A Study on Implementation of PWDV Act in Odisha
A STUDY ON IMPLEMENTATION OF THE PWDVA IN ODISHA

12 out of 30 districts covered

- KORAPUT
- PURI
- KALAHANDI
- KHORDHA
- MAYURBHANJ
- NAYAGARH
- RAYAGADA
- ANGUL
- GAJAPATI
- DHANKANAL
- KENDRAPARA
- BALASORE
STAKEHOLDERS INTERVIEWED IN ODISHA

- Protection Officer – 12 (one per district except for two POs in Kalahandi and none in Kendrapada district)
- Service Provider (cum Shelter Home) – 19 Counsellors attached to Shelter Homes
- Medical Facility – 5 Medical Officers were interviewed
- Shelter Homes – 11 (Superintendent and Project Director of Swadhar Gruh and Ujjwala)
- Police – 20 Inspectors and Sub-Inspectors of Police stations

*Protection of Women from Domestic Violence Act 2005*
FINDINGS ON PROTECTION OFFICERS (POs) UNDER PWDVQA* IN ODISHA

PROTECTION OFFICERS

- Protection Officer is the person in charge to assist women to avail of institutional mechanisms for redressal & support services
- Out of 12 sample districts, Kalihandi has two POs while the rest have only one PO respectively
- Only 7 out of 13 POs are trained
- Only 5 are designated PO as primary obligation

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FINDINGS ON PROTECTION OFFICERS (POs) UNDER PWDVA* IN ODISHA(1)

MEDICAL EXAMINATION
• POs interviewed know that Aggrieved Woman need to be medically examined if she has sustained injuries.
• 10 POs said they do not make requests in writing
• No DIR sent to Med Officer. No provision for transport
• If a child is involved then the PO sends the child to DCPU Unit or Childline
• PO in one district has got the AP medically examined with help of police.

DOMESTIC INCIDENT REPORT (DIR)
• All the POs regularly fill the DIR in all the cases who approach them
• The POs do not receive DIR from Med Facilities and Service Providers, except one district.
• 3 dists have established practice to send copies of DIR to Magistrate, Police, SPs. Some districts send only to the magistrate.

APPLICATION TO THE MAGISTRATE
• Except for POs of 3 districts, all POs stated that they do not assist the Aggrieved Woman in preparing her application nor do they forward it to Magistrate to fill in FORM II.
• Unclear if POs, except for 3 districts are aware of safety plans. (Form-V)
• Most POs have no idea about FORM II & FORM III

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ASSISTANCE TO ACQUIRE LEGAL AID
• All POs assist the Aggrieved Woman in getting a lawyer empanelled with District Legal Services Authority for accessing the services of a lawyer.

SERVING NOTICE
• POs regularly serve notice to the respondent.
• Except for one district, POs do not take any police assistance.
• Declaration to the Magistrate regarding notice being served to the respondents. Only one district, PO submits the respondents’ signed copy of notice to the Magistrate.
• Time taken to serve notice- 3 to 15 days.

ENFORCING ORDERS
• 6 POs work to enforce court orders to differing extents.
• In case of breach of order, they do not take assistance from the police reporting it (lacks clarity).
• In 1 dist, PO refers to DLSA and refers her to Magistrate.
• If the Aggrieved Woman needs to be rescued, then the PO seeks assistance from the police.
FINDINGS ON PROTECTION OFFICERS (POs) UNDER PWDVA* IN ODISHA(3)

ASSISTANCE TO MAGISTRATE
• POs need clarity on Rule-10 of PWDVA.
• POs are not clear of Rule 10 (3) wherein it is provided that the Magistrate can also issue direction to the POs for better handling of the cases.

MAPPING SERVICES
• POs in 2 districts only claimed that they maintain proper records of service providers, med facilities, legal aid, counselling, etc.
• PO said that a service providers’ list is given by the WCD Dept.

COUNSELLING FACILITIES
• POs except in 2 districts informed that they have no clue about their role regarding the appointment of Counsellors under the PWDVA.
• They have never invited any applications from the Counsellors nor scrutinized or revised it.

