

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

Research Response Number: IND34638
Country: India
Date: 20 March 2009

Keywords: India – Women – Domestic violence – Domestic Violence Act 2006

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Questions

- 1. What is the current situation in regard to Indian women who are subjected to domestic violence?**
- 2. How effective is The Domestic Violence Act passed in October 2006?**
- 3. Anything else of relevance?**

RESPONSE

- 1. What is the current situation in regard to Indian women who are subjected to domestic violence?**
- 2. How effective is The Domestic Violence Act passed in October 2006?**

The Lawyers Collective Women's Rights Initiative (LCWRI), an NGO with assistance from UNIFEM's South Asia Office, has released two annual monitoring and evaluation reports on the implementation of the Protection of Women from Domestic Violence Act, 2005 (PWDVA) since the Act came into force in October 2006. According to the second report, released in November 2008, it is perhaps too early to answer the question of whether the PWDVA protects the human rights of women. The report notes that there has been definite progress in the implementation of the Act, although there is still much to be done. A March 2009 *Mainstream Weekly* article says the same thing, stating: "It is common knowledge that wife beating is prevalent in all classes of Indian society. It is too early to say how far this enactment would protect a woman against a violent husband". According to an article in *The Statesman*, "the implementation of the path-breaking Prevention of Domestic Violence Act is still dragging its feet". Generally, the LCWRI report found that the Act suffers from inadequate resource allocation and that there was great variability in the implementation of the law from state to state. Under Section 11 of the Act, the Central and State Governments

are mandated to, among other things, appoint and train personnel, including Protection Officers (Pos) and Service providers. According to the report, the “intention of Section 11 is to put the state under the obligation to address the issue of domestic violence by facilitating women’s access to justice”. No definitive information was found on the implementation or effectiveness of the law in the union territory of Chandigarh. The report states that Chandigarh has appointed three POs (p. 15) and 12 government funded service providers (p. 28). Generally, the available information indicates that violence against women, especially domestic violence, continues to be a widespread problem in India. A recent incident in Haryana, reported in *The Times of India* and Women’s Feature Service, highlights the problems faced by women who experience domestic violence. In this incident, a woman was beaten in a public place by her husband. *The Times of India* article states that “police promptly dispatched the battered woman...to her in-laws house, terming it as a ‘family matter’. No case has been filed”. The report by Women’s Feature Service notes that, although the matter was followed up by a PO, the woman refused to lay charges, as she had to live in the house of her husband and in-laws. An *Indo-Asian News Service* article states that “torture and cruelty by...husbands and in-laws...account[s] for the highest number of crimes against women”, and quotes women’s rights activist, Ranjana Kumari, who states: “This reflects growing disorder in terms of social relations in our society. On the other front our law enforcement agency has also failed to book culprits and our laws, rather than acting as a deterrent, is giving culprits a chance to commit crime and walk away scot-free”. The article also quotes a National Commission for Women member who states that: “The laws are effective enough to protect women, but it is the lack of awareness that is responsible for increasing crime against women. We need a major change in the mindset of our society to deal with these issues” (Lawyers Collective Women’s Rights Initiative 2008, *Staying Alive: Second Monitoring & Evaluation Report 2008 on the Protection of Women from Domestic Violence Act 2005*, UNIFEM website http://www.unifem.org.in/PDF/Monitoring_and_Evaluation_Report.pdf – Accessed 18 March 2009 – Attachment 1; Jawal, N. 2009, ‘Have Family Courts lived up to Expectations?’, *Mainstream*, vol. 47, no. 12, 7 March <http://www.mainstreamweekly.net/article1205.html> – Accessed 19 March 2009 – Attachment 2; ‘Beyond lip-service’ 2009, *The Statesman*, 15 March – Attachment 3; Bahl, T. 2009, ‘Why the Domestic Violence Act is not Helping Women’, Boloji.com, source: Women’s Feature Service, 8 March <http://www.boloji.com/wfs6/2009/wfs1246.htm> – Accessed 19 March 2009 – Attachment 4; Sethi, S. 2009, ‘Man’s clothes prompt beating’, *Times of India*, 5 February – Attachment 5; Sharma, R. 2008, ‘In India, A Woman Becomes A Crime Victim Every Three Minutes’, *Indo-Asian News Service*, 25 December – Attachment 6).

Chapter 2 of the *Annual Report (2007-2008)* for the Department of Women and Child Development highlights some of the salient features of the Act (Government of India 2008, *Ministry of Women and Child Development Annual Report 2007-08*, Department of Women and Child Development website, pp. 34-35 <http://www.wcd.nic.in/ar0708/English/Chapter-2.pdf> – Accessed 18 March 2009 – Attachment 7).

Media

A selection of recent media articles reporting on domestic violence and the implementation of the PWDVA is included below.

According to an article in *The Statesman*, “the implementation of the path-breaking Prevention of Domestic Violence Act is still dragging its feet”. Also, “[t]he statistics say the

while 5 crore [50 million] women suffer violence at homes, only 0.1 per cent cases are reported”. The article states:

The third National Family Health Survey found that nearly 40 per cent of Indian women who have been married have experienced spousal violence. This is also borne out by the crime bureau records. A UN Development Fund for Women report highlighted a few years back that violence against women in South Asia was on the rise, based on cases reported to the police. There have been increases in dowry deaths and women’s murders...The statistics say the while 5 crore [50 million] women suffer violence at homes, only 0.1 per cent cases are reported (‘Beyond lip-service’ 2009, *The Statesman*, 15 March – Attachment 3).

