GENDER BASED VIOLENCE

A GUIDE FOR CAPACITY BUILDING OF GENDER RESPONSIVE POLICE SERVICE DELIVERY

Institute For Development and Communication

International Development Research Center
GENDER-BASED VIOLENCE:
A GUIDE FOR CAPACITY BUILDING FOR GENDER RESPONSIVE POLICE SERVICE DELIVERY

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The present venture seeks to enhance the capacity of Community Policing Resource Centres (CPRCs) to engage the civil society, police service-delivery functionaries and gender victims to promote gender responsive standards and help build relationship between gender stakeholders to curb gender-based violence. The guide is an effort to strengthen and integrate gender-sensitive capacities within the existing delivery system of CPRCs. A number of gender just laws and procedures have been formed by the government to check violence against women. The operative effectiveness of these legal initiatives vests to an extent on the services, facilities and capacities of the delivery organisations. It is hoped that this document will aid CPRC service-providers and police staff in providing gender-sensitive assistance to victims of gender violence.

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RAINUKA DAGAR
This guide is a resource material for the trainers of police personnel, police managers responsible for improving service-delivery on gender-based violence and community stakeholders engaged in intervention on gender violence. It should also be useful to the government officials and community leadership pursuing a gender-sensitive response within the criminal justice system.

The guide provides an overview of state commitment to address gender-based violence. It locates gender-sensitive intervention in forms of violence within the criminal justice system. It particularly decodes the institutions’ procedures and protocols for making legal measures operative to protect, prevent and redress violence against women. It equips service providers within the police to address and prevent gender-based violence. The guide describes the protocols and operative procedures to deal with various forms of violence explaining the legal intervention and its implementation within the police system providing examples of possible interventions and good practices. The guide provides for inclusion of new methods to address gender violence and incorporate good practices. The guide is divided into four parts. Part 1 deals with the concepts and key principles relating to gender-based violence. It refers to international obligations to protect women’s rights and human rights. This section also serves as reference point for concepts on gender, gender-based violence and accepted human rights standards on gender violence. Readers well-versed with the gender concepts can directly refer to Part 2 of the guide. Part 2 deals with the service-delivery institutions that are providing protection and redressal and are engaged in the prevention of gender violence within the socio-cultural and political landscape of Punjab. It provides an overview of gender issues confronting the CPRCs and its network of subsidiary institutions from the district to the grassroots level at the police station. The Women Cell is hosted within the CPRCs is the only institutional body dealing exclusively with violence against women. This section highlights the role and
responsibility of the police staff in different placements of policing related to gender. Part 3 deals with the specific forms of gender violence and their operational protocols devised to provide remedy to the gender victims. It also provides functions of key institutions providing supportive aid to gender-based violence. These include, for instance, the domestic violence protection officers and dowry prohibition offices housed within the social welfare department. The role of the Health Department, Social Security and Women and Child Development Department, and Rural Development Department has also been listed to provide the networking routes to bolster coordination mechanisms. Part 4 is largely a reference section that lists the state obligations to the protection of women and Punjab-specific state initiatives.
Violence against women is a pervasive violation of human rights. It occurs in different forms, all across the world. It is the obligation of each state to protect women from violence, hold the guilty accountable and provide justice to the victims. The UN Declaration on Elimination of Violence Against Women in 1993 makes an abuse-free life a fundamental right of women. The police in their role to uphold the law and protect and secure the safety of citizens are an important component in checking violence against women. Police organisations around the world are in a process of reforms to better respond to and protect the citizens they serve. A central focus of police reforms is to provide security needs of the vulnerable populations and to incorporate rights-based systems to respond to their needs. Building police capacity to gender-specific needs is a challenge since much of the violence against women is cultural, built-into the relations and the roles performed by men and women. There is a social acceptance of many of the forms of gender violence. In order for the police to protect the human rights of women and contain gender-based violence, the police need to understand how gender affects crimes against men and women.

To effectively provide protection to individuals and communities, it is essential to understand that men and women face different security threats based on their socio-cultural placement and history.

Both men and women can be victims of gender-based violence. While women are largely the victims of domestic violence, sexual harassment and abuse, men also suffer because of their gender roles. Caste-based violence targets males from lower caste groups in the context of inter-caste relations. On the contrary, for the upper caste or dominant Jat peasantry, sexual liaison and exploitation of the lower caste women is considered part of a social privilege. Men who are unable to protect their women from sexual abuse, such as in times of violent conflict, are labelled unmanly and are treated in a derogatory manner.
**BOX - 1**

**WHAT IS GENDER?**

"Refers to the social attributes and opportunities associated with being male and female and the relationships between women and men and girls and boys, as well as the relations between women and those between men. These attributes, opportunities and relationships are socially constructed and are learned through socialization processes. They are context/ time-specific and are changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies, there are differences and inequalities between women and men in the responsibilities assigned, activities undertaken, access to and control over resources, as well as the decision-making opportunities. Gender is a part of the broader socio-cultural context. Other important criteria for socio-cultural analysis include class, race, poverty level, ethnic group and age."


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**BOX - 2**

**IDENTIFYING CONSTRUCTS OF GENDER VIOLENCE**

The existence of gender system creates conditions of unequal access to the resources between men and women and manifests into violence through the practice of differentiation. Norms such as male pre-eminence, female seclusion, value of male child, honour, chastity, practice of dowry, restricted mobility, female circumcision and acts of direct violence (rape, wife-beating, dowry death etc.) act out the gender conflicts.

- **Male-female differentiation**

  The practice of differentiation whereby one set of rules is applied to the males and another to the females is what forms the core of a gender-based system. Biological sex differences which are real are extended to make ‘natural’ other differences between men and women. For example, females are biologically child-bearers but, because of this biological role, they are expected to look after the children and then be caretakers not only of the children but also of the old and sick in the family and the community. Thus, all household work is perceived to be the natural work of women.

- **Separate and different roles for men and women**

  No doubt, in any organisation or society, roles have to be undertaken for the performance of specific functions. In most social set-ups, roles are provided not only according to biological functions (i.e. procreation) but also misappropriated to promote as natural other social values prescribed to males and females. Thus, all dominating and controlling functions are generally prescribed for the males whereas supportive functions are the purview of the females. In this manner, by birth itself, the males are the inheritors of resources, skills, and status and they perform the functions of earners and, by birth, the females are family caretakers performing the functions of childcare and the tasks associated with running the household.

- **Gender-based hierarchy**

  The different roles determined by birth, gender values and the separate norms that govern male and female behaviour tend to promote the male-female superior/inferior hierarchy. In fact, in certain communities, the female status is so much lower than that of the males that wife-beating is considered necessary to tame an errant wife. In other societies, a woman may not be considered good enough for top jobs. In other words, a superior and subordinate hierarchy is established on the basis of sex differences whereby the males have access to inheritance, land holdings, skills, productive employment and the associated high status. Women, on the other hand, may even be denied life in certain communities (female infanticide/foeticide), receive poor nutrition and medical care, inferior education, suffer atrocities such as sexual harassment, wife-beating etc.
CORE ELEMENTS OF THE GENDER SYSTEM

- **Roles are fixed according to sex**

  Under the influence of gender, the female biological functions of reproduction are thought to include even the rearing of children, caring of the old / sick and doing all household work. On the other hand, the role of the male is exclusively to provide for the family. Accordingly, both sexes are socialised to these predetermined but separate roles. Thus, the given roles become fixed because these are thought to be natural or God-given. Even in societies where both men and women earn, the primary roles associated with social values remain unchanged: even if women earn an income, their responsibility towards household chores and the care of the family remains undiminished. According to popular notions, a wife performing poorly on the generally accepted aspects is said to invite a husband's fury and violence; even though it is a crime and an abuse.

- **Sex decides who inherits**

  Under the value-based sex differentiation, the male is the recipient of family lineage and inheritance. Sons ensure continuity of the family since descendancy is through the male and, since the responsibility of earning for the family rests on the male, he is justified as the inheritor of family resources – both financial and social. In many societies, on the other hand, the female, by virtue of being a female, is either denied or has limited access to the resources.

- **Child preference on the basis of sex**

  In such a social milieu, the male child is preferred to the female child to the extent of sex selective abortions and pregnancies, which are against the law. Not only does the family draw its lineage from the male, most societies also endorse inheritance to the sons only. Because of the corresponding social status of the male due to his being the inheritor, protector of the family and “the doer”, the male child is valued. Moreover, the sons are an old age insurance for the parents since the daughters get married and leave the family.

  Note: Though these are the core elements of the gender system, the meanings that define a person's opportunities, roles, responsibilities and relationships differ from area to area. In some countries, inheritance may be equal for all children.
irrespective of the sex and male child preference may not exist. However, in most societies lineage continues to be defined from the male and the roles are typed according to what is thought to be the natural male or female responsibilities in the society.

**SOME PRACTICES OF THE GENDER SYSTEM**

Value patterns of a society are incorporated in the social practices. Practices such as restricted social mobility, dowry exchange, male-determined pregnancies etc. reinforce and maintain the gender system. These practices vary from region to region. While in some countries, circumcision is part of a cultural tradition, in others, breast enhancement (implants, padding, underwire) may be a practice. Though on their own these practices may not seem harmful, but their cumulative impact and the thinking behind them maintain and perpetuate female subordination.

Some practices may have been diluted, yet they have promoted a gender differential hierarchy.

- **Specific rites performed by males**

  In most cultures, all last rites at the time of death are performed by the male. Among the Hindus, according to religious beliefs, ‘Moksha’ can be achieved only if the son performs these rituals. Similarly, in most religions, including Hindu and Christianity, giving away of the daughter in marriage can only be done by a male. Such practices reinforce the placement and importance of the male justifying his superiority.

- **Dowry Exchange**

  At the time of marriage or in connection with marriage, gifts provided to the groom’s family by the bride's family constitute dowry. In societies where it is practiced traditionally, dowry provided a bride with household goods and utensils needed to facilitate the running of the home. These items facilitated the females’ stereotyped functions of home caretakers and nurturers. In recent times, the scope of dowry exchange has been enhanced to include cash, consumer items such as television, washing machine, scooter and these vary with the family’s status—all against the law.
Key Principles And Concepts In Gender-Based Violence

BOX - 3
IMPACT OF DOWRY EXCHANGE

- Girls are viewed as a liability, an expense, and sex determination tests are undertaken for begetting male children.
- Dowry may be perceived as a right by the girl’s in-laws. Thus, at times, it leads to justification of dowry harassment and dowry demands.
- Even when the girls are educated and earn an income, they have to be given a dowry. Thus, even achievements such as education and employment are negated by the practice of dowry. A girl continues to be viewed as a liability, undermining egalitarian efforts to enhance women’s status.
- Dowry exchange commodifies both the bride and the groom. The grooms thus have a ‘price tag’ according to their occupation, caste and status and can be bought for the right price. Similarly, a bride can find a match on the basis of the dowry her family is ready to give, making marriage a market transaction.

- Restricted mobility

This is yet another practice that supports the value of female chastity and fidelity. In the societies where these values are to be protected, females may be restricted to the home. Due to this practice, after attaining puberty, females may no longer be sent to school, (or only to a girls’ college) not allowed to be trained in skills or even to work outside their villages. Exposure to educational institutions and workplaces allowing male and female interaction can be frowned upon by the female's family. Even access to health care may be denied to women, since a doctor (usually a male) may undertake a physical check-up. In certain societies, physical restrictions on women are reflected in the practice of purdah.

- Sex-determined pregnancies

With the help of sex determination tests, unwanted female foetuses are aborted and male foetuses retained in the societies that have a male child preference. Similarly, with religious blessings, rituals or quackery, efforts are made to get a male offspring. This practice reflects the importance of the male child and the corresponding low value placed on a girl child.

SOME VALUES OF THE GENDER SYSTEM

Along with stereotyped roles and practices, the differentiating gender system is supported by certain values which are local and region-specific. Some of these are:
• **Females must remain ‘pure’**

The value of chastity ingrained in certain communities pertains to the concept of female “purity” in terms of her sexual behaviour. According to the norms of chastity, a female’s associations and conduct are regulated by the kinship, religion, ethnicity or ascriptive group as the case may be. Individual females and even males may not have the autonomy vested in them to decide a marriage partner. Inter-caste marriages that challenge the established social patterns may invite physical violence and social ostracism – examples of gender-based violence. However, in most societies, it is the female who is more restricted and regulated in her conduct since there is a premium on female “purity” prior to marriage whereas the same condition may not be applicable to men. Chastity is essential for maintaining purity in lineage, which is a pivotal element of the gender system. Thus, female chastity is highly valued, restricting women’s control over their own sexuality and choices. Suspected chastity happens to be the main reason for wife-beating.

• **Fidelity**

Sexual conduct of partners is also regulated through values such as fidelity, the value of being faithful to one’s partner. Though it encompasses both women and men in the context of maintaining the vows of loyalty in a relationship, it is normatively binding on women. A double standard is reflected in the code of conduct for men and for women. A male is accepted to be ‘fallible’ to the charms of women - it is women who are perceived as the enticers. Hindu mythology is replete with instances of women enticing men, kings and even sages. Similarly, Islamic fundamentalists prescribe a code of conduct for women to be covered from head to toe so that no part of their body can lure a man who is perceived as biologically susceptible to the female charms, thus exempt from the severe control of their conduct. On the other hand, a chaste female is expected to protect herself and thus be responsible for her purity. Thus, in cases of rape or sexual harassment, fingers may be pointed at the female’s conduct, even though she has been victimised. For women, chastity and fidelity undermine their autonomy and promote inequitable relations between the partners.
**Manly men and feminine women**

The manliness of men gives importance to the physical power, specifically the physical superiority over women which, when exercised within intimate relationships, makes for physical intimidation (beating) of the female. Rough sex is an acceptable norm in many societies. In accordance with this belief, some popular perceptions are: ‘Men are so powerful that they do not realise their strength.’ ‘What sort of man is he who never beats his wife’. These perceptions vary in varying social contexts. Some of the traits valued in women are: to be gentle, caring, docile, and submissive. Females are expected to be the emotional anchor of the family, to absorb and endure the harshness and problems of family life, without letting it affect the children and the men. Thus, she endures all kinds of hardships within the family such as wife-beating, dowry harassment, infidelity of the husband, double work burden, lack of personal resources etc., – all in consonance with the stereotyped gender roles.

**HOW DOES GENDER ENTER OUR LIVES?**

In addition to the elements, values and practices supporting the gender system, institutions such as the family, religion and ethnicity predominantly discriminate on the basis of gender and provide the context within which roles and opportunities are practiced. Not only this, systemic institutions such as legal, political, education and cultural media are also impregnated with gender differentiating notions. These systems institutionalise social placements in accordance with the norms of the gender system. Therefore, there is a need to de-institutionalise these notions through a gender-just social transformation.

**Through the family**

The family is the premier organisation of socialisation whereby the ideas of gender are inducted, maintained and strengthened within the individual family members. In most societies, girls are brought up to be housewives, encouraged to play with dolls and keep the house. It is in the family that the girls are taught to be good mothers, tolerant wives and submissive daughters. Boys are brought up to be adventurous, exposed to interaction outside the family life and to become productive earners. Also, it is within the family that male descendancy and inheritance are practised. Folk sayings like ‘property in a daughter’s name is property lost’ reflect family values in which an individual is socialised. The family is the demarcating sphere within which the women’s lives revolve. The so-called
‘public sphere’ is outside the woman’s domain. Moreover, the sanctity ascribed to the family disallows any intervention in its affairs, allowing for the continuation of wife-beating and female subjugation.

- **It is part of religion**

Religions also socialise members of the community to gender differential functioning. All religions support the gender-typed roles where women are confined to the tasks of the household and rearing of children. Rituals, religious lore are narrated accordingly and celebrations demarcate male-female roles to reinforce gender norms. Female purity and intercourse outside marriage, especially for women, is frowned upon by all religions.

- **Education may also promote it**

In some cultures, a systematic division is maintained in male-female access to education, according to the typed roles. Thus, in all girls’ schools, certain options such as commerce or economics may not be available. This, in turn, restricts women's access to and participation in skilled employment. Moreover, the educational content, instruction and environment go to reinforce gender values, norms and roles.

- **Politics also uses gender**

Politics, when it institutionalises aspects of a biased gender system, enlarges its reach and range, and also makes these aspects invisible. At the level of practice, for instance, leadership is viewed to be a male domain. Even with panchayat reservations for women, it is mostly male members who lead by proxy. In Punjab, they are called ‘Sarpanch Pati’. The public domain is considered to be that of the males and, as such, a woman sarpanch may not even visit the police station without her husband, if at all.

- **Gender images spread through mass media**

With the advance of communication technology, the impact of the media has magnified. Standardised and stereotyped notions and values find continuous expression through T.V., radio, newspapers and advertisements. The media promotes a host of advertisements and images using sex and “femininity” to sell goods. It encourages exhibition of the female body. Stereotyped roles exhibited in the T.V. serials influence the viewers.
BOX 4

WHAT IS GENDER-BASED VIOLENCE?

Gender-based violence includes all violence that has its basis in the gender differentiating system. Both men and women can be the victims, though majority of the abuse is directed at women. Violence against women also emanates from the gender differentiating system and, since most of the violence is targeted at the female gender, it addresses women victims. The following are the internationally accepted definitions of violence against women.

- Gender-based violence against women is “violence that is directed against a woman because she is a woman, or violence that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”

- “Gender-based violence, which impairs or nullifies the enjoyment by women of the human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of Article 1 of the Convention.”

- “Gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men”.

- “Any act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.

- “Any harmful act that is perpetrated against a person’s will and that is based on socially associated differences between males and females”. As such, violence is based on socially ascribed differences, gender-based violence includes, but it is not limited to sexual violence.

