

It is an effort of creating a synergy between institutions of society, all of which are responsible for preventing violence against women, but till now have not performed the role that is expected of them.

Ms Jaising mentioned an issue that had been raised repeatedly by Ms Dave. Whereas there has been a challenge to domestic violence over the years from the civil society, there has been no institutional response to this. The Police, performing their role under Section 498 A, is not an institution to challenge domestic violence. There are no institutions charged with liaising between different institutions charged with the duty to combat domestic violence. Therefore, there is a need to create such institutions.

An apprehension was expressed that a woman should not be denied direct access to the Court. It was clarified that a woman can approach the Court directly and approaching a Protection Officer is purely optional for the woman and is voluntary.

Form and manner of making application for orders

Rule 12 states that on receipt of a complaint, the Protection Officer shall make a Direct Incident Report. An application under Section 12 shall be made in the format included in Form C in Schedule I. The Protection Officer shall assist her in making the application. Attached with the Rules are various forms for obtaining different orders (Forms E –Form J). Rules 14 to 20 state the various Sections under which these applications/forms are to be filed.

Registration and duties of Service Providers

The Rules provide for the registration of Service Providers. The important issue that arises in this regard is that if NGOs are not registered, does it mean that they cannot continue providing services to women facing domestic violence? This is not the case. All Service Providers can continue to perform all the functions they are at present performing without any need to register. Registration under the Act is purely voluntary for the Service Provider. The objective of providing for the registration of Service Providers is that if they are registered, then their records will have authenticity in the court of law. The record of a registered NGO and a Domestic Incident Report ('DIR') recorded by them will form part of the evidence or the previous history of violence in a court of law and will be very helpful in getting a protection order. Record keeping is, therefore, crucial. If the NGOs are registered, then the records maintained would be authentic records.

The status that is accorded to the NGOs will also give them the authority to insist that the victim be provided the facility offered by other registered Service Providers such as medical facilities and shelter homes. Minimum standards can be enforced in the facilities. What is required is a need to liaison between different institutions such as the police, legal authority, Service Providers etc. This role will be played by the Protection Officer.

Counselling process

Section 14 provides that a Magistrate can, at any stage of the proceedings, direct the aggrieved person and the respondent, either singly or jointly, to undergo counselling. Under Section 15, a Magistrate can requisition the services of a person engaged in "promoting family welfare" to assist him/her in discharging his/her functions. Both these provisions did not form part of the Draft Bill submitted to the Ministry. But since these provisions are present in the law, it becomes imperative to lay down a comprehensive procedure that ensures that these provisions will not be used against women in their struggle for justice. Hence, the format and manner in which the Rules have been formulated reflect this concern.

Stage at which a counsellor can be appointed and the purpose of counselling

The first important step in this regard is that, Under Rule 35, counselling can be directed only after passing an order for interim relief. It has to be kept in mind that counselling can take place only in an atmosphere free of violence. Only once the violence stops can equality be restored and negotiations can take place on a level playing field. The purpose of counselling would be to tell the aggressor not to commit any form of domestic violence towards the complainant. To this extent, an undertaking may be obtained from the perpetrator. Rule 38 clearly lays down that that the perpetrator shall not be allowed to plead any justification for the alleged act of domestic violence during the process of counselling.

Appointment of counsellors

Rule 33 refers to the appointment of counsellors. The qualifications and disqualifications for the appointment to the position of counsellors have also been provided in detail. The disqualifications include any form of association with either of the parties to rule out bias. Further, the appointment of the counsellor is subject to the consent of both the parties. Care must be taken to ensure that Protection Officers are not appointed counsellors under the Act.

Settlements arrived at during the process of counselling

Rule 39 provides that negotiations for a settlement can be initiated at the behest of the aggrieved person. The aim of counsellor would be to arrive at a settlement of the dispute by suggesting measures for redressing the grievances of the aggrieved person by taking into account the measures or remedies suggested by the parties.

During the course of counselling, Rule 40 provides that the counsellor shall not be bound by the provisions in the Indian Evidence Act, 1872 or by the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 and shall be guided by the principles of fairness and justice.

On arriving at a settlement, the counsellor, under Rule 41, will record the terms of settlement and get the same endorsed by both the parties. The Court shall accept the terms only after it is satisfied subsequent to conducting a preliminary enquiry to rule out fraud, force and coercion. The Court will then record its reasons. Thereafter the Court can pass appropriate orders. Any orders in existence can be discharged if a proper and fair settlement has been arrived at.

If a settlement is not arrived at, the case will be continued with, and the record of the counselling proceedings shall not be deemed to be material on record for the purpose of the case.

Means of serving Notices

Rules 29 -32 refer to the service of notice and summons. In these provisions, it is stated that notices shall be served at the place where the respondent is residing or where the respondent is employed. For any further process, the procedure as prescribed in the Code Of Criminal Procedure, 1973 or the Code of Civil Procedure 1908 shall be followed.