A *Hindu* article states that “Despite our claims to progress, the grim reality is that women continue to face violence inside and outside the home”. The article describes a number of recent violent incidents against women and notes that, even in the incidents which occurred in public during the day, there was no intervention from bystanders (although in one incident a woman was rescued by two army soldiers). In relation to the extent of violence women face in their marital homes, a study by the Indian Institute of Population Studies and the Population Council found that women “registered a lifetime experience ranging from 18 to 30 per cent of physical violence and between a third and half of them spoke of forced sex”. According to the article, deaths among young women due to fire-related incidents could be six times higher than official estimates. Another study looks at fire-related death for specific age groups, and “researchers estimate that there were 68,000 urban deaths and 95,000 rural deaths caused by fire in 2001, a total of 1.63 lakhs [a lakh is 100,000]. Of these, 1.06 lakhs, or 65 per cent, were women. And more than half of these were women between 15 and 34 years of age. There could be other explanations for these deaths but the probability that many of these women were injured or died due to dowry harassment or domestic violence is not a far-fetched conclusion”. The article follows at length:

On International Women’s Day, Indian women have every right to call for a halt – to violence, to intimidation, to threats, to insults that are so quickly becoming the norm. I had hoped that I would be able to write something celebratory this year. But there is just too much bad news that overshadows even the positive developments taking place in many corners of India.

The media reported these incidents in brief. They did not merit the attention that the Mangalore pub attack of January 24 elicited. The goons who hit out at these individual women did not take along television crews. But on just one day, February 17, in three different locations in the so-called “international” city of Bangalore, women who were minding their own business and just going about doing what any citizen is entitled to do – go to work, walk on the street, take public transport – were suddenly pounced upon by men who spat on them, hit them, chased them, hurled insults at them and even tried to pull off their clothes.

Two men on a motorcycle followed one of these women in her car in the afternoon in a crowded part of the city. They spat on her and forced her to stop. She ran into a building to escape them. They followed her and stopped only when she shouted back at them in their own language, Kannada. But as they left, they threatened her saying they had noted her car’s licence plate number.

Four men accosted another woman as she walked on the road at 10 in the morning. They attacked her, accusing her of being part of the Pink Chaddi Campaign by women who challenged the Sri Ram Sene and their Right-wing agenda. She was saved because an army van stopped and two soldiers intervened.

On the same day, a third woman, a young woman filmmaker was attacked. The men chased her to an auto-rickshaw and tried to drag her out. She managed to escape and registered a complaint with the police. And on February 28, a woman journalist on her way home from an assignment was punched on her face as she was getting into an auto-rickshaw. It just happened that on that particular day, these women had worn “western” clothing.

Distressing indifference

What is even more distressing about these incidents is that even though people saw what was happening, no one, except the two soldiers, intervened. They just watched.

What is happening to our society? Why are we breeding a combination of indifference and cowardly violence? How do we bring a halt to this?

Bangalore women are incensed and have launched the Fearless Karnataka campaign to fight against this onslaught from men who are so cowardly that they pick on individual women who are in no position to fight back. But this is a campaign that should be mirrored all over this country. Today it is women in Karnataka who are being targeted. Tomorrow it will be women in any other city or town in this country. While the safety of women in the public space has been a concern in many cities, this new aspect of being deliberately targeted by men who want to inject fear and keep women at home is a new and disturbing development.

The other face of violence is what women face even within the ostensible safety of their homes. Two recent studies have reiterated the extent to which Indian women face domestic violence, a fact already established by two consecutive National Family Health Surveys.

The study by the Indian Institute of Population Studies and the Population Council assembles more evidence that establishes the extent of violence women face in their marital homes. Based on interviews with 8,052 married men and 13,912 married women in the age group of 15 to 29 years in six States — Bihar, Jharkhand, Rajasthan, Andhra Pradesh, Maharashtra and Tamil Nadu — the study notes levels of violence ranging from as high as 30 per cent in Bihar to 18 per cent in Rajasthan.

The study defines physical violence in specific terms, consisting of any of the following: twisting arm, pulling hair, pushing, shaking or throwing something at the woman, punching with fist or something else, kicking, dragging or beating up, attempting to choke or burn on purpose, threatening attack with knife, gun or any other weapon. And sexual violence as forced sex anytime during the course of marriage including the first night.

Continuing evidence

Women registered a lifetime experience ranging from 18 to 30 per cent of physical violence and between a third and half of them spoke of forced sex including on the wedding night. Women usually bear all this in silence. They do not revolt until it is too late — when they are grievously injured or even die.