- “While women and girls of all ages make up the majority of the victims, men and boys are also both direct and indirect victims. It is clear that the effects of such violence are both physical and psychological, and have long term detrimental consequences for both the survivors and their communities”.

- General Assembly resolution on the Elimination of Domestic Violence Against Women Recognises that “domestic violence can include economic deprivation and isolation and that such conduct may cause imminent harm to the safety, health or well-being of women.”

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2 Declaration of Elimination of Violence Against Women, Article 1, 1993.
3 Committee on the Elimination of Discrimination against Women-General Recommendation No. 19, para. 7.
4 Ibid.
7 Ibid.
8 General Assembly resolution on the elimination of domestic violence against women. General Assembly (58/147) 2004
ACTIONS TO BE TAKEN BY STATES TO MEET THEIR INTERNATIONAL OBLIGATIONS TO CHECK VIOLENCE AGAINST WOMEN

The international legal and policy framework establishes standards for action by States to meet their legal obligations and policy commitments to address violence against women. These fall into the following categories:

- Ratification of all international human rights instruments, including the Convention on the Elimination of all Forms of Discrimination Against Women and its Optional Protocol, and withdrawal of reservations
- Establishment of constitutional frameworks guaranteeing substantive equality for women and prohibiting violence against women
- Adoption, periodic review and effective implementation, in a gender-sensitive manner, of legislation that criminalises all forms of violence against women
- Formulation and implementation of executive policies or plans of action to eliminate violence against women and regular monitoring and evaluation of such policies or plans of action
- Investigation in a prompt, thorough, gender-sensitive and effective manner of all allegations of violence against women, including by keeping official records of all complaints; undertaking investigation and evidence-gathering expeditiously; collecting and safeguarding evidence, with witness protection where needed; and providing the opportunity for women to make complaints to, and deal with, skilled and professional female staff
- Prosecution of the perpetrators of all forms of violence against women and elimination of any climate of impunity surrounding such offences
- Action to ensure that the criminal justice system, including rules of evidence and procedure, functions in a non-discriminating and gender-sensitive manner to encourage women’s testimony in proceedings regarding violence against women
- Punishment of the perpetrators of all forms of violence against women in a manner commensurate with the severity of the offence
- Provision of appropriate remedies, including by adopting measures to allow victims to obtain appropriate symbolic and actual compensation, without prejudice to possible civil proceedings against the perpetrator
- Implementation of training and awareness-raising programmes to familiarise judges, prosecutors and other members of the legal profession with women’s human rights in general, and the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol in particular
• Implementation of training programmes for judicial, legal, medical, social services, social work, educational, police and immigration personnel to educate such personnel and sensitise them to the social context of violence against women

• Action to eliminate all forms of discrimination against women and raise awareness of the issue of violence against women through measures such as: removing all stereotypes and sexist content from educational curricula and creating positive images of women; organising, supporting or funding as appropriate, community-based education campaigns to raise awareness about violence against women; promoting and instituting an active and visible policy of gender mainstreaming in all policies and programmes

• Creation of services, in cooperation with civil society organisations as appropriate, in the following areas: access to justice, including free legal aid when necessary; provision of a safe and confidential environment for women to report violence against them and other women; adequately funded shelters and relief services; adequately funded health-care and support services, including counselling; linguistically and culturally accessible services for women requiring such services; and counselling and rehabilitation programmes for the perpetrators of violence against women

• Systematic collection of data disaggregated by sex and other factors such as age, ethnicity and disability detailing the prevalence of all forms of violence against women; the causes and consequences of violence against women; and the effectiveness of any measures implemented to prevent and redress violence against women.9

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9 Report of the UN Secretary-General’s In-depth Study on All Forms of Violence Against Women.
GENDER ISSUES IN POLICING

In Punjab, the perspectives on policing have responded to the growing global ascendancy of the rights approach, irrespective of gender, and have attempted to shift from an overarching repressive state machinery to a more service-oriented functional organisation. While the task of maintaining order and providing security continues to guide the principles of policing, the police is now expected to implement citizens’ rights and discharge its responsibilities with the collaboration of the community. All stakeholders to public safety and security are expected to contribute to the democratic norms and strengthen local ownership to promote the delivery of justice. Population-specific security needs have to be built into the processes to respond to diverse groups.

A gender-sensitive approach is integral to the rights perspective to promote safety and security of women. However, mainstreaming gender issues within the police system throws up a number of challenges. The traditional enforcement perspective operates to safeguard the law by punishing criminals. Customarily, women remain invisible within the police system unless they are the culprits since domestic affairs within which most of the crime occurs are perceived to be outside the jurisdiction of public crime and protection of citizens, and, as such, women-related crimes are viewed outside the role of the police. Police in Punjab is also faced with peculiar gender concerns. Historically, women status has been unfavourable with Punjab having the most masculinised sex ratio. The poor status of women provides normative acceptance to crime against women. Also, the construction of masculinity within the Punjab’s cultural landscape has promoted violence as a conflict resolution mechanism.

Policing in the context of gender has been further compounded by the periods of violent conflicts that the State has witnessed. The most recent is the period of terrorism in the mid ‘80s-‘90s. Violent caste assertions are the other emerging issues that would put pressure on law enforcement in the State. Since these are identity-based assertions, gender-body politics becomes integral to these movements and, the police as an enforcement agency is expected to prevent such
crime. Traditionally, the police has been inaccessible to women and protecting women’s rights is challenging in the context of enforcement-oriented mechanisms and practices. Following is a brief mapping of gender challenges for the police in Punjab:

☐ **INCREASINGLY UNSAFE CONDITIONS FOR WOMEN**

The extent of violence that women face and the increasing incidence of violence against women point to the urgency of protecting women from abuse.

A look at the reported data on crime against women reveals that everyday more than seven women fall victim to the violent crimes such as dowry harassment, dowry death, rape, molestation and sexual harassment. In the past two decades, the rate of increase in the crime against women has been a phenomenal 806 per cent.

For specific forms such as rape and dowry deaths, the increase has been as much as 456 per cent and 698 per cent times respectively, while dowry harassment has recorded an alarming increase of 894 per cent from 1985 to 2009.

Dowry-related abuse has been consistently increasing. In 1985, it accounted for 21.51 per cent, while in 2009, it rose to 46 per cent of the total crime against women (see graph - 2).
It is worth noting that the domestic domain that is expected to be a woman's shelter is found to be increasingly unsafe. Dowry-related abuse has been progressively increasing. It is the domestic sphere where the jurisdiction of law is seen as an imposition and that makes it difficult for the intervention of police in the homes.

- **Police Not Approached For Redressal Of Crime**

Reported crime, which has registered a phenomenal increase, does not capture the actual extent of gender violence against women. A large number of cases remain unreported. Certain forms of violence do not get reported at all. Wife-beating has been one such form though cases under Domestic Violence Act were first registered in 2006. Similarly, no cases of dowry demand are registered. The misuse of sex determination tests was declared a crime in Punjab in 1994 and in...
India in 1995, yet in 1996, only one case was reported. Social invisibility attached to the crimes against women and the fear of social stigma contribute to the non-registration of such crimes with the police.\(^1\) While crimes like rape carry the fear of stigma, caste-rapes remain unperceived as violation in a caste hierarchical society. In a study of the atrocities against women in Punjab\(^2\), non-reporting was found high and it varied according to the nature of the crime and its acceptability in the society. For each reported case of rape, 68 went unreported. As many as 374 cases of molestation went unreported against one reported case. Eve-teasing is a relatively 'new crime', which was reported for the first time in 1992. The extent of unreported cases, however, reflects the widespread nature of the practice with 9177 unreported incidents against each reported case.

A comparison between the unreported cases of dowry harassment and those that were reported reveals that for every reported case, an astonishing 299 go unreported. That a large number of dowry harassment cases remain unregistered is substantiated by a look at the cases that are brought to the women cells, NGOs and panchayats for compromise or reconciliation.

\[\text{Table 1} \]
\begin{tabular}{|c|c|}
\hline
\textbf{Reported} & \textbf{Unreported} \\
\hline
1 & Rape & 68 \\
1 & Molestation & 374 \\
1 & Eve-teasing & 9177 \\
1 & Dowry Death & 27 \\
1 & Dowry Harassment & 299 \\
\hline
\end{tabular}

\textit{Source: I.D.C. Survey, 1994}

\[\text{Table – 2} \]
\begin{tabular}{|c|c|}
\hline
\textbf{Form of violence} & \textbf{Total} \\
\hline
Dowry demand & 4\(^{th}\) \\
Dowry harassment & 28\(^{th}\) \\
Dowry death & 100\(^{th}\) \\
Wife-beating & 3\(^{rd}\) \\
Rape & 66\(^{th}\) \\
Molestation & 200\(^{th}\) \\
Eve-teasing & 9\(^{th}\) \\
Sexual exploitation & 50\(^{th}\) \\
\hline
\end{tabular}

\textit{Source: - IDC Survey, 2000}


A later study revealed that every fourth household in Punjab acknowledged having faced a dowry demand, while every 28th household mentioned having faced dowry harassment and every 3rd household accepted the occurrence of wife-beating. The extent of violence against women is much larger than what is acknowledged by the states across the world.

The problem, which the enforcement agencies face while dealing with atrocities against women, is that even when an atrocity is accepted as violence, it still may not be voiced. Perceived abuse against women may remain confined to the home or in the minds of the victims for fear of stigma, subjugative patriarchal structures, lack of legal literacy and even financial compulsions, which make it difficult for a woman to fight a legal battle. The Dowry Act and Domestic Violence Act, 2005 takes into consideration the social hesitation to approach police services directly in familial matters and provide for access through dowry prohibition and domestic violence protection officers. Free legal services, counselling and shelters are some of the supportive services that are being provided to assist the women caught in situations of violence.

POLICE INTERVENTION SOUGHT ONLY AGAINST EXTREME BRUTALITY

The task of dispensing justice to women victims of violence is made difficult when cases are reported to the police only when the abuse has amplified to its extreme manifestations. It must be noted that a large number of violations against women occur as a process rather than an act of violence. For instance, the subordination of the female gender in dowry related abuse traverses from dowry demand to dowry harassment to dowry death, and sexual harassment could build from sexual innuendoes at the workplace to the physical act of molestation or rape. Since this is not a single act but a series of behaviour patterns discerning the line of acceptable social conduct to criminal violation, it becomes amorphous, especially when social structures specify a subjugative placement of women. So, dowry exchange is a tradition but dowry demand, harassment and death a crime. Moreover, family life and the institution of marriage are sacrosanct for women and disruption either through court proceedings or even by voicing the abuse by the family is a choice that

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not many women would make and may even accept it as a part of the family
dynamics.

Moreover, the degree of visibility of gender crime is determined to a large extent by
physical assault, social placement and the degree of normative sanction to the
gender differentiating system. Cultural sanction to wife-beating was reflected in the
absence of a specific law dealing with and defining wife-beating until the passing of
the Domestic Violence Act, 2005. In fact, in tune with the social tolerance to the
practice of wife-beating, there were no reported cases until the awareness created
following the passing of the Domestic Violence Act. However, according to a survey,
every third home in Punjab is plagued with wife-beating.\(^5\)

Wife-beating involving slight physical force, a slap or arm twisting, is perceived to
be normal. In fact, physical assertion against the wife is considered in many sections
to be a marital prerogative of the husband. The normative acceptance of wife-
beating can be gauged from the victims’ own sanction to the concept of wife-beating
and the legitimacy accorded to it under certain circumstances such as suspected
infidelity or insubordination to husband. Similarly, eve-teasing has low visibility as
an abuse. This is mainly because it does not endanger female chastity and verbal
innuendo is not an overtly violent sexual assault. In fact, in certain sections it is also
perceived as normal behaviour. Thus, a large majority of casual eve-teasing cases
remain unaccounted for, probably even invisible to the victim. In fact, a large
number of unreported cases of eve-teasing uncovered by the Report on Atrocities
Against Women constitute cases that were brought to the notice of the panchayats
in the rural areas and the municipal commissioner/NGOs in the urban areas.

Eve-teasing has been reported to be widespread yet it continues to function under
the garb of acceptable social conduct. Eve-teasing as a recognised offence under the
Indian law, reflects protection of the ‘modesty of the female’ and is, thus, more
organic to the Indian cultural milieu that perceives female chastity as an honour\(^6\) to
be protected.

Socialisation of the norms and values of patriarchy provide for the acceptance of
certain acts of injustice against women and, as such, are not perceived as gender
abuse. Wife-beating is generally considered to be normal and is accepted as part of

\(^5\) Dagar, Rainuka op.cit. (2001).
\(^6\) Definition of eve-teasing and molestation under Sections 509 and 354 of I.P.C. respectively use the words
‘intent to insult the modesty’ / intent to outrage her modesty’.
family life. While wife-beating per se is rampant in households, its visibility is largely restricted to ‘incidents of wife-bashing or wife-battering’. Similarly, sex determination test may not be perceived as an abuse by certain individuals, yet to others it may constitute abuse of the female gender. Another aspect pertaining to the invisibility of gender-related abuse is that a certain behaviour may be perceived as an abuse in one context, yet in another, it may be viewed as normal. For instance, eve-teasing by college youth may be seen as an interactive behaviour of the young. Yet, eve-teasing by persons from the lower strata may be perceived as an affront. When an abuse is not perceived to be an abuse, apparently it ceases to be a problem. Consequently, it becomes difficult for the police to prevent or protect women from such abuse, which is not perceived as such. Even when certain cases are brought to the notice of the police, there is hesitation to intervene in the issues that are perceived to be outside the domain of police and are considered to be involving a lesser degree of violence.

- **Stigma of Being a Victim**

Certain types of violence have a stigma attached to them. In the non-familial context, molestation and rape are such forms. If a female is sexually abused, she, including her family, may not even voice the injustice for the fear of the stigma attached to it. In fact, in such cases, the victim herself is treated like a criminal. The victim is perceived to have undermined the family honour by not upholding the esteemed value of chastity. Since female chastity is highly valued in a patriarchal society, any damage to this chastity results in social ostracism of the victim and invites social action, not against the occurrence of this crime but against the voicing of the crime.

Within the familial context, a female is socially ostracised if she voices family matters in public. The sanctity of the family is expected to be maintained at any cost. Since wife-beating is considered normal, any wife raising her voice against this in public is seen as going against the norms and privacy of the family.

- **Visibility to Female Abuse a Dishonour to the Family/Kinship**

Violence against women occurs in every sphere of society. Certain kinds of violence occur within the home, while others are more prone to occur in the wider society. Reporting of the crime, however, may not be a matter only of visibility of the abuse, but also of the nature of the crime and its implications vis-à-vis gender positioning.

Family life is considered private and outside the realm of societal intervention. This demarcation between public and private life limits the scope of intervention and increases the invisibility of the abuse within the family.
Family matters are not shared with people outside the family. Moreover, the family has primacy over the individual. Thus, family honour is maintained even at the cost of individual inconvenience and, at times, individual abuse. Thus, when a woman is raped, the first concern is to conceal it from society. Maintaining the aura of female dignity and chastity takes precedence over medical treatment of the victim. In such a context, criminal proceedings may not be seen as an option, rather police assistance may be sought to keep the case from being made public.

- **Lack of Advocacy on Gender Rights**

Another reason for not expressing the injustice is that people are not even aware that the state has made certain laws for redressing these forms of injustice. The pressures of family subjugation and social isolation are so strong that people are generally unable to conceive that they have the rights given by the state to deal with these acts of injustice.

Bigamy being a practiced option, especially in the rural areas of Punjab, may not be perceived to be unlawful. Prevention of illegal practices can be checked to an extent by spreading legal literacy and making citizens aware of their rights and the state resources to redress violence against women.

- **POLICE PERCEIVED TO BE GENDER-BIASED**

Subjugative and oppressive situations for women are normal in the Punjabi society and are accepted by all, even the women themselves. Thus, even if a woman reports an abuse to her friends, the community, the panchayat or the police, many a time, she herself is perceived to be the wrongdoer. In wife-beating or bashing incidents, it is common for the woman to be told even by the police that she must have provoked her husband and, therefore, she got what she deserved. Even in cases of rape or eve-teasing, the woman is blamed for inviting the situation on her, either by dressing in a provocative manner or by moving alone in dark or lonely places.

Reporting of crime against women also suffers due to the popular perception regarding the insensitivity and gender bias of the police. In a survey of the community perception of the police response to the cases relating to women, the findings were not very complimentary to the police.

- There was dissatisfaction among the community with the police response to women since they found the police abusive and prejudiced.
The police distanced itself from cases related to marital and family disputes, not wanting to intervene in what was termed as a private affair.

There was also a perception that the police sought sexual favours from women victims and, thus, women avoided reporting or seeking assistance from the police. Thus, 17.4 per cent of women perceived the police force to be prejudiced against them and also (46.5 per cent) a threat.

Source: IDC Rights Survey, 2000
• The police, on the other hand, complained that women lodged fake cases and were unduly favoured by the law.

![Graph 5: Perception of Police Personnel Regarding Misuse of Law by Women](image)

Source: IDC Rights Survey, 2000

• The extent of prejudice against women was significant. Lack of gender sensitisation was evidently very strong.

**Police as a Tool to Maintain Subjugative Gender Norms**

The reporting of gender crime may at times even be used as a negotiating mechanism in family disputes, property matters or in elopement cases. In-depth investigations from a police station, for instance, have revealed that when young girls elope to get married to their beaus, the parents register a case of kidnapping since marriage by choice is not the social norm. The police then becomes an effective tool to control the errant couples to social dictates. Also, the women’s cell set up at the district police level is used to settle cases ‘amicably’ rather than report the crime. For instance, in the women’s cell at Nawanshehr police district, 1,846 complaints had been registered since its inception in 1999. Of these, 19 per cent had resulted in registering an FIR and in 61.6 per cent of the cases, ‘settlement’ between the parties was reached.\(^7\) The effort of the women’s cell is to work out a compromise, albeit in accordance with gender, caste and social strata considerations. For instance, in wife-battering cases, the wife could be asked to adhere to the wishes of the husband and be dutiful to her in-laws, which in other words means to submit to gender roles, and avoid confrontation.