Enforcement of orders and breach of protection orders

Rules 44 -50 refer to the procedure to be followed in cases where there is a breach of a protection order. An aggrieved person may report the breach of a protection order to a Protection Officer who shall then inform the concerned Magistrate or may directly make a complaint to the Magistrate. A simple affidavit by the woman that a particular Protection Order has been breached is enough to trigger off the procedures prescribed to address breaches. Section 31 of the Act provides that the breach of a protection order is an offence and shall be punishable with imprisonment of either one year and/or a fine. The procedure laid down in the CrPC shall govern arrest, summary trial, sentence etc

Safety Plan for the aggrieved person

Under Rule 23, it is also stated that on an application being moved under Section 12, the Protection Officer shall prepare a “safety plan” which shall include measures to prevent further violence after making an assessment of the dangers involved.

Anjali Dave – TISS, Mumbai

She raised the following points for consideration:

- There is a need to include children within the ambit of this law.
- It is important to closely monitor persons who are being appointed to the post of Protection Officers.
- While the broad guidelines for the implementation of the Rules will be laid down in Rules by the Central Government, the details on implementation will have to be worked out by the State Governments in accordance with their needs.
- She pointed out that while Service Providers have been vested with the responsibility of maintaining records, traditionally, the record keeping behavior of Service Providers has been very poor. There is a need to strengthen Service Providers in the discipline of maintaining proper records that can be used as evidence in a court of law.
- It is also important to provide immunity to the functions of the Service Providers and ensure that strict standards of confidentiality between the Service Providers and those accessing their services are maintained.

Questions and suggestions from the floor of the house

- It appears as though there are 2 parallel processes being mandated under the Act, one with litigation (in applying for reliefs under the Act) and the other without litigation (counselling processes prescribed under the Rules). Are these processes time bound?

Ms Jaising clarified that both the processes will take place under the litigation proceedings, and the time limits prescribed under the Act will be applicable to both the processes.

- In what manner will the law assist if the woman faces increased violence on complaining against violence under the Act?

Ms Jaising answered by stating that immediate reliefs may be sought under the Act to prevent the woman from being displaced from the shared household. The Rules allow the formulation of a Safety Plan by the Protection Officers to guard against the perpetuation and exacerbation of violence. Women may also seek relief under provisions preventing “victimization” under the Act.

- An apprehension was expressed that a woman should not be denied direct access to the Court.

Ms Jaising clarified that a DIR was not a precondition to filing a complaint, nor was it necessary to go through a Protection Officer. This is purely voluntary for the woman.

Some suggestions that were proposed in the house are as follows:

- Time frames stated within the Act have to be adhered to.
- The State Government should take on the responsibility of providing monetary relief in cases where the respondent is either unable to or fails to comply with an order for monetary relief.
- There should be proper monitoring of implementation at the State level. Annual reports on the implementation should be sent to the Central Government on a regular basis.
- Issues of budgetary implications should also be considered and lobbied for to ensure the proper implementation of this law.
- The appointment of Protection Officers should be on a voluntary deputation basis.
- The tenure and jurisdiction of the Protection Officer should be specifically provided for in the Rules.
- The Rules should clearly mention that counselling under the Act should not be directed towards obtaining reconciliation.

SPECIAL SESSION

CHIEF GUEST - MS RENUKA CHOWDHURY

The minister arrived at 5 P.M. in the midst of much excitement. Flowers were presented to welcome the newly appointed Minister of Women and Child Development. Gouri greeted the minister by saying that we have great expectations from her and also the new Ministry. We are all happy that we have got the Bill passed and have an Act now. But we need the Minister's help in getting the Rules passed as soon as possible. We would also like to know from the minister about the GOI's plans on CEDAW.

The Minister began by saying that while she was in the tourism ministry, she propagated the idea of "Incredible India" because we are incredible Indians - 50% of which comprises of women. I do not see my job as work but as a part of life. Every breath tells us where and how women are living. While in the tourism ministry, I tried to train women under the Priyadarshini project. The aim was to involve women and give them ownership of vehicles, so as to allow them to earn and empower themselves. My new Ministry is not like something new. It is part of my belief and this is like coming home.