Deaths amongst young women due to fire-related injuries could be six times higher than official estimates. Prachi Sanghavi, Kavi Bhalla and Veena Das, in their study released in the respected international medical journal, *The Lancet*, have used national hospital registry data for urban areas and a representative survey of causes of death for rural areas to arrive at this conclusion. Looking at fire-related deaths in specific age groups, the researchers estimate that there were 68,000 urban deaths and 95,000 rural deaths caused by fire in 2001, a total of 1.63 lakhs. Of these, 1.06 lakhs, or 65 per cent, were women. And more than half of these were women between 15 and 34 years of age. There could be other explanations for these deaths

but the probability that many of these women were injured or died due to dowry harassment or domestic violence is not a far-fetched conclusion.

Studies and data simply confirm what we already know: that despite so-called “progress” on many fronts, women in India continue to be subjected to unconscionable levels of violence – on the street and at home. This has to stop (Sharma, K. 2009, ‘This must stop’, *The Hindu*, 8 March <http://www.hindu.com/mag/2009/03/08/stories/2009030850120300.htm> – Accessed 19 March 2009 – Attachment 8).

A Women’s Feature Service article reports on a recent incident of wife-beating in public in Haryana. Although the wife (Aarti) later received support from a government-designated PO, she was unwilling to lodge an official complaint. The article states that “Aarti may not have taken the PO’s help but other women in Haryana and Delhi are sure to benefit from government POs, who are authorized to help women get speedy justice. But in other states, implementation of the Protection of Women from Domestic Violence Act (PWDVA) has been abysmally poor. This was the conclusion at a recent consultation of women’s groups, government officials, law enforcement agencies and civil society organizations held in the Capital. There was consensus that although an increasing number of women were stepping forward to lodge complaints, demanding justice and bringing perpetrators to book thanks to awareness about the Act, there was still widespread ambiguity about it and its implementation remains weak”. A “lack of serious political will to tackle the issue” is also noted by the director of the Centre for Social research in Delhi. The article follows at length:

Aarti is an Auxiliary Nurse Midwife (ANM) in Mahandergarh, a village in Haryana. She supports the family and even funds her husband’s drinking bouts, which she realized there was little point resisting, because, “he gets what he wants regardless.” Yet, in spite of her earthy wisdom, it took a public thrashing in a crowded ‘bazaar’ and an ensuing media debate on her plight, for her to accept that she was a victim of domestic abuse.

What was unusual in her case was not that she was traumatized but that she was beaten in full public view without shame or remorse. In a state where wife beating, dowry deaths, forced abortions of female fetuses and pulling out girl children from schools is part of life, there is an unspoken code which maintains that all acts of this kind be committed within the confines of the home. Which is why it was not Aarti’s beating, but her humiliation and helplessness in front of the entire community, that caught public attention.. The irony, however, is that although Aarti was unprepared for the support she received, she was still unwilling to take any step to change things.

When Nirmala, a protection officer (PO) designated by the Haryana government, read about her public thrashing, she visited Aarti to see if she needed help or counseling. But Nirmala was left dumbfounded when, in a dramatic volte face, Aarti said, “He did not beat me. I have nothing to say.” After she had said this, Aarti pulled Nirmala aside and whispered, “Please understand, you will come once, maybe twice, but I have to live here, in this house, with these people. This is my destiny. Going against them will only make it worse for me. I cannot lodge an official complaint.”

Indira Jaising, Director, Lawyer’s Collective, explains, “While there is provision for a third party complaint, which a neighbor, well wisher or family member can register for, the autonomy of the woman has to be respected. The law gives the PO the right to go and investigate such cases. Whether the battered woman admitted it or not, she feels empowered by the officer’s presence, knowing there is a legal system to support her.”

Aarti may not have taken the PO’s help but other women in Haryana and Delhi are sure to benefit from government POs, who are authorized to help women get speedy justice. But in

other states, implementation of the Protection of Women from Domestic Violence Act (PWDVA) has been abysmally poor. This was the conclusion at a recent consultation of women's groups, government officials, law enforcement agencies and civil society organizations held in the Capital. There was consensus that although an increasing number of women were stepping forward to lodge complaints, demanding justice and bringing perpetrators to book thanks to awareness about the Act, there was still widespread ambiguity about it and its implementation remains weak.

According to Ranjana Kumari, Director, Centre for Social Research, Delhi, apart from Haryana and Delhi, few states have appointed POs. The existing POs are overburdened with work and are reluctant to take on additional responsibilities. What has also led many women to suffer in silence is the existence of corrupt police personnel, a shortage of state sponsored medical and shelter facilities and non-access to legal aid in states such as Maharashtra, Tamil Nadu, Bihar and Arunachal Pradesh.

In Uttar Pradesh, women are made to pay for paper work and the visits of POs, and bribes are often given by offenders to get themselves absolved of their crimes. According to Jaising, "If at the first stage POs fail to deliver, the whole purpose of having a law is defeated."

According to the National Family Health Survey III, 37.2 per cent Indian married women experience violence and abuse by their spouse. Among the states with the widest prevalence of domestic violence are Bihar, with 62.2 per cent urban cases and 58.5 per cent rural; followed by Rajasthan (46.3 per cent), Madhya Pradesh (45.8 per cent) and Uttar Pradesh (42.4 per cent). The number of women seeking legal action is yet to show any substantial increase after the 2005 Act. According to a report by Lawyers Collective, a non-profit legal organization, 7,913 applications were filed under the Act as of July 31, 2007, with the maximum cases from Rajasthan (3,440), followed by Kerala (1,028), Andhra Pradesh (731) and Delhi (607).

