

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005:

LESSONS FROM A DECADE OF IMPLEMENTATION

**PART OF VAW IMPLEMENTATION GAPS PROJECT FOR THE OXFAM KNOWLEDGE HUB
ON VIOLENCE AGAINST WOMEN & GIRLS/GENDER-BASED VIOLENCE**

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TABLE OF CONTENTS

ABBREVIATIONS.....	3
1. Introduction	4
1.1 Summary of Key Findings	5
2. Methodology	6
2.2 Primary Research	6
2.3 Data Analysis	7
2.4 Ethical Considerations	8
2.5 Strengths and Limitations of the Study	8
3. Context Analysis	8
3.1 Prevalence of Domestic Violence in India	8
3.2 VAWG in Indian Law	11
3.3 Causes and Contributing Factors of Domestic Violence in India	11
3.4 Specific Vulnerabilities to Domestic Violence	13
3.5 Impacts of Domestic Violence on Aggrieved Women and Society	14
3.6 Strategies to Address VAWG by Women’s Organisations/CSOs	14
4. Policy Analysis	15
4.1 Key Features of the PWDVA, 2005	15
4.2 Budgetary Provisions for the PWDVA	17
4.3 Review of Implementation Based on Existing Studies	18
5. Findings	22
5.1 Types of Implementation Gaps	22
5.2 Reasons for these Gaps	29
5.3 Institutional Actors Responsible for the Gaps	31
5.4 What Is Being Implemented	32
5.5 What Can Be Done to Improve Implementation	32
6. Conclusion	34
7. Recommendations	35
7.1 Recommendations for the Union Government:	35
7.2 Recommendations for the State Government:.....	35
7.3 Recommendations for Oxfam and other CSOs	36
7.4 Areas for future research	37
Bibliography	38
Annex 1	40
Annex 2	41
Annex 3	43

ABBREVIATIONS

CDPO:	Child Development Project Officer
CRPC:	Code of Criminal Procedure
CSO:	Civil Society Organizations
CSRF:	Civil Society Resource Facility
CSS:	Centrally Sponsored Scheme
DIR:	Domestic Incident Report
FARR:	Friends Association for Rural Reconstruction
ICDS:	Integrated Child Welfare Scheme
ICRW:	International Centre for Research on Women
IIPS:	International Institute for Population Sciences
IPC:	Indian Penal Code
KAP:	Knowledge, Attitudes and Practices
NCRB:	National Crime Records Bureau
NFHS:	National Family Health Survey
PO:	Protection Officer
PWDVA:	Protection of Women from Domestic Violence Act
TISS:	Tata Institute of Social Sciences
VAW:	Violence Against Women
VAWG:	Violence Against Women and Girls
UN:	United Nations
UNFPA:	United Nations Population Fund

1. INTRODUCTION

Violence against women and girls (VAWG) has been defined as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life” (UN, 1993).¹ Despite many decades of global and national level activism, legal reform and social sensitisation, VAWG continues to persist in various forms, across social settings in all parts of the world. The National Crime Records Bureau (NCRB) reported that in India, a crime against women is recorded every 1.7 minutes, a rape case in every 16 minutes and a domestic violence case in every 4.4 minutes (NCRB, 2013). As per the latest figures published by NCRB, crimes against women increased by 9.2 per cent from 2013 to 2014.²

While all forms of VAWG are a matter of grave concern, the present research focuses on domestic violence, with special reference to implementation of the Protection of Women from Domestic Violence Act (PWDVA), 2005. According to the UNFPA, about 70 per cent of Indian women in the age group of 15-49 face domestic violence (UNFPA, 2005).³ The third round of the Indian National Family Health Survey (NFHS) conducted in 2005-06 recorded that 39.7 per cent of ever married women aged 15-49 years face some form of domestic violence. More recently, a study by the International Centre for Research on Women (ICRW) reported that 52 per cent of its female respondents in India had faced some form of domestic violence ever in their lives, while 60 per cent of male respondents admitted to have perpetrated violence on women (Nanda et al. 2013). What makes domestic violence more grave is that it is perpetrated within the ‘safety’ of homes, by people who are related to women (intimate partners and/or relatives), who are socialised to endure in silence or even rationalise it.⁴

Domestic violence has been criminalised in India under section 498-A of the penal code which categorises it as ‘cruelty by husband or his relatives’. However, a separate civil and comprehensive law titled as the Protection of Women from Domestic Violence Act (PWDVA) was passed in 2005 to make justice more accessible to women who may not always want criminal proceedings but seek intervention while keeping the possibility of reconciliation open. This law is also significant as: a) it widened the definition of domestic violence to include economic and emotional abuse b) extended its applicability beyond married women, and, c) also made provision for immediate relief, particularly of shelter and protection as required by an aggrieved woman. Yet, after nine years since the Act came into force, many challenges to its successful implementation remain, putting high onus on the civil society for efforts towards advocacy, monitoring and providing grassroots support to survivor.

Oxfam India, as part of its Gender Justice theme, has been addressing the issue of VAWG in the country through its various programmes and campaigns spread across seven states. This research, with a focus on reviewing the gaps in implementation of the PWDVA is part of the comparative country study conducted by Oxfam’s Knowledge Hub on Violence Against Women & Girls/Gender-Based Violence. The ultimate goal of the study is to help improve the delivery of governments’ commitments – at national and state level – with regards to VAWG legislations/programmes by supporting the influencing agenda of Oxfam at the national level and grassroots intervention of its partners at local levels. The specific objectives of this India study are:

- To better understand what gaps exist in the implementation of the PWDVA and their reasons;

¹United Nations General Assembly, Declaration on the Elimination of Violence against Women, 20th December 1993, Article 1

²NCRB, 2015, Crime against women, Chapter 5, retrieved from <http://www.ncrb.gov.in/>, last checked 3rd January, 2016

³Retrieved from: <http://expressindia.indianexpress.com/news/fullstory.php?newsid=56501> , last checked Dec 10, 2015

⁴Knowledge Attitude and Practice (KAP) studies in India have shown that a large percentage of women justify domestic violence.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

- To better understand what states could do better or differently to implement, and what civil society organizations (CSOs) are doing and could do differently to push states to implement the PWDVA; and
- To derive lessons to strengthen Oxfam's and Oxfam-supported policy influencing in this regard at the global as well as the national level

To arrive at these objectives, semi structured interviews were conducted based on the following broad list of questions:

1. Types of implementation gaps: What specifically about the government's commitments – as embodied in the law/policy – is not being implemented well, only partially, or at all?
2. Where institutionally or among which of the key actors are the implementation gaps occurring?
3. What is being implemented among the government's commitments?
4. Reasons for failures: Why do weaknesses or failures in implementation exist? Why are certain aspects being implemented and not others?
5. What is needed to improve governments' implementation of legislation/policy commitments?
6. What awareness-raising or advocacy activities are CSOs (with particular though not exclusive focus on Oxfam-supported organisations) doing to push for implementation? What could they do differently or additionally?

Although these questions provided a checklist, the actual interviews were more personalised to suit the specific legislation covered and the professional experience of each respondent. A broader list of questions has been attached as Annex 1.

1.1 Summary of Key Findings

As will be explained in the report that follows, primary findings based on the above mentioned questions provide insights into several gaps between the law and the practice. These gaps include issues like non-appointment of independent institutional actors like protection officers and ad hoc criteria and process of notification of service providers, absence of regulatory frameworks, poor convergence mechanisms, dismally low resource allocation and lack of any macro-level database on usage of the Act. There are dismally low levels of awareness of legal provisions among the public in general and women in particular, due to failure of any effective outreach campaign by the government. The already overburdened judicial system is plagued with delays, and often grants only limited reliefs to litigants through protection or residence and maintenance orders, with no proper mechanism to ensure compliance with these orders.

Nine years after the Act came into force, these implementation gaps persist due to a serious lack of commitment from the government, particularly in terms of adequate fiscal allocation and setting up of a monitoring-accountability mechanism. At the state level, this research finds that there yet seems to be no felt need for an aggressive awareness campaign or for the appointment of full time, independent protection officers. However, initial steps towards capacity building and training of staff have been made, with some attempts at enhancing convergence between key stakeholders for state level implementation. Added to these are demand side hurdles like deep-rooted patriarchal mindsets, obtrusive social norms and underlying systemic barriers due to such circumstances as poverty, unemployment/underemployment, and alcohol abuse, among others. Both institutional gaps and social deterrents combine to undermine the demand of the PWDVA among the women who need to live violence free lives.

As will be outlined below, CSOs in India have played a significant role in the genesis of the PWDVA. Since it came into force, they have continued to advocate for its forceful implementation and have

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

conducted periodic assessments. However, the battle is only half won. The key recommendations emerging from this study include more work by CSOs in terms of advocacy, lobbying and research. Along with these, there is a need for sensitivity training and capacity building of stakeholders, including protection officers, police, lawyers and magistrates. Last, but not the least, there is a need to provide community based support to survivors in terms of information, counselling, legal and material aid. Eventually, closing the gaps is contingent on the federal government's agreement to provide financial assistance to states turning into reality, and a national level monitoring and evaluation apparatus which forces the states to buckle up and leads to some sort of performance competitiveness among them.

2. METHODOLOGY

This is a qualitative research study seeking to understand the nature and extent of implementation gaps in the PWDVA, their reasons, the actors involved and what awareness or advocacy efforts can be undertaken to address them. While secondary research covered all credible sources – including government, civil society and academic publications, newspaper reports and responses to questions raised in the legislature, primary research focussed on overall national level respondents and those in the selected states of Delhi and Odisha.

2.1 Review of Literature

To begin with, an exhaustive review of existing literature including policy documents was conducted to understand the context, the legislative provisions and findings of previous studies. A literature search was mostly done on Google Scholar as well as Google using two methods: a) keyword searching by using variation of phrases like 'domestic violence India', 'PWDVA Implementation gaps' and 'status of PWDVA implementation' and b) searching for cited references in important publications like those of ICRW studies, the Tata Institute of Social Sciences (TISS) study on the PWDVA and the Staying Alive series of Lawyers Collective. The literature review also allowed mapping of interviewees who are likely to have been associated with implementation of the Act in various capacities and would therefore be able to provide either high level or local level (or both) perspectives on implementation.

2.2 Primary Research

The primary research focussed on the states of Delhi and Odisha, while including some national level respondents. The two states were chosen based on the focus areas of Oxfam India. A list of possible interviewees was prepared and they were contacted over email. However, email invitations and reminders were not found to be very useful. Finally, all respondents were accessed with the help of people's networks. A total of 13 respondents from across four categories were covered. A depiction of profiles of respondents and the numbers covered in the primary research are provided in Table 1 below, followed by a brief description:

Table 1: Details of the Respondents covered

Category of Respondent	National Level	Delhi	Odisha	Total
Civil Society Organizations	1	1	2	4
Bureaucrats/civil servants	0	0	2	2
Elected government/opposition representatives	1	0	1	2
Law enforcement	0	2	3	5
TOTAL	2	3	8	13

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

- a. **Civil Society Organizations:** A total of four CSO representatives were interviewed, one at National level, 1 from Delhi and 2 from Odisha, who were both Oxfam partners. While the national level CSO respondent was more informative on policy and budget related gaps, the other three from the state level provided insights from their long experience of providing support, services and access to justice to women.
- b. **Bureaucrats/civil servants:** Two government officials were interviewed in this category, both from the state of Odisha. The first one is an official from a state resource centre which provides technical support to the state government for implementation and the other is a protection officer (PO), who is the first point of contact for an aggrieved woman under the PWDVA.
- c. **Elected government and opposition officials:** Two elected representatives from the government were interviewed: one Member of Parliament from the opposition at the national level, and another a member of the Odisha legislative assembly and a ruling party minister.
- d. **Law enforcement:** A total of five respondents were interviewed in this category - three from Odisha and two from Delhi. These included two from members of police (one from each state), two from state women's commissions (again, one from each state) and one member of the judiciary from Odisha.

Of these 13 respondents, 9 were women and 4 were men. The men included both the elected representatives, and two implementers from Odisha. Of these, 11 interviews were conducted face to face and two by telephone. See Annex 1 for a list of interview questions which was subsequently adapted to each respondent. The language used during the interview were mostly bilingual – a mix of Hindi and English. None of the interviews were audio-recorded. All the interviews were documented in the form of hand written notes and were typed into detailed summaries. Prior to the interviews, all interviewees were informed about the purpose of the study and the use of findings and a written or oral consent was generated, as per the preference and comfort of the respondent.

2.3 Data Analysis

Since the data collected under this study is qualitative in nature, analysis was conducted as per the following two steps:

1. **Organising data according to themes/sub-themes:** After careful analysis and categorisation of all interview themes, a list of sub-themes was generated. The interview transcripts were then entered in Weft QDA⁵ qualitative data analysis software as per the major themes and sub-themes (detailed in Annex 2). All data was re-examined to see if any code or content needed re-grouping.
2. **Pattern matching and Interpretation:** After the data organisation was complete, interpretation was made by identifying recurrent themes and pattern matching among the range of responses emerging from the data, examining the associations and relationships they form, their source and context, and the latent meaning that they contained.

Findings from the primary data were also matched and complemented with findings from the literature review to provide a more detailed picture.

⁵ Weft QDA is a free, basic software tool for analysis of textual qualitative data following a deductive code and retrieve approach. First, the documents entered in the software categories are generated. Thereafter, while reading, the text is marked under the relevant category. All texts marked under the same category can be viewed in together for further analysis.

2.4 Ethical Considerations

- 1) Before the interview, respondents were provided oral as well as written information about the project, how their inputs would be used, and how all data would be stored. They were informed that they could choose not to answer any question or withdraw from the interview anytime.
- 2) Respondents were explained and promised confidentiality and anonymity.
- 3) All respondents were interviewed in their professional capacity, under which they were selected to participate and any questions about personal experiences on domestic violence were avoided.
- 4) Names of fellow respondents were not shared with any other respondent or persons who are in positions of institutional authority to minimise any the risk of harm.
- 5) All respondents have been informed that they will receive the end products of the study (the present country report and the Knowledge Hub's multi-country summary report).