Domestic violence is being discussed at today's meeting – but a few years ago, we were all ignorant of this problem. A culture of silence was prevailing. The two terms domestic and violence are contradictory. Domestic means home – which is seen as a safe place; violence is not even thought of in a home – so if there is violence at home where will the victim go? The notion of a home – built by us as heaven – images shown in our movies has contributed to this. If the man beats his wife within the four corners of her home, it is not seen by society as a wrong thing. This same notion has been passed on to all police officers, court officers, and other public officers. When there is daily violence at home, the fear of being thrown out at mid night is too strong. We have often been told not to cry when our husbands hit us; after all he has not killed us. At the police station, the woman is treated as a shameless creature because she has come to the police to complain against her own husband. The society tries its best to silence us all the time. In spite of all this, we – so many of women – have come here together. I want to congratulate all of you for this – changes are taking place in society. Despite the difficulties and stereotypes, we are all here for a common cause – raising our voices against VAW; and I assure you all of my help—I am with you all in this effort. There is no doubt that my voice is strong – it reaches far.

I wish to congratulate Lawyers Collective for taking the first step. In 1994, they took the Draft law to different parts of the country, had consultations and today, we have reached a point where we have the Act. I assure you that the Rules will be passed soon. I shall put all my strength to get this done. The time has come to empower women with all the tools, the laws including. Women need these laws to survive and fight back. This is also fulfilling our Constitution's mandate.

Domestic violence is not only about educating women but also about altering mindsets educating men who actually believe that violence on wives is an OK phenomenon and see nothing wrong in it. It is time men stop seeing wives as commodities.

Our cinema has affected people a lot in degrading the portrait of a woman. It has affected mindsets and this is noticed not only on roads but the same language is used even in Parliament—that women have no independent views, no mind to think about anything and are meant only for entertainment purposes. When a person goes to the restaurant, he pays for everything—food, water and drinks but gets entertained by women for free—this thinking has to stop.

The language of abuse is always targetted to women—never are men abused in their own terms. Our brothers and fathers hence view us as weaknesses, through whom they can be abused—hence the urgency to protect young girls, worry about dowry and seeing the daughter as an investment without returns.

Today, it is a reality that we are talking about domestic violence. This is a big achievement. But even then science and technology are being used against us—we now have to fight to get born also. Even PT Usha and people in Olympics do not have to struggle so much as the girl child and women of today. Violence against us begins even before coming into the world—in the mother's womb. If the girl child survives the fire while cooking for the brother she is burnt to death at her husband's place. At school, she is abused by the teacher himself. And with more education, her marriage becomes more difficult for her parents. She has no choice of who to marry and when. She loses her own identity and lives throughout for others.

As a child wife, she is forced to give birth to boy child. No one asks her about her desires and what she wants. When she starts earning, the husband takes away all her money for alcohol and she has no money to even see the doctor when ill. She remains ill, becomes weak, suffers in silence and one day, it takes even less than half a litre of petrol—less than it takes to run a scooter—to burn her to death. And even then, the boy's family who burnt her alive have a good number of girls' families waiting to get their daughters married to the same boy.

I think we the women present today are successful. We have fought violence and yet reached here. We should show our sisters the way by uniting and standing together.

Domestic violence is unique because it is our very own who hit us in such cases. We are targetted to protect the so-called family honour. It takes various forms – physical to massive psychological stress. At times, the violence is in the form of isolation – where the husband does not talk to her, or a passive form – ignores her, does not recognize her existence which leads to mental trauma – this is criminal in nature as it leads to her breakdown. The urban form of violence is where she is denied her rights. Therefore it is imperative to include men as partners in our campaigns. The male bond is very strong. Men also suffer from notions of patriarchy. We should ensure more participation of men in our meetings.

Domestic violence has increased and so also the reporting. With more laws, implementation is a challenge. From the police to the judges all have a mindset – we will need time to change this.

The Domestic Violence Act is a result of the struggle for years by all of us – the right to residence is a very significant provision. We will take steps to implement this Act. I assure you of good results.

I suggest that in every district we should have a practical demonstration. When the woman goes to the police station, how should she be treated, what information should she be getting? In my own district, I have ordered the SP to carry physical and visible demonstrations on this issue.

Another suggestion is to use private channels and TV cable operators to carry messages on this new Act and the rights of the woman under this law.

We should think of such **doable solutions**, only then can we succeed.

Razia : The assurances from the Minister are commendable. Her energy is very positive. A new relation is being established today between the Minister and us. The sincerity and strength shown by the Minister is tremendous and we should tap this. We are all accountable and we need to work more indicators for change- we need to create evidence of change.

Indira Jaising: I only wish to point out that till date we do not have a single policy document on domestic violence. It continues to be seen as a “ghareloo maamla” and it is time that this is stopped. The Police and the Ministry of WCD should immediately come out with a Policy document on domestic violence saying what their stand on domestic violence is. We have so far succeeded at every level except the judiciary which draws a complete blank. The judiciary should also issue a similar policy document on how they view domestic violence.

It is also very important to train judges. The judges think that they do not need any kind of training but this is not true. A recent example is a case in Delhi - wherein the Judge told a female practicing lawyer that she had no modesty and hence the question of outraging her modesty did not arise. What can one expect these judges to deliver – zero justice? We have filed a petition in the HC but there is much resistance to it. The male bonding amongst HC judges is too strong. The same judge has become the HC judge – there are chances that our petition is going to be dismissed.