Shruti Singh, a PO in the Patna High Court, has filed nearly 200 petitions in the last two years. She says she feels as if she is walking a tightrope. She has had to contend with taunts, sarcasm and threats, not just from those against whom women have filed cases but from lawyers and judges, too. Says Singh, "Most men had not heard of the Act and those who had, were convinced it was the perfect recipe to ruin homes, corrupt their women and be misused."

Singh recalls a recent victory, which was an order for the right of residence to a woman whose husband had started living with someone else. The court also granted the woman ownership of one of the three shops that the man owned. But she says that getting an order alone is not enough. "What if in spite of the order, the house is found locked or pledged against debt? The woman in this case would not be authorized to break the lock," she says.

What is needed is a single window system that makes it easy for women to get justice. According to Jaising, the capacities of all judges in the country must be built. They must be sensitized to the issue and be told to give their verdict within a stipulated time period. Shalini Mathur, a woman activist in Lucknow, has a poser, "What would it be like to have the residence order but to live with the daily humiliation and indignity of having another woman in the house?" She suggests the removal of the clause of compulsory counseling within the Act, which aims to save families, homes and marriages. Instead, she says, the issue needs to be looked into on a case-to-case basis.

Adds Ranjana, "Money must be allocated by the Planning Commission to set up civil infrastructure if women are to be safe in their homes." Citing a recent Monitoring and Evaluation report brought out by the Lawyers Collective that highlights state-wise budgetary allocations for infrastructural investments designed to protect women from violence, she observes that there is a "lack of serious political will to tackle the issue when you see the

skewed financial disbursements.” While Andhra Pradesh has Rs 100 million (US\$1=Rs 50.4), Kerala and Haryana have Rs 10 million. States with the least allocations include Gujarat at Rs 10,00,000 and Madhya Pradesh with Rs 2,92,000. In spite of the rising levels of domestic abuse in Delhi only Rs 50,00,000 has been allocated.

There is also need for state-specific advocacy to enable communities to become more proactive. The ‘bell bajao’ (ring the bell) campaign is one example. Initiated last year by Breakthrough, an international human rights organization, it is an awareness and intervention campaign against domestic violence that uses the media, education and pop culture to reach out to society.

Among the various approaches to address domestic violence is the attempt to engage men in a constructive way. The US-based Family Violence Prevention Fund will replicate their successful “coaching boys into men” campaign in Mumbai’s 60 schools and lower income communities later this year. It will use cricket coaches to disseminate ‘teach early, teach often’ messages.

Changing attitudes will take time, but a beginning has to be made (Bahl, T. 2009, ‘Why the Domestic Violence Act is not Helping Women’, Boloji.com, source: Women’s Feature Service, 8 March <http://www.boloji.com/wfs6/2009/wfs1246.htm> – Accessed 19 March 2009 – Attachment 4).

This *Times of India* article provides some details of what seems to be the same incident described above, which occurred this year in a district of Haryana. It is noted that, although the wife was beaten in a public place, the police termed it a “family matter” and the woman was sent home to her husband’s family, who assured the police “that there would be no more beatings”. The article states:

In a brazen act of violence, reminiscent [sic] of the Shiv Ram Sene goons in Mangalore, a man kicked and stamped his wife because she was dressed “as a man”. Adding insult to injury, the police promptly dispatched the battered woman, who suffered the ignominy in full public glare, to her in-laws house, terming it as a “family matter”. No case has been filed.

The shameful episode was played out in the Dabwali market on Monday when a 23-year-old jean-clad girl accompanied her parents on a shopping expedition. “She was accosted by her livid husband and beaten for ‘bringing a bad name to the family’. He kept screaming at her ‘Is this the way women from respectable families dress?’,” a shopkeeper, who witnessed the incident and helped rescue the girl, said. “A PCR van which reached the spot, took the couple to the police station,” he added.

“We summoned the boy’s father and his relatives from nearby Bading Khera village and let them take the couple home **on an assurance that there would be no more beatings**. Besides, it is a family dispute and can be resolved by counselling the husband-wife duo who are both graduates,” Joginder Singh, SHO, city police station at Dabwali, told TOI.

However, the incident has sparked off a raging debate. Shreya, student of advertising, management and public relations department of Guru Jambheshwar University of Science and Technology, Hisar, claimed, “Dress has nothing to do with family repute or disrepute. Even boys wear earrings and keep flowing hair.”

Striking a more strident tone, Jagmati Sangwan, state president of All India Democratic Women’s Association, said, “The police ought to have booked the husband for assault and under the Domestic Violence Act” (Sethi, S. 2009, ‘Man’s clothes prompt beating’, *Times of India*, 5 February – Attachment 5).

Another *Times of India* article reports on the recent “Ring the Bell” or “Bell Bajao” campaign. The campaign is aimed at changing community attitudes to domestic violence, urging neighbours not to ignore domestic violence:

What do you do when the man next door is beating his wife? A) Close the windows and turn up the volume on the telly. B) Squirm but tell yourself it’s no use interfering. It is simpler to not do anything and that is exactly what Mumbai resident Christina Lobo Jha did till a new initiative to end domestic violence gave her a third option – Ring the Bell or Bell Bajao.