\(^7\) Women Cell Punjab
Thus, even when there is equality before the law, social hierarchies ensure inequality in practice.

- VIABILITY OF ENFORCEMENT TO EXCLUSION OF A GENDERED MILIEU.

Notwithstanding the ingrained gender constructs, recognition of women’s rights has gained social acceptance not just in Punjab, but in all of India. In particular, there has been a growing concern for the increasing number of atrocities against women. The state’s response has been to make the laws on violence against women more stringent. Dowry laws have been bolstered, sex determination has been made an offence and efforts have been made to make laws against sexual harassment at the work place. The focus on the stringency of the laws directly puts the onus on the police, which as an enforcement agency, is expected to implement these laws. A focus only on punishment rather than a multi-focused holistic perspective on gender violence that takes into consideration the socio-cultural conditions, questions the viability of enforcement itself. If the transfer of payments at the time of marriage (dowry exchange) remains integral to the hierarchical structures between the bride giving and receiving families, then enforcing dowry-related abuse becomes difficult, if not impossible, especially when the victims themselves do not perceive it as an abuse. Social intervention in the hegemonic interaction only allows ‘aberrations’ of the prescribed conduct scrutiny by the legal periscope, be it dowry abuse, sexual violence or wife-beating. In other words, structural underpinnings make the law cognizable only to the manifestation and not the concept. Therefore, dowry exchange is an accepted custom, yet dowry harassment, its outcome, is an offence, thus promoting an outcry for enforcement if the crime has transgressed the sanctioned gender norms such as dowry death, yet allowing the police to practice non-interference if the abuse is perceived within the domain of gender structures such as wife-beating. Gender bias permeates the police as no social institution can remain insulated from the social pressures while dealing with gender crime.

- POLICE LACKS A VICTIMOLOGY PERSPECTIVE

The enforcement perspective promotes the police as an instrument of the law to bring the culprits to book, but then it acts as a barrier to the aspect of service
delivery. Catering to the needs of the victim is seen to be outside the scope of police
duty. The institution is governed by crime requirements where investigations have
primacy and there is no provision for addressing the human suffering. The system,
in fact, lacks a victimology perspective, specifically in the context of women.\(^{11}\) There
are no requisites of medical aid such as a doctor on call, a medical ward,
psychiatrist, counsellor or even a social worker within the police station. While it is
a pre-requisite for a rape victim to be medically examined by a government doctor
to substantiate the abuse, the contact remains part of the investigative procedures
rather than the treatment for the physical and mental/emotional ordeal. The
administration of relief in terms of psychosomatic and physical injury remains
unattended, let alone counselling of the family members, which also remains a far
cry.

The incorporation of a rights approach requires a two-fold measure- addressing the
needs of the victim and of being grounded in the gender reality. Thus, while the
crime of rape or molestation is committed only on an individual female, the entire
family may feel violated.

Violation of the valued female chastity\(^{12}\) and its use as an instrument to dishonour a
particular family or caste by defying their women, make women particularly
vulnerable. While the emphasis may be on dishonouring a particular group
affiliation and not a victim individually, rape is perceived as dishonour to the victim
because of the attached social stigma. However, the physical and psychological
trauma suffered by the individual receives the least attention. In fact, the family and
kinship may be motivated to avoid attention to rape since this would give publicity
to the incident and damage its social status. The family and the larger community
afford protection against rape through normatively denouncing such acts, but when
the incident does occur, a large part of the blame is placed on the individual woman.
Thus, the damage caused by rape is perceived to occur to the group or the family,
while, however, the onus of blame is placed on the individual, on the female victim.

- **Re-Victimisation by Police**

The police personnel lack sensitivity to gender issues and compound the problem by
allowing the structures of patriarchy to redefine the issues of women victimisation,
which results in victim blaming. Rather than catering to the victim, the police
responds to gender norms that reflect the victim's abetment to crime. Thus, in cases
of wife-beating or rape, the female is perceived to have provoked the abuse against

\(^{11}\) Pramod Kumar, Dagar, Rainuka op.cit. (1995)
\(^{12}\) Ibid.
herself. The perpetrator-victim dichotomy gets absolved and male aggression is naturalised. The beliefs apportioning the blame to women for inciting sexual abuse reflects not only the attitude of the police but also that of other institutions including the state and medical agencies despite legal recognition of a female's need for protection. In fact, victim-blaming by the institutions has been exposed as re-victimisation of the violated female. In other words, the police functionaries become partisan to the violence suffered and dispense customary justice through victim-blaming. Victim-targeting is not restricted to the women sufferers and can also be directed at the male members of the family. Responding to the gender constructs, the male members may be treated with disdain for perceived betrayal or non-fulfilment of the role of protectors – not man enough to protect the women. Thus, instead of being provided with relief or a protection programme, the victim could be targeted for the ‘misadventure’. Re-victimisation may also occur when the victim faces sexual abuse from the protectors themselves – a fallen or disgraced woman is considered accessible to male advances. By becoming a victim, especially of sexual abuse, a female, according to her social placement, may be seen as soliciting male attention.

Graph - 6

<table>
<thead>
<tr>
<th></th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Themselves abuse women</td>
<td>17.45</td>
<td>29.98</td>
<td>31.49</td>
</tr>
<tr>
<td>Insensitive towards women issue and think if women came to</td>
<td>16.67</td>
<td>34.11</td>
<td></td>
</tr>
</tbody>
</table>

Source: IDC Citizen Rights Survey, 2005

Irrespective of the abuse, women shy away from contact with the police. As many as 17.16 per cent of the respondents in a survey, opined that the police itself abused women they come in contact with at the police station. Insensitivity to the gender...
concerns was mentioned by 31.4 per cent of the respondents. The message to the public was clear – that the police cannot be trusted to deal with women victims or complainants.

 xcb POLICE AS A SYMBOL OF MASCULINITY

The construction of masculinities has been intrinsically linked with the phenomena of identifying, defining, explaining and legitimising violence. The cultivation of masculinities is grounded in the social context and, in Punjab, manliness in the form of heroism and martyrdom is lauded. The dominant groups pride themselves in being a martial race and the norms of honour revenge and the culture of violence is integral to the identity. Masculinity is strongly identified with the notion of violence and warfare and the military, police and other security forces are eulogised as manly occupations. Such a cultural landscape perforce limits women’s access to the masculine sites foremost among which is the police. As a manly occupation, the police system is constructed around symbols and practices considered manly. These include the use of vulgar language, loud voice, manly swagger etc. Sexual connotations abound and the police station is a taboo for decent women. This is problematic both for the representation of gender diversity within the police force itself as also for the women victims and women citizens requiring police services.

 xcb POLICING GENDER IN A MULTI-CULTURAL CONTEXT

The police is coloured by the cultural and social placement of groups in its dispensation of justice. The invisibility of sexual abuse draws sanction from cultural formations and relations of groups within a society. In Punjab, women of the Scheduled Castes have historically formed part of the survival alliances whereby they are available to the upper caste men for whom they work as part of the feudal relations of the labour and the land-owner. Technically, such activity falls within the realm of crime since pressurising a woman to sexual relations is defined as rape. Yet, this relation has social sanctity and the police, as part of the social structure, follows the dictum of dominant groups by respecting this norm. Thus, even instances of violence reported by the Dalits are cases that involve lower caste men and upper caste women and are dealt with in accordance with the social rules, while transgression by the lower caste men would be dealt with more severely even if it were a case of mutual liaison. The family response to this social transgression is supported by the police. On the other hand, legal proceedings against the reported abuse of SC women has been found to be in connivance with social dictates. Such practices of the police are now being targeted with the identity assertions of the SCs. The police by abetting hegemonic social divides institutionalises the abuse against a particular social group.
### Box 7

**Why is the Gender Important in Policing?**

The Punjab Police Act 2007 was a response to the police reforms initiatives in the country. There is a recognition that the police service-delivery needs to be brought into public domain to capture citizen trust, to institutionalise international human rights standards within policing and to check crime and maintain law and order. The mainstreaming of the gender issues into policing services reflects police commitment to the vulnerable sections and equips police personnel for effective service-delivery to the population on the margins of society.

**The Protection of Women**

It is the police which is responsible for the protection of citizens, maintenance of law and public order. In order to protect women, the police needs to recognize that women face different forms of violence and need different strategies and domain for their protection. For example, crimes against men are largely in the domain of public sphere, whereas crimes against women, to a large extent, occur within the domestic context or in the sexual domain both of which are private spaces that the state institutions consider outside their realm of protection. It is the duty of the police to prevent, protect and reduce the violence against women. In the context of Punjab, it is particularly difficult to protect women from violence given the socio-cultural context of gender (refer to Box 1). The police capacities need to be built for a gender-responsive service-delivery. Punjab Police commitment to protecting women includes provisions for checking domestic violence, gender-sensitive response and increasing women staff. Some of the relevant commitment of the Punjab Police Act and Strategic Plan are as follows:

**Curtailing Domestic Violence: The Punjab Police Act No. 10 of 2008**

The Senior Superintendent of Police of a district, shall get registered and established Community Police Resource Centre in the district, which may include among other things, streamlining police service delivery mechanism and initiatives aimed at dissemination of information, redressal of public grievances, checking domestic violence, assistance to elders, traffic education and management, child protection, victim relief and checking drug menace.

**Relevant goals of Punjab Police Strategic Plan**

- **Goal 3** – To implement special programmes to tackle crimes against vulnerable and underprivileged sections of society with special reference to women, children and weaker sections.

- **Goal 5** – To inculcate discipline, pro-people orientation and up-gradation of the skills of police personnel to optimize efficiency and effectiveness in service delivery.

- **Goal 6** – To respond with sensitivity and in a just manner to the ethnic, religious, gender and class diversities.

- **Goal 7** – To ensure representation of diversity in the police force with special reference to caste and gender as per the existing guidelines of the various Commissions.

- **Goal 8** – To enhance community participation and co-operation in the delivery of police services and strengthen the ongoing initiatives in community policing.

- **Goal 9** – To make police systems more accessible to the people through introduction of transparent and accountable police performance.

- **Goal 15** – Effective grievance redressal system through responsive and transparent policing.
COMMUNITY POLICE RESOURCE CENTRES (CPRCs)

Background

The Community Police Resource Centre (CPRC) model combines police services with community initiatives to promote public safety and citizen security. It registers a shift from an enforcement-oriented approach of the police to service-oriented perspective in securing citizen rights. The CPRC model evolved as a policy initiative with the involvement of the local leadership, government set-up and the civil society stakeholders in 2003.

The CPRCs integrated community services as part of policing activities, merging community-policing activities with core policing – the district SSP was made in-charge of community-policing, rather than an additional officer looking into these matters. This system was followed to the top hierarchy and involved government notification regarding the newly evolved CPRCs to mainstream the initiative in policing as a policy operative.

The move towards community-policing and in building people’s confidence had seen a number of programmes being initiated by the local police leaders. However, these were ad-hoc, guided by individual leadership and susceptible to the successor-syndrome under which a predecessor’s activities were disbanded. In contrast, the CPRC model built institutionalised capacity by providing systems, infrastructure and trained personnel. Defining procedures, registration of CPRCs as societies (NGOs) and linking officers’ performance to promotion allowed a continuity to the programmes.

A need to address local specificities was felt with the dynamics of community involvement providing different thrust and shape to local concerns which generated tension within the standardised structure of CPRCs. The answer was provided by the development of two separate schemes – one being the backbone activities which were common to all CPRCs. The other was area-specific initiatives under which each CPRC identified community needs and the resources to operationalise special services. For instances, in the Bathinda area, Drug Rehabilitation Centres were provided under the CPRC, some areas in Doaba opened NRI-related services.
Gender responsiveness of CPRCs

The CPRCs provide four functions contained in separate units. These include services like Grievance Redressal Centre, Community Service-cum-Information Centre, Victim Relief Centre and Children Protection Unit. Additionally, the Women Cells function under the gamut of CPRCs. While the Women Cells exclusively cater to the complaints relating to violence against women, the other units respond to women clients as citizens rather than cultivating a gender-sensitive response. The CPRCs’ gender capacities reveal the need for strengthening the training of the staff to promote gender-sensitive responses. The following is a comprehensive look at the gender capacities of the CPRCs in Punjab:
## Gender Analysis of CPRC

### I. Leadership

<table>
<thead>
<tr>
<th>REPRESENTATION</th>
<th>MALE</th>
<th>FEMALE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>CPRC In-charge</td>
<td>18 (94.7)</td>
<td>1 (5.3)</td>
<td>19</td>
</tr>
<tr>
<td>Staff</td>
<td>134 (80.7)</td>
<td>32 (19.3)</td>
<td>166</td>
</tr>
<tr>
<td>Community Members</td>
<td>263 (89.7)</td>
<td>30 (10.3)</td>
<td>293</td>
</tr>
</tbody>
</table>

#### Commitment of CPRC In-Charge to Address Gender Issues

- Awareness of gender issues in area: 55.6% (Negligible, Moderate, High)
- Readiness to make organizational changes: 16.7% (Negligible, Moderate, High)
- Readiness / Changes in programme structuring undertaken on gender: 16.6% (Negligible, Moderate, High)
- Readiness / Awareness regarding measures taken to address violence against women: 61.1% (Negligible, Moderate, High)
- Readiness / Are decision making roles equitably distributed among Male / Female?: 0.0% (Negligible, Moderate, High)
## II. STAFF

<table>
<thead>
<tr>
<th>ISSUES</th>
<th>CPRC IN-CHARGE</th>
<th>CPRC STAFF</th>
<th>CPRC COMMUNITY MEMBERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender Capacities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Training on gender issues</td>
<td>44.4 Negligible Moderate High</td>
<td>32.7 Negligible Moderate High</td>
<td>10.4 Negligible Moderate High</td>
</tr>
<tr>
<td>Gender perspective (access/participation, roles, practices and norms for women – men is gendered)</td>
<td>0.0 Negligible Moderate High</td>
<td>0.0 Negligible Moderate High</td>
<td>0.0 Negligible Moderate High</td>
</tr>
<tr>
<td>Awareness of gender issues in area</td>
<td>55.5 Negligible Moderate High</td>
<td>65.3 Negligible Moderate High</td>
<td>58.4 Negligible Moderate High</td>
</tr>
<tr>
<td>Gender roles</td>
<td>0.0 Negligible Moderate High</td>
<td>0.0 Negligible Moderate High</td>
<td>0.0 Negligible Moderate High</td>
</tr>
<tr>
<td>Sex and gender</td>
<td>16.6 Negligible Moderate High</td>
<td>10.2 Negligible Moderate High</td>
<td>27.3 Negligible Moderate High</td>
</tr>
<tr>
<td>Gender equality / gender justice</td>
<td>0.0 Negligible Moderate High</td>
<td>0.0 Negligible Moderate High</td>
<td>0.0 Negligible Moderate High</td>
</tr>
<tr>
<td>Gender main-streaming</td>
<td>0.0 Negligible Moderate High</td>
<td>0.0 Negligible Moderate High</td>
<td>0.0 Negligible Moderate High</td>
</tr>
</tbody>
</table>
### Issues

#### Extent of atrocities against women

<table>
<thead>
<tr>
<th>Issues</th>
<th>CPRC In-Charge</th>
<th>CPRC Staff</th>
<th>CPRC Community Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Sexual harassment</td>
<td>22.2 Negligible</td>
<td>16.3 Negligible</td>
<td>36.3 Moderate</td>
</tr>
<tr>
<td>- Marital disputes</td>
<td>94.4 Moderate</td>
<td>87.7 Moderate</td>
<td>83.1 Negligible</td>
</tr>
<tr>
<td>- Dowry</td>
<td>22.2 Negligible</td>
<td>20.4 Negligible</td>
<td>12.9 Negligible</td>
</tr>
</tbody>
</table>

#### Awareness of Laws

<table>
<thead>
<tr>
<th>Laws</th>
<th>CPRC In-Charge</th>
<th>CPRC Staff</th>
<th>CPRC Community Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic Violence Act</td>
<td>33.3 Negligible</td>
<td>14.3 Negligible</td>
<td>10.5 Negligible</td>
</tr>
<tr>
<td>Dowry harassment</td>
<td>67.0 Negligible</td>
<td>81.6 Moderate</td>
<td>14.5 Negligible</td>
</tr>
<tr>
<td>Sexual harassment at work place</td>
<td>16.7 Negligible</td>
<td>10.2 Negligible</td>
<td>9.2 Negligible</td>
</tr>
<tr>
<td>Rape</td>
<td>83.0 Negligible</td>
<td>75.5 Moderate</td>
<td>18.4 Negligible</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Awareness of how gender influences the impact of service delivery</th>
<th>CPRC In-Charge</th>
<th>CPRC Staff</th>
<th>CPRC Community Members</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>72.2 Negligible</td>
<td>69.3 Moderate</td>
<td>72.7 Negligible</td>
</tr>
</tbody>
</table>

Source: IDC Survey, 2009

**Key:** 0-40 – Negligible  41-80 – Moderate  81+ - High
III. ORGANISATIONAL (perspective, strategies and capacity building)

<table>
<thead>
<tr>
<th>GENDER PERSPECTIVE</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are there any specific objectives concerning gender issues? if yes, list them.</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Activities undertaken to achieve these objectives</th>
<th>Achievements</th>
<th>Challenges</th>
</tr>
</thead>
</table>
| Combating Domestic Violence | • Counselling of women  
• Women Helpline (Amritsar, Patiala, Hoshiarpur, Kapurthala)  
• Tie-up with civil society for the economic empowerment for the women-victims (Patiala) | Resolve cases there and then so that they don’t have to go to women cell or police station | • Lack of sensitization and awareness of laws  
• No tie ups  
• Lack of resources |

- Projects / programme include women as beneficiaries  
  - Awareness program for women (Patiala)  
  - Is gender disaggregate data collected?  
  - Is it analyzed and changes made accordingly?  
- Gender training / capacity-building programmes  
- Gender mainstreaming  
- Is location and timing of services accessible to both men and women  
- Gender-sensitive organizational efforts  
  - Special care for female staff (list)  
  - Systems / Committee for sexual harassment at work place  
  - Positive Discrimination policies  
  - Training programme  
  - Special committees  
  - Lions Club  
  - Red Cross  
  - Civil Societies  
- Reservations

- 32 -
BOX – 8
GOOD PRACTICES : ENGAGEMENT WITH COMMUNITY:
PATIALA AND AMRITSAR CPRCS

The CPRCs have developed an excellent network with NGOs working on women-related issues. They are, in particular, combining efforts to maximise services for women. Their engagement with civil society includes:

1. **Leveraging of Resources**: Community confidence in the NGOs and their outreach avenues have been combined with the police services available for women at the CPRC. The staff provides legal awareness and gender sensitisation on issues relating to female foeticide and gender laws.