2.5 Strengths and Limitations of the Study

- Suitability of the respondents was maintained to the highest extent possible. However, given the short time frame and logistical hurdles, initially, a trade-off was identified between accessing the most suitable versus relatively less suitable but readily available respondents, particularly among the elected government officials and bureaucrats/civil servants. In order to mitigate this, the resources of Oxfam India staff and partners, as well as personal contacts of the consultant were leveraged successfully.
- Since this is not a large scale study involving a sufficiently large number of respondents from a representative sample of all the actors (including survivors) relevant to an analysis of the PWDVA, the findings cannot be generalised to the national level.
- However, as a strength, this study offers wide-ranging perspectives on the nature of implementation gaps and their contributing factors. This was made possible since the study design covered key respondents from diverse professional backgrounds who were interviewed using semi-structured schedule resulting in informative and insightful data.
- Another limiting factor was the lack of availability of credible official statistical evidence on various aspects of the legislation, for example - number of cases reported under the PWDVA, their outcomes, number of service providers and tenure of POs.

3. CONTEXT ANALYSIS

3.1 Prevalence of Domestic Violence in India

The most credible national level data available on prevalence of domestic violence in India is from the National Family Health Surveys (NFHS).⁶ NHFS-3 (2005-06), the latest available, revealed that two out of five ever married women in the age group 15-49 years had experienced at least one form of spousal violence⁷ (physical, emotional or sexual) in their lifetime. It further reported that only about one-fourth (23.8 per cent) of these women who faced spousal violence had sought help to

⁶The National Family Health Survey (NFHS) is a large-scale, multi-round survey conducted to collect essential data on health and family welfare, through a representative sample of households across India. It is conducted by International Institute for Population Studies (IIPS) on behalf of the Ministry of Health and Family Welfare (MOHFW), Government of India. For details, please see: <http://rchiips.org/nfhs/index.shtml>

⁷Spousal violence refers to violence which is perpetrated by partners within marriage. It is the most common form of domestic violence in India.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

redress their ordeal whereas the remaining three-fourths decided to keep it private and not seek any help for what they faced. Moreover, it found that a woman's decision to seek help did not significantly correlate with her educational status or family wealth (NFHS 3, 2005-06).

This data has often been corroborated by the stories of survivors documented largely by women's organisations in India. Monika Joshi, a lawyer with a campaign group called Maitri, says, *"for every woman who complains, there is at least one woman who suffers in silence...Most women don't even talk to friends or colleagues if they're being abused by their husbands. They don't want to admit that they are victims or tell people what's going on in their homes."*

A recent BBC news report also brought to light experiences of domestic violence, such as those of Sunita and Aditi (names changed):

- When Sunita's husband started hitting her just three days into marriage, she called up her childhood friend, who had incidentally also introduced her to her husband to seek help on domestic violence. Describing her apathy, Sunita recalls, "I called her to ask her what I should do. She said: 'You should have let him kill you.' She said: 'If I were you, I'd choose death over separation.' Once you're married, there's no other place for you. Your life away from your husband is meaningless."
- Aditi described her ordeal at the age of 19, a year into marriage: "My husband came into the room, locked the door. He turned up the music so that no one could hear us outside. Then he took out his belt and started to hit me. He kept whipping me for the next 30 minutes. As he was doing this, he warned me that I shouldn't make a sound, I shouldn't cry, I shouldn't scream, because if I did, he was going to hit me even harder. He was hitting me with his belt, his hands... soon he began to choke me. He was just so angry." When she tried finding some support in her mother, she was equally let down, "I told my mum that this is what I'm going through, there was a time when I showed her bruises on my legs, I told her about the fact that my husband had forced himself upon me. And she just said, how can you say this about yourself? How can you say this about him? You just need to live with it, you need to endure it. You do whatever it takes to make your marriage work." (BBC News, 29 October 2014)⁸

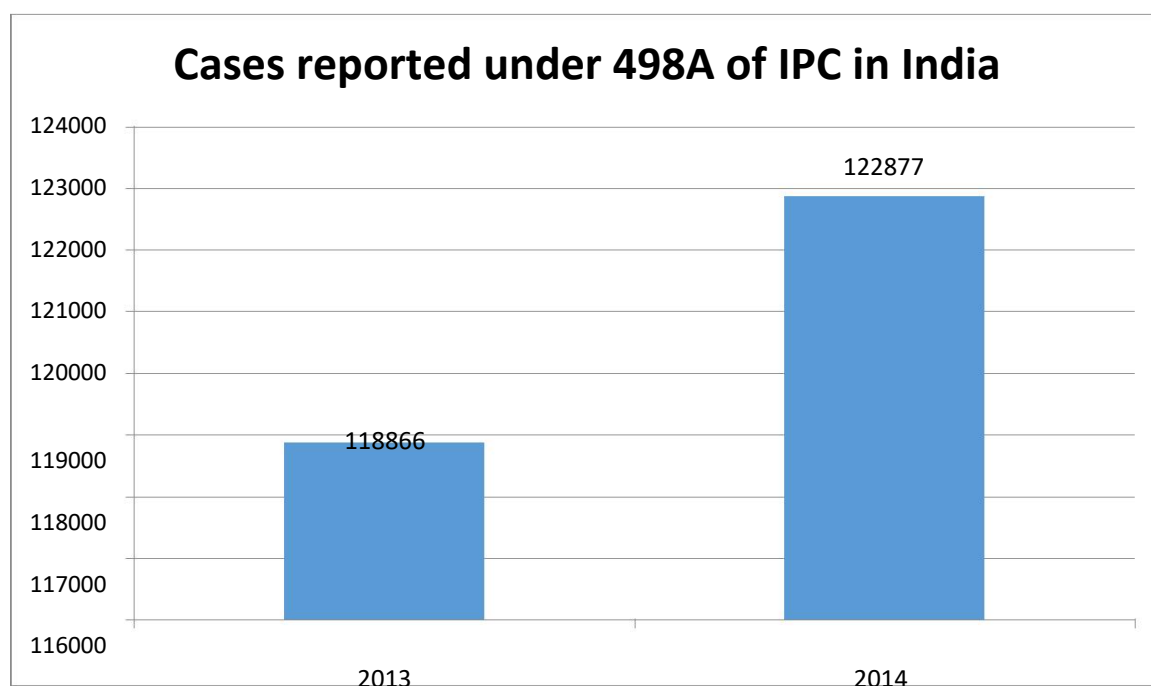
These examples can be substantiated from the findings of a recent large sample, multi-state study by ICRW on intimate partner violence in India. The data revealed that 52 per cent of its female respondents agreed that they were subjected to some form of violence throughout their lives, and the corresponding figure for male respondents who admitted to perpetrating violence was higher at 60 per cent (Nanda et al. 2013). However, what is also important to note is that a critical number of these men and women did not perceive violence as criminal or even condemnable, but as something which is a given. A total of 76.9 per cent men and 78.7 per cent women believed that if a wife does 'something wrong', a man had the right to punish her. A high 93.6 per cent of male respondents believed that it is the duty of a woman to 'obey' her husband (ibid).⁹

Another set of data comes from the National Crime Records Bureau (NCRB), according to which the rate of crime against women in India for the year 2014 was 56.3 per cent, which is 11.4 per cent of the total crimes reported in the country. The total number of cases of 'cruelty by husband or his relatives' as reported under the section 498A showed a 3.4 per cent annual increase from 2013 to 2014. In terms of absolute numbers, it has increased from 1,18,866 in 2013 to 1,22,877 cases in 2014 (see chart 1).

⁸ 100 Women 2014: Violence at home is India's 'failing', BBC News, 29th Oct, 2014. Retrieved from: <http://www.bbc.com/news/world-asia-india-29708612>, last checked January 2016

⁹ Masculinity, Son Preference & Intimate Partner Violence, by Priya Nanda, Abishek Gautam, Ravi Verma, Sanjay Kumar and Dhanashri Brahme, 2013

Chart 1: Increase in Number of cases reported under 498A, from 2013-14



For the first time in the data published for the year 2014, the NCRB listed the number of cases filed under the PWDVA, which was at 426 cases across the country (NCRB, 2015).¹⁰ However, it must be borne in mind that this is not the total number of cases filed under the PWDVA, which is a civil law, outside police purview, but the number of cases which may have been referred to the police under section 31 of the Act for noncompliance with court orders passed under the Act.

To date, no credible national level data exists on the number of cases reported under the PWDVA, mainly due to non-reporting by states. For instance, in March 2015, the Union Minister for Women and Child Development, in a reply to a question in the lower house of Parliament, reported that the cases registered under the PWDVA have shown a decline over the past three years.¹¹ As per her statement, these cases numbered 16,351 in 2012, 4,204 in 2013 and were only 531 in 2014. However, this data does not truly reflect the prevalence of domestic violence in India; neither does it capture the number of cases filed since most of the states/UTs¹² simply did not submit their data for this record.¹³

More reliable estimates based on the court records have been attempted by CSOs at local levels; for example, in Maharashtra, the number of cases under the PWDVA from April-December 2011 were as high as 16,632 (Lawyers Collective, 2013).¹⁴ Another study conducted by Civil Society Resource Facility (CRSF) in Odisha in the same year, found that from 2009 to 2010, POs registered a total of 804 cases across chosen 16 districts of the state. Although essential, nonetheless, this low scale,

¹⁰ <http://ncrb.nic.in/>, chapter 5, crime against women

¹¹ Retrieved from: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=117005> last checked January 3rd, 2016

¹² Union Territories are administrative divisions which are ruled directly by the central government, unlike states which have their own elected federal governments.

¹³ Retrieved from: http://www.business-standard.com/article/current-affairs/india-cuts-domestic-violence-by-not-reporting-it-115032400141_1.html, last checked Dec 10, 2015

¹⁴ Press note by Lawyers Collective for Staying Alive: Sixth National Conference on Protection of Women from Domestic Violence Act 2005, Released on 21 January 2013, New Delhi. Retrieved from: http://nmew.gov.in/WriteReadData/l892s/Final%20Press%20Note_21%20Jan-12048493.pdf, last checked, Dec 10, 2014

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

short time span reporting from CSOs can never compensate for the lack of large scale, periodically updated, macro level database maintained by the government.

3.2 VAWG in Indian Law

The constitution of India guarantees equal rights to women and directs central as well as state governments to undertake affirmative actions. Despite this, the low status of women in Indian society is reflected in nearly all spheres of life, starting from sex selective abortions at birth to fewer educational and economic opportunities, discriminated access to health care and entrenched patriarchal norms and biases in everyday life. The public discourse on violence against women in India started as a concerted campaign against incidents of dowry deaths in the 1970s and 80s (Sakhrani & Panchal, 2014).

As a result of sustained campaign, the government responded by enacting many pieces of legislation like section 498A in 1983 of the Indian Penal Code (IPC), which made 'cruelty by husband or his relatives' a cognizable and non-bailable offence. A woman could also file for maintenance under section 125 of the Code of Criminal Procedure, 1973 (CrPC) in case of violence or desertion (Arya & Khurana, 2014). It was also premised that in case of violence, burden of proof lies on the defendant, rather than the victim. Further, in 1986, section 304B was inserted into the IPC which indicted a husband if the wife died within seven years of marriage, particularly, if the death occurred in conjunction with dowry related demands. In later years, as women's organisations presented demands for sensitive handling of violence cases, there was setting up of family courts, family counseling centres and all women's police stations¹⁵ (Sakrani, *ibid*).

The experience of seeking justice under section 498A threw light on some additional needs. The need was felt to widen the definition of domestic violence beyond the scope of physical harm and dowry demand to include economic and emotional abuse. A need was also felt to make legal recourse available to women in all types of domestic relationship i.e. to daughters, live-in partners, widows in the family etc. There were also demands for immediate relief particularly with regards to shelter and protection.

Moreover, many women simply wanted to live violence free lives within marriage and therefore wanted a civil law which could provide legal recourse without police interface and with scope of reconciliation. Consequently, after nearly a decade of civil society activism and lobbying, a comprehensive law offering civil remedies to women was passed in 2005, titled as the Protection of Women from Domestic Violence Act. After the law came to force, CSOs have constantly fulfilled the role of grassroots support and monitoring, led by Lawyers Collective¹⁶ which has published a series of six editions of monitoring reports titled as 'Staying Alive'. They have also published a 'Resource Tool' for monitoring and evaluation of the implementation of the PWDVA and a 'Best Practices Manual' in 2013.¹⁷

3.3 Causes and Contributing Factors of Domestic Violence in India

Domestic violence is a result of several complex, interconnected and institutionalised social and cultural factors which are long-established manifestations of unequal power relations between women and men (UNICEF, 2000).¹⁸ This deep rooted patriarchal mindset in Indian society is further

¹⁵ An all women police station is meant only for women complainants and is also run only by women personnel.

¹⁶ Lawyers Collective was formed in 1981 and works towards human rights advocacy, and provides legal aid and litigation support to underprivileged in India. For details, please see: <http://www.lawyerscollective.org>

¹⁷ For details, Please see: <http://www.lawyerscollective.org/category/publications>

¹⁸ Innocenti Digest, No. 6, June 2000, UNICEF, Retrieved from: <http://www.unicef-irc.org/publications/pdf/digest6e.pdf>, last checked 3 January 2016

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

supported by many retrograde customs like dowry, patrilineal descent and disinheritance of daughters along with a set idea of duties and conduct of a 'good woman' (ICRW, 1999).¹⁹ Added to these are stressors like chronic poverty, unemployment, alcohol abuse and early socialisation to a culture of violence, where children who have been witnesses to such behaviour learn violence as an acceptable means of conflict resolution and of asserting manhood (ibid).

Women's status in Indian society has always been relational i.e. defined as daughter/wife/mother identified in relation to her father/husband/son. From historical times, cultural ideologies in India have been defining the very existence of women to cater to patriarchy and serve their male relatives with devotion, silence and subjugation; in many instances, even glorifying this existence and position through religion and mythology (Ahmed-Gosh, 2014). In such scenarios, the perpetrator often believes that he was provoked to violence due to some fault of the victim. In a study in rural Gujarat, women often attributed an outburst of violence against them to proximate causes or precipitating triggers, terming them as "mistakes" women made in running the household. These included: delay in preparing meals on time (66 per cent), not cooking meals properly (51 per cent), not caring for the children properly (48 per cent), and economic stress (48 per cent). They also reported that any attempts to resist violence by verbally defending their action further aggravated the violence (ICRW, 1999).²⁰ Demographic and Health Surveys (DHS) Programmes in 2005 found that more than 54 per cent men and 51 per cent women justify domestic violence on reasons as trivial as putting more or less than optimal salt in the food. The attitudes seem to have mostly been sustained as UNICEF's Global Report Card on Adolescents in 2012 stated that 57 per cent of boys and 53 per cent of girls in the 15-19 years age group in India justify a husband beating his wife.