Launched by the international human rights organization Breakthrough, the multimedia Bell Bajao campaign aims to convey a simple message: it is always wrong to ignore domestic violence. So walk up and ring that doorbell like Christina did last week. “There is a woman in my building who goes to hell and back once a week while all the neighbours sit quietly in their flats, pretending to have heard nothing. Last week, the screaming and crying started at 8 am. It stopped when her husband left for work. Come 8 pm, the husband was home again and it started again. By 1 am, the screams were louder than ever. I couldn’t take it anymore and marched upstairs with my dog Kelly and I rang the bell!

“Her husband shooed my dog out and told me not to interfere. But I haven’t heard any more screams since then. I hope it stays that way. I won’t hesitate to ring the bell again...and the cops too,” says Christina.

For many, a stranger’s intervention can be the first step in breaking the cycle of violence at home. “It is a signal that people know what is happening inside your home and that they are capable of taking action,” says Sonali Khan of Breakthrough.

Any excuse will do for showing up at the door. In the television commercial that began airing recently, the campaign’s brand ambassador, filmstar Boman Irani, rings the bell and asks, “Kya main ek phone kar sakta hoon (Can I make a phone call)?” The next second, his cellphone rings but the offender’s expression clearly shows he has got the message.

What is interesting and innovative about the campaign, conceived by advertising agency Ogilvy & Mather, is that it is aimed at men. “Our research showed that in cases of domestic violence, very few people take public or legal help.

But of the few that do react to violence in their neighbourhood, 50% are men,” says Khan. So who better to challenge the male perpetrators of abuse than men themselves? “It is important to take men along. They can be partners of change rather than silent witnesses who wonder what they can do to help a battered woman.”

With one in three married women in India facing spousal violence according to the National Family Health Survey-3, it is an issue the country can’t turn away from. “Two years ago, the Protection of Women from Domestic Violence Act was notified. It gave women legal recourse but what is also needed is a social response. This is where an initiative like Bell Bajao can play a part,” says a representative of Unifem, which is partnering Breakthrough along with the women and child development ministry.

Apart from the multimedia approach – TV, radio, print and internet – a Bell Bajao mobile van has also hit the road in Uttar Pradesh, Maharashtra and Karnataka and other states. The result, says Khan, has been that more women than ever before are coming forward to demand their rights and voice their experiences.

So go ahead and ring that bell. No one deserves to feel frightened in their own home.

Batting for the battered

37% of women reported abuse

32% experienced violence in the first five years of marriage

55% of women thought spousal abuse was warranted

41% of women thought slapping was warranted by husbands if in-laws were disrespected

35% of women thought a beating was warranted by husbands if household chores and child care were neglected

51% of 75,000 men surveyed think hitting their wives is acceptable, if in-laws were disrespected, with a smaller number thinking that bad cooking/refusing sex were also legitimate reasons (Raaj, N. 2009, 'Ring the bell, stop domestic violence', *Times of India*, 8 February – Attachment 9).

More information, including the three television commercials, can be found on the campaign website: <http://www.bellbajao.org/>

In January 2009 the resident editor of *Times of India* wrote that “Lack of facilities, dedicated officials and infrastructure has apparently turned the domestic violence Act into a mere paper tiger for most. Cases linger on for years as probation officers in district magistrate’s office have been given additional task of protection officers and hence are overloaded with work”. The editor then invites the public to write in with their views in response to the question: “Has the domestic violence Act helped in curbing domestic violence?” The responses (or tirades in some cases) provide an interesting insight into some of the societal attitudes towards the issue of domestic violence and the effectiveness of the Act (‘Has the Domestic Violence Act Helped in Curbing Domestic Violence?’ 2009, *Times of India*, 20 January <http://o3.indiatimes.com/mytimes/archive/2009/01/20/4957000.aspx> – Accessed 19 March 2009 – Attachment 10).

An *Indo-Asian News Service* article also notes the high number of domestic violence victims in India. The article quotes women’s rights activist, Ranjana Kumari, who states: “This reflects growing disorder in terms of social relations in our society. On the other front our law enforcement agency has also failed to book culprits and our laws, rather than acting as a deterrent, is giving culprits a chance to commit crime and walk away scot-free”:

Every three minutes a woman becomes victim of a crime somewhere in India . The highest number become targets of their husbands and in-laws.

A total of 185,312 incidents of crime against women were reported in the country during 2007 as compared to 164,765 during 2006, an increase of 12.5 percent.

The number of crimes committed against women has increased continuously during the last five years.

In 2007, the highest number of crimes against women was recorded in Andhra Pradesh, according to the “Crime in 2007” report of the National Crime Record Bureau (NCRB).

Homes were far from being safe havens for women. Last year, 75,930 women became victims of torture and cruelty by their husbands and in-laws, accounting for the highest number of crimes against women.

“This reflects growing disorder in terms of social relations in our society. On the other front our law enforcement agency has also failed to book culprits and our laws, rather than acting as a deterrent, is giving culprits a chance to commit crime and walk away scot-free,” women’s rights activist Ranjana Kumari told IANS.

According to the Centre for Social Research, an NGO working for women’s rights, aspiration for a high standard of living among young couples is an important reason behind rising family discord.