2. **Branding and Awareness**: of CPRC through the NGOs, Red Cross, Rotary Club, information on Women’s Helpline and counselling services of the CPRCs are spread in communities interacting with the NGOs. Also, banners, charts, information on the relevant laws and the addresses of the CPRCs have been provided at different places in the city. Amritsar has branded Women’s Helpline number on its police vehicles.

3. **Approachable Ambience**: Both CPRCs have started a Women’s Cell in the premises that are accessible and perceived as approachable by the community. In Patiala, the CPRC functions separately from a police station. They also house a children’s library which is used by the local residents.

4. **Outreach Activities**: The CPRCs maintain interaction with schools, NGO beneficiaries and the village Youth Clubs. They interact regularly on issues such as traffic education, female foeticide, drugs etc.

**Gender-Based violence is a pervasive threat to the protection in particular of women**

In order to actively investigate, arrest and prosecute the crimes related to gender-based violence, police personnel need to be well-trained and sensitised to the forms of gender-based violence, the existing legal provisions and procedures to effectively address gender violence. In particular, Punjab Police personnel need to be:

(i) sensitised to the specificities of gender-based violence, what is gender, who can be a victim of gender-based violence, are men also targeted due to gender violence, and is domestic violence a denial of human rights. At present, gender sensitivity needs to be built stronger.

(ii) equipped with the protocols and procedures for responding to gender-based violence. Police staff is not very well versed with the protocols for domestic violence. This includes responding to the calls of domestic
violence, dealing with the victims of sexual violence in a sensitive manner, counselling based on gender rights rather than the traditional status quoist understanding of a woman’s position in society. Non-CPRC members need to be better equipped with all the procedures and protocols.

(iii) collaborate with the extended network of services for gender-based violence. These include Departments of Health, Women and Child Welfare, Rural Development etc. Protection Officers for dealing with domestic violence have been put in place within the Women and Child Department. In fact, the CDPOs have the additional charge of Protection Officer and the police personnel need to establish both formal mechanisms and an integrative perspective of working with the stakeholders.

(iv) gender segregated data: Police personnel need to be equipped with comprehensive data on violence against women, extent of reporting, investigation and percentage of prosecution of gender crimes. Not only it would help in monitoring but also enable comparison of the police response to the protection of women vis-à-vis other vulnerable groups and citizens. It could also be a useful tool for the advocacy and mobility of the community to the preventive programmes for gender-based violence. The structures of both the CPRCs and the Women Cells need to be integrated as specialised units within the police system for dealing with gender-based violence more effectively.

(v) Police personnel also need to be sensitised to the need for oversight mechanisms to check abuse by the security personnel. Human rights violations by police personnel has included sexual harassment and molestation. Eliminating this abuse and the related human rights violations by the criminal justice sector personnel would create a far more trusted and effective policing system. While these are obligations under international law, incidence of violations and abuse by the protectors themselves lowers the effectiveness of the security sector.

□ GENDER-SPECIFIC SERVICES
• **Women's Cell: Grievance Redressal Centre**

The need to provide women with an avenue for the police contact resulted in the creation of Women’s Cells in every police district. The first one was inaugurated on July 31, 1989, in Patiala and the process continued for a decade. Now, every police district has a separate Women’s Cell headed by a DSP. The broad objective of these cells is to provide women with access to the police and assistance in the crime relating to women. These include all legal crimes from indecent sexual exposures to trafficking in women, abetment of suicide and dowry harassment etc. The cells are intended to provide relief and justice to individuals. Largely, they function as grievance-redressal agencies parallel to the panchayats but are perceived to be more effective due to the outreach and authority of the police. Duties of CAWC (Inspector) crime against women and children include:

- Dealing with complaints pertaining to maltreatment, harassment, cruelty/violence, demand of dowry etc. relating to unmarried/married women and children.

- Counselling through well-qualified/trained police staff, voluntary NGO with the objective of settling the disputes amicably/mutually and to unite the divided families.

- Investigation of cases registered against women and children by the senior officer.

- Helping the women/children in the districts through Toll Free Child Helpline.¹³

A case study¹⁴ of Ludhiana Women’s Cells shows that a large number of cases are received by these cells. In 2008, the Ludhiana Cell received 2,084 cases. The Women’s Cell has disposed off 87 per cent of the cases brought to its notice. The cases dealt with are mostly familial disputes between married couples. About 36 per cent have been forwarded to the police station for registering FIRs. Another 36.4 per cent (36.4) have been resolved through a reunion and about 15 per cent culminated in a mutual divorce. The cases are from both rural and urban areas.

---


¹⁴ See Pramod Kumar, Dagar, Rainuka op.cit. (1995)
Table - 3

<table>
<thead>
<tr>
<th>Date and Year</th>
<th>Total Complaints</th>
<th>Dispose Off</th>
<th>Category of Disposed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Reunion</td>
<td>Divorce</td>
</tr>
<tr>
<td>10.09.2001 to 31.12.2001</td>
<td>203</td>
<td>203</td>
<td>90</td>
</tr>
<tr>
<td>2002</td>
<td>1152</td>
<td>1060</td>
<td>491</td>
</tr>
<tr>
<td>2003</td>
<td>1427</td>
<td>1354</td>
<td>524</td>
</tr>
<tr>
<td>2004</td>
<td>1168</td>
<td>1100</td>
<td>453</td>
</tr>
<tr>
<td>2005</td>
<td>1110</td>
<td>1043</td>
<td>441</td>
</tr>
<tr>
<td>2006</td>
<td>1585</td>
<td>1329</td>
<td>552</td>
</tr>
<tr>
<td>2004</td>
<td>2016</td>
<td>1888</td>
<td>833</td>
</tr>
<tr>
<td>2008</td>
<td>2084</td>
<td>1891</td>
<td>767</td>
</tr>
<tr>
<td>01-01-09 to 30-04-09</td>
<td>1246</td>
<td>587</td>
<td>218</td>
</tr>
<tr>
<td>10-9-2001 till 30-04-09</td>
<td>12001</td>
<td>10455</td>
<td>4369</td>
</tr>
</tbody>
</table>

Source: Women Cell, Ludhiana

The modus operandi of the Women’s Cells is to bring about reconciliation in cases of family maladjustment and to warn the alcoholic husbands against indulging in their dependence. The effectiveness of the Women's Cell is no doubt perceived to be high as was reflected by the number of cases that accrue to them even when the agency is only in its third year of operation. Another example of the Women’s Cell functioning within the parameters of the prevalent social hierarchies and, thereby, remaining ineffective in dispensing justice is of a Sarpanch (head of local body at the village level) who had molested a woman and the victim had complained against him to the Women's Cell. He, however, did not even answer the summons of the cell and the case was kept in abeyance since no FIR had been registered. Some idea of the effectiveness of these cells can be had from the perception of one of the DSPs in-charge of the Women’s Cell. According to him, “95 per cent of
the problems are due to non-adjustment of women, who are given unnecessary impetus by their parents”. Thus, when the interventionists themselves became instruments for perpetuating the gender system, the effectiveness of that intervention is a foregone conclusion. The functioning of these Cells can be maintained to the extent that the people perceive them to be performing a social service outside the internal politics of the village and mohalla communities in bringing about family reconciliations.

The Women Cells provide a range of services for the women victims. These include provision of counsellors, helplines, facilities of ambulance, tie-up with civil society and outreach services. Field investigation, however, reveals that standardised services are not provided in the Women Cells. While one Women Cell may have well-coordinated functioning within the CPRC, in others, they may hardly have any contact with the CPRC or other departments. One Cell may be focusing on sexual harassment issues, while others may be more attuned to the dowry disputes. Similarly, a large variation was found in the nature of services and programmes available for women and the training undertaken by the staff. Here is provided a checklist of the basic infrastructure, services, networking, coordination, prevention activities and training for each Women Cell. Also, included is a traffic light percentage of the existing facilities and programmes. Red signals few Women Cells have the listed provision, Orange designates a middle range and Green signals that most Women Cell have the given service/facility.
## CHECK LIST FOR CPRC WOMEN CELL

<table>
<thead>
<tr>
<th>INFRASTRUCTURE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Designate space for women victims</td>
<td>85%</td>
</tr>
<tr>
<td>2 Arrangement of ambulance/gypsy in CPRC to help women victims – in case of domestic violence</td>
<td>05%</td>
</tr>
<tr>
<td>3 Separate public utilities for male/female</td>
<td>80%</td>
</tr>
<tr>
<td>4 Waiting room and sitting arrangement for victims</td>
<td>75%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SERVICES</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Hotline Service/toll free no. for female complaints</td>
<td>45%</td>
</tr>
<tr>
<td>2 Counselling provision for eve-teasing</td>
<td>10%</td>
</tr>
<tr>
<td>3 Counselling provision for dowry and marital disputes</td>
<td>100%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NETWORKING</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Networking with Different Departments</td>
<td></td>
</tr>
<tr>
<td>- Health</td>
<td>30%</td>
</tr>
<tr>
<td>- Education</td>
<td>30%</td>
</tr>
<tr>
<td>- Civil Society</td>
<td>55%</td>
</tr>
<tr>
<td>- Rural Development</td>
<td>00%</td>
</tr>
<tr>
<td>- Social Welfare</td>
<td>10%</td>
</tr>
<tr>
<td>2 Tie-up with Protection Officers (CDPO) under Domestic Violence Act</td>
<td>10%</td>
</tr>
<tr>
<td>3 Tie up with shelter homes</td>
<td>25%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CO-ORDINATION</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Meeting of CPRC Members</td>
<td>60%</td>
</tr>
<tr>
<td>- Once a month</td>
<td>15%</td>
</tr>
<tr>
<td>- Once in three months</td>
<td>65%</td>
</tr>
<tr>
<td>- Once in six months</td>
<td>00%</td>
</tr>
<tr>
<td></td>
<td>Activity</td>
</tr>
<tr>
<td>---</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>2</td>
<td>Any gender issue raised in meeting</td>
</tr>
<tr>
<td>3</td>
<td>Formation of committee in their department on sexual harassment</td>
</tr>
<tr>
<td>4</td>
<td>Facility to provide medical examination immediately to rape victim</td>
</tr>
<tr>
<td>5</td>
<td>Acting as pressure group on police to do fair investigation in case any injustice/violence happening to women</td>
</tr>
</tbody>
</table>

**PREVENTION ACTIVITY TRAINING**

<table>
<thead>
<tr>
<th></th>
<th>Activity</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Publicity of Hotline no.</td>
<td>35%</td>
</tr>
<tr>
<td>2</td>
<td>Sexual harassment guidance</td>
<td>10%</td>
</tr>
<tr>
<td>3</td>
<td>Identifying hot spots and deploying more police personnel there</td>
<td>15%</td>
</tr>
<tr>
<td>4</td>
<td>Meetings with Dowry Prohibition Officer</td>
<td>00%</td>
</tr>
</tbody>
</table>

**SENSITIZATION**

<table>
<thead>
<tr>
<th></th>
<th>Activity</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Training on Domestic Violence Act</td>
<td>05%</td>
</tr>
<tr>
<td>2</td>
<td>Training of staff to handle cases on sexual violence</td>
<td>00%</td>
</tr>
</tbody>
</table>

**SPECIFIC PROGRAMME**

<table>
<thead>
<tr>
<th></th>
<th>Activity</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Conducting awareness programme on issues related to gender under Domestic Violence Act</td>
<td>05%</td>
</tr>
<tr>
<td>2</td>
<td>Recovery of dowry articles</td>
<td>95%</td>
</tr>
<tr>
<td>3</td>
<td>Guidance and tie-up with institutions conducting different vocational courses to make females economically independent</td>
<td>15%</td>
</tr>
</tbody>
</table>

*Source: IDC Survey, 2009*

Given the existing capacities of the CPRC-Women Cell, some suggestions for operationalising gender responsiveness have been provided. Activities for strengthening gender effectiveness have been listed, along with relevant action points required. The third column notes the present status.
## BOX - 9
**PLANNING FOR AN OPERATIVE GENDER RESPONSIVENESS**

<table>
<thead>
<tr>
<th>Strengthening gender effectiveness</th>
<th>Action points</th>
<th>Present status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highlighting the police commitment to the protection and prevention of gender crimes.</td>
<td>Goals of strategic plan, Punjab Police and gender-related statements in Punjab Police Act.</td>
<td>To be highlighted</td>
</tr>
<tr>
<td>Implement policies and procedures to promote protection of gender rights</td>
<td>Orient police rank and file to programmes on gender (List statement on non-discrimination of staff members on the basis of sex)</td>
<td>To be promoted</td>
</tr>
<tr>
<td>Gender mainstreaming through a designated body to monitor and promote gender as an integral part of police policies, programmes and practices.</td>
<td>Evolve a designation for gender within the CPRC headquarters along with the mandate and ToR.</td>
<td>Under Review</td>
</tr>
<tr>
<td>Integrate a gender communication strategy to promote gender sensitisation within the police.</td>
<td>Evolve target of communication strategy in each annual plan.</td>
<td>Under Review</td>
</tr>
<tr>
<td>Standardise policies and procedures through gender-sensitive lens.</td>
<td>Review existing policies and procedures and implement changes</td>
<td>Under Review</td>
</tr>
<tr>
<td>Strengthen training programmes at all staff levels to promote gender-sensitive capacities</td>
<td>Identify gaps in training and design programmes accordingly Train and reorient rank and file constantly on gender responsiveness</td>
<td>Initiated</td>
</tr>
<tr>
<td>Build in budget for promoting gender capacities within the police</td>
<td>Allocate budget heads in each annual plan.</td>
<td>Ad hoc programmes</td>
</tr>
<tr>
<td>Programmes to prevent violence against women</td>
<td>Campaign to address violence against women</td>
<td></td>
</tr>
</tbody>
</table>

### Services for gender based victim
- One window service
- Hotlines/helplines
- Shelters
- Free legal services
- Medical facilities
### Gender-Related Service Delivery Institutions of Police in Punjab

<table>
<thead>
<tr>
<th>Service / Institution</th>
<th>Action / Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Counselling services</strong></td>
<td>Special gender units / Cells (Women cells)</td>
</tr>
<tr>
<td><strong>Strengthen linkages with community</strong></td>
<td>Allocate role and targets to community stakeholders</td>
</tr>
<tr>
<td></td>
<td>Coordination with civil society stakeholders</td>
</tr>
<tr>
<td></td>
<td>Awareness and sensitisation materials</td>
</tr>
<tr>
<td><strong>Network with other government service providers on violence against women</strong></td>
<td>Hold regular meetings in the CPRC network with other departments</td>
</tr>
<tr>
<td><strong>Enforcing compliance to law</strong></td>
<td>Monitoring mechanisms</td>
</tr>
<tr>
<td></td>
<td>Tailor monitoring mechanisms</td>
</tr>
<tr>
<td></td>
<td>Create database in accordance to gender representativeness, programmes and data collection.</td>
</tr>
<tr>
<td><strong>Monitor and evaluate gender capacity</strong></td>
<td>Under review</td>
</tr>
<tr>
<td></td>
<td>Under Review</td>
</tr>
<tr>
<td><strong>Establish oversight mechanisms to process public complaints against police on gender</strong></td>
<td>Police oversight can be starting point for reviewing complaints and promoting trust of community.</td>
</tr>
</tbody>
</table>
DOMESTIC VIOLENCE

Background

The cultural sanction to wife-beating was reflected until recently in the lack of specific laws dealing with and defining domestic violence, in particular, wife-beating. Domestic violence was largely limited to wife-beating, that too under the description of dowry-related laws. The amendment to the Dowry Act in 1983 was a response to the physical and emotional harassment faced by a wife. The matter was dealt with by an amendment in the said Act under the Section dealing with cruelty by the husband and in-laws.

Prior to this law, wife-beating was tried under the Section dealing with hurt and grievous injury covered by Sections 391 to 323 of the Indian Penal Code. In tune with the social tolerance to the practice of wife-beating, there were no reported cases until 2006. However, unreported data from the field studies reveals that every second home in Punjab accepted the practice of wife-beating. Rural households had a higher agreement to the practice of wife-beating than in the urban sections.