Lack of social support and economic alternatives underpins women's vulnerability and makes it hard for them to detach themselves from violent relationships. While on one hand, lack of educational attainment or gainful employment makes them dependent on men, being accomplished or economically independent does not necessarily make women immune to domestic violence. The analysis of data has also indicated that women who are better educated, or earn more than their spouse may in fact face more frequent and severe violence than those with lower status due to insecurity felt by the partner who wants to maintain his domination (Weitzman, 2014).²¹

Causes and contributing factors of domestic violence and its manifestations, particularly with reference to women who have filed cases under the PWDVA, has been analysed by Lawyers Collective. They found dowry harassment, followed by alcoholism, extramarital affairs, birth of a female child, or the woman's inability to bear children as contributing factors leading to domestic violence among those who have filed cases under the PWDVA. According to the same report, dowry harassment first occurs by way of verbal and emotional abuse, and thereafter transcends to physical violence of varying intensities – from pulling of hair or beating with a broom to serious attempts of murder. In many cases, these different forms of violence happen concurrently (Lawyers Collective, 2013).

Although in current times, there is a growing recognition of domestic violence as an act punishable by law, community norms and lack of alternatives to a life with a violent partner pose a deterrent for women. There have been many instances where even the state actors meant to enforce the law openly dissuade women from asserting their rights, citing the difficulties, delay and dishonour they

¹⁹Retrieved from: <http://www.icrw.org/sites/default/files/publications/Domestic-Violence-in-India-1-Summary-Report-of-Three-Studies.pdf>, last checked 3r January 2016

²⁰Violence against Women in India: Evidence from Rural Gujarat, Leela Visaria, Gujarat Institute of Development Studies and ICRW, 1999

²¹ Abigail Weitzman, Women's and men's relative status and intimate partner violence in India, Population and Development Review 40(1): 55-75, Published March 2014

are likely to face in accessing judicial remedy (Lawyers Collective, 2012). This point will be further explored below, as we analyse shortfalls in implementation of the PWDVA.

3.4 Specific Vulnerabilities to Domestic Violence

Differences in vulnerability to domestic violence are perceivable in India, on a few different bases.

First, where women live is pertinent. According to NFHS 3, the most common form of domestic violence across all Indian states is physical violence, but sexual violence shows some state based differences: sexual violence is most common in the states of West Bengal, Rajasthan, and Bihar where the prevalence is twice the national average.²² The prevalence of physical or sexual violence ranges from 6 per cent in Himachal Pradesh and 13 per cent in Jammu and Kashmir and Meghalaya, to 46 per cent in Madhya Pradesh and Rajasthan and 59 per cent in Bihar (NFHS 3, 2005-06). Moreover, living in urban areas, compared with living in rural areas increases the odds of physical violence (Kishor and Gupta, 2009).

Second, we can look at religious, caste and tribal differences. Religious disaggregation of women between 15-49 years who face physical violence is, somewhat counterintuitively, highest among Buddhist women (41 per cent), followed by Muslim and Hindu women (34-35 per cent), then Sikh and Christian women (26-28 per cent) and Jain women report the lowest levels of violence (13 per cent). Prevalence of violence is also much higher among women belonging to the dalits²³ and adivasis²⁴ than among women who do not belong to these categories.²⁵

Third, certain attitudes, activities, and personal histories correlate with higher levels of domestic violence. For instance, analysis by IIPS of NFHS 3 data shows that women who make household decisions mainly alone are most exposed to spousal violence. Analysis shows that although the category of women who agree that wife beating is justified have a higher prevalence of violence, one out of three women who does not agree that wife beating is justified has also experienced violence.

Furthermore, husbands' consumption of alcohol and having a mother who was beaten by her spouse significantly increases the risk (Kishor and Gupta, 2009).

Fourth, we can analyse vulnerabilities created by the categories of education, employment and wealth. NFHS 3 reports that occurrence of physical violence declines with increases in educational levels. A total of 44 per cent women with no education have ever experienced violence since the age of 15 years, and 26 per cent report to have suffered it in the 12 months previous to NFHS data collection. However, these figures steadily decline with increases in education; the corresponding figure for women who have completed secondary education or more is 14 per cent and 6 per cent respectively. Education also reduced the prevalence of spousal violence (physical or sexual). Only 12 per cent of women who have completed secondary education reported facing spousal violence, as against 21 per cent who had received less than 12 years of schooling. However, a further analysis of NFHS data by Weitzman shows that a woman with superior educational levels as compared to her male partner has 1.40 times higher chances of facing any type of spousal violence, compared to those who have lower qualifications to their spouse (Weitzman, 2014).

Employment seems to increase the risk of domestic violence, where women who were employed at any time in the past 12 months report a much higher prevalence of violence (about 40 per cent). For

²²As per NFHS 3, the national average for physical violence by spouse is 30.4%, sexual violence is 8.2% and emotional violence is 13.6%. The corresponding figure for West Bengal is 21.1%, Rajasthan is 20% and Bihar is 19.3%.

²³Dalit literally means oppressed. The word is used to denote members belonging to the lowest order in Indian caste hierarchy. Officially, they are termed as 'scheduled castes'.

²⁴Adivasi, officially termed as scheduled tribes, is an umbrella term for various ethnic and tribal communities in India.

²⁵NFHS 3 Report, Chapter 15, Domestic Violence

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

unemployed women, the proportion of those who faced violence reduced to 29 per cent. Employed married women have 1.44 times higher risk of more frequent violence perpetrated by their spouses. Moreover, if the only employed partner is the woman, she has 45 times higher chances of facing violence (Weitzman, 2014). The author suggests that this high probability of violence is due to the perceived threat that women's access to education, employment or financial resources presents in a male dominated social order (ibid).

The prevalence of physical violence was found to decline sharply with an increase in wealth status. A total of 45 per cent women in lowest wealth quartile faced violence, while the figure reduced to 19 per cent in the highest wealth quartile (Kishor and Gupta, 2009).

3.5 Impacts of Domestic Violence on Aggrieved Women and Society

According to an International Institute for Population Sciences (IIPS) study (2009), domestic violence is not just a violation of the human rights of women, but has significant economic costs. These include loss of women's labour hours, as well as an increased need for healthcare investments at both the household and societal levels (Kishor and Gupta, 2009). Further, many research studies point out both short and long-term detrimental effects of domestic violence on the health and welfare of women and their children. In addition to other costs, experiencing and living with the constant threat of domestic violence is a source of disempowerment for women (ibid). Similarly, The Lancet series in 2015 on VAWG identifies it as a barrier to women's and girls' equal participation in society and affects overall social and economic development (García-Moreno et al., 2015).

On the health impacts, a literature survey conducted by Deosthali and Duggal (2013) presents a substantial evidence base across the world and in India that relates gender-based violence to adverse outcomes for a woman's physical, mental, sexual and reproductive health. Gender-based violence is associated with serious health problems, both long and short-term, affecting women and children; these health problems include injuries, gynaecological disorders, mental health problems, adverse pregnancy outcomes and sexually transmitted infections (STIs).²⁶

A study of 2,199 pregnant women in North India indicated that births among mothers who had faced domestic violence are 2.59 times more likely to lead to peri-natal and neonatal mortality (Deosthali & Duggal, 2013). A strong association is indicated between spousal violence and poor mental health amongst women. Longitudinal studies have established that spousal violence is associated as an independent risk factor for two adverse women's health outcomes, that is, sexually transmitted infections and attempted suicide (ibid).

Further, there is worrying new research that shows that the causal impact of domestic violence against the mother on child mortality in the Indian context is substantial (Menon, 2015). A study conducted by ICRW studied women facing domestic violence in health facilities in Thane district of Maharashtra and found that over 60 per cent of the respondents suffered from severe psychosocial stress, while 39 per cent exhibited suicidal tendencies (Jaswal, 2000).

3.6 Strategies to Address VAWG by Women's Organisations/CSOs

Indian CSOs and women's organisations have played an active part in keeping the issue of domestic violence at the forefront of public discourse in India. Their work can be broadly divided into three major spheres: firstly, at the level of influencing legislative process, secondly, educating and

²⁶ Padma Bhate-Deosthali and Ravi Duggal (2013), Rethinking gender-based violence and public health policies in India: Insights from Dilaasa, Mumbai, India, in Keerty Nakray (Ed) Gender Based Violence and Public Health - International Perspectives on Budgets and Policies, Routledge, New Delhi.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

sensitising the general public and thirdly, at the level of grassroots in enabling people to access justice based on the pro-women legislations and providing them with essential services. For a description of Oxfam India's work on VAWG and in relation to the PWDVA specifically, please see Annex 3.

The very notion of a comprehensive civil legislation on domestic violence and the drafting of the Bill that would become the PWDVA was led by a Delhi based women's organisation called the Lawyers Collective. After the Bill was passed, Indian women's organisations and other CSOs have continued to lobby for better implementation of the Act. In 2012, a 'PWDVA Advocacy and Action Group' was set up with Oxfam India as one of its key member organisations. The group includes about 40 prominent individuals and organisations across India and they strive towards making collective efforts at influencing the government on the PWDVA. The strategies include holding small meetings with various stakeholders, disseminating factsheets, high impact letters and postcards to members of legislature and senior level bureaucrats from relevant ministries. As a precursor to advocacy, these organisations have also worked together to conduct situation analyses at the state level, collate data on gaps and share people's stories with those in power.

Public engagement has been done in campaign mode, including interactive web campaigns and celebrity endorsements. One of the biggest and most well-known anti-domestic violence public engagement campaign in India was titled 'Bell Bajao', literally meaning 'ring the bell'. It was launched in 2008 by Breakthrough, an international human rights organisation and particularly targeted men and boys. The idea was to encourage people to interrupt an occurrence of physical violence in the neighbourhood by ringing the doorbell of a house and asking for simple things – like borrowing sugar or requesting a glass of water.

At the grassroots, CSOs have provided much-needed support and services to the survivors of domestic violence. They work to provide counselling services, medical and legal aid, and shelter, and also negotiate with state actors on survivors' behalf. Many organisations are also conducting trainings and workshops with implementers to educate and sensitise them on the PWDVA.

4. POLICY ANALYSIS

4.1 Key Features of the PWDVA, 2005

The PWDVA is a result of several years of activism and lobbying by the women's movement in India,²⁷ and it provided answers to many gaps that existed in the justice delivery system under section 498A of the IPC. The key features of this Act are described below:

- Moving beyond the limited applicability to married women under 498A, the PWDVA covers women in all domestic relationships including mothers, sisters, widows, daughters, cohabitating partners etc.
- From the limited scope of 'cruelty', this Act provided a comprehensive definition of domestic violence, which includes economic and emotional violence, or even the threat to injure or harm.
- To enhance accessibility, it also introduced a new set of actors and mechanisms by way of creating a cadre of Protection Officers as an interface between the woman and the courts. As such, the role of police and women's need to visit police stations was minimised under the PWDVA.

²⁷ Oxfam India currently does considerable work on violence against women and girls, and has been involved in analysing and influencing the implementation of the PWDVA, but was not involved in pushing for or formulating the Act because Oxfam India did not exist at the time. See Annex 3 for more information.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

- Finally, it also included provision for several immediate civil reliefs,²⁸ including the need for shelter and protection. Under this law, women could not be dispossessed from their marital homes and are also protected from further violence on account of protection orders which directs the offender to stop aiding or committing violence, intimidating the woman or her family members, taking away her assets or even communicating with the woman.
- The Act also provides for monetary relief to victim as a maintenance or compensation towards loss of earning or medical expenses or damage to property.
- As an interim order or ex parte order, the court can grant an aggrieved woman temporary custody of her children.
- She also has the right to free legal services under the Legal Services Authorities Act, 1987.

One of the most significant weaknesses pointed out under this Act relates to its civil nature. This means that there is no provision of criminal proceedings for men who indulge in domestic violence. While this has been seen by some as a positive factor – making it more accessible for women and keeping the law flexible with quick justice delivery – others feel that this offers only temporary solutions to domestic violence instead of a permanent relief (Hornbeck *et al.*, 2007).²⁹

Some men's rights organisations, like the Save Indian Family Foundation, have argued the law does not recognise or address the issue of men facing violence from women. They also feel that the broad definition of violence under the Act makes it amenable to be misused by women to settle other disputes and have even termed it as 'legal terrorism'.³⁰ A former attorney general of India, Soli Sorabjee has also criticised the broad definition of verbal abuse provided under the Act.³¹

The implementation of the Act is the responsibility of respective state governments which act as a nodal agency between key stakeholders. There are four important institutionalised implementing actors under the Act, at the state level:

1. A Protection Officer (PO) who is a government appointee at the district or sub-district level. She³² is the first point of contact with the woman and the one who registers the Direct Information Report (DIR), conducts the enquiry, submits the DIR before the Magistrate and ensures that the court orders are enforced.
2. A Service Provider is generally a voluntary organisation which has been assigned/designated by the state government to provide one or more services under the Act which may be in the area of providing shelter, medical care, legal aid, counselling or any other support.
3. A Magistrate can be directly approached by a woman and can seek interim civil reliefs.
4. Police can file a criminal complaint of domestic violence under Section 498A of the IPC. However, they are bound to inform a woman about the provisions of the PWDVA and to send her to a protection officer if she so chooses, particularly if the complaint is not a cognizable offence.³³ The police are also supposed to provide assistance to the PO in implementing court

²⁸Civil reliefs include rights of women under the PWDVA, like protection, residence and maintenance, which can be guaranteed by the court. They are normally termed as civil reliefs as these reliefs provided to the survivor are civil in nature.

²⁹Hornbeck, Amy; Bethany Johnson; Michelle LaGrotta; & Kellie Sellman; "The Protection of Women from Domestic Violence Act: Solution or Mere Paper Tiger?", Loyola University Chicago International Law Review, Volume 4, Issue 2, Spring/Summer, 2007, pp.273-307, Loyola University, Chicago

³⁰Domestic violence against men: High time government addressed the problem, 11 June 2015, IBM LIVE and, Malevolence for women's law – Men go to PM against female 'terrorist activity', 16 October 2012, The Telegraph, Calcutta.

³¹Sunday Debate: Is verbal abuse domestic violence? No., 5 November 2006, The Times of India. Last checked January 2016.