“Globalisation has brought a major shift in our attitude as we are moving towards a spending culture from a saving culture which is causing inter-personal tensions,” said Kumari.

There were 20,771 cases of rape reported in the country in 2007. In more than 90 percent of the cases, the victims knew the offenders. The highest number of rape cases was reported from Madhya Pradesh.

Despite the rise in the number of crimes against women, the National Commission for Women is of the view that laws such as the Protection of Women from Domestic Violence Act, the Dowry Prohibition Act and various sections in the Indian Penal Code are important legislative measures that provide protection and legal remedies to women.

“The laws are effective enough to protect women, but it is the lack of awareness that is responsible for increasing crime against women. We need a major change in the mindset of our society to deal with these issues,” said National Commission for Women member Yasmin Abrar (Sharma, R. 2008, ‘In India, A Woman Becomes A Crime Victim Every Three Minutes’, *Indo-Asian News Service*, 25 December – Attachment 6).

A January 2009 article on the OneWorld South Asia website, sourced from Women’s Feature Service, gives a rundown of the LCWRI report monitoring and evaluating the PWDVA and a subsequent seminar organised to discuss the findings of the evaluation report. The article states that “[t]wo years after it was brought into force by the Indian government, the Protection of Women from Domestic Violence Act suffers from inadequate resource allocation and implementation.” The article notes that “the report highlighted several trends but what came through clearly was the great variability in the implementation of the law”. Many women activists from all over the country “spoke about the acute shortage of protection officers in their states”. The article follows at length:

New Delhi, India: It was a long pending demand of the Indian women’s movement: a law to address domestic violence. So when the Protection of Women from Domestic Violence Act, 2005, came into force in October 2006, it was generally welcomed by women activists as a step in the right direction.

The PWDVA is a gender-specific law that recognises the fact that women are disproportionately affected by domestic violence because of their socially ordained position of inequality vis-à-vis men. The law draws its rationale from Article 15(3) of the Constitution of India that allows the State to take special measures for women to remedy historical disadvantages and equalise relationships within the home.

But two years down the line, how effective has this Act really been? The Lawyers Collective Women’s Rights Initiative (LCWRI), an NGO with assistance from UNIFEM’s South Asia Office, attempted to evaluate the impact of the law by monitoring its implementation. It also collated best practices with regard to the use of the law in order to understand how it could be better implemented. This is the second such evaluation that it has undertaken.

A seminar was organised recently in Delhi by the LCWRI and the National Commission for Women, to discuss the findings of the evaluation, entitled, Staying Alive: Second Monitoring and Evaluation Report 2008.

Implementation not uniform

The report highlighted several trends but what came through clearly was the great variability in the implementation of the law. While some states did relatively well, others had barely got off the block.

For instance, while Maharashtra had appointed 3,687 protection officers, Assam had only 27 on its rolls and only 25 in Gujarat. While Andhra Pradesh, with an allocation of Rs 100 million for the implementation of the PWDVA, topped the table, other states like Orissa lagged far behind.

Not surprisingly, the states that had invested in the implementation of the Act, in terms of funds and personnel, were the very ones that also reported the highest number of cases filed. Maharashtra had filed 2,751 cases between July 2007 and August 2008, while Orissa could only manage 64 cases between October 2006 and August 2008.

The role of the protection officer, who plays a central role in facilitating women's access to justice under the Act, came in for a lot of attention. There were questions raised about how qualified the protection officers were. According to the LCWRI study, for instance, the majority of protection officers do not have a background in social work or law.

The issue came up for animated discussion at the seminar, with women activists from all over the country sharing their personal experiences. Many spoke about the acute shortage of protection officers in their states – indicating that the problem was a common one throughout the country.

Activists also pointed out that while these protection officers have been appointed at the district levels in all the states, they were in actuality government officials from various departments vested with this additional charge. This affected their capacity to intervene effectively.

Collecting relevant data proved to be a major challenge for the LCWRI. For instance, according to the report, orders from the lower courts, where almost all the applications under PWDVA have been filed, were just not available for analysis despite repeated requests to the Chief Justice of India. A major reason for this is that while Supreme Court and High Court judgments are computerised, the verdicts of the lower courts are not. So far only 22 cases have been filed in various High Courts under the PWDVA.

The report also highlighted the fact that the medical profession has not really acknowledged domestic violence as a public health issue, despite the fact that it is a stakeholder to the PWDVA, along with the police and the judiciary.

Women more vulnerable

Many have labelled the PWDVA as a law that propagates inequality. There are, at the moment, five petitions challenging the PWDVA in various High Courts which argue that the PWDVA violates the constitutional right to equality as it provides relief only to women.

The Delhi High Court however stated that the gender-specific nature of the PWDVA was so mandated for the purpose of achieving equality for women. The court also acknowledged the

vulnerability and the lack of negotiating capacity of women in live-in relationships, which many activists saw as a welcome and progressive stance.

One of the impediments to the effective implementation of this law has been the Supreme Court judgment in the S R Batra vs Taruna Batra case, which had ruled that married women were not entitled to reside in premises owned by the mother-in-law in cases where their husbands had separate property.