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FINDINGS ON POs UNDER PWDVA* IN ODISHA

Good Practices by PO

- Established practice of sending DIR copies to the Magistrate, SP, police and Aggrieved Person
- PO submits the respondents’ signed copy of notice to the Magistrate
- Safety plan in consultation with AP
- Maintain proper records of service providers, medical facilities, legal aid, counselling, etc
FINDINGS ON SERVICE PROVIDERS UNDER PWDVA* IN ODISHA

SERVICE PROVIDERS
Certain external agencies are recognised as SPs that are mandated to facilitate medical, shelter, legal, counseling and other kinds of support services.

1. In Odisha, Shelter Homes are notified as service providers.
2. Total 15 SPs in 12 districts
3. Only 4 out of 15 SPs are trained under the PWDVA

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PROVIDE INFORMATION & REFERRAL
• Except 2 districts, all Service Providers regularly provide information to the Aggrieved Woman as per section 5
• 9 districts’ SPs are aware and 3 SPs are unaware of FORM IV, which provides a gist of the PWDVA and a ready referral for the Stakeholders to make the woman know of her rights and remedies.

MAKE AVAILABLE SAFE SHELTER
• Service Providers are aware that as per the Act they have to provide safe shelter to Aggrieved Women when referred
• The PO sends a letter of request and copies of DIR for admission and the same is maintained in files
• In some districts, SPs provide shelter even if the AP comes on their own without reference letter from PO
• Once admitted in the shelter home, they get AP medically examined.
FINDINGS ON SERVICE PROVIDERS (SPs) UNDER PWDVA* IN ODISHA(2)

MEDICAL EXAMINATION
- Service Providers in 3 districts informed that they get the Aggrieved Woman medically examined if she has sustained injuries
- Some have maintained that they have their own medical practitioner

DOMESTIC INCIDENT REPORT (DIR)
- If the Aggrieved Woman desires, the Service Provider makes a DIR.
- One copy of DIR is given to the Aggrieved Woman free of cost and sometimes one copy is forwarded to PO.
- No standard practice of recording DIR, some records and forwards the copy to PO, some take help of advocates to record DIR. However, all refers to PO.

IN CASE OF EMERGENCY
- If call is received, the Service Provider seeks police assistance to go to the place of occurrence and record DIR.
- Many Service Providers claim they have not come across any Aggrieved Woman in emergency situations and till date have not received any mails/calls to that effect.

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Challenges faced by Service Providers

- During women’s stay at shelter homes as Women’s Counselling Centre simultaneously conduct counselling of the Aggrieved Woman
- As the expenditure is high for home visits, it is difficult for the Service Providers & the Government does not bear the costs
- Lack of communication, non-cooperation from police, and sometimes safety issues come up.
- Funds are not released on time, hence it is difficult to run a shelter home.
- Hurdles are faced while dealing with mental illness related issues

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Best Practices adopted by SPs

- Shelter & Psycho-social counselling proven effective
- Fire extinguisher & CCTV cameras for monitoring movement
- Utmost care for privacy & protection
- Regular contact with protection officers

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RESPONSES OF POLICE UNDER PWDVA* IN ODISHA (1)

PROVIDE INFORMATION & REFERRAL
• The Police personnel in 8 districts provide information to the Aggrieved Woman & sometimes make her aware of the availability of services of the Service providers, Protection Officers, free legal services. Sometimes also refer her to PO.
• Most of the police personnel are not aware about the Form-IV and PWDVA in detail.

FILING CRIMINAL COMPLAINTS
• Regularly file complaints under section 498 A of IPC and other relevant sections of the IPC (304, 506 etc.)
• In one district, police personnel said that they provide counselling first.