³²Given the nature of the Act and role of the POs, the Act mentions that preference will be given to women for appointment of POs.

³³Cognizable and non-cognizable offence is a classification used in Indian justice system. Cognizable offence means that police can make an arrest without a warrant and start an investigation with or without a court's permission. Cognizable offences are graver in nature and usually carry a punishment of three or more years of imprisonment. Conversely, in a non-cognizable offence, police can arrest only with a warrant and they are considered as less serious crimes, with lighter punishments. For example, in India, rape, murder etc. are cognizable offences while small hurt or public nuisance is non-cognizable.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

orders, particularly if a situation demanding control or prevention of a serious harm to the woman arises.

To complain under this Act, a woman or her representative first contact the PO who notes her complain, informs her about her rights under the Act and connects her to the court as well as service providers. After receiving the complaint, PO conducts a small investigation and fills the details of the case in a prescribed format known as the DIR. The DIR has to be submitted in the court within 3 days of receiving complaint from the woman. The guidelines require that the court pronounces its judgement within 60 days of the submission of DIR.

The implementation of the Act, which includes creation of infrastructure and appointment of institutional actors have been left to the states. Although under consideration, the Central government has, till date, made no financial commitments to states for assistance in implementation of the PWDVA. This will be elaborated in the next section.

The Act also does not provide for any monitoring mechanism or regulatory framework to assess performance. The draft Act included a provision of monitoring at the state level and required the submission of annual reports to the centre, but this provision was dropped before the draft was passed.³⁴

4.2 Budgetary Provisions for the PWDVA

Dedicated resource allocation for implementation of the PWDVA has perhaps been the most disregarded area by the government. When the Act was passed, there was no financial commitment from the central government to share costs incurred by states in its implementation. Thus, state governments and the civil society have relentlessly lobbied with the centre to supplement the funds under the PWDVA. As a response, in 2012, a Centrally Sponsored Scheme³⁵ (CSS) was submitted to the National Commission for Women (NCW)³⁶ by the CSO representatives. It provided an elaborate implementation plan, outlining a suggested PWDVA council³⁷ for monitoring implementation at the national level and protection officers as the single point of contact for women, and pegging the financial outlay from centre to states at Rs. 1,158 crores³⁸ (11580 million Rs. or 1698.44 million USD³⁹). A proposed outlay of Rs. 450 crores found mention in the Report of the Working Group on Women's Agency and Empowerment. However, there was no mention of it in the 12th five year plan.

Under the national 12th Five Year Plan (2012-17),⁴⁰ the centre's contribution to PWDVA implementation found mention under the 'Umbrella scheme for Protection and Empowerment of Women' and the then MWCD Minister had announced a yearly outlay of 100 crores (1000 million Rs. or 14.67 million USD) for assisting states in the appointment of independent POs, with basic office infrastructure and service providers at the district level, and a PO at the sub-divisional level in the 100 most vulnerable districts (Ministry of Women and Child Development, 2013).⁴¹

³⁴Resource tool for monitoring and evaluating the implementation of PWDVA, Lawyers Collective, 2013

³⁵The CSS was proposed by the National Commission of Women in 2012 to strengthen the implementation of the PWDVA. Under this scheme, budgetary provisions and institutional mechanisms for implementation of the PWDVA have been outlined.

³⁶NCW is a statutory body set up by Govt. of India in 1992, with the mandate of protecting and promoting the interests of women. It serves to advise government on policy matters relating to women and also facilitates grievance redressal.

³⁷The PWDVA council was recommended under the CSS to strengthen convergence, coordination and monitoring of PWDVA. However, so far, this has not been accepted by the government.

³⁸A crore is a unit in the Indian numbering system equal to ten million

³⁹The figures in USD are approximate and will depend on the exact exchange rate prevailing at a given point of time.

⁴⁰Based on the model of Soviet Union (former) the Government of India has prepared an economic plan for every 5 years since independence. Currently, the country is in its 12th plan period which is for the duration from 2012-2017.

⁴¹Memorandum for Expenditure Finance Committee for the Umbrella Scheme on Protection and Empowerment of Women, Ministry of Women and Child Development, Government of India, February, 2013, Retrieved from: <http://pwdvact.in/images/download/MWCD-Umbrella-Scheme.pdf>, last checked 10 December 2014

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

While in 2013-14, the total outlay for the PWDVA was increased to 67.5 crores (675 million Rs.), from 20 crores (200 million Rs.) in the previous year, it was reduced to 50 crores (500 million Rs. or 73.33 million USD) in the subsequent year (2014-15) and to outright no allocation in the budget for 2015-16. Moreover, in both the previous years (2013-14, 2014-15) there was complete underutilisation of the fund, i.e. not a rupee was spent by the central government on implementation of the PWDVA (Sen, 2014).⁴⁴

Lack of financial assistance by the central government has severely impacted the capacity of states to implement its various provisions. While some states have initiated a separate plan for PWDVA allocation, others have made ad hoc allocations. The rest, also among the worst performing states, like Bihar, Uttar Pradesh and Rajasthan have not allocated any fund for the implementation of the PWDVA and meet the expenses from already existing resources under other women related welfare schemes (Sen, *ibid*).⁴⁵

Besides specific allocation, there is also a wide variation between the quantum of allocation made by states; for instance, in 2011, it ranged between 2 lakh (i.e. 200,000) in Meghalaya to 722 (722,00,000) lakh in Karnataka. No minimum benchmark has been set by the union government. Accordingly, not just budget allocation but also its utilisation in states have reflected wide variation across financial years (Jhamb, 2011),⁴⁶ revealing the impulses of the state governments. A review of budget heads where allocations have been made by the Centre for Budget and Governance Accountability (CBGA) in 2011 revealed that most state allocations and expenditure focussed on two areas: firstly, expenses incurred in appointment of POs or in providing allowances to them and, secondly, towards awareness activities or training workshops.⁴⁷ Notification of service providers⁴⁸ has been the most neglected area where most states have notified *Nari Niketans* (Women's Homes) or *Swadhar Greh* (self-based homes),⁴⁹ which are already existing shelter homes, funded by the central government. These homes are not only inadequate in numbers, but are also overburdened in capacity and therefore not competent to absorb the demand created by the PWDVA. There has been a slackening in notifying service providers other than shelter homes (*ibid*).

4.3 Review of Implementation Based on Existing Studies

In the last nine years since the Act has been passed, implementation of the PWDVA has largely remained a work half done. Given below is a brief review of the Act's implementation based on secondary literature:

⁴² The PWDVA Action and Advocacy Group was formed on 19 December 2012 with more than 60 organisations from India as its members. The group aims at concerted advocacy efforts to strengthen implementation of the PWDVA. For details on the member organisations, please see: <http://pwdvact.in/advocacy-and-action-group>, last checked 3 January 2016

⁴³ For details, please see: <http://pwdvact.in/images/download/Scheme-for-Effective-Implementation-of-PWDV-Act.pdf>, last checked 3 January 2016

⁴⁴ Sen Jhuma, (July-August 2014) Handbook for Parliamentarians, Centre for Legislative Research and Advocacy and Oxfam India

⁴⁵ Sen Jhuma, (July-August 2014) Handbook for Parliamentarians, Centre for Legislative Research and Advocacy and Oxfam India; Jhamb, Bhumika (August 2011), The Missing Link in the Domestic Violence Act, Economic and Political Weekly.

⁴⁶ Bhumika Jhamb, The Missing Link in the Domestic Violence Act, EPW, 13 August 2011, volume xlvI, no 33

⁴⁷ *Ibid*

⁴⁸ "Notification" is a term used in the PWDVA to mean the formal appointment of service providers.

⁴⁹ Both Nari Niketans and Swadhaar homes are shelter homes for women in distress and difficult situations under various schemes of the government

**PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005:
LESSONS FROM A DECADE OF IMPLEMENTATION**

1. Lack of data and monitoring: There is absence of any credible national and in many cases, even state level data on the number of cases reported, and their outcomes under the PWDVA. In the data with central government in 2013, out of 34 states/UTs in India, 17 did not submit data, which includes big states like West Bengal, Bihar, Odisha and Gujarat. Another 9 small states/UTs reported no case had been filed in their territory. Similarly, in 2014, while only 3 states did not report data (West Bengal, Chhattisgarh and Karnataka), another 16 reported that no case had been filed in their states under the PWDVA for the year. Hence, at best, this reply in lower houses only reveals that most states in the country either do not systematically record the number of cases under the PWDVA or do not share this information with the centre or the public (Business Standard, 24 March 2015).⁵⁰

Added to this is a lack of monitoring at the state level. Although mandatory monitoring measures are not included in the Act, the Ministry of Women and Child recommends an annual reporting mechanism by the states on the implementation. However, there is no enforcement mechanism to ensure compliance with it. Moreover, due to the lack of coordination between the states and centre, the reporting formats issued by the centre do not sometimes fit the state model of implementation.

2. Appointment of POs: So far, all the state governments have appointed POs, however, only 9 states and 1 UT has appointed independent Protection Officers.⁵¹ In the remaining states, POs continued to be an additional charge normally assigned to other government functionaries, like the District Social Welfare Officer or Child Development Project Officer.⁵² However, even the appointment of exclusive POs has been done on a contractual basis and only the state of Kerala has appointed them on government payroll with full benefits. Thus, because the responsibilities of POs have been allocated on an additional charge or contractual basis, their role and effectiveness in implementation of the PWDVA gets limited. Lack of infrastructure – like separate offices for the POs, a room for women to wait, means of travel, availability of telephones or computers and support in the form of clerical staff or data operator – has also impacted the work negatively. Since POs are available only at the district level, accessibility from peripheral areas takes a hit. Only a few states have notified POs at sub-district level with Maharashtra leading the count⁵³ (Sakhrani & Panchal, 2014).
3. Notification of Service Providers: There are 1,338 Service Providers (SPs)⁵⁴ who have been notified in different states under the PWDVA.⁵⁵ However, the process of enlisting has been random, with no clear guidelines on their roles. There is also a wide discrepancy in the number of shelter homes which have been notified by the states. Some states like Karnataka with 124, Tamil Nadu with 98 and Odisha with 87 are on the higher side, while others like Himachal Pradesh has notified one shelter home, Haryana three and Uttar Pradesh only 10 shelter homes.⁵⁶ In most states already existing service providers have been enlisted without assessment of their capacities or augmenting their infrastructure to absorb the demand created by a new Act.

⁵⁰Ibid

⁵¹The states with independent full time POs are: Bihar, Chhattisgarh, Rajasthan, Gujarat, Haryana, Kerala, Tamil Nadu, West Bengal, Delhi and Lakshadweep. Provided as reply in Upper House to Question No. 2187 on 11.12.2014

⁵²A Child Development Project Officer coordinates and supervises the grassroots level functionaries of the Integrated Child Development Scheme of Govt. of India. The scheme aims at providing supplementary nutrition and preschool education to children from the 0-6 age group.

⁵³As per a reply in Upper House to Question No. 2187 on 11.12.2014, Maharashtra had 597 POs, followed by 574 in Rajasthan

⁵⁴SPs are voluntary organisations that have been notified by government to provide support to aggrieved women. For details, see section 4.1 'Key features of PWDVA'.

⁵⁵Provided by Maneka Gandhi, Minister, women and Child Development, as reply in Upper House to Question No. 2187 on 11.12.2014

⁵⁶Provided by Maneka Gandhi, Minister, women and Child Development, as reply in Upper House to Question No. 2187 on 11.12.2014

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

4. Coordination among Stakeholders: There continues to be a lack of clarity on roles, procedures and coordination among various stakeholders. Monitoring studies by CSOs have found that POs are ambivalent about the procedure of filing a complaint and the DIR. They are also unsure if they are required to provide pre-litigation counselling and are unable to differentiate between counselling and mediation (Lawyers Collective, 5th Monitoring Report, 2012).⁵⁷ Often, POs who file the DIRs are not informed about the court orders passed on the cases filed by them and this severely limits their capacity to ensure timely compliance with the orders (CSRF, 2011; Sakhrani & Panchal, 2014). At many places, cases of domestic violence are still filed at a police station without police directing the woman to a PO, POs are often not informed about the court orders on the DIRs and service providers do not coordinate with POs or the judiciary (ibid).⁵⁸ Thus there are no clear directives or effective guidelines for coordination which hampers a synchronised response to provide relief. However, some efforts at achieving convergence have been made more recently. Coordination committees have been initiated in states of Rajasthan, Kerala, Gujarat, Uttarakhand and Madhya Pradesh (Lawyers Collective, 2013).⁵⁹

This lack of coordination at the local level continues between the Union and state governments. Due to the lack of coordination between the states and centre, the reporting formats issued by the centre do not sometimes fit the state model of implementation.⁶⁰

5. Lacunas in the Judicial Process: The Act stipulates that the first hearing of a case must be conducted within three days of filing of the DIR, and a final order be pronounced within 60 days of the first hearing. However, studies have shown that a delay is normal. The Lawyers

Collective monitoring report in 2012 found that not even a single case was completed within 60 days.⁶¹ Only 12 per cent of the cases under which the DIR had been filed had received final orders, out of 804 cases studied by the Centre for Shridevi Research Foundation (CSRF) in Odisha. The analysis showed that the average time taken for disposition of a case was 275 days. One major reason for this delay was a delay in issuing summons to the litigant which is supposed to be done within three days of the filing of a DIR but takes much longer (CSRF, 2011).

On similar lines, a study conducted by Tata Institute of Social Sciences (TISS) in 2014 reveal that out of 2,466 cases covered in the study, only one third of cases had been disposed, and out of these, only 6.2 per cent were based on facts emerging during the case. Among the remainder, about 27 per cent cases were either rejected, or withdrawn, or defaulted or were successfully mediated. Average time for serving notices after filing DIRs was 34 days as against 3 days stipulated in the Act. Only in 2 per cent of cases was interim relief granted within one month and any relief was granted only in 26.12 per cent cases.

Another study from Delhi Metropolitan courts showed that women had, on average, secured less than 50 per cent of the reliefs that they had pleaded for as part of court orders (Bhatia, 2012). Another difficulty expressed by various stakeholders was ensuring compliance with court orders: in as many as 523 cases (of 2,466 covered in the study) women had to resort to filing execution or getting warrants issued to seek compliance. To conclude, the *"... recourse to legal action has its own difficulties in India, with the legal system being too formal, vast delays in decision-making and vested interests of lawyers who may choose to prolong or inflate a case rather than seeking timely resolution,"* writes Manjeet Bhatia.