Wife-beating involving slight physical force, slap or arm twisting is found to fall within the sanction of normative acceptability. In fact, physical assertion against the wife is, in many sections of the society, considered a marital prerogative of the husband. The normative acceptance of wife-beating can be gauged from the victims’ own sanction to the

<table>
<thead>
<tr>
<th>Table -4</th>
<th>Nth Household That Acknowledge Wife Beating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Region</td>
<td>Location</td>
</tr>
<tr>
<td>Punjab</td>
<td>Rural</td>
</tr>
<tr>
<td></td>
<td>Urban</td>
</tr>
<tr>
<td></td>
<td>Total</td>
</tr>
</tbody>
</table>

Source: IDC Survey, 2005
concept of wife-beating\(^1\) and the legitimacy accorded to it under certain circumstances.

Wife-beating is one form of violence against women that finds conditional acceptance across regions, strata and castes.

Justification for wife-beating emanated from the preponderance of the right of a husband to control, direct and subjugate his wife enacted through role prescriptions. The power hierarchy of the marital home extended not only to the right of the husband's family to subjugate the wife but even extended to the right of the husband over the wife's family. In one case involving the urban upper strata (the group most resistant to wife-beating), the husband slapped the 'sali' (wife's sister) because he did not appreciate her joking mannerism with him and there was no resistance to this from the girl's family. Such incidents reflect the deep-rooted normative sanction and subordination of the husband over his wife and her family.

<table>
<thead>
<tr>
<th>Reason</th>
<th>India</th>
<th>Punjab</th>
</tr>
</thead>
<tbody>
<tr>
<td>She goes without telling him</td>
<td>29.0</td>
<td>25.4</td>
</tr>
<tr>
<td>She neglects the house or children</td>
<td>34.7</td>
<td>28.3</td>
</tr>
<tr>
<td>She disagrees with him</td>
<td>30.3</td>
<td>29.5</td>
</tr>
<tr>
<td>She refuses to have sexual intercourse with him</td>
<td>14.1</td>
<td>15.1</td>
</tr>
<tr>
<td>She doesn’t cook food properly</td>
<td>20.4</td>
<td>19.7</td>
</tr>
<tr>
<td>He suspects she is unfaithful</td>
<td>25.1</td>
<td>29.6</td>
</tr>
<tr>
<td>She shows disrespect for in-laws</td>
<td>40.6</td>
<td>37.7</td>
</tr>
<tr>
<td>Percentage who agree with at least one specified reason.</td>
<td>54.4</td>
<td>51.3</td>
</tr>
</tbody>
</table>


\(^1\) Scholars report that the main reason behind the invisibility of wife-beating is the acceptance and attitude of women themselves to this violence – they quote the often repeated, “If our husbands don’t have the right to beat us, then who does?” Gandhi, N. and Shah, N. (1992), Issues at Stake: Theory and Practices in the Contemporary Women’s Movement in India New Delhi: Kali for Women p. 62.
According to National Family Health Survey III (2005-06), one-third of women in the age group of 15-49 years have experienced physical abuse and one in 10 has experienced sexual violence. Nearly two out of every five married women have experienced some form of physical or sexual violence by their husband. According to First Monitoring and Evaluation Report on Domestic Violence in India, 7913 applications were filed under the PWDVA (2005) for the period November 2006-October 2007.

GLOBAL PREVIEW

Intimate partner violence is the most common and widespread form of gender violence experienced by women globally. While traditional or culture-specific forms of violence such as dowry harassment, date rape or acid throwing are more confined to particular locales, spousal violence or domestic violence is the most pervasive form of violence that women undergo. A number of studies capture the extent of this violence in different countries.

<table>
<thead>
<tr>
<th>Country of area</th>
<th>Proportion of women physically assaulted by a partner (ever)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ethiopia (2002)</td>
<td>49</td>
</tr>
<tr>
<td>Kenya (1984-1987)</td>
<td>42</td>
</tr>
<tr>
<td>Malawi (2005)</td>
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Gender Violence: Form Specific Protocols and Coordination Mechanisms According to Relevant Institutions

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<td>Sweden (2000)</td>
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<td>El-Sheik Zayed (2004)</td>
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<td>Israel (1997)</td>
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Source: United Nation, General Assembly, In-depth study on all forms of violence against women, A/61/122/Add.1
SCOPE OF LAW: THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005

Domestic violence to the victimised women world over has been recognised in terms of physical, emotional and psychological abuse. They have to suffer economic and social consequences that range from loss of productivity, damaged relationships to life-depriving violence. The Domestic Violence Act, 2005, recognises that women suffer a range of violence that includes not only physical abuse, but sexual violence and the more silent, emotional violence. The Act provides a comprehensive definition of domestic violence and includes the following:

WHAT IS DOMESTIC VIOLENCE?

(Section 3)

- Any form of abuse causing harm or injury to the physical and / or mental health of the woman or compromising her life and safety
- Any harassment for dowry or to meet any other unlawful demand.
- Threat to cause injury or harm.

KINDS OF ABUSE: PHYSICAL AND SEXUAL ABUSE

The Act covers abuse involving physical, sexual, verbal, emotional and economic forms.

- Physical Abuse
  (i) Any act or conduct that causes bodily injury or hurt
  (ii) Includes assault, criminal intimidation and criminal force. For example, beating, kicking, punching etc.

- Sexual Abuse
  (i) Any humiliating or degrading sexual act

*Note: Cases, where a woman has been forced into sexual intercourse by her husband against her will, is also covered*

- Verbal and Emotional Abuse
  (i) Insults, ridicule and threat causing harm or injury. For example: name calling, ostracising, blaming a woman for not having a male child etc.
• **Economic Abuse**

(i) Deprivation of the basic economic or financial necessities of life and entitlements that cause injury or harm.

(ii) Prohibiting/restricting *access to the shared household*. For example: denial of food, disposing of household assets to the detriment of the woman, disposing of her own assets (such as *Stridhan*) against her will etc.

**RELEVANT DEFINITIONS: WHAT IS A “SHARED HOUSEHOLD”***?

[Section 2(s)]

• A household where the aggrieved person *lives / has lived in a domestic relationship*, either singly or along with the respondent

• Includes a household

  • Whether *owned or tenanted* either jointly by the person aggrieved and the respondent, or by either of them,

  • Where either the person aggrieved or the respondent or both jointly or singly have any *right, title, interest or equity*

  • Includes such a household which *may belong to the joint family* of which the respondent is a member, irrespective of whether the respondent or person aggrieved has any right, title or interest in the shared household

**WHAT IS A “DOMESTIC RELATIONSHIP”***?

[Section 2(g)]

• Relationship between two persons *who live or have, at any point of time, lived together* in the shared household

• Includes relations of consanguinity, marriage, or through *relationships in the nature of marriage*, adoption, or joint family;

*Note:*

1. Domestic relationships are not restricted to the marital context
2. Domestic relationships are meant to cover sisters, widows, mothers, daughters, women in relationships of cohabitation, single women etc.
3. Domestic relationships also protect women of fraudulent or bigamous marriages or in marriages invalid in law

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### BOX - 11

**FORMS OF VIOLENCE COVERED UNDER DOMESTIC VIOLENCE ACT**

<table>
<thead>
<tr>
<th></th>
<th>Type of Violence</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Physical violence includes any bodily harm or pain or danger to life, limb or health.</td>
<td>Beating, slapping, hitting, biting, kicking, punching, pushing etc.</td>
</tr>
<tr>
<td>2</td>
<td>Sexual violence, any conduct of sexual nature which abuses, humiliates, degrades or violates the dignity of women.</td>
<td>Forced sexual intercourse, forces victim to look at pornography or any other obscene picture or material, child sexual abuse.</td>
</tr>
<tr>
<td>3</td>
<td>Verbal and emotional violence</td>
<td>Insults, name calling, accusations on victim’s character or conduct etc., insult for not having child or male child, for not bringing dowry, preventing from taking up a job or forcing to leave job, preventing victim or a child in her custody from leaving the house, forcing victim to get married, threat to commit suicide.</td>
</tr>
<tr>
<td>4</td>
<td>Economic violence</td>
<td>Not providing money for maintenance, denial of food, clothes, medicine, taking salary, wages or not allowing to use money earned, not paying rent and prohibiting victim to use any part of the house.</td>
</tr>
</tbody>
</table>

**WHO ALL ARE COVERED UNDER THIS ACT?**

**Victim**

Wife, sister, mother, daughter, females in live-in relationship, single women. Any woman who is or has been in domestic relationship with the respondent/abuse in a shared household.

**Respondent/abuser**

Husband, male partner, father-in-law, any other adult male, person who is or has been in domestic relationship with victim.

**WHAT ARE THE RIGHTS OF WOMEN UNDER THE PROTECTION OF DOMESTIC VIOLENCE ACT?**

**The Right to Reside (Section 17)**

- Every woman in a domestic relationship shall have the right to reside in the shared household, **whether or not she has any right, title or beneficial interest in the same**.
• An aggrieved woman shall have a **right not to be evicted or excluded** from the shared household or any part of it by the respondent *save in accordance with the procedure established by law*.

**PROVISIONS FOR RELIEF (Sections 18 – 23)**

- Protection Orders
- Residence Orders
- Monetary Relief
- Custody Order
- Compensation Order
- Interim/Ex parte Orders

**SECOND RELIEFS**

- **Monetary Relief** to meet expenses incurred and losses suffered, including maintenance, medical expenses etc
- **Temporary Custody** of any child (Best Interest of Child principle)
- **Compensation** and damages for injuries caused by acts of domestic violence committed by the respondent (mental injury)
- **Interim and Ex parte Orders** on the satisfaction of Magistrate

**PROTECTION ORDERS FOR PREVENTING VIOLENCE**

The rights of women under the Domestic Violence Act also include protection from the restraining orders for the prevention of further abuse. The accused can be prevented from:

- **Committing, aiding or abetting** any act of domestic violence or any other act specified in the order;

- **Entering the place of employment** or any other place frequented by the person aggrieved;

- **Attempting to communicate** with the person aggrieved, including personal, oral or written, electronic or telephonic contact;

- **Alienating assets**, operating bank lockers or bank accounts used/held/enjoyed by both parties, *including her ‘stridhan’*; (except with the leave of the court)
• **Causing violence** to dependants, other relatives and persons who give the aggrieved person assistance against domestic violence.

**RESIDENCE ORDERS**

Can be passed by Court directing the respondent to:

- **Restrain from disturbing possession** of the aggrieved person from the shared household, or from entering any portion of the shared household in which the aggrieved person resides;
- Direct the **Respondent to remove himself** from the shared household; *(This order cannot be passed against a woman)*
- Restrain the respondent **from alienating/disposing of/encumbering** the shared household or from renouncing his rights in the shared household (except with the leave of the court);
- Direct the respondent to **secure alternate accommodation** for the person aggrieved. (where she so desires).

**PUNISHMENT UNDER THE ACT**

**Respondent**

Any resistance to the enforcement of the orders of the court by the respondent shall be deemed to be a breach of the protection order, which shall be immediately reported to the local police station and shall be dealt with as a cognizable offence as provided under Sections 31 and 32 that provide for:

- Punishment with imprisonment which may extend up to 1 year or with fine which may extend to Rs. 20,000 or with both.
- Offence will be considered cognizable and non-bailable and the court may conclude on the sole testimony of the aggrieved person that the offence has been committed.

**Penalty for not discharging duty by the protection officer**

Imprisonment which may extend to 1 year or fine upto Rs. 20,000 or both – if the protection officer fails or refuses to discharge his duties without any sufficient cause.
POINTS TO REMEMBER

In our society, wife-beating is a traditionally accepted norm. It is considered the right of a husband to control the wife’s conduct, particularly in the context to her relations with other men. He is expected to direct his wife’s behaviour in accordance with the stereotyped gender roles where the male is a protector, decision-maker in the home, the breadwinner while the female is the nurturer and caretaker of the home. Her chaste behaviour is considered essential to the marital happiness. The power hierarchy of the marital home extends not only to the right of the husband to subjugate his wife, but even extends to exercise control over the wife’s family members. It is common for the husband to provide protection and control over the wife’s female relatives, particularly her sisters, more so, if they are staying in his home. The control over the wife is also exerted by the husband’s family. The mother-in-law and other family members can direct the wife and she is expected to comply with the requests. Resistance, if any on her part, does lead to abuse, monetary control and subjugation of the wife. The Domestic Violence Act provides protection to any woman from abuse and subjugation in her place of residence. Awareness of these rights can be very helpful in reshaping relations within both the marital and natal home of the female.

Rights of the victim of domestic violence

- Right to know the protection and relief measures available under this Act from the Protection Officer.
- The right to stay in the same house or alternative accommodation, if required, with maintenance to be provided by the accused, even when the dispute is not yet settled.
- Right to possession of ‘Stridhan’.
- Right to access all household items along with monetary relief.
- Right to temporary custody of children.
- Restraining order for protection against further harm by the accused.
- Can simultaneously file a complaint of cruelty by husband or relatives of husband under Section 498A of Indian Penal Code.

PROCEDURE UNDER THE PWDVA

Stage I: Information of incidents of domestic violence

*Information by Any Person (Section 4)* - Must be reduced into writing

- To the Protection Officer, or
- To the Police
Note: A woman or any person on her behalf can give information of domestic violence to the PO or to the Police. If information is given by any person other than the woman, he/she must sign the information provided.

Stage II: Complaint

Aggrieved Person to lodge complaint:

- Directly with the Magistrate. This can be done even if POs have not been appointed
- Directly with the Police. Police will record it as DIR and forward it to PO and Magistrate
- With the Protection Officer. PO will record it as DIR and forward it to Magistrate
- With the Service Provider. Will record it as DIR and forward it to PO and Magistrate

Note: Domestic Incident Report (DIR) given in Form I of the Rules

A woman can use this law without appointment of POs (directly through Police and Magistrate)

Stage III: Proceedings in Court

- Application by woman or any other person on her behalf (for relief u/Section 12)
- Ex Parte Order or Notice Served (within 3 days)
- Parties appear before court
- Interim Order passed
- Evidence and Arguments
- Final Order Passed (within 60 days)

Note:

1. Magistrate can also direct parties to undergo counselling at any stage of the proceedings. If counselling leads to settlement, final order passed by the court on the terms of settlement.
2. Court can also seek assistance of Welfare Expert at any stage of the proceedings.

Stage IV: Post-Order Proceedings

From Final Order:

- There could be an Appeal by either parties - before Sessions Court within 30 days (Section 29)
- Application for Discharge/Alteration (Section 25)

Discharge of the Order [Section 25(1)]

- Protection order to continue till its discharge. An application asking for discharge can be only by the woman. A woman may apply for a discharge if she has settled her case. [Following Procedure for Counselling: Rule 14]

Alteration/Modification/Revocation of Order [Section 25(2)]

- Either parties can ask for alteration / modification / revocation of orders. This order must be in writing and on satisfaction of Magistrate that there is a change in circumstances.

Consequences of the Breach of Protection Order (Section 31)

- Breach of a Protection Order passed is deemed to be a punishable offence.
- Charges under Section 498A of IPC can also be framed by the Magistrate in addition to the charges under this Act.
- Offences are non-bailable and cognizable.
- Punishment may extend to one year imprisonment and /or a maximum fine of Rs. 20,000/-.

Act in Addition to Existing Laws

- PWDVA is in addition to the existing laws (Section 36). Hence, an aggrieved person can continue to use the existing provisions of law (offences under IPC and other laws)
- An aggrieved person has the right to file a complaint simultaneously under Section 498A of IPC (Section 5)
Reliefs under PWDVA can be asked for in other legal proceedings (Section 26). E.g. petition for divorce, maintenance, Section 498A of IPC petitions.

An application can be filed in a pending proceeding for a residence order according to the rules of the court in which the case is pending.

| BOX - 12 |
| MECHANISMS FOR IMPLEMENTATION OF DOMESTIC VIOLENCE ACT |
| [PROTECTION OFFICER (PO) – APPOINTMENT UNDER RULE 3] |

- To be appointed by State Government from the Government or NGOs – preference to be given to women
- 3 years experience in social sector
- Tenure of PO to be a minimum of 3 yrs.
- State Government to provide necessary office assistance (infrastructure and support staff)
ROLE OF PROTECTION OFFICER (SECTION 8): CDPO (SOCIAL SECURITY AND WOMEN AND CHILD DEVELOPMENT DEPARTMENT)

- The PO is under the control and supervision of the Court, and is responsible to the court for cases of domestic violence. PO is appointed by the State Government:
  - To assist the court in the discharge of its functions
  - To make a Domestic Incident Report (DIR) or application for the protection order on behalf of the woman
  - To ensure that the aggrieved woman is provided legal aid
  - To ensure that medical services, safe shelter and information on the service providers is provided to the woman
  - To ensure that the orders for monetary relief are complied with

- PO can be penalised for failing/refusing to discharge his duty (previous sanction of State Government necessary)

ROLE OF PROTECTION OFFICER (UNDER THE RULES)

- With direction of Court (Rule 10):
  - Conduct home visit and make enquiry before grant of ex-parte interim order
  - Conduct enquiry on assets, bank accounts or other documents
  - Restore possession of personal effects and shared household to the aggrieved woman and assist her in regaining the custody of children
  - Assist the court in the enforcement of orders passed
  - Any other duty assigned by the State Government or court

- Without direction of Court (Rules 8 and 9):
  - To inform aggrieved woman of her rights
  - To prepare a safety plan (Form V of the Rules, see page 21)
  - To invite applications from SPs, Counsellors, maintain records of support services and all documents related to the matter
• **Emergency action**: If PO receives information of any case of domestic violence through email/telephone etc., he/she shall reach the place of occurrence with the Police immediately and record a DIR and present it to the Magistrate for appropriate order, **without any delay**

**ROLE OF SERVICE PROVIDERS (SECTION 10): CPRC**

• Service Providers are organisations registered under Companies Act/Societies Registration Act. They will have to register with State Government as Service Providers. Generally, these are NGOs working for the women's rights. In Punjab, the CPRC/CRC/Police Outreach Centres are being shaped to function as service providers. The Women's Cells are already functioning under the CPRC and additional functions are being evolved.