The Judicial Academy in Bhopal is very good. We should approach them to demand training of judges on domestic violence. This can be very beneficial in the future.

Q & A and comments

- The sensitivity of the police is important. It is important to have more women police officers.
- Politicians
- Often try to put domestic violence cases under the carpet – we need to tackle this also.

PRESENTATION ON FINDINGS OF THE RULES WORKSHOP

- The Rules should be passed as soon as possible so that the PWDVA can be notified.
- Feedback from everyone should be taken on the Rules
- Aggrieved person should include child also
- Guidelines from Centre on Rules should be broad to bring standardization but States should make minor State modifications
- Record keeping by NGOs and Service Providers should be improved
- State should make the payments where the respondent is unable to pay
- Implementation and monitoring committee should be established to make annual reports on the PWDVA
- Adequate Budgetary allocations from Centre and State is essential
- This law should be made applicable to J & K also.

WORKSHOP 2 - CONVERGENCE

- All frontline workers and influential people of the village should become information linked persons with the POs (Panchayat members and its Social Justice Committees, Anganwadi workers, ANMs, ASHA workers, teachers, SHG women and freedom fighters).

- Role of mass media and widespread publicity of DV Act on the lines of Employment Guarantee Scheme.
- POs have to be further decentralized at Block level
- Need for an Emergency Distress Fund for meeting the demands of the aggrieved person/s
- Budgetary allocations from existing schemes of the Govt should be segregate for the PWDVA.

WORKSHOP 3 - SEXUAL VIOLENCE

- Sexual violence within and outside marriage is serious.
- The increasing number of incest cases makes it impossible for existing infrastructure to provide safe shelter to all the victims.
- Fresh cases of a brother organising the rape of his sister because she does not want to marry as per his desires or has a same sex preference were reported. The Act should provide the scope to address such cases also.
- Protection Officers should be oriented to ensure that forced marriages are also considered as cases of DV under the Act.
- Instead of using term marital rape, PO should get relief for the woman under sexual violence.
- We should document cases of sexual violence in the words of the victim and not use our language. This will help the woman when the case goes to the Court.

WORKSHOP 4 - NOTIONS OF JUSTICE

- To bring justice to the women, it is important to address traditional systems of justice and in-built power structures of family, caste panchayats, police, bureaucracy, judiciary, etc. This is a difficult but an essential approach which must guide national efforts to address DV.
- The law with its positive potentials should be contextualized in the frame of natural justice and understood, interpreted, implemented and enforced without any kind of bias.
- This contextualization should be expressed in the form of a white paper on the position of the Govt. and implementing agencies on DV.
- The role of the women's movement is to enrich this process collectively and unitedly.

The Minister's Response

Some of the issues raised are very important. This Conference has set out my home work for me. The Ministry is new but not the Minister. We women have suffered for a long time. I can only say that women are strong and we can now speak out. For years, we have worked together. It is now the first time that the Department of WCD has been made a Ministry. The UPA government does recognize the importance of women's issues. The future of the new Ministry will be out-of-the-box thinking – work systematically. We do not have the budget for this law but we will try and recover resources from wherever possible. If my Ministry does not have the money, I will recover it from some other places but will do the work.

- ❖ Due to the Parliament being in session at the moment, I request for some more time – just 1 ½ months period – after this, I assure you that you all will see the results. Change will come only after we all have democratic discussions.
- ❖ I also want to tell you all that I do not get tired and I never lose hope. Many of us have come here after a lot of struggle. I am aware of this fact. There is too much of expectation. But we should never accept defeat. Many a times, we take bypass roads where we find potholes. But our goal is the same and we will surely reach our goal. Difficulties will come in our way but we should not lose hope and cannot backtrack. There are millions of women who cannot speak out and look upon us to be their spokespersons. They are helpless and hence we cannot go back. If we do not have sufficient women in the police, we will try and get more. I am with you all in this fight.
- ❖ I will come to every state – it's my country. I do not work from Delhi. Chief Ministers of all States will be written letters in this regard. We will adopt new methods and new strategies and get our work done. This much I can assure you. Whether the minister or not, my support is always with you.
- ❖ A very positive thing about this meeting is that a lot of people from the younger generation are present.
- ❖ The President of India, while addressing the joint session of Parliament, repeatedly raised women issues. The Government is serious, and therefore, I have been especially given this task of the new Ministry. The Common Minimum Program of the UPA government does deal with women's issues.
- ❖ Till now, NGOs have worked in our respective areas. For the first time, we are coming together. Our language and demands will be the same and when we have one voice, we will be heard.
- ❖ I will talk to the National Police Academy on their recruiting agenda so that domestic violence issues are covered.