DOMESTIC INCIDENT REPORT (DIR)
• Police in 2 district regularly receive copy of DIR from PO and in 10 districts, they have not received copy of DIR from PO
• Most not even aware that they should receive a copy of DIR and initiate necessary action.
FINDINGS ON POLICE UNDER PWDVA* IN ODISHA

- No police officer interviewed have assisted POs for enforcement of Orders, confiscate weapons or breach of Orders. 11 Police officers have assisted in service of notice.
- Only one police officer assisted for execution of Order under 125 CrPc for execution.
- Police Officers are unaware of the provision of the Act that says violation of Protection Order is an offence under sec-31 of the Act.
Hurdles of Police

- Many cases received per month. Hurdles due to lack of counselling centres
- Long distance cases are a problem
- Problems sometimes faced during seizure & arrest when during execution of order, they learn the house belongs to somebody else or the accused is absent. Court should verify in whose name the property stands
- Police personnel need to be trained
- Transit homes needed as difficult to find shelter at times due to lack of service providers or shelter homes

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Best Practices adopted by Police

- Protection, conciliation and refer to shelter home.
- Mahila and Shishu desk gently handles complaints and victims.
- Providing counselling.
- After counselling they do check-ins over the phone or make a home visit.
- Kendrapada Police said that they have family counselling centres in their office to counsel AG properly.

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FINDINGS ON MEDICAL FACILITIES UNDER PWDVA* IN ODISHA

MEDICAL FACILITIES

- Under PWDVA, medical facility is notified by the State Government and to which an aggrieved woman may be directed to.
- Out of 12 sample districts, 8 had notified medical facilities.
- Only 2 out of 8 received training.
- Only 5 have received referrals from the respective Protection Officer.

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GIVING INFORMATION

- They do not make the Aggrieved Woman aware of the availability of services of the Service providers, Protection Officers, free legal services.
- The Medical Officers are not aware of FORM IV, which provides a gist of the PWDVA and a ready referral for the Stakeholders to make the woman know of her rights and remedies.

DOMESTIC INCIDENT REPORT (DIR)

- The Medical Officers were not aware of DIR, and hence did not fill any
- The Aggrieved Woman is referred to the PO.
- In some districts, the MF have received a form from police to fill and to be submitted in the Court. But not clear if it is any form under PWDV Act.

MEDICAL AID

- Free treatment is given
- Thorough medical history not usually recorded
- Medicines sometimes not available at CHC
- With respect to psychosocial support, the Aggrieved Woman is sent to Swadhar gruh counselling facilities
Challenges faced by Medical Officers

- Lack of information about PWDVA
- Felt it was not their duty to inform the aggrieved woman about her rights
- Need for special person to be appointed

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FINDINGS ON COUNSELLORS UNDER PWDVA* IN ODISHA

COUNSELLORS

- Under PWDVA, Counselling, as directed by the magistrate, should be provided to both the parties involved, or whichever party requires it, as ordered.
- Out of 12 sample districts, 11 have notified counsellors
- Mayurbhanj and Kendrapapa have 2 counsellors each
- Only 6 out of 13 counsellors have been trained

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FINDINGS ON COUNSELLORS UNDER PWDVA* IN ODISHA

PROCEDURE
- Most Counsellors regularly convene meetings at a place convenient to the Aggrieved Woman
- They regularly take undertakings and assurances from the Respondent for not committing domestic violence
- The Counsellor shall also report the failure of counselling proceedings to the court
- Record of findings shall not be deemed to be material on record

SETTLEMENT
- May make efforts at settlement as per wishes of the Aggrieved Woman
- If the parties arrive at a settlement, the Counsellor records it and gets it endorsed by the parties
- The Counsellor submits a report to the Magistrate, who may consider or draw inference from the same

DOMESTIC INCIDENT REPORT (DIR)
- In one district, Counsellor said that they fill up the DIR and send it to SDJM Court. They do not provide copies of DIR to Aggrieved Woman but to the PO.