This judgment poses a problem for women living in a situation of violence within households they share with their in-laws. There is at present a collective demand by women activists urging the Central Government to seek a review of the Supreme Court's decision in Batra vs Batra.

Public opposition to the PWDVA only points to the urgent need for a change of mindset. Society must take ownership of this Act and deploy it to address the unacceptable and rampant crime of domestic violence. As Indira Jaising, Director, LCWRI, put it, "It is time to make domestic violence a public issue rather than a private problem" ('Study highlights loopholes in India's domestic violence law' 2009, OneWorld South Asia website, source: Women's Feature Service, 14 January <http://southasia.oneworld.net/todaysheadlines/study-highlights-loopholes-in-india-domestic-violence-law/?searchterm> – Accessed 19 March 2009 – Attachment 11).

Reports

The second PWDVA monitoring and evaluation report (2008) is included as Attachment 1. According to the report, Chandigarh has appointed three Protection Officers (POs) (p. 15) and 12 government funded service providers (p. 28) (Lawyers Collective Women's Rights Initiative 2008, *Staying Alive: Second Monitoring & Evaluation Report 2008 on the Protection of Women from Domestic Violence Act 2005*, UNIFEM website http://www.unifem.org.in/PDF/Monitoring_and_Evaluation_Report.pdf – Accessed 18 March 2009 – Attachment 1).

The first PWDVA monitoring and evaluation report (2007) is included as Attachment 12 (Lawyers Collective Women's Rights Initiative 2007, *Staying Alive: First Monitoring & Evaluation Report 2007 on the Protection of Women from Domestic Violence Act 2005*, UNIFEM website <http://www.unifem.org.in/PDF/Complete.pdf> – Accessed 19 March 2009 – Attachment 12).

The latest UK Home Office country of origin information report on India (August 2008) includes a section on women, including a subsection on domestic violence. Reading the complete section is recommended. The subsection on domestic violence is included in full below:

Domestic violence

24.33 The Indian Ministry of Women and Child Development included on its website, accessed on 11 July 2008, details of legislation and proposed legislation on the protection of women and children: <http://wcd.nic.in/> [24f]

24.34 The USSD Country Report 2007 stated:

"The Protection of Women from Domestic Violence Act, passed in October 2006, recognizes all forms of abuse against women in the home, including physical, sexual, verbal, emotional, and/or economic abuse. Domestic violence includes actual abuse or threat of abuse. The law recognizes the right of women to reside in a shared household with her spouse or partner even

while the dispute continues, although women can be provided with alternative accommodations, to be paid for by the spouse or partner. The law also provides women with the right to police assistance, legal aid, shelter, and access to medical care. The new law bans harassment by way of dowry demands and empowers magistrates to issue protection orders where needed. Under the new Act, spousal rape is also criminalized. Punishment ranges from jail terms of up to one year and/or a fine of approximately \$450 (19,800 rupees). As of November the Act had been ratified by four of 28 state governments: Andhra Pradesh, Tamil Nadu, Uttar Pradesh, and Orissa. Citizens registered 8,000 nationwide criminal cases under the Act since it was brought into force.” **[2c] (Section 5)**

24.35 On the same subject the Freedom House report, Freedom in the World 2008, India, commented that “The Protection of Women from Domestic Violence Act, which took effect in October 2006, banned dowry-related harassment, widened the definition of violence to include emotional or verbal abuse, and criminalized spousal rape.” **[43a]**

24.36 The UN Committee on the Elimination of Discrimination against Women expressed concern, in their session dated 15 January to 2 February 2007, that despite the enactment of the Domestic Violence Act 2005, various states and union territories had not put into place the mechanisms to effectively enforce the Act. **[6f] (paragraph 20)**

24.37 Freedom House Freedom in the World 2008, India noted “Each year, several thousand women are burned to death, driven to suicide, or otherwise killed, and countless others are harassed, beaten, or deserted by husbands, in the context of domestic disputes that sometimes include dowry-related issues.” **[43a]**

24.38 An International Institute for Population Sciences National Family Health Survey 3, published in the autumn of 2007 and conducted during 2006, involving interviews of more than 230,000 women aged 15-49 and men aged 15-54 throughout India recorded that:

-“More than half of women (54 percent) and men (51 percent) agree that it is justifiable for a husband to beat his wife under some circumstances.

-women and men most often agree that wife beating is justified when the wife disrespects her in-laws.

-Neglect of the house or children is the second most commonly agreed to justification for wife beating for both women and men.” **[91]**

24.39 On the subject of ‘sati’ the USSD Country Report 2007 observed that “The government banned sati, the practice of burning a widow on the funeral pyre of her husband, and there were few instances of sati in recent years” (UK Home Office 2008, ‘Country of origin information report: India’, UK Home Office website, 12 August <http://www.homeoffice.gov.uk/rds/pdfs08/india-210808.doc> – Accessed 22 August 2008 – Attachment 13).

The US Department of State human rights report for 2008 has the following information on women in India:

The law provides for protection from all forms of abuse against women in the home, including physical, sexual, verbal, emotional, or economic abuse. Domestic violence includes actual abuse or the threat of abuse. The law recognizes the right of a woman to reside in a shared household with her spouse or partner while the dispute continues, although a woman can be provided with alternative accommodations, for which the spouse pays. The law also provides women with the right to police assistance, legal aid, shelter, and access to medical care. The law bans harassment by way of dowry demands and empowers magistrates to issue

protection orders where needed. The law criminalizes spousal rape. Punishment ranges from jail terms of up to one year and/or a fine of approximately 19,800 rupees (approximately \$450).