- ❖ We need to adopt new methods and reinvent the whole system.
- ❖ I am also trying to see that new mobile connections / handsets flash messages on domestic violence or on the disappearing girl children issue.
- ❖ I am also trying to issue women stamps.
- ❖ The effort should be that all departments and all cadres oppose domestic violence.
- ❖ We will also target the Planning Commission to include gender issues.

Recap Session of First Day: *Ms Leena Prasad, Advocate*

2nd Day- 21st Feb 2006

TESTIMONIES SESSION

Special Note – We have, in this report, reproduced the entire session in Hindi as it went on as an acknowledgement of gratitude and to give the persons their due respect for having mustered the courage to come and speak out before an audience of 350.

Panel members: *Pamela Philippos, B.S.Bassi, Nimesh Desai, Rajat Mitra*

Anchor - *Naseem Khan, Action India*

Moderators - *Manju Aggarwal, Neelam Chaturvedi, Anuradha Talwar, K.N. Tiwari*

Testimony 1

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Testimony 2

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Testimony 4

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Discussions

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xhrk nsok caxykSj& Certain things, such as structural problems, that are not addressed by this law need to be kept in mind. Arya Samaj marriages, for instance, are not recognized by this law. In Bangalore, we have lots of notary marriages, so even if this law does not address these, atleast we have to give maintenance to these women. As it stands, women with no marriages are not getting any rights of maintenance under the DV Act. In the

background of the recent SC ruling which says that second wife/ woman will have no right to maintenance, we need to be very careful with this new Act. So long as police do not consider VAW as heinous crime, taking cognizance is difficult. It is good that the court can pass orders to put the woman back in her home, but what happens when the woman gets divorced?

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We need to look into the Mental Health Act of 1985 and its rules. When a patient comes to the doctor with a sexual violence abuse or emotional trauma case what should be the responsibility of the doctor and the hospital?

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Issues and Concerns raised by the audience/ delegates

- It has to be noted that although many sections of the law exist that could deal with domestic violence, police often refuse to register the crimes to bring down the overall number of registered crimes.
- How can the Domestic Violence Act deal with situations of emotional abuse? There has been a duty cast upon the counsellor but this is only after the Service Provider makes a request. Also, there is no provision for psychiatric assessment in this Act.
- in the current Indian scenario, marriages barely gets registered; and there are many marriages like Arya Samaj marriages and notary marriages which have no legal sanctity. How is the law capable of handling such situations?
- Are the after-care homes adequate to handle cases coming up from the PWDV Act?
- Civil society surveillance is essential to note whether the cases are settled within 60 days and the rightful allowances as mentioned in the Act are handed out to victims.

- What is the role of the hospitals in informing the authorities if the Service Providers request the doctors for help?

Response of the Panel members

The panelists noted that all the crimes within the household will be taken care of by the Act. If the man and woman are living together for a period, there is no need for any strong legal document, and there is history of such cases being won in the Court.

The role of Protection Officers, counsellors and health workers is very important. And the success of the Act is very much dependent on the role of these two actors. Community support for women is also very essential for the success of this Act.

Dr. Rajat Mitra : Counselling is a very vague term as mentioned in the Act and it is very ill defined. Nowadays, even MNCs counsel for selling washing machines and other products. So it is very important that the qualifications and requirement of the persons who are appointed as Protection Officer and counsellors be defined from time to time. As mental health experts, we should try to bring out the inner grief from the survivors.

Mr. B.S.Bassi : He noted that while the victims of domestic violence were sharing their experience in the previous session, the predominant feeling was humiliation. So counselling needs to address what happens within the person. As an experienced person who has dealt with such cases in the Delhi police Crime Against Women Cell, he has often encountered situations like fabricated medical reports and fictitious evidence. And while handling situations of domestic violence, the most difficult part is proving that violence has happened within the household. At many situations like this could be proved only through building evidence. In many instances, counselling becomes a life saving operation as well.

He noted that very rarely is violence other than those arising from marital discord being taken to the Court. While examining the past history, hardly any case of violence within the household or violence from the siblings reaches the Court.

And from the experience of Indian judicial language, it is to be noted that counselling means reconciliation.

Usually when cases are taken to the Court, a most common stand taken by the accused is that they cannot appear in the Court for health reasons. And in many instances, the judges also meddle with the cases to save the marriage relationship.

Also, if the parameters are not strictly defined within the Act, it will end up as a situation where it will be open for the Court to decide on such matters.