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FINDINGS ON COUNSELLORS UNDER PWDVA* IN ODISHA

Challenges faced by Counsellors

- During Counselling both parties are unable to accept their mistakes
- They lack full knowledge of the Act.
- It is evident to note that they do not record the terms of settlement
- Sometimes respondent may become violent during intervention
- Lack of communication & protection from police and other stakeholders
- Difficult to counsel in rural areas

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## Analysis of DIRs

<table>
<thead>
<tr>
<th>District</th>
<th>Dhenkanal</th>
<th>Gajapati</th>
<th>Khordha</th>
<th>Koraput</th>
<th>Kalahandi</th>
<th>Nayagah</th>
<th>Rayagada</th>
</tr>
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<tbody>
<tr>
<td>Total DIRs (113)</td>
<td>13</td>
<td>9</td>
<td>4</td>
<td>24</td>
<td>41</td>
<td>19</td>
<td>3</td>
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<tr>
<td>Range of duration</td>
<td>11 months to 2 years</td>
<td>8 months to 17 months</td>
<td>20 days to 14 months</td>
<td>3 months to 20 months</td>
<td>8 months to 3 years</td>
<td>8 months to 14 months</td>
<td>1 year to 2 years</td>
</tr>
</tbody>
</table>
**Analysis of DIRs- Orders Requested**

<table>
<thead>
<tr>
<th>District</th>
<th>Dhenkanal</th>
<th>Gajapati</th>
<th>Khordha</th>
<th>Koraput</th>
<th>Kalahandi</th>
<th>Nayagah</th>
<th>Rayagada</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection Order under section 18</td>
<td>13</td>
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<td></td>
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<td>52</td>
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<td>Residence Order under section 19</td>
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<td>29</td>
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<td>Maintenance Order under section 20</td>
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<td>102</td>
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<td>Custody Order under section 21</td>
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<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>29</td>
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<tr>
<td>Compensation order under section 22</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>52</td>
</tr>
<tr>
<td>Any other</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>11(Streedhan recovery),4 Property right</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

Orders Passed by the Hon'ble Courts: 12 in Koraput district only (Protection-3, Maintenance- 2, Custody-4, Compensation-3)

Pendency in Koraput is dominantly due to non-appearance of respondents)
Suggestions to improve implementation

• Protection Officers
  • They should fill DIR in every case that gets reported since it is record of violence. It is irrespective of the fact, whether a survivor wants to proceed with Court matter or not.
  • If the Court has directed the PO to fill the DIR, then it is essential that the PO should take into account the Petition filed by her lawyer.
  • If the woman is directly approaching the PO, fill in the minute details, seek a detailed application from the survivor to be attached to the DIR, Fill Form II (Application u/sect 12), Form III (Affidavit) and FORM V (Safety Plan).
  • Issue summons to the Respondent well before the Court date and take his acknowledgment and submit in the Court
  • During the pendency of the case, seek direction from the Court for Home visit to assess the violence faced by her, assess her emoluments, important documents, children’s safety.
  • Take police assistance while enforcing the Court Order
  • If the survivor reports breach of order, immediately inform the Court by filing Application u/sec 31, enabling police to take cognizance and register FIR against the Respondent/s
Suggestions to improve implementation

• Service Providers:
  • In case of no amicable settlement between the parties or in cases when the settlement fails, immediately refer the Survivor to the PO
  • Document the process of counselling and terms of settlement, if any. The Court may call for Record.
  • Service Providers can also fill DIR, and assist the survivor in filling Form II and III and accompany her to Court.
• Medical facility
  • Document the history of violence, by whom, date, time, treatment provided
  • Provide copy of the report/OPD paper to the survivor
  • Refer her to PO with reference letter
• Shelter Homes
  • Document case history and refer her to PO
• Police
  • Make daily diary entry and refer her to PO with copy of NC complaints.
  • Register FIR u/sec 498 A, DPA, PCMA, sexual violence
  • Provide assistance in issuance of summons, enforcement of orders
  • Take cognizance if breach of orders reported
Suggestions to improve implementation

- Convergence among all the stakeholders is must.
- In order to bring uniformity of practice, the WCD dept and SALSA should prepare SOPs in consultation with judiciary.
- Trainings and strengthening the capacities of all the stakeholders should be carried out jointly enabling convergence.
- Transport facility, adequate infrastructure should be provided to POs.
- Budget allocation, creating Independent cadre of POs, notification OF counsellors, medical facilities, shelter homes to be monitored.
Thank you