⁵⁷ Lawyers Collective, fifth monitoring report 2012

⁵⁸ Ibid

⁵⁹ Best practices manual, Lawyers Collective, 2013

⁶⁰ Rajini Menon, Regional Gender Coordinator, Oxfam India, Personal Communication dated 30 December 2015

⁶¹ Lawyers Collective, fifth monitoring report 2012

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

Evidently, the study found that most women who made the choice to seek legal recourse were supported by better financial means as well as helpful social structures. Consequently, it also means that women who have the least financial means or social support may be the ones who are least inclined to undertake the legal route, given these glitches in the judicial system.

6. Justice as delivered: Analysis of the nature of court orders delivered under the PWDVA, conducted by Lawyers Collective in 2013, shows mixed trends. On the positive side, the court sanctioned the retrospective application of the PWDVA in the V.D. Bhanot vs Savita Bhanot (2012) case, stating that even if the incident of domestic violence occurred before

the Act came into force, the violence is deemed to continue unless the woman's right to reside in the shared household⁶² is restored. It has also accepted a broad definition of domestic violence rather than limiting it to acute physical violence. However, it was observed that the courts have not become entirely free from deep rooted patriarchal beliefs. Married women who continued to reside in the shared household were more successful in getting orders as "the Courts seem to be in search of the 'ideal victim/woman' while granting relief and adhere to the image of the 'good married woman' still residing in the matrimonial home despite the violence inflicted on her as the one deserving of Orders under the act."⁶³

Even where women secured positive orders, they were, in many instances, in a language of moral duties of husbands/fathers to provide protection/maintenance to their women, instead of human rights and justice vocabulary. The Lawyers Collective monitoring report stresses on the residence status of women in getting orders by the court where judges have felt that the woman either left the house 'of her own volition' or is at a safe distance due to a separate residence. One of the most highlighted cases in this context has been of S.R. Batra v. Taruna Batra (2007) where the Supreme Court excluded the self-acquired property of in-laws from being considered as a shared household. This judgement has been used as a precedent to deny many women of their right to reside in a shared household on the pretext that the property belonged to the in-laws. However, some lower courts have favoured women if the property was commonly held ancestral property.

The report also notes that there is a tendency to deny relief to widows if the case is filed against in-laws, whereas she is more likely to succeed if the case was against a son. Similarly, sisters filing cases of economic abuse against brothers have been denied remedies as courts have viewed these cases as property disputes. The daughters who are unmarried, deserted or separated have been given better relief compared to her brother or father but the married daughters living in separate households have been considered as no longer in domestic relationships with their natal families. Similarly, already divorced women have been denied relief due to non-existence of a 'domestic relationship'.

In a nutshell, while court orders reflect a greater understanding of the scope of the PWDVA, the courts' entrenched patriarchal biases and limited definition of 'domestic relationship' and 'shared household' continue to be a cause for concern. While pronouncing pro-woman orders, the articulation of human rights rather than moral duty and obligations towards wife/daughter/mother is significant.

⁶²According to Section 2(s) of the Act, a shared household is any house (owned or rented) where the woman alleging violence lives or at any stage or any point of time in a domestic relationship, either singly or along with the respondent. The period of cohabitation has not been specified before a house can be considered a "shared household".

⁶³Staying Alive: Evaluating Court Orders, Sixth Monitoring & Evaluation Report on the PWDVA, Lawyers Collective, 2013, page 145

Much of what the literature review revealed is reflected in this study's primary research findings, to which we now turn. Comparisons between existing research and interview data will be drawn when pertinent to show points of corroboration.

5. FINDINGS

This section reports the primary findings of the study and is divided into the following five sub-sections:

- **Types of Implementation Gaps:** This provides the details of implementation gaps, as discussed by the respondents and also highlights some differences between the two states covered.
- **Reasons for these Gaps:** While covering the reasons for these gaps, this section highlights the differences in causal perception of respondents, based on their professional standpoints.
- **Institutional Actors Responsible for the Gaps:** This sub-section lists the roles of institutional actors and attempts to fix their responsibility towards implementation.
- **What is Being Implemented:** Despite the implementation gaps, the section looks at the silver lining and describes what the respondents think is being realised and to what extent.
- **What Can Be Done to Improve Implementation:** This section provides what is needed to better the situation, cutting across various stakeholders.
- **What Can CSOs Do to Address These Gaps:** This section lists what, according to the interviewees, the civil society in India can contribute towards strengthening implementation. These suggestions have been presented with a loose ranking, depending on how many respondents made the suggestion and to what significance.

5.1 Types of Implementation Gaps

From the interviews and the secondary sources it was evident that despite a decade of the Act, glaring gaps continue to exist in its implementation. Detailed responses were given by nearly all respondents on various types of gaps which have been categorised and are elaborated below:

1. **Absence of effective outreach programmes:** As many as 6 out of 13 respondents focussed on low awareness and poor accessibility of the law among the general public. Likewise, even the respondents who did not clearly point to low awareness as a gap area did point out at a later stage that awareness and information campaign is one of the key things to undertake to strengthen demand of the Act. There was an agreement that by now nearly all male and female adults in India understand that domestic violence – at least physical violence - is unlawful. However, deeper awareness in terms of information on availability of institutional actors, service provisions, types of relief and legal rights and remedies are abysmally low. This poor awareness exists not just in rural areas but also among urban, educated women. Thus, while the Delhi citizens may have a basic understanding of dialling 100 when in distress, a high majority do not know about the PWDVA. A case in point was described by a respondent: a woman from the city of Cuttack in Odisha was driven out of her marital home as she gave birth to a baby girl. She lived on the roadside for days and her story was highlighted in the local media. However, neither she nor the media reporter knew about the PWDVA. It was only when a paralegal volunteer read about the case and offered assistance, that the case could be registered. This finding is in line with the results of other studies done among the women litigants where a majority of them report that they did not know about the PWDVA or protection officers or service providers before filing the case (Sakhrani & Panchan, 2014).

Despite a consensus on the overall lack of awareness of the Act, the onus of it has been placed differently by different respondents. Those working with the government/judicial system have largely pointed out lack of people's agency, citing systemic issues like poverty, illiteracy and unemployment and the impossibility of the government to ensure reporting of every incident of domestic violence. To quote, an interviewee said, *"we cannot really peep into people's homes and find out what is happening. Women will have to come out."* This must be contrasted with the approach adopted by CSOs who pointed out government laxity towards the need for public education campaign and raised pertinent questions, like: *"In this big city of Bhubaneswar why is there not a single hoarding⁶⁴ informing people on the provisions of the Act? Why do we need hoardings of the Chief Minister? We all know he is the CM, now public should be informed about Acts like this.....If this is the situation in the capital city – what can we say about rural areas!"*

Low awareness has been seen in conjunction with poor accessibility for women in need. Since the first point of contact under the Act – the Protection Officer as well as the service providers generally exist at the district level – it results in low accessibility among women particularly those belonging to far flung areas. In the absence of any information centres or linkages to the villages, it is virtually a challenge for an aggrieved woman to travel as far as the district headquarters due to multiple limitations like lack of information or money or means of commuting or simply the time and logistics such a trip demands.

One respondent points out that even if women come out and reach the POs or the police, there is a systemic effort to dissuade her from filing a case. This has been confirmed by police representatives at both Delhi and Odisha who have also defended it as something done in the interest of the woman herself, to shield her from a long and tedious legal battle. A police officer from the Special Police unit for protection of women and children in Delhi states: *"Our first priority is to get patch up done. We don't want a bad ending for marriage".*

The existing studies have pointed out that despite the negative perception of police as callous and corrupt, a high proportion of women suffering from domestic violence continued to seek help from them.⁶⁵ Although the Act does provide for negotiated resettlement within marriage, such single minded focus on maintaining marriage though counselling by untrained police officers, without a court intervention can be problematic in some cases. This attitude of the actors at the public interface has also resulted in a low accessibility of legal remedies under the PWDVA.

2. **Appointment of POs:** As many as 8 (out of 13) respondents referred to the failure of the state governments to appoint POs on an independent and full time basis as a gap area. In Odisha, all POs are in fact CDPOs⁶⁶ and serving as PO is only their additional charge, or in the words of a PO herself, *"a secondary duty"*. They also report to the District Welfare Officer, who is naturally more concerned about the responsibilities relating to the Integrated Child Welfare Scheme (ICDS) than the work of filing DIRs. While Delhi has appointed exclusive POs, they are all contractual employees, who do not have enough power to deal firmly while supporting an aggrieved woman or ensuring compliance with court orders. Neither of these arrangements confers enough power, motivation or continuity among POs to deal effectively

⁶⁴ Hoarding is a large board at a public place which is used to display advertisements.

⁶⁵ Dave et al. (2000) in a study of special cells for women and children in Mumbai found that for 34 per cent of women, police was the initial contact in case of domestic violence. Similarly, a study by Sakhrani & Panchal (2014) found that from their sample population, 8 per cent women had contacted police as against this, only 2 per cent had visited a protection officer.

⁶⁶ Child Development Project Officer

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

on behalf of women. In both states, there are no POs at sub-district level. A CSO representative from Delhi calculates:

“There is only 1 Protection Officer per district in Delhi. Now, in 1.5 crore (15 million) of population, if we take half of it, there would be about 75, 00, 000 women. Even if we estimate that 50 per cent of these women are facing domestic violence, what would 18 POs do for 35, 00, 000 women!”⁶⁷

However, despite this logic, a representative from the bureaucracy states that advocating for exclusive POs is tough since the number of cases reported under the PWDVA is not high enough to warrant the need for more or even exclusive POs. A PO from Odisha shares that in her rural posting she received only an average of 4-5 complaints per month. In urban areas though, the numbers of cases have increased to 50-60. According to her, while 50-60 cases a month is a lot more, they can be managed without affecting her primary responsibility. In the nutshell, the arguments for or against full time, permanent appointment POs is like the chicken and egg dilemma: the government wants to appoint exclusive POs or POs at sub-district level only when the numbers of cases go up. However, the lack of dedicated POs itself is a limiting factor in increasing reporting of domestic violence as it hampers the accessibility of the women and positive outcomes of the reported cases.

3. **Notification of Service Providers:** One of the important components in the Act is to address the immediate needs of survivors by linking them to enlisted service providers. However, many states have not notified service providers or have simply notified existing service providers without augmenting their capacities. Worse, sometimes service providers have been notified without their being informed of their own notification under the Act. All respondents from Delhi mentioned that the state had not notified any service provider under the Act and that this is a major gap area. In Odisha, service providers were notified only about 7-8 years after the Act came into force, and only shelter homes. A member of the Odisha state women’s commission revealed during the interview that she found dismal conditions in shelter homes on her visits. She found that they had minimal facilities that simply allowed to women a roof and some food, but there were no provisions for visiting doctors, counsellors, child care facilities or vocational training to support women in becoming financially independent.

A CSO partner supported by Oxfam India described practices of corruption in notification of shelter homes. According to her, already existing shelter homes under other women’s welfare programmes were notified under the PWDVA too and the same set of women have been shown as availing the facilities under multiple welfare programmes while money is claimed separately for all programmes. She also claimed that many of these shelter homes were male-headed and therefore lacked sensitivity. Reports of sexual abuse and even murders have been received from these shelter homes but they have been allowed to continue operations. So far only one shelter home was shut down due to several such complaints but many others continue to receive public money. This allegation requires serious investigation and immediate addressing if true as it poses serious threats of violence or harm to those very women whom the Act seeks to protect.

4. **Poor coordination and clarity of roles and procedures:** Many respondents referred to lack of coordination between various stakeholders during interviews. While the legislation may

⁶⁷ Population of Delhi is estimated to be 18,248,290 for 2015. According to 2011 census of India, population of Delhi was 16,753,235 people. Hence the respondent is right in making the approximate calculation.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

have defined roles and procedure steps, they do not seem to have been effectively communicated to all the stakeholders.

POs or paralegal volunteers were not linked to service providers or to each other. The judiciary was linked to POs but magistrates were not accessible to service providers. The Act mentions coordination committees but neither of the states has formed them. However, some efforts at informal consultations and workshops have been recently initiated. CSOs have often taken the lead in facilitating such consultations.

The POs are not sure if their role includes pre-litigation counselling too or simply filing of DIRs. They are also not sure if they have the responsibility of ensuring compliance with court orders. Both of the police representatives in the study felt that they have no role to play in the implementation of the PWDVA as it is a civil act. They did not even know the names of their local PO, had never worked with them, nor had received any request for assistance from them. Police did not know that it is obligatory for them to direct any woman with a domestic violence complaint to the PO first. Both PO and police respondents were very candid in sharing their confusion. A police officer said:

“There are multiple and sometimes contradictory directives from courts/human rights commissions...for example – court says that if someone comes with a complaint of cognizable crime we have to lodge an FIR (First Information Report)⁶⁸ – which is the case under 498A in most domestic violence incidents. But then directive by human rights commission⁶⁹ says that in cases of domestic violence arbitration or out-of-court settlement has to be tried in at least 3 meetings. So what should the police do? We take a call depending on the specifics of the case. If the person is cooperative, looks impressionable, we send them to NGO counselling centre first otherwise we lodge FIRs”.

Similarly, the respondent from Delhi police candidly accepts: *“There is a lot of confusion; we don’t know who has what powers. For example, recently Indira Jaisingh⁷⁰ said that DCW can summon people and arrest if they fail to respond. But did we know about it before?”.*

Legal knowledge and conceptual clarity among lawyers regarding the PWDVA has also been questioned by another CSO representative. Similar lack of clarity among stakeholders has been repeatedly mentioned in various studies evaluating implementation of the PWDVA (Sakhrani & Panchal, 2014; Lawyers Collective Staying Alive series, 2009-2012; CSRF, 2010-11).

5. **Capacity Building and Sensitivity of Institutional Actors:** Several questions were raised on the capacity as well as sensitivity of the institutional actors, including POs, lawyers and the judges who are key stakeholders in justice delivery.

The POs, as mentioned before, are either on additional charge or contractual. Moreover, as their qualifications are not mandated under the Act they may be underskilled or may not have conceptual clarity of issues of domestic violence. Frequent transfers of personnel affect

⁶⁸An FIR is filed in all cognizable offences by the police when they receive a complaint about the same, while a DIR is specific to PWDVA which is filed by the PO and is civil in nature.