• To record the Domestic Incident Report and forward it to the Magistrate

• To get the aggrieved person medically examined

• To ensure that the aggrieved person is provided shelter in a shelter home, if she so requires

• Collaborate with PO, Health Department and Civil society groups

• Assist in the medical examination of the victims

*Note:*

*A service provider is protected for all the actions done in good faith in exercise of the powers under this Act towards the prevention of the commission of domestic violence. [Section 10(3)]*

In Punjab, first case of domestic violence was reported on 31\(^{\text{st}}\) October, 2006. In 2007, 20 cases were reported, but this number dropped in 2008 to 12 and remained comparatively low even in 2009 also, with only 4 cases registered. The Social Welfare Department, on the other hand, has been approached for 261 cases of domestic violence till 2009. (Some field studies have revealed that wife-beating is highly prevalent in Punjab with every second household acknowledging wife-beating.\(^2\))

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A field survey of the CPRC functionaries in Punjab revealed that majority of the staff are not well versed in the Domestic Violence Act, its scope, related punishment or its procedure. It is a relatively new law and most of the CPRCs are yet to hold staff training. Ludhiana CPRC alongwith CDPOs has already undertaken to build the centre’s capacity to provide services under this law. Eighty procedures at the State level are also pending with only four recognised service providers.

The victim can directly record the Domestic Incidence Report (DIR) with the police. She can lodge a complaint with the Women’s Cell in the nearest CPRC/CSRC/Police Outreach Centre at the Police Station.

### Table – 7

**Awareness of CPRC Functionaries on the Protection of Women from Domestic Violence Act 2005**

<table>
<thead>
<tr>
<th>Law</th>
<th>Meaning</th>
<th>Punishment</th>
<th>Procedure</th>
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<tr>
<td>Domestic Violence</td>
<td>14.7</td>
<td>Well Aware</td>
<td>10.5</td>
</tr>
<tr>
<td></td>
<td>18.2</td>
<td>Moderately Aware</td>
<td>11.9</td>
</tr>
<tr>
<td></td>
<td>67.1</td>
<td>Little / Not Aware</td>
<td>77.6</td>
</tr>
</tbody>
</table>

Source: IDC Survey, 2009

### Table – 8

**State-wise Appointment of Service Providers, Medical Facilities and Shelter Homes in Punjab**

<table>
<thead>
<tr>
<th></th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection Officer</td>
<td>N.A.</td>
<td>148</td>
<td>148</td>
</tr>
<tr>
<td>Service Provider</td>
<td>N.A.</td>
<td>Registration in process</td>
<td>4</td>
</tr>
<tr>
<td>Medical facilities</td>
<td>–</td>
<td>Notification in process</td>
<td>–</td>
</tr>
<tr>
<td>Shelter home</td>
<td>–</td>
<td>Notification in process</td>
<td>4 shelters have been notified</td>
</tr>
</tbody>
</table>

## STATUS OF CASES FILED UNDER DOMESTIC VIOLENCE ACT SINCE THE IMPLEMENTATION OF ACT TILL 2007

The Punjab and Haryana High Court has added eight cases from Chandigarh, 43 cases from Haryana and 24 cases from Punjab. In Punjab, it appears that in many of the cases, the applicants have sought residence order. The response of the courts can be broadly categorised as follows:

- Cases where residence orders have been passed specifically restraining the respondent from dispossessing the applicant.
- Cases where residence orders have been passed allowing the woman to stay in a separate portion of the house.
- Cases in which residence orders have been denied for the reason that the shared household is not in the name of the husband. In these cases, the Batra\(^2\) judgment has been referred upon.
- Maintenance orders have been granted even in cases where other reliefs have been denied.
- Custody orders have been granted in the cases where it has been sought.


## ROLE OF POLICE

- Complaint of domestic violence can be lodged directly with Police. The police are required to **record a DIR** on lodging of the complaint under the PWDVA. DIR to be forwarded to PO and Magistrate
- Police to assist in enforcing court orders
  - The Police continue to play their role under the existing laws and take appropriate action (investigation, arrest etc.) for the **cognizable offences under IPC** – offences like grievous hurt, rape, dowry death. Section 498A has been used in the domestic violence cases (Section 36)
  - Inform Women’s Cell of the case to provide support services\(^3\)

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\(^2\) Lawyers Collective Women’s Rights Initiative, Protection of Women from Domestic Violence Act 2005

- 59 -
ROLE OF CPRC-WOMEN CELL IN DOMESTIC VIOLENCE ACT

- Provide counselling to the respondent or the aggrieved person either singly or jointly to undergo counselling, if the magistrate issues any such direction.

- Women Cell with the support of police on an order of the magistrate can help the victim to get back her ‘Stridhan’ or any valuable security.

- Can make a safety plan for the aggrieved person and take the help of police in implementing that safety plan which includes apprehensions of the aggrieved person regarding the type of violence inflicted and the measures that are required to be taken for her safety.

ROLE OF AFFILIATED AGENCIES – DEPARTMENT OF HEALTH

- Treat domestic violence cases as police cases, as is done in accidents and other forms of injury and inform the CPRC-Women Cell.

- Immediate medical examination of the victim if there is physical violence.

- Provide a copy of the medical examination report to the aggrieved person free of cost.

THE SOCIAL SECURITY AND WOMEN AND CHILD DEVELOPMENT

The CDPOs are the nodal officers who are appointed as protection officers and they have a major role in the enforcement of Domestic Violence Act: they assist the Magistrate apart from preparing D.I.R. in making the following queries:

- Conducting home visit and making elementary enquiry if the court requires any classification in regard to granting ex-parte interim relief.

- Make a report on assets and bank account or any other document.

- Restoring the possession of gifts and jewellery of the aggrieved person.

- Assisting the aggrieved person to regain custody of the children and visiting rights.

- Assisting the court in the enforcement of an order.
The Protection Officer with the assistance of police, if needed, will seize any weapon involved in domestic violence.

On receipt of any reliable information either from the aggrieved person or from any person where domestic violence has occurred or is likely to occur, immediate assistance of police is taken and Domestic Incidence Report is to be recorded and presented to the magistrate without delay for further orders.

**Inter-departmental coordination**

- CPRCs need to build networking with Health Department, so that if any medical assistance is required, the victim can be immediately provided with medical aid. CPRCs can take the services of an ambulance if the victim is not in a position to go to the hospital.

- Involve the CPRC-Women Cell for coordinated service-delivery with the Social Welfare Department.
FORM V\textsuperscript{4}
[SEE RULE 8(1)(IV)]
SAFETY PLAN

1. When a Protection Officer, Police Officer or any other service provider is assisting the woman in providing details in this form, then details in columns C and D are to be filled in by the Protection Officer, Police Officer or any other service provider, as the case may be, in consultation with the complainant and with her consent.

2. The aggrieved person, in the case of approaching the court directly, may herself provide details in columns C and D.

3. If the aggrieved person leaves columns C and D blank and approaches the court directly, then the details in the said columns are to be provided by the Protection Officer to the court, in consultation with the complainant and with her consent.

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>S. No.</td>
<td>Violence by the Respondent</td>
<td>Consequence of Violence mentioned in Column A</td>
<td>Apprehensions of the Aggrieved Person regarding Violence mentioned in Column A</td>
<td>Measures Required for Safety</td>
</tr>
<tr>
<td>1.</td>
<td>Physical violence by the Respondent</td>
<td>Complainant’s perception that she and her children are at risk of repetition of physical violence</td>
<td>(a) Repetition (b) Escalation (c) Fear of injury (d) Any other, specify</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Any sexual act, abusing, humiliating or degrading, otherwise violative of your dignity</td>
<td>(a) Depression (b) At risk of repetition of such an act (c) Facing attempts to commit such acts</td>
<td>(a) Repetition (b) Escalation (c) Any other, specify</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Attempts at strangulation</td>
<td>(a) Physical injury (b) Mental ill health (c) Any other, specify</td>
<td>(a) Repetition (b) Any other, specify</td>
<td></td>
</tr>
</tbody>
</table>

\textsuperscript{4} Garg’s The Protection of Women from Domestic Violence Act, 2005 (42 of 2005), New Garg Law House, pp. 54-58
<table>
<thead>
<tr>
<th>S. No.</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td>Beatings to the children</td>
<td>(a) Injury to the children</td>
<td>(a) Risk of repetition</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Adverse mental effect of the same</td>
<td>(b) Adverse effect of violent</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>on the children</td>
<td>behaviour/environment on the child</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) Any other, specify</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Threats to commit suicide by the</td>
<td>(a) Violent environment in the house</td>
<td>(a) Actually trying to commit the same</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Respondent</td>
<td>(b) Threat to safety</td>
<td>(b) Repetition</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) Any other, specify</td>
<td>(c) Any other, specify</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Attempts to commit suicide by the</td>
<td>(a) Violent environment in the house</td>
<td>(a) Repetition, escalation,</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>respondent</td>
<td>(b) Insecurity, anxiety, expression,</td>
<td>aggravation of the same</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>mental trauma</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) Any other, specify</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Physical and emotional abuse of the</td>
<td>(a) Depression</td>
<td>(a) Repetition, escalation,</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>complainant like insults, ridicule</td>
<td>(b) Mental trauma, pain</td>
<td>aggravation of the same</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>name calling, insults for not having a</td>
<td>(c) Unsuitable atmosphere for the</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>male child, false accusation of</td>
<td>child/children</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>unchastity, etc.</td>
<td>(d) Any other, specify</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Making verbal threats to cause harm to</td>
<td>(a) Living in constant fear</td>
<td>(a) Respondent may carry out the</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>the aggrieved person/her children/</td>
<td>(b) Mental trauma, pain</td>
<td>mentioned threats</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>parents/relatives</td>
<td>(c) Any other, specify</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>S. No.</td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td>E</td>
</tr>
<tr>
<td>-------</td>
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<td>------------------------------------------------------------------</td>
<td>------------------------------------------------------------------</td>
<td>------------------------------------------------------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Violence by the Respondent</td>
<td>Consequence of Violence mentioned in Column A Suffered by the</td>
<td>Apprehensions of the Aggrieved Person regarding Violence Mentioned</td>
<td>Measures Required for Safety</td>
<td>Order Sought from the Court</td>
</tr>
<tr>
<td>9.</td>
<td>Forcing not to attend school/college/</td>
<td>(a) Depression</td>
<td>(a) Repetition</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>any other education institution</td>
<td>(b) Mental trauma, pain</td>
<td>(b) Mental trauma, pain</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) Any other, specify</td>
<td>(c) Any other, specify</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>Forcing to get married when do not</td>
<td>(a) Depression</td>
<td>(a) Repetition</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>want to/forcing not to marry a person of</td>
<td>(b) Mental trauma, pain</td>
<td>(b) Mental trauma, pain</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>choice/forcing to marry a particular</td>
<td>(c) Fear of being married forcibly</td>
<td>(c) Any other</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>person of Respondent/s choice</td>
<td>(d) Any other</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.</td>
<td>Threatening to kidnap the child/children</td>
<td>(a) Living in constant fear</td>
<td>(a) Children might be kidnapped</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Threat to the child/children’s safety</td>
<td>(b) Any other</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) Any other</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.</td>
<td>Actually causing harm to the aggrieved</td>
<td>(a) Living in constant fear</td>
<td>(a) Repetition</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>person/children/relatives</td>
<td>(b) Constant fear of further harm</td>
<td>(b) Escalation</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) Any other</td>
<td>(c) Fear of injury</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(d) Any other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13.</td>
<td>Substance abuse (drugs/alcohol)</td>
<td>(a) Living in constant fear of abusive and violent behaviour by</td>
<td>(a) Physical violence after consuming the same</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>the Respondent due to substance abuse</td>
<td>(b) Abusive behaviour after consuming the same</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(c) Non-payment of maintenance/ household expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(d) Any other</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Gender Violence: Form Specific Protocols and Coordination Mechanisms According to Relevant Institutions

<table>
<thead>
<tr>
<th>S. No.</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>History of criminal behaviour</td>
<td>(a) Constant fear of violence</td>
<td>(a) Respondent has a tendency to violate laws and is likely to flout orders passed by the court against him</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Fear of revenge by the respondent</td>
<td>(b) Respondent might cause harm to the aggrieved person/children for filing any further proceedings</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(c) Any other, specify</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Not provided money towards maintenance, food, clothes, medicines, etc.</td>
<td>(a) Driven towards vagrancy and destitution</td>
<td>(a) Have to face great hardship to fulfill the needs and requirements of her child/children and herself</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Any other, specify</td>
<td>(b) Any other, specify</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>Stopped, disturbed from carrying on employment or not allowed to take up the same</td>
<td>(a) Not able to fulfill the basic needs for yourself and your children</td>
<td>(a) Have to face great hardship to fulfill the needs and requirements of her child/children and herself</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Any other, specify</td>
<td>(b) Any other, specify</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S. No.</td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td>E</td>
</tr>
<tr>
<td>-------</td>
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<td>------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>17.</td>
<td>Forced out of the house, stopped from accessing or using any part of the house or prevented from leaving the same</td>
<td>(a) Having no place to stay for yourself and your children&lt;br&gt;(b) Being restricted to a particular area of the house</td>
<td>(a) Safety of her child/children&lt;br&gt;(b) Have to face great hardship in providing shelter for her and her children&lt;br&gt;(c) Any other, specify</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18.</td>
<td>Not allowed use of clothes, articles or things of general household use</td>
<td>(a) Losing possession of the same&lt;br&gt;(b) Not having resources to replace the same</td>
<td>(a) The same may be disposed off by the respondent&lt;br&gt;(b) Any other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19.</td>
<td>Non-payment of rent in case of a rented accommodation</td>
<td>(a) Being asked to leave the same by the owner on such non-payment&lt;br&gt;(b) No alternate accommodation to go to&lt;br&gt;(c) No income to afford a rented accommodation</td>
<td>(a) Losing shelter&lt;br&gt;(b) Facing great hardship&lt;br&gt;(c) Any other, specify</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20.</td>
<td>Sold, pawned stridhan or any other valuables without informing or without consent</td>
<td>(a) Loss of valuables or property&lt;br&gt;(b) Any other, specify</td>
<td>(a) The same may be disposed off by the Respondent&lt;br&gt;(b) Any other, specify</td>
<td></td>
<td></td>
</tr>
<tr>
<td>21.</td>
<td>Dispossessed of stridhan</td>
<td>(a) Deprived of the property in her possession&lt;br&gt;(b) Any other, specify</td>
<td>(a) The same may be disposed off by the Respondent&lt;br&gt;(b) Fear of never receiving the same again&lt;br&gt;(c) Any other, specify</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Gender Violence: Form Specific Protocols and Coordination Mechanisms According to Relevant Institutions

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>S. No.</td>
<td>Violence by the Respondent</td>
<td>Consequence of Violence mentioned in Column A</td>
<td>Apprehensions of the Aggrieved Person regarding Violence Mentioned in Column A</td>
<td>Measures Required for Safety</td>
</tr>
<tr>
<td>22.</td>
<td>Breach of civil/criminal court order, specify order</td>
<td>Please specify</td>
<td>Please specify</td>
<td></td>
</tr>
</tbody>
</table>

**CHALLENGES**

- **In Legal Procedures**

Delay in approaching the Protection Officer is a major issue facing the women wanting to exercise their rights under the Domestic Violence Act. The Domestic Violence Act was created in 2005 even though the common citizens continue to be unaware of the provisions under the Act. Also, due to the perceived stigma, women are hesitant to approach the Protection Offices and service providers and it is only under dire conditions that the women feel motivated to approach the service providers. In Punjab, a number of cases are being reported to the PO after the women have been separated from their husbands making it difficult to provide them any relief since the wife no longer shares the household under the legal provisions of the Act and undertake investigation of a situation that no longer exists.

There is further confusion to provide female access to the residential shelter when both her husband and she have been staying in a joint family or with the relatives in conditions where they have no rights for residential or household property. This requires detailed investigation since the property rights may be rather complex in the extended families.

The Domestic Violence Act also prohibits proceedings against the women members of the accused family.
• In Institutional Governance

The new Act is restricted in the extent to which the services can be made available for the women victims. In Punjab, only Protection Officers have been registered whereas the service providers and the shelter homes are still to be dedicated under this Act.

*Note:* The CPRCs are being slated to become the service providers as even the shelter homes in Punjab are being brought under the ambit of the Act more effectively.

The CDPOs have been designated as the Protection Officers in Punjab. It poses two specific problems: One, a large majority of the domestic violence incidences are precipitated after office hours, when the husband/male members are around. Immediacy of violence or its threat propels a woman to seek protection. However, the POs work only from 9 to 5 and, as such, the women are forced to seek assistance from the panchayat or the police. The police officials are hesitant to provide assistance both due to the domestic nature of the problem and also because they feel that the CDPOs ought to play a more pro-active role since they have been designated as the Protection Officers. Further, Protection Officers are unable to investigate the cases to provide the Magistrate with details and correct background. This falls under the domain of the police and the general resentment that the PO is an unnecessary post. Secondly, the CDPOs are not trained counsellors or even gender-sensitised to deal with these issues. The CPRCs, on the other hand, can only be the service providers as also perform the role of the Protection Officers since they house both the investigative police members and the civil society/departmental functionaries.