Ms. Pamela Philipose: Ms. Pamela Philipose responded to the low response of the media to the Domestic Violence Act and noted that gone are the days when media stood hand-in-hand with social issues and women's movement. Those periods, as in 1970s, where media was in the forefront to raise issues of general concern, are no more in the present Indian situation. Now with globalization, media is more interested in selling the news that catches popular attention. And for that even the most deplorable tactics, like visualizing the crime, are adopted. Moreover, as is well evident, issues like domestic violence would be just another cliché in the current media scenario. The support of popular newspapers or the visual media is most unlikely as media in the modern scenario represents only corporate interests.

But she noted the existence of alternate media like Internet, which can be used effectively by groups standing for women's cause. The TV and internet have great potential. With this Act, the mental and psychological aspects have been brought to the public domain.

Dissemination Session on the Act

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Parallel Steering Committee Meeting

The session was chaired by Pam Rajput and members of the Steering Committee were present as per list below:

1	Anandita	Delhi
2	Anjali	Delhi
3	Anuradha Kapoor	W.Bengal
4	Anuradha TAlwar	W.Bengal
5	Durga Jha	Chattisgarh
6	Geetha Devi	Karnataka
7	Gouri Choudhury	Delhi
8	Hafiza Muzzafar	J & K
9	Jasveen	Jaipur
10	Jyothsna Chaterjee	Delhi
11	K.N.Tiwari	Uttaranchal
12	Leena Prasad	Delhi
13	Madhu Mehra	Delhi
14	Manjeet Bhatia	Delhi
15	Manju Aggarwal	U.P
16	Maya	Delhi
17	Minakshi Panda	Orissa
18	Minati Sarma	Meghalaya
19	Nandita Konwar	Assam
20	Pam Rajput	Punjab
21	Payal	Jaipur
22	Priya	Jaipur
23	Radha	Tamil Nadu
24	Razia Ismail Abbasi	Delhi
25	Rukmini Rao	A.P.
26	Shakun	Karnataka
27	Shantha Mohan	Karnataka
28	Sheeba George	Gujarat

29	Soma K.P.	Uttaranchal
30	Sujatha Madhok	Delhi
31	Sunila Singh	Delhi
32	Tenzing	Delhi

OUTCOMES

A time frame of ten days was set up to send the feedback/response on Draft Rules and Regulations. All participants were to send their comments and suggestions on Rules within ten days to Action India office. Action India, after compiling the comments and consulting it with Lawyers Collective, would forward it to the Ministry of WCD. And a preliminary note informing that the suggestion from the network is reaching shortly should also be dispatched immediately to the Ministry by Action India.

It was agreed that it is also very important to alert National Commission for Women on the importance of a Sexual Assault Act as such a legislation will strengthen the current Act.

For the success of the Act, it is very important to identify the actors at the receiving end and make the dissemination process according to their needs.

To sensitize people on the Act, it is necessary to set up Gender Resource Centres in each State for which a proactive role of NGOs - in sensitizing the public, pressurizing the Government and supporting the actions taken by the Government - is indispensable.

Basic understanding regarding the Act for people who immediately deal with it - like the Magistrates, public prosecutors and the police - is to be ensured.

The curriculum of the police academies should be enhanced to deal with the Act.

For broader propagation of the Act, the State should train the Panchayats, set up women information centres at grassroots level, and portray domestic violence as a punishable crime within the school curriculum.

Inter-ministerial committee on CEDAW should be set up in each State. Local NGO pressure for this is essential.

The NWC should hold at least five regional consultations for coordinating with other organizations to work on the Domestic Violence Act. Besides this, there needs to be further planning for including the financial resources within the Eleventh Five Year Plan. For this, all

the organizations that formed part of the Steering Committee need to coordinate with other organizations in their region and come back after three months to plan further actions.

A central Directorate or Secretariat should be formed to constantly undertake and complete these tasks and do the future coordination and networking.

Forging the Way Ahead

The Platform was shared by Ms Reva Nayyar, Secretary, DWCD, Dr Girija Vyas, Chairperson of National Commission for Women and Ms. Manjulika Gautam from the Planning Commission.

Ms Gouri Choudhury along with Ms Sunila Singh and Ms Indira Jaising also shared the dais.

The session was chaired by Ms Pam Rajput who summed up the proceedings of the two-day Conference and conveyed the outcomes of the Conference to the representatives from the various Department of the Government.

Ms Sunila Singh of NCAS welcomed the delegates and Ms Pam Rajput chaired the session.

Ms. Pam Rajput : conveyed that the successful passing of the Domestic Violence Bill could be attributed to the concerted effort of various women's groups as well as the support of like-minded individuals in the bureaucracy. She summed up the details of the two-day Conference and conveyed to the State representatives the decision of the Conference Steering Committee and the delegates of the Conference itself to play a proactive role in designing the rules and regulations, and disseminating information relating to the Act through all possible means, and ensuring the active role of Government as assured in the Act.