⁶⁹The respondent could not recall if the directive was issued by the national human rights commission or the state commission. He could also not provide the circular number for validation. However, he insisted on such a directive from his memory.

⁷⁰Indira Jaisingh is a well-known lawyer and activist in India. She is also the founding Secretary of the Lawyers Collective, a noted human rights advocacy firm in the country.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

continuity and do not allow the advantage of cumulative experience. Further, capacity of the POs is also affected due to poor infrastructural support like lack of a separate office, a waiting room for women, clerical support, computers or vehicles. They currently get Rs. 45,000 as allowance in Odisha but most of it is underutilised as there are no directives on how to spend this. In Delhi, one respondent said that POs are not used to legal procedures and they often make mistakes for which the court admonishes them. They are also underskilled in recording, filing, follow-up and monitoring of cases. Finally, and most importantly, POs generally have weak capacity to ensure compliance with court orders. Besides all this there is an issue of sensitivity. The PO, a woman herself, interviewed in the study said: *"All the cases that come here are true, not one case is false but koi kam nahi hai (women are no less). Women do all this just for maintenance money and once they get the money they file for divorce and catch another party (husband)."*

A CSO interviewee who works at the grassroots level shares that staff at shelter homes are insensitive and often demotivate women. Firstly, they want women on their day of arrival to fill out on a form the number of days they require the facility. This is not sensitive behaviour to a survivor who is uncertain of the future course of events and who is under a lot of emotional trauma. Many of these women walk in shelter homes with no support, no information of legal process, no cash and some may not even have a second pair of clothing. However, instead of empathizing, what shelter staff tend to offer is demotivating sympathy. *"They say 'ab pati ko chod diya hai to aur kya kar payegi, chalo kisi ke ghar mein kaam hi kar lo' (now that her husband has left her what will she be able to do, let her work as a domestic help in someone's house)"*, the CSO interviewee reported.

CSOs in both Delhi and Odisha do not seem to prefer that the women who come to them to file a case through the lawyer available under the free legal aid scheme. At both places they felt that the 'free' lawyers did not give respect to women and often subscribed to a male perspective which puts the blame on the woman. In Odisha, it was felt that the advocate assigned by the District Legal Services Authority (DLSA)⁷¹ often encouraged the woman to lodge a criminal case under section 498A instead of the PWDVA since they get better remuneration for fighting long, drawn-out criminal cases. Ironically, while on one hand lawyers encourage more cases, particularly under criminal law, police and others, including state women's commissions, want to 'settle the dispute' in pre-litigation counselling and dissuade women from filing cases.

In both the states, police respondents were quick to deny having any role in the implementation of the PWDVA. They are unaware of their roles in providing civil options to women or of section 31 in the Act which can be evoked in cases of non-compliance of orders. Both respondents belonging to the police force appeared to be insensitive. While the Delhi respondent reduced instances of emotional abuse to *"egos and communication problems,"* the respondent in Odisha spoke in the same tangent, calling *"most cases"* as *"even if not false, yet certainly exaggerated."*

Besides other issues like delays in disposition of cases, fewer civil reliefs accorded to a woman or leniency in the punishment of offenders, the overall attitude of the judiciary too demonstrated insensitivity. The apathetic and superior attitude of judges also hampered the recent efforts at sensitising or enhancing convergence between the judiciary and other stakeholders like POs, SPs and/or CSOs. A respondent revealed her experience of training members from the judiciary and shared that they came across as an indifferent and non-

⁷¹ In each district in India, a DLSA has been set up to provide legal services, including free legal aid facility to the needy. It is situated in the district courts complex and chaired by the respective district judge.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

participative audience in trainings on the PWDVA, and no magistrate made a single remark or asked a single query throughout the training. Similarly, in stakeholder consultations, judiciary participants often do not want to sit alongside the POs and service providers and are normally the most reluctant participants. CSOs also felt that judges did not often realise the urgency of the case unless the violence was life threatening in nature and their judgements often came late, with lenient penalties.

In a nutshell, the root of the poor capacities and low sensitivities of all stakeholders is summed up by one respondent in the following words:

“Both POs and the judicial system are overburdened and not sensitised. Legislature creates new laws but the capacity and strength of the system to absorb it and roll out is severely limited and therefore implementation suffers. Augmenting the system is the state’s responsibility but under this Act it is only optional, and not mandatory.⁷² And there is no penalty if the directives are not adhered to.”

6. **Immediate relief for survivors:** Although one of the objectives of the Act was to provide immediate relief to survivors of violence, it still continues to be a challenge. Firstly, in terms of immediate need, in most districts, all that seems to be available are the shelter homes. However, the woman who comes to a shelter home often requires more than just a roof. She may need medical treatment, trauma counselling, clothes and ready cash, which are not provided in the shelter homes. A woman’s immediate relief may be hampered by where she lives; if a woman belongs to a remote area, there may be no shelter homes in the vicinity. Moreover, POs and police officers are not well informed about the service providers who could provide immediate relief to an aggrieved woman and therefore are unable to help. One police officer says *“we cannot keep women in police station after sunset and here we have shelter homes in town only, not in villages. I do not know details of their working conditions or problems there.”* Another police officer from Delhi echoes these thoughts:
“[The] challenging part is when woman wants to stay but husband doesn’t want to keep her – where will she and kids go? She has to wait till the court orders which take time. So immediate relief is an implementation gap. Basic thing is that woman has no money”. The PO candidly agrees that she has no information on service providers and recommends that such information be sought from helplines.

While police officers may sometimes intervene on behalf of the woman to prevent destitution and request the family members to allow her residence, there is little that they can do to ensure that the woman continues to stay without further emotional or economic abuse. It was reported that even the interim orders of protection, residence or maintenance from courts often take about a few months to come. Thus, the immediate relief as granted under the Act is not immediate enough and this certainly undermines a woman’s access to legal remedies.

7. **Monitoring and Evaluation:**

Follow up at the case level has remained weak. It is primarily dependent on the individual interest of a PO. Until recently, there was no provision for POs to be informed of the court judgments in DIRs they had filed. However, at least in Odisha this has changed after the high court issued an order for mandatory sharing of the orders in cases which concerned a PO.

⁷² Here, the reference is made to several important institutional aspects of the Act, like the appointment of full time POs, their qualification, setting up of coordination committees, disposition of cases in 60 days etc., as being mere directives and not obligatory under PWDVA.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

On the other hand, police officers blatantly denounced the idea of follow up in the pretext of invasion of privacy. One said,

"We presume that if a woman has not come back with a complaint, she is fine. In case if we make a phone call to follow up, the husband may taunt her again – 'Your well-wishers had called to enquire about your wellbeing.'⁷³ If wife is unable to bear it, she will reply back and another fight will start due to our phone call. So we avoid interfering in people's private lives".

At the national level too, lack of monitoring and evaluation was referred to as a serious gap area. No government-led monitoring has so far happened in Delhi or Odisha. Based on their monitoring experience, the Lawyers Collective prepared a monitoring toolkit and submitted it to the National Mission for Empowerment of Women (NMEW). But despite the submission, it has so far not been put to use by the government. One bureaucrat candidly shared the attitude within the bureaucracy due to lack of effective monitoring. She said,

"In Odisha we feel we are doing well but we have no benchmark to realistically measure it against. We do some things and we feel we have done enough and that it is fine and it is still better than some others, so we are content. Therefore, it is important to assess and compare performances at state level so that the good practices from other states can be popularised and adapted in rest of the states.....

We must advocate for such national coordination and documentation where a basket of good practices are presented before states to follow and adapt."

8. **Gaps related to Judicial Process:** In the first few years of the passage of the Act a lot of research monitoring and advocacy by CSOs focussed on appointment of POs, creation of infrastructure and filing of DIRs. So, the gaps in the post-DIR phase of judicial processes continued to be a neglected area within the implementation drive. However, in the last couple of years, it has increasingly been subjected to scrutiny, particularly by CSOs. Despite the Act aspiring for a court judgement in 60 days, a delay is the norm. As mentioned previously, the average time of 275 days in Odisha was referred to by one respondent in the interview. This would have less of an impact if at least the interim relief orders were pronounced in a timely manner. However, two respondents from the sample, who were most abreast of judicial proceedings under the Act, accepted that there is a huge gap between the relief sought by a woman and what judges give her. It was estimated that the judiciary only meets the survivor's demands about "half-way". A senior respondent who is a part of judiciary noted that due to the civil nature of the Act, it is accorded lower priority within the justice system.⁷⁴ He observed that one judge receives at least about 15-20 cases of criminal violations every day. Among those, a domestic violence case appears to be less urgent. Such civil cases also weaken a judge's portfolio and do not serve well in terms of career trajectory.

A police officer from Odisha explains that in most cases of domestic violence, particularly of 'less severe' abuses, the evidence that exists is mostly in the form of oral testimonies and is therefore weak. He cites widened definition of domestic violence as the main reason for weak evidence and mockingly elaborates: *"Even if mother-in-law or husband says one little thing it becomes violence – now how can that be proven in the court? But woman feels victimised and husband feels it is a small thing to drag on so much"*. This continues to be a problem although the Bombay High Court, while recognising this difficulty of obtaining

⁷³Translated into English from: "Tere himayatiyon ka phone aaya tha, puch rahe the teri khairiyat" in Hindi.

⁷⁴Legal experts B.S. Ajeetha and Veena Grover have also discussed the low priority accorded to cases under the PWDVA in their interviews for a recent study by the TISS (Sakhrani & Panchal, 2014)

evidence in cases of domestic violence, had stated that the higher burdens of proof ought not to come in the way of grant of reliefs.⁷⁵

Finally, even when the order is pronounced, non-compliance is very high as there is no effective mechanism to ensure its fulfilment. For instance, in one of the cases cited under this study, a woman secured a maintenance order for herself and her children from a husband who had abandoned them. However, the order was not complied with. Since the house is found locked and the man missing, there is little that a PO can do in executing the order. Police have been roped in but they find it easier to maintain that they cannot trace him. The woman informed the police that the man had settled in another city, but the police have not shown any willingness to coordinate with the police department in that city and force him to comply with the court order. This, the respondent says, is so because they feel that a small case for paltry amount of maintenance is just not worthy of so much of police effort.

In a situation where a woman has won the case and there is an appeal by the accused, the woman has to fight the case all over again. Meanwhile, the relief given to her by the lower court are put on hold. For example, if a woman had been given maintenance of Rs. 10,000 by the lower court, the accused has to deposit it in the court while the appeal is heard. It is given to a woman only if she wins the appeal case once again at the higher court. However, for a woman to carry on the fight all over again, without any relief during the said period, and having to go through the re-victimising and emotional turmoil of recounting her experiences, becomes tougher and also dampens her motivation. These appeals to higher courts have also been seen as a “*time consuming tactics*” on the man’s part so that the woman gets tired and backs off from litigation and opts for an out of court settlement.

Overall, the respondents not only provided a comprehensive list of the gaps but also generally seemed to agree on the gap areas. All of these gaps can also be corroborated with the existing literature on the PWDVA. Only one respondent, an MLA from Odisha, maintained that his government “*is serious about implementing this Act and we (they) work towards women empowerment. Situation has improved a lot since we formed the government here. Now we are doing excellent and all major gaps have been addressed. Small things get resolved at local level only*”.⁷⁶ However, he could not provide specific areas of improvement where the gaps have been narrowed. Overall, through the interview his responses were generic and showed no awareness of the specifics of the legislation or its processes. It was just a rhetorical expression of how women’s empowerment is “*very important for growth of economy, achieving world peace and social wellbeing of all.*”

5.2 Reasons for these Gaps

Having laid out what the major gaps in the implementation of the PWDVA, several key reasons for these shortfalls can now be identified.

1. **Lack of Political Will:** Respondents pointed out many omissions that reflected low priority being given to implementation issues of the PWDVA. This reason was reflected in general

⁷⁵The Court said, “In matters of this kind, there cannot be any clinching evidence, conclusion would have to be drawn on the basis of whatever is on record and the circumstances prevailing.” *Ann Menezes vs Shahjahan Mohammad* (MANU/MH/1274/2010)

⁷⁶During the interview, it was clear that the MLA had perhaps no idea on the PWDVA. Most of his answers pertained to generic issue of domestic violence, or to the larger issue of women’s empowerment. The answers were very short and thus the interview lasted only about 20 minutes. Although he did not show any signs of resentment or boredom during the questions, there was a constant peeping into the notebook to see what was being noted.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

underutilisation of funds in the VAW schemes and legislations, the Centrally Sponsored Scheme lying abandoned, slackening in appointment of POs, neglect of state and national level coordination and monitoring needs (despite CSOs showing the way), and low priority accorded to violence cases in the judiciary. Within the Act, there are many directives for successful implementation, like the one recommending a judgement within 60 days or convergence committees at the state level; however, most of these are disregarded as they are merely directives and not obligatory. Thus, the “*states do few things and feel they have done their duty,*” admits a candid government functionary. The Member of Parliament (MP) who was interviewed agreed to the existence of low political will with regards to implementation of several protective legislations, including women related legislation/schemes.

2. **Lack of Awareness:** While this was pointed as a gap by several other respondents, it was highlighted as a single most contributory factor for other gaps by both the respondents from the elected people’s representative category. According to them, the Act has not been able to limit instances of domestic violence due to the reluctance of women to report such private matters in public. However, both also added that this scenario will witness a rapid change as women are getting educated and this is leading to different life aspirations and beliefs. One of the MPs also pointed out the regional differences between the north and south of India, where the more feudal and patriarchal mindset of north India had led to a wider gap between prevalence and reporting, than in the south.
3. **Underlying systemic issues:** Issues like widespread poverty, low levels of education, remote areas with low population density, lack of supportive social norms,⁷⁷ and economic dependence of women on men were cited in the study. However, many times, the pointing out of these issues also reflected the deep-seated biases that government officials and even implementers share about women, particularly so for those who belong to disadvantaged communities. For instance, one member from the State Commission for Women says “*In slums people (men) think they are the kings of their life and women are also habituated to such behaviour. Only in some slums there are women’s groups which have been able to improve the situation but mostly there is a culture of violence in slums.*” The police officer in Delhi echoes the same views and attributes it to an “*alcohol problem in the slums.*”
Unhelpful community attitudes were pointed out from both urban and rural areas. From Odisha, it appeared that the villagers decide their support based on who is ‘their own’ – the man’s village supports the man, and the woman’s village supports the woman; however if both belong to the same village then the community support goes to the man. As well, urban middle class stigma towards women seeking help arose, as captured in the following words, “*Even if police comes once to a house, even years thereafter neighbours continue to refer to that house as ‘This is the house where police came. Police had never come to our house but then this woman ruined our reputation.’*”⁷⁸ Thus, unrelenting systemic disadvantages, coupled with adverse community perception proves a major barrier for women to access legal remedies.
4. **Lack of convergence among stakeholders:** Lack of coordination between various stakeholders has been described under types of gaps, because certain types of improved coordination were called for in the Act. However, it also figures among the reasons for other

⁷⁷ Social norms which may pose a hindrance to woman to seek for justice include sacredness of marriage and superiority of male partners, where only those who uphold the virtues on unquestioning obedience, sacrifice and duty are considered virtuous woman. Added to this is lack of social support from the natal family due to patriarchal family structure, lack of economic freedom or property rights and low mobility.