• In Social Context

Lack of awareness and acceptance of this Act: Domestic disputes have normatively been contained within the marital relations and any assistance to women other than a wife have some further social constraints. The extent of awareness of Domestic Violence Act is poor even among the police and civil society stakeholders (CPRC functionaries) providing counselling services to the women involved in domestic disputes and violence.
### BOX - 13

**MILESTONES IN DOMESTIC VIOLENCE ACT**

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977-1980</td>
<td>During the post-emergency period of 1977-1980, small groups of women's rights activists in Hyderabad, Bombay, Delhi and Madras had started taking up individual cases of custodial rape, deaths of housewives under mysterious circumstances. Women’s movement in India launched campaigns against rape, domestic violence, sexism in advertisements as well as against state repression during caste and communal riots in the early eighties.</td>
</tr>
<tr>
<td>1983</td>
<td>Domestic violence was recognized as a specific criminal offence by the introduction of Section 498-A into the Indian Penal Code. This section deals with cruelty by a husband or his family towards a married woman.</td>
</tr>
<tr>
<td>January 1992</td>
<td>The National Commission for Women (NCW), was set up as a statutory body under the National Commission for Women Act, 1990 ( Act No. 20 of 1990 of Government of India ) to review the constitutional and legal safeguards for women.</td>
</tr>
<tr>
<td>1992</td>
<td>Lawyers Collective drafted and circulated a Bill on domestic violence. This was widely circulated amongst women's groups and organisations including the National Commission for Women (NCW) known as Remedies from Domestic Violence Bill.</td>
</tr>
<tr>
<td>1994</td>
<td>NCW came out with its draft Bill on domestic violence.</td>
</tr>
<tr>
<td>1996</td>
<td>Political Party BJP for the first time put in its manifesto to enact a special law to deal with the crime of domestic violence against women.</td>
</tr>
<tr>
<td>1998</td>
<td>The Lawyers Collective came out with its draft law on domestic violence after nation-wide consultations with many women's groups. The Government of India introduced a Bill on domestic violence in the Lok Sabha, titled 'The Protection From Domestic Violence Bill 2001'.</td>
</tr>
<tr>
<td>August 2005</td>
<td>The Domestic Violence Act, 2005 was passed by the Parliament .</td>
</tr>
</tbody>
</table>
SEXUAL ABUSE

Background

Sexual violence is another form of violence against women that is widespread. It includes a range of abuse, from eve-teasing, molestation to rape and sexual harassment at the workplace. Sexual violence against the female has deep-rooted connotations in the social norms and beliefs. Predominant among them is the popular acceptance of human sexuality as being synonymous with the male sexual needs which at times is seen to be driven by biological necessity. The female body, on the other hand, is personified as a sexual object. In correspondence to the essentialism of the male sexual needs, the female body is then promoted as an object for the privilege of male desire. Sexual commodification of women then manifests itself in sexual harassment including eve-teasing, molestation, rape and exploitation at the workplace. The extent of incidence is high from unreported sources while the reported cases are much fewer. In Punjab, for every reported rape, there were 68 cases found to be unreported. Sexual violations are a matter of shame and stigma for the women victims as also for their families, given the social norm that women's honour is a matter of family honour.

Eve-teasing, molestation and rape: A continuum?

The degree of visibility to sexual abuse of these crimes is determined to a large extent by the occurrence of physical assault, social placement and the degree of normative sanction to the gender differentiating system. Eve-teasing has low visibility as an abuse. This is mainly because it does not endanger the female chastity and verbal innuendo is not an overtly violent sexual assault. In fact, in certain sections, it is also perceived as normal behaviour.

Eve-teasing has been reported to be widespread yet continues to be practised under the garb of acceptable social conduct. Eve-teasing, as a recognised offence by the Indian law, reflects protection of the ‘modesty of the female’ and is, thus, more organic to the Indian cultural milieu that perceives female chastity as an honour\(^5\) to

\(^5\) Definition of eve-teasing and molestation under Section 509, and 354 I.P.C. respectively use the words ‘intent to insult the modesty’ / intent to outrage her modesty’.
be protected by enforcing its tradition on a woman's movement that strives to link sexual harassment as a discrimination in its efforts to establish equality.

**Molestation: From invisible to visible form**

The legal definition of molestation, notwithstanding that it is an assault of criminal force on a woman with an intent to outrage her modesty, molestation is understood as attempted rape in popular parlance.

**Sexual abuse emanating from social placements**

Female sexual abuse also emanates from social structures. Besides the exploitation of the Scheduled Caste women by the Jat peasantry and sexual harassment at the workplace, certain other roles also promote male-oriented sexual exchange.

**Women as a symbol of group identity**

Sexual violence against women has another dimension wherein women are symbolically perceived to be representing the patriarchal family or group identity. As vanguards of an identity, women become both a symbol of identity which has to be projected and protected and, at the same time, the target for undermining this identity of other competing or asserting identities. Women as the custodians of an identity can be representing the family, the kinship or the broader community such as a religious identity as in Punjab. In peasant communities where land is highly valued, the progeny and the lineage to the male child exerts excessive control on female reproduction and sexuality. In fact, both land and women are perceived as commodities and symbols of identity. Protection of women is necessary to maintain the purity of progeny. In Punjab, while women’s honour has been historically the families’ honour, in recent times the State was a witness to violence rooted in a religio-cultural movement based on the purity of group identity. The concept of purity and pollution exercises control over women’s bodies, particularly, on reproduction, to ensure that the group identity remains distinct and exclusive. It impinges on the woman’s right of sexual autonomy, mobility, freedom of dress and conduct. In identity-related struggles, ‘certain ideals of womanhood are propagated as indispensable for the attainment of an ideal society. These ideals apply to
women’s personal behaviour, dress, sexual activity, choice of partner and reproductive options.

Thus, sexual violence against women in Punjab can be seen from the dimension of having a symbolic consideration i.e. honour, besides sexual abuse emanating from the pre-eminence accorded to male sexuality. Thus, rape in marriage, abusive sex, lack of consideration of the female sexuality, male sexual conquests etc. are condoned in the society. Furthermore, sexual abuse against women needs to be placed in the specific socio-cultural context since that shapes the nature and form of abuse against women. Sexual exploitation of the SC women by Jat land-owners is a historical practice, but the SC political mobilisation is already beginning to assert effectively against that.

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**BOX - 14**

**GLOBAL PREVIEW: SEXUAL HARASSMENT**

A number of population-based surveys have addressed the question of sexual violence by non-partners. The WHO multi-country study on domestic violence showed that the proportion of women who had suffered sexual violence by non-partners after the age of 15 varied from less than 1 per cent in Ethiopia and Bangladesh to between 10 and 12 per cent in Peru, Samoa and the United Republic of Tanzania. These findings are similar to those emerging from other population-based studies. In Canada, for example 11.6 per cent of women reported sexual violence by a non-partner in their lifetime. In New Zealand and Australia, studies have shown that between 10 and 20 per cent of women have experienced various forms of sexual violence from non-partners, including unwanted sexual touching, attempted rape and rape. Preliminary results from Switzerland show that 22.3 per cent of women experience sexual violence by non-partners in their lifetime.  

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6 United Nations, General Assembly, In-depth study on all forms of violence against women, A/61/122/Add.1, pg. 41.
RAPE (Section 376 of IPC)

Law on Rape

Rape is a cognizable offence affecting the human body and it also violates the fundamental of the rights, namely the right to life, as given in Article 21 of the Constitution of India covered under Section 376 of IPC. The law was made in 1860 and remained unchanged till 1983. In 1983, some amendments were made in response to the Mathura rape case. A 16-year old girl was raped by two police men in the police station while her relatives were waiting outside.

MATHURA RAPE CASE – 1972

Mathura was a young, tribal, orphan and illiterate girl and had been living with her brother, Gama. Mathura worked at a house as a domestic help. She developed a relationship with a nephew of her employer Ashok and they decided to marry and eloped. On March 26, 1972, Gama (Mathura’s brother) lodged a complaint at Desaiganj police station alleging that Mathura had been kidnapped by her employers and Ashok. The report was recorded by Head Constable Baburao at whose instance all the three persons complained against, as well as Mathura, were brought to the police station at around 9.00 pm and the statements of the eloped couple were recorded by them. By then, it was 10.30 pm and Head Constable Baburao told them to go after directing Gama to bring a copy of the entry regarding the birth of Mathura recorded in the relevant register. Baburao then left for his house. At that time, the two appellants – the accused policemen, Takaram and Ganpat – were present at the police station. After Baburao had left, Mathura, Nunshi, Gama and Ashok started leaving the police station. The appellants, however, asked Mathura to wait at the police station and told her companions to move out. They then raped Mathura while her brother and others were waiting outside. (On learning of the incident, her relatives along with an assembled crowd threatened to burn down the Police Chowki, the two guilty police men Ganpat and Tukaram, reluctantly agreed to file a Panchnama. The case came for hearing on 1st June, 1974 in the Sessions Court. The judgment turned out to be in favour of the accused and the victim (Mathura was accused of being a liar. It was stated that since she was ‘habituated to sexual intercourse’ and her consent was voluntary, under the given circumstances, only sexual intercourse could be proved and not rape).

On appeal, the Nagpur Bench of the Bombay High Court set aside the judgment of the Sessions Court and sentenced the accused, Tukaram and Ganpat, to one and five years of rigorous imprisonment respectively. The court held that passive submission was due to the fear that had been induced by serious threats could not be construed as consent or willingness for the sexual intercourse. However, the Supreme Court again acquitted the accused policemen. The Supreme Court held that Mathura had raised no alarm, and also that there were no visible marks of injury on her body thereby negating the struggle by her. The judgement was criticised by the law experts, women organisations and the general public.
Open letter to Chief Justice of India - Upendra Baxi, 1979

The Mathura case created a major nationwide campaign on the issue of custodial rape following the open letter written in September 1979 by four legal experts to the Chief Justice of India. This letter questioned the validity of a judgement passed by the apex court and described the Mathura judgement as the extraordinary decision sacrificing the human rights of women under the law and Constitution.

The judgment was also criticised on the ground that the court gave no consideration to the socio-economic status, the lack of knowledge of legal rights, age of the victim, lack of access to legal services and fear of complex which haunts the poor and the exploited in India. “The professors further argued that the facts of the case showed that Mathura had submitted, not that she had consented. The lawyers were also critical of the court for ignoring Section 160 of CrPC which declares that the police officers may not interview a boy under the age of 16 or a female of any age in any place other than his or her residence. This disputed the fact that as recently as 1978, the Supreme Court Justice Krishna had specifically condemned the practice of calling women to the police station as gross violation of Section 160 (1) of CrPC. Yet this issue was never discussed by the court in Mathura case.” This letter was widely disseminated and led to all round resentment.

Resentment by women organisations and other legal experts and civil societies in this case led to an amendment in Section 376 of IPC which included

- Punishment for rape should not be less than 7 years.
- There should be provision of camera proceedings in rape trials
- New Section 376-B, 376-C and 376-D were inserted which were related to the various categories of custodial rape.
- Section 228-A and 228-B were included according to which any disclosure of the identity of the victim or the printing or publishing of the proceedings without prior permission of the court can lead to imprisonment of two years and fine.

Pointers

To prove an offence, two aspects are essential-

- Sexual intercourse by a man with a woman
- The sexual intercourse must be under any of the six circumstances mentioned as below:
  - Against her will:
  - Without her consent
  - Where consent is given under the belief that the person having sexual intercourse with her is a man whom she has been married to, whereas, in fact, it is not so: the consent in such a case is no consent and an act amounting to rape.
  - Consent by a person of unsound mind under intoxication
  - Sexual intercourse with a female below 16 years of age: Till 1890, the age limit was 10 years, then it was raised to 12 years in 1891, again in 1925, the Indian Penal Code Amendment Act raised the age from 12 to 14 years; finally in 1949, age limit was raised to 16 years. The consent of the girl of age less than 16 is unnatural.
  - Consent is obtained under the fear of death or hurt.
Gender Violence: Form Specific Protocols and Coordination Mechanisms According to Relevant Institutions

### PENALTY

<table>
<thead>
<tr>
<th>Section 376</th>
<th>Imprisonment from 7 years to 10 years and fine.</th>
</tr>
</thead>
<tbody>
<tr>
<td>376-A intercourse with his wife during separation.</td>
<td>Imprisonment up to 2 years and fine.</td>
</tr>
<tr>
<td>376-B intercourse by a public servant with a woman in his custody.</td>
<td>Imprisonment up to 5 years and fine.</td>
</tr>
<tr>
<td>376-C intercourse by superintendent of jail, remand home etc.</td>
<td>Imprisonment up to 5 years and fine.</td>
</tr>
<tr>
<td>376-D intercourse by manager etc. of hospital with a woman in hospital.</td>
<td>Imprisonment upto 5 years and fine.</td>
</tr>
</tbody>
</table>

**Other dimension**

If a woman is raped by one or more in a group of persons, each person shall be deemed to have committed gang rape irrespective of the fact whether she had been raped by one or more of them. Therefore, all of them shall be liable to be punished under sub-section (2) of Section 376.

**Punishment**

Minimum sentence prescribed by the Parliament is rigorous imprisonment for ten years but it may extend to rigorous life imprisonment with fine.

**Suicide by Victim**

If the victim in a rape case commits suicide before the trial and is not available for examination but the other evidence proves the guilt of the accused, in that scenario, the non-availability of the victim is no ground for the acquittal of the accused.

**Pointers**

Delay in reporting the crime is no ground for not accepting her testimony. There may be several reasons for the delay in reporting of the crime like

- the victim may be very young
- fear of stigma
- any threat given to her
- fear of being ostracised
- trauma
The complaints of sexual assault cases should be provided with legal representation. In view of the above, the Supreme Court has laid down the following guidelines for the trial of rape cases:

1. The complaints of sexual assault cases should be provided with legal representation. Such a person should be well acquainted with gender services. The Advocate’s role should not merely be of explaining to the victim the nature of the proceedings, to prepare for the case and assist her, but to provide her with guidance as to how she might obtain help of a different nature from other agencies e.g. psychiatric consultation or medical assistance.

2. Legal assistance should be provided at the police station, since the victim may be in a distressed state. Guidance and support of a lawyer at this stage would be of great help.

3. The police should be duty-bound to inform the victim of her right to a counsel before being interrogated.

4. A list of the lawyers willing to act in these cases should be kept at the police station.

5. Advocates shall be appointed by the Court on an application by the police at the earliest, but in order that the victim is not questioned without one, the Advocate shall be authorised to act at the police station before leave of the Court is sought or obtained.

6. In all rape trials, anonymity of the victim must be maintained.

7. It is necessary to set up Criminal Injuries Compensation Board with regard to the Directive Principles contained under Article 38(1) of the Constitution of India as some victims also incur substantial losses.

8. Compensation for the victims shall be awarded by the Court on the conviction of the offender and by the Criminal Injuries Compensation Board — whether or not a conviction has taken place. The Board will take into account the pain, suffering, shock as well as loss of earnings due to pregnancy and child birth if this accrued as a result of rape.

Source: Delhi Domestic Working Women’s Forum Vs. UOI (1995) 1 SCC 14

**ROLE OF POLICE**

- Undertake to get medical examination of the victim by female medical practitioner
- Examination of the accused by a medical practitioner when there is reasonable ground for believing that an examination of the accused will help in evidence.
- Investigation and search of the arrested person.
- Informing the victim regarding her right to get free legal aid under the Legal Services Authorities Act, 1987.
ROLE OF CPRC – WOMEN’S CELL

- CPRC can provide immediate medical examination of the victim as health department functionaries are members of the CPRC
- Can provide counselling to the rape victim
- Can provide counselling to the family members of the victim
- Also provide guidance regarding law and its procedures
- Can assist police in investigation, collecting evidence and medical examination of the victim

<table>
<thead>
<tr>
<th>Law</th>
<th>Meaning</th>
<th>Punishment</th>
<th>Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rape</td>
<td>46.2</td>
<td>39.2</td>
<td>37.8</td>
</tr>
<tr>
<td></td>
<td>Well Aware</td>
<td>Well Aware</td>
<td>Well Aware</td>
</tr>
<tr>
<td>23.1</td>
<td>Moderately Aware</td>
<td>18.2</td>
<td>Moderately Aware</td>
</tr>
<tr>
<td>30.8</td>
<td>Little / Not Aware</td>
<td>42.7</td>
<td>Little / Not Aware</td>
</tr>
</tbody>
</table>

Source: IDC Survey, 2009

Majority of the CPRC functionaries were aware of the various dimensions of the rape law, while punishment and procedures under different contexts of abuse needed to be bolstered. Also, the police staff at CPRC was well-equipped on the rape law and it was the counsellor and other CPRC members who were not aware of the various procedures and dimensions of law.

ROLE OF AFFILIATED AGENCIES

Department of Health
- Can help in undertaking immediate medical examination of the victim and the accused (if necessary)

Department of Rural Development
- Panchayats can inform CPRC-Women’s Cell about any such incident as a large number of cases go unreported due to the stigma attached to
it. CPRC must build network with Panchayats so that they work together to register cases and prevent such instances.

**CHALLENGES**

**Institutional Mechanisms**

- Victim and families get disheartened with the long drawn trials
- Sometimes, the victim takes back the statement and the case is dismissed. The CPRC should continue to build public confidence in the redressal of the crime and in quick delivery of justice.