Reva Nayyar : I welcome the enthusiasm of women's groups and would like to share with the participants that the Rules have already been framed by the GOI and it is presently with the Law Ministry. The Act has almost reached its final stage. The dates are to be notified and it needs only the signature of the President. The details pertaining to the Rules and implementation of the Act have already been dispatched to the States and the police force. All police departments are to start training on this law.

The Rules will be laid in the coming session of the Parliament for its approval. Suggestions of the Women's Conference could be incorporated if it is sent within ten days. I am open to

the women's groups examining the Draft Rules and welcome their suggestions. I also assure you that the same would be incorporated if it can be submitted in a short period.

Going beyond the technical procedures carried out in the Department, there are already many laws giving protection to the women, but the PWDV Act is a land mark judgment as it gives protection to women within the family itself, which till now was considered a private sphere, where hardly anyone could interfere. The intervention has to start from the grass roots level, from the Panchayats itself. The violence against women in the Indian condition starts from childhood itself as the girl child is denied proper food and schooling. As the violence against women starts from the household itself, there is no overnight magic going to happen by just passing the Act.

It is self-evident that mere legal recasting will not be enough to tackle the problem, but a collaborative effort of State and civil society to remould unfavourable infrastructure - the police, the para medical staff, Protection Officers – is as essential. Barring from the usual practice, the Act has been passed very fast and its success will definitely depend on the implementation. The rich are getting richer and the poor, poorer. Society does not progress till there is peace in every home.

Girija Vyas: I also assure you that in this session, the Draft Rules will be tabled, but the National Women's Conference's suggestions would be incorporated if they can be sent within a week's time. The law making process has been a combined effort of all of us. The civil society raised its demand from all corners, Ms Jaising helped a lot in the drafting, and Ms Reva Nayyar also ensured that the bill was not delayed unnecessarily. Similarly, we think that the Rules will be passed in this ongoing session of the Parliament.

There was always a hope that modernization and the allied changes would change the lives of women, but recent trends show contrary outcomes. Earlier violence started from the day a girl was born, but now it starts even before her birth with the use of modern technology, which has aided to strengthen the crime against women, rather than improving the position of women within the system.

The attitude of the politicians towards women can well be read from their denial to extend the 33% reservation to the Parliament. Still, existence of a strong law will act as the pillar of the society. The current law has wider scope to empower women, and it goes beyond 498A and 304B.

The role of Planning Commission is very important for the implementation of this law. She pledged more efforts to make the next Five-Year Plan a Gender Plan.

Manjulika Gautam: Started her address by pointing out that the Act itself is a landmark in the history of India as the State has entered an area which was till now considered a very sensitive and private domain. She hoped that this would ultimately put an end to the exploitation of women that was happening behind the closed door of each family. There had been numerous policies, judgments and laws to empower the situation of women over the years, but all of them have made little impact. The success of this law will depend only on how society responds to it. And definitely once the PWDV Act gets implemented; its accomplishment will definitely depend on the successful working of the institutional mechanisms: the tasks carried out by the protection officers, the service providers, the Magistrates and the police officers in creating awareness and sensitization of the law.

She confirmed that there will be enough budgetary provisions for the implementation of the law and government will be including it in the budget as soon as the Act is notified and made operational.

Gouri Choudhury : thanked the participants who had come from different parts of the country for a united and common cause: ending violence against women. She remarked that the idea that women must come to Delhi to demand the early passage of the DV bill in Parliament was born on our signature campaign through 8 states. The response to the call for the NWC is symbolic of the fact that women's groups all over India have enthusiastically welcomed the Domestic Violence Act. The united stand and huge response to the NWC gives a hope that the PWDV Act will be used successfully to end the inequality of women in their own homes. She also expressed her gratitude to all the members of the Steering Committee and thanked them for timing the NWC at the right time: soon after the beginning of the Budget session in the Parliament. It is with great effort that we were able to get representation from more than 24 States as well as get the assurance and support of the Ministry of WCD, NCW, DCW, Planning Commission and the Secretary of the DWCD. All of us can go back to our respective States with an assurance given by the State and political leaders. We must show determination to come out with State level implementation plans so as to keep the pressure on.

She also thanked all those who had actively worked to collect signatures of 2.5.lakh persons to support the campaign for passing of the DV Bill. Now we must take the law to every home to end violence and make the home a safe place for women.

Indira Jaising : Ms. Indira Jaising said that the passing of the PWDV Act was definitely the success of women's movement in the country. She noted that the Conference itself is an occasion to celebrate the passing of the Domestic Violence Act, as it is the success of a decade-long struggle of women's groups to make the State accept that violence happening within the Indian households is a crime.

She also congratulated Action India on its completion of 30 years and the commendable work it has done for the betterment of women at grassroots.