⁷⁸ Translated in English from: “Ye walla ghar jahan par police aayi thi..vo kahenge...hamare yahan to kabhi police nahi aayi thi aur isne naam kharab kar diya” in Hindi

types of gaps because this lack of necessary linkages was seen as an important factor that hampered the need for quick action and immediate relief which was required under some cases. For instance, if the PO is not informed of the court order, it will affect the timely compliance of the order as well as follow up with the survivor. Or if the PO is not linked to service providers, they may not be able to help women with immediately needed reliefs. In such a scenario, even if the actors or institutions performed their share of the individual responsibility, the lack of convergence denied women the overall experience of wellbeing after having exhibited the courage to reach out.

5. **Overburdened system, insensitive actors:** *"Failures in implementation exist because various actors are unable to fulfil their role to the optimum due to lack of time, understanding and clarity,"* feels one respondent from Odisha. Another CSO working at the grassroots adds on:
"it is lack of sensitivity and interest in such cases that lead to poor implementation." While, nearly all respondents refer to overburdened POs and courts, and a general lack in infrastructure, for the respondents who were closely responsible for implementation, the underserved and overburdened system seems to provide a clear sense of exoneration from an obvious poor service delivery. Added to this is the low motivation to serve in domestic violence cases due to unrelated professional interests and aspirations and entrenched patriarchal beliefs that stigmatise a victim. This is evident from the statement of a PO who states, *"sometimes there is delay in court judgement but you have to understand judges have a lot of more important cases. And with lot of work and no vehicle or computer operator I have some problem but ultimately we are all managing fine. It is the fault of people who cannot resolve things within their homes."*
6. **Lack of Monitoring and Evaluation:** Lack of monitoring and evaluation at the state and central level were singled out as the main reasons behind institutional laxity and actors' low prioritisation of the PWDVA. Effective monitoring will help towards establishing accountability of various stakeholders and will thereby provide a much-needed push towards better implementation.
7. **Insufficient Fiscal Allocation:** The centre's lack of financial assistance in the implementation of the Act has often been cited by the states as a reason for their not being able to augment the system. This is particularly important in terms of appointment of full time and exclusive POs and notification of fully equipped service providers at the sub-district level. If the Union government shows some political will in terms of committed resources and leads the national monitoring system, the states will be forced to take some serious action. For now, there is a general feeling that enough is being done, even while the Act stays unsupported.

5.3 Institutional Actors Responsible for the Gaps

All (100 per cent) respondents expressed that every institutional actor under the PWDVA is responsible for the existing gaps and no one could be blamed any less than the other. However, this seemed more like a gracious introductory line which merely conveyed their moral acknowledgement of responsibility. Following that, the pinpointing was obvious. For the implementers (POs, Police, Judiciary), the compulsions and constraints faced due to the 'system' (implying those at the top of decision-making, without obviously saying it) becomes important. For those who run the 'system' (i.e. the elected representatives), laxity of the middle to lower level implementers became the focus of responsibility. According to 5 respondents (including all 4 from the CSOs), the truth lies midway. There can be no denying that implementers (i.e. functionaries like POs, service providers, session judges and local police), work within several structural limitations. However, there is also an

agreement that each one of them can improve performance manifold with display of some ownership and sensitisation, despite the systemic issues. Nevertheless, in the end, “*the buck stops at Ministry of Women and Child Development which has not shown any political commitment to translate this Act into reality,*” concludes a respondent.

5.4 What Is Being Implemented

The question “what is being implemented?” proved to be a tough one, since (ironically), there was nothing that was not being implemented at all and conversely, there was nothing that was being implemented with sufficient rigour. There are some positives to highlight, however. First, although contractual or in additional charge, POs were appointed in both the states covered, and they were available. Some of them now have their own rooms, with a signboard and some allowances for expenses incurred. Second, in court related processes, DIRs are being filed and cases are being heard, and despite delays, many feel that the situation is better than years of ongoing trials that the judiciary is infamous for. Third, besides the formal courts, there are services for women that are worthy of mention, including *mahila panchayats* (women’s informal courts), crimes against women cells, shelter homes, free legal aid, women’s commissions and a few counselling centres. POs and police respondents interviewed in this study insist that everything is being implemented as per the law – they are registering cases and filing them, and while all may not be perfect, everyone is trying hard amidst the constraints faced. Fourth, there is progress in awareness raising and coordination. Quasi-government bodies are publishing and disseminating IEC material in local languages and trainings and convergence meetings have also been initiated. CSOs also report that some senior level police officers are increasingly showing sensitivity and that effort at building community pressure is showing some success. Hence, despite a slow start, most provisions have been initiated, albeit with a political will and success rate of 50 per cent.

5.5 What Can Be Done to Improve Implementation

Several important suggestions were made by the respondents towards addressing the implementation gaps of the PWDVA. These can be clubbed under two main categories: general directives, and what CSOs specifically should do. An additional synthesis of recommendations is offered in the conclusion, which include those that emerged from the author’s analysis.

General Directives

- a. **Greater awareness among communities:** greater awareness through comprehensive mass media and mid-media⁷⁹ campaign will result in an increase in the number of women seeking intervention, and altered social attitudes which will be supportive to women and will simultaneously serve as a deterrent for perpetrators.
- b. **Appointment of staff:** full time and exclusive POs should be able to devote more time in supporting aggrieved women and this may also improve the quality of evidence in court cases. Support of clerical staff/computer operators will enable better record keeping and monitoring. Appointment of professional counsellors, visiting doctors and legal advisors will address needs which have so far been neglected. There is a recommendation to increase the number of female police officers, particularly at senior levels. Most important, Delhi has still not notified service providers, which needs to be paid urgent attention.
- c. **Technical and sensitivity training to institutional actors:** POs, police, service providers, lawyers and judges all need training to effectively perform their roles under the PWDVA.

⁷⁹ Mid-media includes traditional forms of media (as against technology driven mass media). These include activities like folk songs, puppet / magic shows or wall paintings. These are often used to complement messages from mass media particularly to target rural, poor or generally uneducated communities.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

Several attitudinal problems and gender based biases were openly expressed even during the interviews which need to be addressed urgently. Besides that, many stakeholders were not fully aware of their role in relation to the Act.

- d. **Convergence Among Stakeholders:** There is an increasing recognition for the need to create linkages between various stakeholders so that they can develop shared perspectives on common issues and provide a holistic package of care and justice to women.
- e. **Provision of Immediate Relief:** Immediate relief needs to be strengthened since it addresses the first and most urgent needs of an aggrieved woman and is a decisive factor in her continuation of the fight to live a violence free life. While some respondents stressed interim orders like protection, residence and maintenance that should come within weeks, others also stressed the provision of some form of travel or dearness allowance to women against expenses incurred, clothes, child care facilities and vocational training in shelter homes.
- f. **Compliance of Court Orders:** ensuring compliance to court orders remains a grey area. If a PO is responsible for ensuring the orders, s/he should have the power and means to do so in terms of police help and job security of a government employee. POs should also have time, motivation and means to devise alternative strategies like creating community pressure to ensure compliance or to negotiate with their employers regarding payment of regular maintenance from the litigant's salary to the woman. Follow up should also be done by monthly group meetings where survivors can also discuss strategies, stay motivated and form a supportive peer network.
- g. **Monitoring and Evaluation:** This needs to be done at both the state and centre level Accountability needs to be established for each actor at the state level and state performances should be evaluated at the national level, led by Union government, conducted by an independent agency. This should include ranking of the states and mapping of the best practices with the idea of encouraging replication.
- h. **Resource Allocation:** At the national level, the Centrally Sponsored Scheme (CSS) should become a reality and states must be fiscally assisted by the Union. At the state level, disbursement of funds should be systematised and stringent criteria should be adopted for making grants to service providers. The centre should systematically track state level allocations and utilisations.

Directives for CSOs

Most respondents were aware of the CSO work around domestic violence and implementation of the PWDVA. While many showed some knowledge of Oxfam and/or its partners' work particularly in Odisha, some were not very familiar with Oxfam's work. Various suggestions for CSOs that emerged during the study are:

- a. **Generating awareness and sensitivity within the community** was recommended by all 13 respondents as an area where CSOs could influence well. All but one (a PO) felt that there was no need for awareness in urban centres, and needed articulation only in rural contexts. The police officer from Delhi made a specific reference to the need for awareness on the issues of child abuse. It is also important to note that both respondents from the people's representatives category could only envisage the CSO role in terms of community awareness, mentioning no other area where they could support implementation.
- b. **Monitoring of the Act** was recommended by 5 respondents, including all four from the CSO category. A specific mention was made for monitoring the post-DIR phase and role of the judiciary.
- c. **Training** for institutional actors was again recommended by 5 respondents, including two of the government officials. This recommendation includes all three areas of involvement in training including funding it, facilitating it and being the trainers.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

- d. **Advocacy** found four mentions, specifically with respect to fiscal allocation, appointment of staff and need for clarification of procedures.
- e. Only two mentions were made of CSO provision of **immediate relief** and support to the survivor, one by an Oxfam partner who is in fact actively involved in such support services and another by a member of the judiciary.
- f. Only one respondent – the police officer from Odisha – mentioned the need for CSOs to **conduct sociological studies**, however, ironically in the context of what negative impact the PWDVA may be causing in society, and the “divisiveness” that it may be promoting, given the “false or exaggerated” cases that women file.

6. CONCLUSION

In conclusion, the findings from the study reflect that despite nearly a decade since the PWDVA came into force, glaring gaps in practice continue to exist. There is unanimity on dismal awareness levels among citizens about the provisions of the Act, although the articulation of it may either put the onus on people for lacking in education or agency, or on the government for failing to provide them relevant information. Similarly, there is poor accessibility due to lack of linkages or information centres at the grassroots. The official with public interface, a Protection Officer, bears this responsibility only as a secondary responsibility in Odisha and is a contractual appointee in Delhi, with both arrangements severely curtailing her power, interest or continuity in office. Infrastructural support, despite some recent improvements, remains poor. Neither is it obligatory for them to receive pre-service training on their role and procedures, nor do they receive mandatory training to develop sensitivity around the issue of VAWG. The interviews clearly reflected the biases that the POs may hold against women who they are supposed to help, and how they limit their role to some paperwork, primarily filing of DIRs.

Notification of service providers has yet not been achieved in Delhi. In Odisha, service providers were notified after 7-8 years of the law coming into force; however, many of them were not informed about their own selection. In any case, the idea of a comprehensive group of service providers has been reduced to provision of inadequately equipped shelter homes only. Moreover, there are suggestions that their notification seems to be based on political grounds, rather than an objective list of criteria. In the absence of strong network of service providers, meeting the immediate needs of survivors continues to be a lacuna and has serious implications on their decision to seek intervention under the Act.

As it is a civil law, many respondents feel that role of police has been limited by design. Nonetheless, the police do have some significant roles under the PWDVA, of which even the police officers at somewhat senior levels of hierarchy seem to have little awareness. Needless to say they have never been approached to fulfill it. Lack of clarity and stereotypical bias among them has been fairly obvious in this study.

The judiciary has some legitimate explanations in being overburdened, understaffed and feeling the need to prioritize criminal violations. Nevertheless, even when an opportunity is provided, like in trainings or consultations, the disinterest partly due to subscription to patriarchal attitudes and partly due to trivialising of ‘petty civil cases’ is evident. It becomes serious when judges decide to give fewer reliefs than sought by women and stress on higher standards of evidence for orders, while lacking in sensitivity. It comes across that while the law may have widened the scope of the PWDVA in comparison to the penal code by including types of violence that are beyond physical, all stakeholders seem to have very limited understanding or compassion for the less obvious forms of VAWG.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

Poor convergence, where often the stakeholders are not even aware of their complementing roles, let alone coordinating, has emerged as a major concern. Added to this is a complete absence of any follow up, monitoring or evaluation at any level (local, state or national) which can help fix accountability of respondents and measure the impact of the Act.

One key reason for these gaps is the lack of political will demonstrated at the Union level that has stubbornly persisted despite sustained advocacy by CSOs. The central government has so far provided no fiscal or technical assistance to states for implementing the PWDVA. There is also no effort toward national level coordination or assessment of implementation by the union government. Moreover, in the Act, as passed, several key provisions are only directives, and not binding. In such a situation, each state has implemented the Act as per their levels of priority and motivation and feels they have done enough.

On being asked about 'who is responsible', all institutional actors interviewed exonerate themselves from the accountability by citing issues and reasons outside their domain or control. Everyone feels like minor participants in a large system that needs overhaul.

Suggestions for improvement are many. There is need to increase demand by making people more aware, there is need for staff enhancement, better infrastructure, technical and sensitivity trainings, convergence workshops, relooking at provision of immediate care and issues of non-compliance with court orders and for monitoring of the implementation. Above all, there is a need for financial assistance that is long due from the center to states.

Despite being aware of these needs, there is not much that most respondents want CSOs to undertake. Most respondents, particularly those within government systems, can articulate CSOs' involvement only at the level of community – by way of making the community more aware or providing some immediate relief to the survivor which is difficult for a bureaucratic machinery to provide for. Training, monitoring and advocacy roles were obviously more popular among the respondents from the CSOs, while one or two more liberal government officials or implementers referred to these roles, too.

7. RECOMMENDATIONS

These recommendations emerge from the author's analysis of the foregoing discussion.