In practice rape and other violent attacks against women continued to be a serious problem. There has been a dramatic increase in reported crimes against women, which credible sources stated was due to a growing sense of security in reporting such crimes. The 2005-06 National Family Health Survey (NFHS) reported that one-third of women ages 15 to 49 had experienced physical violence, and approximately one in 10 had been a victim of sexual violence. The survey also found that only one in four abused women had ever sought help, and that 54 percent of women believed it was justified for a husband to beat his wife. The National Crime Record Bureau (NCRB) reported 20,737 incidents of rape in 2007, and 19 of 20 victims knew their attackers. NGOs asserted that rape by police, including custodial rape, was common.

In 2005 the parliament amended the Code of Criminal Procedure to stipulate mandatory DNA tests in all rape cases...The law sets criminal penalties for rape, including spousal rape, but the government did not enforce the law effectively. Only 10 percent of rape cases were adjudicated fully by the courts, and police often failed to arrest rapists, perpetuating a climate of impunity.

Domestic violence remained a significant problem, with the highest prevalence in Delhi, according to a study conducted by the NGO Lawyers Collective and UNIFEM. A total of 3,534 cases were reported in Delhi, followed by Kerala with 3,287 cases, and Maharashtra with 2,751 cases, between 2006 and October. The NFHS also found that 59 percent of married women in the state of Bihar suffered from domestic violence and that this rate of domestic violence was positively correlated with illiteracy.

Upper caste gangs used mass rape to intimidate lower castes, and gang rape was reportedly used as punishment for alleged adultery or as a means of coercion or revenge in rural property disputes.

...The law forbids the provision or acceptance of a dowry, but families continued to offer and accept dowries, and dowry disputes remained a serious problem. The law also provides extensive powers to magistrates to issue protection orders that deal with dowry-related harassment and murder. From January 1 through September 30, Andhra Pradesh police reported 392 dowry deaths, Tamil Nadu police recorded 178, and the Karnataka State Commission for Women recorded 98. According to the NCRB, 8,093 dowry cases were registered in 2007.

On September 22, the Supreme Court directed Abhinav to pay 4,000,000 rupees (approximately \$85,106) to his wife Shilpa and her family for mentally and physically torturing them for dowry.

Madhya Pradesh, Kerala, Bihar, and several other states had a chief dowry prevention officer, although it was unclear how effective these officers were. Madhya Pradesh required government employees to produce a sworn affidavit by prospective brides, grooms, and the groom's father that no dowry was exchanged.

The government continued to ban and discourage sati, the practice of burning a widow on the funeral pyre of her husband, and there were few instances of sati. There were no reports of sati during the year.

Honor killings continued to be a problem, especially in Punjab and Haryana, where up to 10 percent of all killings in those two states were honor killings. In July the Association for

Advocacy and Legal Initiative, a women's advocacy group, reported that it identified 73 cases of honor killings from Hindi-speaking states in 2007 (US Department of State 2009, *Country Reports on Human Rights Practices for 2008 – India*, 25 February, Section 5 – Attachment 14).

The latest UK Home Office Operational Guidance Note (April 2008) also includes a section looking at the situation for women fearing domestic violence in India (UK Home Office 2008, 'Operational guidance note: India', April, Section 3.10 – Attachment 15).

Research Response IND31363, dated 15 February 2007, provides some information on domestic violence and honour killings in relation to Punjab. Specifically, Question 3 looks at whether local police provide effective protection to women at risk of marital violence (RRT Country Research 2007, *Research Response IND31363*, 15 February – Attachment 16).

3. Anything else of relevance?

Question 2 of *Research Response IND33368*, dated 13 June 2008, gives sourced information on the treatment in India (including social, cultural, and religious aspects) of single/divorced women without male protection (RRT Research & Information 2008, *Research Response IND33368*, 13 June – Attachment 17).

List of Sources Consulted

Internet Sources:

Google search engine <http://www.google.com>

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

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<http://southasia.oneworld.net/todayshadlines/study-highlights-loopholes-in-india-domestic-violence-law/?searchterm> – Accessed 19 March 2009.
12. Lawyers Collective Women's Rights Initiative 2007, *Staying Alive: First Monitoring & Evaluation Report 2007 on the Protection of Women from Domestic Violence Act 2005*, UNIFEM website <http://www.unifem.org.in/PDF/Complete.pdf> – Accessed 19 March 2009.
13. UK Home Office 2008, 'Country of origin information report: India', UK Home Office website, 12 August <http://www.homeoffice.gov.uk/rds/pdfs08/india-210808.doc> – Accessed 22 August 2008.
14. US Department of State 2009, *Country Reports on Human Rights Practices for 2008 – India*, 25 February.
15. UK Home Office 2008, 'Operational guidance note: India', April.
16. RRT Country Research 2007, *Research Response IND31363*, 15 February.
17. RRT Research & Information 2008, *Research Response IND33368*, 13 June.