She acknowledged the important role played by Ms. Reva Nayyar in getting the PWDV Act tabled and passed in the Parliament and in getting rid of the hurdles and technicalities faced in the process. She thanked Action India and NCAS for holding the Conference on the important subject and hoped we all would stand together in times of need.

FINAL POINTS OF ACTION

- The Act is in the books now. First we need to get the Rules passed by Parliament and then get an early date notified to get the law operational.
- This is a Central Law. State Government should simply adopt the Act and the Central Rules with minimum of State-level modification – ensures uniformity of applicability.
- Keeping in mind the ground situation of domestic violence, the State of J & K also needs to adopt, implement and enforce this law – just like any other State of India.
- Centre – Ministry of WCD - should frame broad guidelines and issue directions to each State Government as to the adoption of the Act along with the Rules.
- Guidelines issued by the Centre/Ministry of WCD should include practices to be adopted for best practices to effectively implement and enforce this Law in every State.
- Earlier laws have failed us because non implementation was built into the law. In this, an effort has been made to eliminate this deficiency. Hence, Pos are very important – we need to take the lead in ensuring that the system of POs works. She/he will be charged with the duty of doing everything possible to help the woman and stop violence immediately.
- POs will be appointed by State Government on deputation basis. Deputation will be on a voluntary basis and will be for a minimum of 3 years.

- Direct Incident Reports – DIRs have been simplified. POs should know how to document. NGOs might need training on how to document DIRs – to be used as evidence in Courts
- A woman need not always approach the PO – she can go to Court directly. She can also seek help of police, friend, NGO, Service Provider – but each of them should refer her to the PO. She/he then takes on the role of doing all the needful to provide the woman with immediate and emergency services.
- Minister of WCD committed to speak to the J & K Chief Minister regarding the State adopting the Central Act and Rules.
- Collect specific indicators for VAW and DV Act's implementation
- Letter of demand has been sent to Minister of State; Ministry of Women and Child Development
- Training and awareness sessions with the implementing State partners
- Building linkages with the State Gender Resource Centers
- Speedy Implementation at all levels
- Introduction of the PWDVA as a part of the Course Curriculum at the school level
- Protocols for the various Ministries concerned with the delivery of services to women under this Act, including the Courts, are prepared and put in place.

At the end of the two-day Conference, a **DV Act Forum** was constituted to follow up on the Conference outcomes, with its ***Secretariat*** to function from Action India.

A **delegation**, comprising members of the DV Act Forum, met **Ms Sayeeda Hameed**, a member of the Planning Commission, on 21st February, '06 from 6.30 to 7.30 P.M. at her office. A copy of the Blueprint was handed over to her. Minutes follow herein: **(Annexure-2)**

OUTCOME

The text of the PowerPoint presentation is attached as **(Annexure-3)**

The ultimate unanimous decision was to form a DV Act Forum. The organizers volunteered to act as the Secretariat and communicate by e-mail to update and keep abreast of things with feed back from the States. Keeping that promise, we have sent out regular e – mails/ updates to more than 50 people across the country, expressing our gratitude to all participants and contributors of the Consultation. We have also received several letters, feedback on Rules and requests to forward them to the WCD and its Secretary.

Following tasks have been accomplished by the Secretariat:

1. E - group formed of all members of the DV Act Forum
2. E – mails sent to all members with a draft blueprint
3. Copy of the latest Rules circulated amongst all members eliciting feedback and responses
4. All feedback and comments relating to the Rules were instantly forwarded to the Lawyers Collective with copies to its Director, Ms Indira Jaising, in accordance with the understanding arrived at the NWC
5. Letters of thanks sent to all important participants of the NWC
6. Letter sent to Ms Reva Nayyar, Ms Renuka Chowdhury, Ms Girija Vyas, and Ms Manjulika
7. Copy of the Rules with Recommendations of the NWC sent to Ms Reva Nayyar
8. Two meetings held with the Core Group at Delhi to evaluate and discuss immediate action plans
9. Work is going on to come out with a Delhi Model on the implementation of the PWDVA. A meeting with CBGA has already been held towards this
10. Meetings are being planned with NCW, DCW and Planning Commission
11. All the Feedback received from 10 groups across India have been compiled together and have been forwarded to the the Minsitry of WCD. (See **Annexure-4**)

Relevance of a Steering Committee / lack of time/building consensus some hurdles- something lost something gained importance of small group discussions - did not work as planned on first day. Second day took a direction leading to the formation of DV Act forum.

In retrospect: AI - The Steering Committee members should have met on 19th Feb for 2 to 3 hours and worked on the objectives, process and strategies of the 2 day Conference more thoroughly to ensure a smooth flow of sessions, with greater participation in decision making and conducting the sessions.

We would like to take this opportunity to thank and acknowledge the support extended to us by **Oxfam (GB), UNIFEM and Action Aid** for organizing the NWC.