7.1 Recommendations for the Union Government:

- The central government must provide state governments with regular financial assistance for the implementation of the Act and also conduct periodic assessments of the implementation through a National Coordination Council.
- The above mentioned assessment must also include a system for the periodic collection of data from the states, disaggregated by social indicators. They should also conduct large scale community-based surveys from time to time to assess the prevalence and reporting rates of domestic violence, and impact of the PWDVA.

7.2 Recommendations for the State Government:

- The state government should undertake a massive information-education campaign on the issue of domestic violence, with basic provisions of the PWDVA as its core message. This

**PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005:
LESSONS FROM A DECADE OF IMPLEMENTATION**

should be done through a judicious mix of communication strategies, including mass media and mid-media campaigns.

- The state governments should appoint full time POs with government pay scales and benefits and support them with appropriate infrastructure. Minimum qualifications and experience for the POs must be stipulated and they must be given refresher courses from time to time. Additional POs should also be appointed on sub-district levels, at least in vulnerable districts of the states.
- There is an urgent need to notify a comprehensive list of service providers and monitor their performance from time to time. Shelter homes must have provisions for visiting doctors, counselors and child care facilities.
- The role of police under the Act must be clarified and conveyed to all the stakeholders. They must be directed to assist POs and should also be included in any joint event/activity for stakeholders.
- Both Protection Officers and Police should have updated information on service providers, free legal services and other rights of survivors under the Act so that they can provide information and guide the women who contact them.
- The judiciary must be sensitised to grant immediate orders for relief. Since most of the orders under the Act are prohibitory in nature, magistrates should not insist on clinching evidence for interim orders.
- There is need for sensitisation and training of judges towards issues and impacts of domestic violence. They must be part of such workshops conducted by government or CSOs. Although at present, the judiciary appears to be unresponsive to such efforts, these must continue vigorously and medium term impacts should be assessed.
- State governments should also set up convergence committees which will work towards creating a synchronised response and relief under the Act.
- The state government should maintain credible data records of reporting under the PWDVA, with detailed court orders which could be analyzed to assess the outcome of the cases under the PWDVA.
- The state government should conduct regular monitoring and assessment of the work of various stakeholders under the PWDVA, including the performance of lawyers under the free legal aid scheme.

7.3 Recommendations for Oxfam and other CSOs

- At the national level, CSOs should intensify their joint efforts towards advocacy for securing reliable resource allocation for implementation of the PWDVA. Once this is attained, advocacy with the state governments for proper and timely utilisation can lead to a big push towards implementation of the PWDVA.
- CSOs should also continue to conduct studies on the PWDVA which could include periodic assessment of the implementation status and role of institutional actors, particularly the judiciary as well as issues related to the justification of domestic violence that have emerged in Knowledge Attitude Practice (KAP) programmes.
- CSOs should also work with the state governments and take the lead in sensitivity trainings and awareness campaigns.
- At the grassroots, CSOs have to fill in the gap for lack of many immediate reliefs under the government system. These may include emotional care to survivors, building community support structures and providing them with information and linkages to services.

7.4 Areas for future research

The foregoing study presented the most diverse account yet of the relative failures and successes of the PWDVA. Although many questions have been addressed, through its deep analysis, the study also shed light on further questions and some likely areas for future research. These include:

- Documenting best practices of CSOs and government actors under the PWDVA
- Comparative assessment of the performance of various states on implementing the PWDVA
- Studies to assess long term outcomes of cases that were disposed under the PWDVA
- Studies documenting the experiences of survivors seeking relief under the PWDVA
- The role of the media in combatting and perpetuating violence against women, including through increasing awareness of the PWDVA
- International comparative studies on domestic violence legislation and their implementation

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**PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005:
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ANNEX 1

Checklist for Interview Questions for the Study in India – With specific reference to the PWDVA

THEME 1: TYPES OF IMPLEMENTATION GAPS

1. What are the key provisions of the PWDVA and who have the responsibility of implementing it?
2. How would you rate implementation of the PWDVA? What provisions in the Act are being implemented in your opinion? (Get general response, and then probe on the following specific implementation issues, focussing on the category/experience of respondent in next question)
3. Please discuss if the following aspects of the PWDVA are satisfactory, partially satisfactory or not satisfactory at all to you and why: (to be asked one by one)
 - a. Awareness about the Act and its provisions among public and government functionaries
 - b. Appointment of dedicated staff and conducive atmosphere for them to work
 - c. Convergence among various departments/service providers
 - d. Budgetary allocation and its meaningful utilisation
 - e. Monitoring, reporting and follow up of cases
 - f. Any other

THEME 2: REASONS FOR IMPLEMENTATION GAPS

1. Why are some provisions implemented better and others ignored?
2. Why do you think these gaps or failures in implementation exist? (Probe on the role of specific actors like: POs/Police/judiciary/Govt. commissions/WCD/elected representatives)

THEME 3: WHAT IS NEEDED TO IMPROVE IMPLEMENTATION?

1. What are the key areas of improvement and how can they be improved to meet the policy commitments? (Probe particularly about what their category of respondents could do better/more).
2. What awareness-raising or advocacy activities are civil society organizations doing to push for implementation? (Probe: Please mention if you are aware of Oxfam or Oxfam supported work)
3. What could the civil society organizations do differently or additionally to improve implementation? (probes: what can be done for a. prevention b. strengthen convergence of services c. optimal staffing and infrastructure d. monitoring and reporting e. steady funding)

ANNEX 2

Themes and Sub-themes used for Analysis

Themes	Sub-themes
1. Types of Implementation Gaps	Lack of Awareness Low Access Appointment of POs <ul style="list-style-type: none"> • Notification of service providers • Provision of immediate relief Sensitivity and capacity building of stakeholders <ul style="list-style-type: none"> • Lack of clarity on procedures and roles Lack of infrastructure <ul style="list-style-type: none"> • Coordination, monitoring and evaluation • Gaps in Justice delivery • Non-compliance of orders Fiscal allocation/utilisation <ul style="list-style-type: none"> • No implementation gaps/High political will
2. Reasons for Implementation Gaps	Lack of Political will Obstructive social norms Insufficient/underutilised budgets Poor convergence <ul style="list-style-type: none"> • Poor capacity/powers of POs Judicial Delay <ul style="list-style-type: none"> • Poor attitude among POs/Police/Judges Non -appointment of staff/notification of service providers Lack of monitoring <ul style="list-style-type: none"> • Lack of awareness among public
3. Actors Responsible	(No sub-theme)
4. What Is Needed To Improve Implementation	Monitoring and follow up Compliance with court orders Greater awareness Convergence among stakeholders Appointment of staff Training of staff <ul style="list-style-type: none"> • Provision of immediate relief Budget allocation
5. What is being implemented	Availability of institutional actors <ul style="list-style-type: none"> • Training and capacity building of actors • Provision of shelter homes Police action Awareness Counseling Monitoring
6. What CSOs are doing	(No sub-theme)
7. What CSOs could do additionally/differently	(No sub-theme)
8. What stakeholders could do	(No sub-theme)

ANNEX 3

OXFAM'S ROLE IN INFLUENCING

Oxfam began its work in India in 1951 in context of providing relief during the Bihar famine. Oxfam Trust was registered in India in 2002 and steps were initiated to help it function like an independent affiliate. However, the process was long and it was only in 2008 when Oxfam India was formed and by 2011 it started working as a full-fledged affiliate of Oxfam International.

Gender Justice has been one of leading themes of OIN. It has been identified in the Oxfam India Strategy 2010-15 in following words: "Women from all communities will gain power over their lives and live free from violence through changes in attitudes, ideas and beliefs about gender relations, and through increased levels of women's active engagement and critical leadership in institutions, decision making and change processes." This special emphasis on violence against women has been reiterated and elaborated in the Programme Implementation Plans (PIPs).

INFLUENCING AT THE STATE LEVEL

A lot of OIN's work on domestic violence at the state level was initiated under the International NGOs Partnership Agreement Programme (IPAP). This programme was implemented in Indian states of Odisha, Andhra Pradesh, Gujarat, Uttar Pradesh and Uttarakhand and sought to impact at the following three levels:

- 1) Focussed outcomes at national and state level in policy implementation;
- 2) Formal and non-formal institutional support mechanisms to survivors; and
- 3) Broad-based community mobilisation intervention.

The IPAP programme was implemented on ground by a network of partner organisations/civil society organizations (CSOs) who were engaged in community for building awareness and sensitivity to the issue of domestic violence, formation of pressure groups/vigilance committees and for identification and support to survivors, which included counseling services. Under this programme, women support centres, preferably located within the premises of the police station, were established across the project areas. Other strategies included organising trainings and workshops, initiating cultural campaigns, holding high level consultations/exposure visits and disseminating research findings on domestic violence.

At the community level, the project endline results from focus areas show significant improvement both in terms of people's awareness and strengthening of support structures. About 60 per cent men and 61 per cent women felt that it is unjust to beat wives, compared to 55 per cent men and 50 per cent women at the onset. An awareness index, based on a set of VAW indicators showed that men's awareness increased from 24 to 31 per cent, and women's awareness increased from 26 to 49 per cent. Nearly 78 per cent survivors reported that they sought

KEY RESULT INDICATORS	ACHIEVEMENTS
TOTAL OUT REACH OF THE PROGRAMME	8,64,402 4,82,065 WOMEN AND 3,82,337 MEN
* OF SUPPORT CENTRES OF SET UP	18
* OF WOMEN WHO HAVE RECEIVED COUNSELLING SERVICES	39053
* OF CASES REGISTERED UNDER PWDA UNDER THE PROGRAMME	854
* OF PARTICIPANTS IN AWARENESS AND TRAINING PROGRAMMES	2879

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: LESSONS FROM A DECADE OF IMPLEMENTATION

intervention within families/informal structures and found help.

A key outcome was sensitising police officials across the states. Particularly in the states of Gujarat and Andhra Pradesh, many training programmes were conducted to strengthen the response to domestic violence cases. Efforts were also made to rope in members of judiciary and WCD (Women and Child Development department) officials in various workshops and consultations that were held at the state level. As a result of these efforts, the government of Andhra Pradesh has now designated a fixed week day (every Friday) and metropolitan court (MM 3 and 4) for hearing of cases pertaining to domestic violence. In states like Uttarakhand, Gujarat, Andhra Pradesh and Odisha, the partner played an important role in getting higher budgetary allocations improved for implementation of the PWDVA.

INFLUENCING AT THE NATIONAL LEVEL

At the national level, Oxfam played an important role in the setting up of the 'PWDVA Action and Advocacy Group' in 2012. This national alliance has brought women's groups in India together and has connected those who work at the ground, with those at the central level to share experience and perspectives and make concerted efforts. Continuous lobbying and advocacy with relevant ministries like Ministry of Women and Child Development and Finance Ministry, and autonomous institutions like National Commission for Women and Niti Aayog,⁸⁰ have been made. Efforts have been made to sensitise people's representatives by disseminating a handbook on the PWDVA for Parliamentarians and a policy brief. To advocate for higher resource allocation for PWDVA implementation, OIN initiated a "knock the door" activity with eminent parliamentarians and encouraged them to raise questions in Parliament on the status of the PWDVA.

OIN has crafted a formal Memorandum of Understanding (MoU) with the National Mission for Empowerment of Women (NMEW) which has paved the way for an enhanced collaboration towards rolling out a convergence model in its focus states and to provide multi-stakeholder response to women facing violence. OIN has received enhanced support for institutionalisation and upscaling of models created under the IPAP like the women support centres, particularly in states of Odisha and Gujarat.

Many other campaigns, like 'CLOSE THE GAP' campaign, 'We Can' campaign and '16 Days of Activism' were used as an opportunity to make intensive use of print and electronic media for complementing its efforts to provide greater visibility to and garnering support for issues relating to gender inequality and domestic violence. OIN also supported and disseminated several reports relating to VAW in general and the PWDVA in particular, which included process documents, research reports and stories of survivors.

At the regional level, OIN published a status report on the PWDVA, followed by a regional workshop which saw participation of bureaucrats and women's groups from South Asian countries like Pakistan, Nepal, Bangladesh and Sri Lanka.

⁸⁰ National Institute for Transforming India is a Govt. of India think tank, set up in 2015 to replace the Planning Commission

THE BOX BELOW SUMS UP THE QUALITATIVE ACHIEVEMENTS OF OIN AS AN INFLUENCING AGENT:

ACHIEVEMENTS BEYOND STATISTICS

- Developed OIN's understanding on the issue of domestic violence and legislation relating to i.e. PWDVA.
- Facilitated formal working relations and collaborations with government functionaries, especially from the highest ranks (state DWCD, State Department of Home Affairs, State Commission of Women and police)
- Developed functional and replicable models for support centres with police through innovative formal collaborations.
- Expanded the constituency of Oxfam's work. The programme saw participation and liaising with community networks/ alliances and also with state and national level functionaries (judiciary, WCD and legislation)
- Enhanced partners' capacity and credentials to work on VAW issues.
- Enhanced and targeted showcasing of the outcomes with regard to quality of intervention support centre model and measurable increase in reported and aided causes under PWDA
- Facilitated in establishing a new realm of partnerships by engaging technical agencies of repute for capacity building initiatives and producing knowledge and material.
- Learning events organized by OIN saw participation of programme staff and not just chief functionaries thereby adding to individual and organisational skills, capacity and credentials about the issue of domestic violence.
- Knowledge material produced under the programme facilitated evidence based advocacy.

POSITIVELY INFLUENCED SYSTEMIC PRACTISES IN SUPPORT OF PWDA IMPLEMENTATION

1. Strengthened the counselling component in overall service portfolio for VAW cases;
2. Helped reinforcing women's agency in decisions relating to seeking help from formal system (filing cases with police and judiciary);
3. Accorded greater attention to the potential role of service providers and Protection Officers;
4. Successfully advocated for increase in salaries for counsellors (in Gujarat) and PO's in AP.
5. Successfully advocated for allocating budgets for PWDVA implementation by state governments;
6. Influenced replication and upscaling of support services for women facing DV/VAW situations;
7. Enhanced representation of NGOs in the state governed committees;
8. Helped in inclusion of VAW in institutional trainings of police and judiciary (Gujarat and AP) by maintaining quality in trainings and consultations.

Source: Improving policy and practise for improved implementation of Protection of Women from Domestic Violence Act(PWDVA): Experiences from Oxfam India's Programme on Ending Violence Against Women, India Case Study, MOS#2, May 2014