**Social Challenges**

- The victim is seen with suspicion and revictimisation remains a distinct possibility. The protection of a female’s chastity is perceived to be within the control of a woman. The blame is placed on her conduct and not on the accused which is highly gender-unjust. The stigma attached to the crime also results in low reporting, allowing the criminals to go scot-free.
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1860</td>
<td>Recognised under Section 375 of the Indian Penal Code (first rape law was passed)</td>
</tr>
<tr>
<td>1972</td>
<td>Mathura Rape Case, where 16-year-old tribal girl was raped in a police station.</td>
</tr>
<tr>
<td>1974</td>
<td>Case came for first hearing on 1st June, 1974 in the sessions court.</td>
</tr>
<tr>
<td>1978</td>
<td>Mathura Rape Case-Tukaram and another v/s State of Maharashtra, where two police men apparently raped a tribal girl. The judgement which was delivered by Justice Khosla caused so much outrage that it provided an impetus for the law to be amended.</td>
</tr>
<tr>
<td>1978</td>
<td>Issue of police rape achieved new significance, when feminist groups were in the process of formation, through an incident in Hyderabad where a woman called Rameeza Bee was raped by several policemen, and her husband was murdered when he protested his wife’s rape. A popular uprising ensued: 22,000 people went to the police station, laid the man’s dead body in the station veranda, set up road blocks, cut the telephone wires, stoned the building and set fire to bicycles in the compound. The army had to be called in and the uprising ended only after the State Government had been dismissed and a Commission of Enquiry into the rape and the murder had been appointed.</td>
</tr>
<tr>
<td>1978</td>
<td>Maya Tyagi case in small town of Baghpat in Haryana State where she was stripped, raped and paraded through the streets, the incident made Home Minister Zail Singh go to Baghpat with 10 women MPs and order a judicial enquiry into it. While they were in Baghpat, the Lok Dal, an opposition political party, staged a noisy demonstration against the incident claiming it underlined Congress misrule. A week later, the Parliament debated large scale increase in the incidents of rape and atrocities against women, and several MPs used the issue to demand the resignation of the Home Minister and suggested that death penalty be introduced to punish the rapist.</td>
</tr>
<tr>
<td>1979</td>
<td>Women demonstrations against incidents of police and landlord/employees rape in many parts of country.</td>
</tr>
<tr>
<td>1979</td>
<td>An open letter by four senior lawyers - two men, two women wrote an ‘An open letter to the Chief Justice of India’ protesting the Supreme Court decision in Mathura rape case which sparked off a campaign by feminist groups. Finding this letter in the left wing journal mainstream, the Bombay Feminist Group Forum Against Rape (FAR which is now called the Forum Against Oppression of Women) decided to campaign for the re-opening of the case and wrote to feminist groups across the country to propose that demonstration be held on International Women’s Day (8th March) to demand retrial. This was the first time that feminist groups co-ordinated a national campaign. Groups in seven cities responded to the FAR letter and organised demonstration (8th March) demanding a retrial of Mathura case, the implementation of relevant sections of IPC and changes in the rape law.</td>
</tr>
</tbody>
</table>
### 1983
Rape laws were amended, Sections 376 A, 376 B, 376 C, 376 D.

### 1988
Supreme Court judgement in another case of custodial rape, the Suman Rani case, showed how clauses in the law that were intended to ensure fairness allowed scope for interpretation that ran contrary to the purpose of law. The sentence against Suman Rani’s rapist was reduced because of the supposed conduct of the victim. The Supreme Court judgement seemed to be creating hurdles for the feminist movement which, in 1980, appeared to have at least partially gained its point that the character and conduct should be deemed irrelevant. Feminist groups reacted with a storm of protest. The National Front Government responded promptly with the promise of yet another amendment of the rape law, this time concerning the rules of evidence.

### 2000
Law Commission of India was directed to suggest amendments to the existing rape cases. Consent in rape had created an easy entry point for the defence counsel to introduce a woman’s sexual life and history to discredit her complaint. That allowance made it impossible to secure convictions in the absence of any clear definition. Women groups, therefore, proposed a specific definition of consent as ‘unequivocal voluntary agreement’. Unfortunately, the latest Law Commission of India report rejected this proposal.

### 2005
Enactment of Protection of Women under Domestic Violence Act which defined domestic violence as all forms of abuse – physical, sexual, verbal, emotional and economic.

### 2005
Scheme for Relief and Rehabilitation of the Victims of Rape, 2005. The Supreme Court in Delhi Domestic Working Women’s Forum v/s Union of India and other Writ Petition (CRL) No. 362/93 had directed NCW to evolve ‘a scheme so as to wipe out tears of unfortunate victims of rape’. The Supreme Court observed that having regard to the directive principles contained in the Article 38 (1) of the Constitution, it was necessary to set up criminal injuries compensation board, as rape victims, besides mental anguish, frequently incur substantial financial loss and, in some cases, are too traumatised to continue in employment. The Court further directed that compensation for the victims shall be awarded by the Court on the conviction of the offender and by the Criminal Injuries Compensation Board whether or not conviction has taken place. The Board shall take into account the pain, suffering and shock as well as loss of earning due to pregnancy and the expenses of child birth if this occurs as a result of rape.
MOLESTATION (IPC-354)

**Pointers**
When a man tries to outrage a woman by assault or criminal force, it is called molestation.

**Penalty:** The law punishes such acts with jail up to two years.

EVE-TEASING (IPC-509)

**Pointers**
If a man teases a woman or behaves with her in an undignified manner by insulting her modesty by uttering any word, sound, or makes a gesture or exhibition intruding on her privacy, he is liable for punishment. People in general are not aware of this law but the need for this is increasing day by day. Girls are teased in schools, colleges, at bus stands and in the villages. If this law is enforced, there can be peace in both rural and urban areas and women will have a sense of security.

**Penalty:** Imprisonment up to one year and a fine can also be imposed.

<table>
<thead>
<tr>
<th>Law</th>
<th>Meaning</th>
<th>Punishment</th>
<th>Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Molestation</td>
<td>28.0 Well Aware</td>
<td>28.0 Well Aware</td>
<td>23.1 Well Aware</td>
</tr>
<tr>
<td></td>
<td>16.8 Moderately Aware</td>
<td>08.4 Moderately Aware</td>
<td>11.9 Moderately Aware</td>
</tr>
<tr>
<td></td>
<td>55.2 Little / Not Aware</td>
<td>63.6 Little / Not Aware</td>
<td>65.0 Little / Not Aware</td>
</tr>
<tr>
<td>Eve-teasing</td>
<td>22.4 Well Aware</td>
<td>21.0 Well Aware</td>
<td>23.0 Well Aware</td>
</tr>
<tr>
<td></td>
<td>39.2 Moderately Aware</td>
<td>14.0 Moderately Aware</td>
<td>16.1 Moderately Aware</td>
</tr>
<tr>
<td></td>
<td>38.5 Little / Not Aware</td>
<td>65.0 Little / Not Aware</td>
<td>60.8 Little / Not Aware</td>
</tr>
</tbody>
</table>

**Source:** IDC Survey, 2009

Legal provisions relating to sexual abuse in the range of harassment, teasing and molestation are not quite clear to the CPRC functionaries. In contrast to the awareness on the rape laws, the staff were comparatively lesser aware of the legal meaning of molestation, its scope and punishment for the crime. Most of them were unaware that punishment under 509 can be awarded to the accused.
ROLE OF POLICE IN SEXUAL HARASSMENT

- Strict implementation of law by increasing patrolling in casual dress particularly in hot spots like vicinity of schools, colleges, cinema halls etc.
- Investigation and registration of F.I.R. of cases to be pursued more vigorously rather than confirming the efforts to only counselling or ignoring the complaints.

ROLE OF CPRC-WOMEN CELL

- Women's Cell can tie-up with educational institutions and spread awareness on sexual harassment as a crime under IPC that is punishable by law.
- Creating special eve-teasing cells within the Women’s Cell to evolve an area-specific comprehensive strategy to deal with sexual harassment issues.
- Victim can report the case with the help of Women’s Cell to the police, and the CPRC can get investigation and registration of the case carried out.

ROLE OF AFFILIATE AGENCIES

Department of Education

- Spread awareness regarding the crime in all the educational institutions.

Rural Development Department

- Panchayats usually resolve cases of sexual harassment on their own either by threatening the offender or by effecting a compromise. Panchayats should also be encouraged to report the cases to Women's Cell as more reporting will lead to a change in the thinking that the offender can be punished in the courts for such crimes.
CHALLENGES

Legal

There are obstacles in investigation unless there is some concrete evidence, since verbal comments are difficult to prove. As such, preventive action involving the stakeholders for creating a safe environment for women becomes important. A visible investigation can send a strong message that any violation of women's dignity will not be tolerated.

Institutional Response

Since both the victim and the police perceive it as a mild crime, such cases are hardly reported. Even if they are, the punishment is generally bypassed as most of the offenders in such cases are young and a police report can affect their future negatively. The CPRC committee must approach eve-teasing cases as a violation of women's security which can lead to extreme abuse such as molestation and rape.

Social

- Not considered a crime by the society for it feels that the young, college-going children do it for the sake of fun. However, acceptance can legitimise such behaviour and sensitisation of the gender rights can be initiated at different forums.

- The victim is re-victimised and treated as a culprit as it’s ‘believed’ that girls and their ‘dressing style’ has invited the sexual abuse. However, no human being has any right to infringe on the physical being of another.
SEXUAL HARASSMENT AT WORKPLACE

Background on guidelines by Supreme Court on sexual harassment

Sexual harassment is a violation of the human rights which entail right to life, liberty, equality and dignity of the individual as laid down by the Constitution of India, and any type of sexual harassment, whether outside or at a workplace, is a violation of the human rights. Till date, no Act has been made that deals with the sexual harassment at the workplace; only guidelines have been issued by the Supreme Court known as the ‘Vishaka Guidelines’ for the protection and prevention of sexual harassment of women.

The Vishaka Vs State of Rajasthan and others is a landmark case, where sexual harassment had been legally defined as an unwelcome sexual gesture or behaviour. The case was filed under public interest litigation by a non-government organisation named ‘Vishaka’ to seek an enforcement of the fundamental right of working women under Article 21 of the Constitution. Since there is no Act, a victim can file the case under Sections 209, 509 and 354 of the IPC.

LANDMARK CASE

The Bhanwari Devi case led to the Supreme Court issuing guidelines on sexual harassment known as the Vishaka Guidelines which were issued on 13th August, 1997.

In 1992, Bhanwari Devi was working as a Sathin (village development worker) for the women’s development programme of the Rajasthan Government. Forty one-year-old Bhanwari tried to persuade a Gujjar family not to get their one-year old daughter married. The police was also involved and stepped in to prevent the marriage. The child marriage, however, took place the next day. Holding her responsible for the police intervention, the village panchayat ordered a boycott of Bhanwari and her family. She was asked to leave the village, but she refused. On September 22, 1995, five upper caste men raped Bhanwari in the presence of her husband. The rape was widely seen as a punishment of defiance and her challenge of the accepted cultural norms. When she approached the police, they initially refused to record her statement. Past midnight, they asked her to leave her clothes behind as evidence and return to her village. She did, and returned wearing her husband’s dhoti. After this, she went for a medical examination to Jaipur, where the medical report did not confirm rape. It stated only her age. Initial police investigations too held her rape allegations to be false. According to them, she was too old and unattractive to be raped by young men. But the pressures from the women groups and civil rights organisations forced the Government for a probe by the Central Bureau of Investigation (CBI). The CBI found all statements by Bhanwari to be true. A trial began in 1994. There were constant threats and pressures on Bhanwari to withdraw the case. On 15th November, 1995, the Court recorded that the delay in filing her complaint with the police and in obtaining a medical examination indicated that she had made up the story. Early 1996, women’s organisations, CBI and the Rajasthan Government filed an appeal in the High Court against the acquittal.

The case led to women’s organisations filing petition in the Supreme Court, asking for directions regarding sexual harassment at the workplace. The court judgment known as Vishaka Guidelines, hold the employers responsible for providing a safe environment for women.
Definition

According to the Supreme Court guidelines, sexual harassment is any unwelcome sexually-determined behaviour which includes:

- Physical contact
- A demand or request for sexual favours
- Sexually-coloured remarks.
- Showing pornography
- Any other physical, verbal or non-verbal conduct of sexual value when any of these acts is committed in circumstances against any person and such person has a reasonable apprehension that:
  - it can be humiliating and may constitute a health or safety problem.
  - when the victim has reasonable apprehension that her objection against the act can affect her employment, promotion or recruitment or it can create hostile work environment.

Who all come under these Guidelines?

Any women working and drawing honorarium, wages in government or private, organised or unorganised sector are covered under these guidelines.

Pointers

Can file case under Sections 509, 354 and 209 of IPC and every organisation ought to have a committee on sexual harassment which includes police department also.

Procedural mechanisms

According to the Supreme Court guidelines, the organisation should constitute a complaint committee. The committee should be:

- Headed by a woman
- Not less than half of its members should be women.
- It should involve a third party either an N.G.O. or any other body familiar with the issue of sexual harassment.
Preventive mechanisms

All employers to take appropriate steps to prevent sexual harassment at the workplace which includes:

- Displaying and circulating the definition of sexual harassment.
- Ensuring that there is no hostile environment towards women.

Action required

Any such conduct to be immediately reported to the appropriate authority/complaint committee and action to be taken as per the offence under Indian Penal Code.

- The victim has the option to seek the transfer of the perpetrator or her own transfer.

Third party harassment

If sexual harassment occurs by an outsider other than those working in the same workplace, it’s the duty of the employer to assist the victim in terms of support and preventive action.

Laws under which a case can be registered

- Section 209 of IPC which deals with obscene acts and songs.
- Section 354 of IPC which deals with assault or criminal force to a woman with the intent to outrage her modesty.
- Section 509 of IPC which deals with word, gesture or act intended to insult the modesty of women.

<table>
<thead>
<tr>
<th>BOX - 17</th>
</tr>
</thead>
<tbody>
<tr>
<td>GOOD PRACTICE - INTEGRATED APPROACH: ROPAR CPRC</td>
</tr>
<tr>
<td>The Ropar CPRC has planned a comprehensive strategy to address sexual harassment at the workplace.</td>
</tr>
<tr>
<td>1. <strong>Network with the stakeholders</strong>: A special committee on sexual harassment at the workplace has been evolved at the CPRC with membership drawn from the college principals, advocates and civil society members.</td>
</tr>
<tr>
<td>2. <strong>Vertical and horizontal structure</strong>: The committee is functional across the district and tie-ups at the grassroot level have been initiated.</td>
</tr>
<tr>
<td>3. <strong>Awareness activities</strong>: The law on sexual harassment and the formation of the committee has been advertised in the vernacular papers and through hoardings.</td>
</tr>
<tr>
<td>4. <strong>Facilitating redressal</strong>: The committee is undertaking discreet investigation and building confidence in the selected work outlets for women for approaching the CPRC in case of any need.</td>
</tr>
</tbody>
</table>
ROLE OF POLICE

If the charges are proved, then the police can take action under Sections 509 and 294 of the IPC.

ROLE OF CPRC – WOMEN’S CELL

CPRC can become the third party in any complaint before the committee and the women can call at the helpline number of the CPRC that is also helping the heads of the organisations to form committees and implement the guidelines issued on sexual harassment by the Supreme Court. Also, the Women’s Cell

- Can conduct enquiry independently when complaint is made before the complaint committee.
- If a victim doesn’t want to reveal her identity at her workplace, she can give her complaint in the police station and they, in turn, can discreetly undertake enquiry with the help of CPRC and submit the report accordingly.
- Submit the report to the head of organisation and recommend the penalty to be imposed.
- Provide counselling to the victim
- Can act as a pressure group for forming sexual harassment committees in the organisations in the formal sector.
- Women’s Cell can create awareness in the community

<table>
<thead>
<tr>
<th>Guidelines</th>
<th>Meaning</th>
<th>Punishment</th>
<th>Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual harassment</td>
<td>10.5 Well Aware</td>
<td>09.1 Well Aware</td>
<td>08.4 Well Aware</td>
</tr>
<tr>
<td></td>
<td>27.3 Moderately Aware</td>
<td>16.1 Moderately Aware</td>
<td>21.0 Moderately Aware</td>
</tr>
<tr>
<td></td>
<td>62.2 Little / Not Aware</td>
<td>74.8 Little / Not Aware</td>
<td>70.6 Little / Not Aware</td>
</tr>
</tbody>
</table>

Source: IDC Survey, 2009

Perhaps, the least awareness on the type of VAW was in regard to the sexual harassment at the workplace. The context of legal protection, scope and procedures remained largely unknown to the majority of the staff at various CPRCs. One exception was the Ropar CPRC which had tackled the issue by building confidence of the stakeholders, holding awareness campaigns and preparing a plan to address this violation across the district.
ROLE OF AFFILIATE AGENCIES

Department of Labour

- Labour Inspector/Commissioner can be the part of complaint committee in the unorganised sector.

- Department of Rural Development, Zila Parishad and Panchayat Secretary to be involved. A complaint can be made to the panchayat in the villages in case the women labourers face any such harassment.
DOWRY-RELATED VIOLENCE

Background

Dowry exchange: A legitimate practice

The transfer of payments upon marriage from the family of the bride to the groom’s family is called dowry. Dowry exchange is a traditional custom, whereby the practice of Kanyadan, in pre-puberty Hindu marriage provides a “gift”: when marriage is consummated and with each ritual of Simanta performed for the pregnant women. It is a practice based on a system of hierarchical and non-reciprocal relations in which the hegemony of the bride-taking family over that of the bride’s natal family is reflected. The relationship between the two families has been described as asymmetric and non-reciprocal and has been connected with a high incidence of dowry payments in which gifts at the time of marriage become the property of the groom and his family. According to Mies, dowry is a tribute from the bride’s family and reflects the superior relationship of the bride-receiving family. According to her, “dowry, therefore, is a clear manifestation of a structurally hypergamous, non-reciprocal, asymmetric and extractive relationship between (i) bride-giving and bride-receiving families, and (ii) between men and women.”

The law regarding daughters’ right to property was found to have increased payment of dowry, especially among the peasantry who said they had to give more dowry now in proportion to the property owned by the family. Interestingly, there was resentment among the parents that the girls were now themselves demanding more dowry as compensation to the loss of property. This seemed to pinch the peasantry in Doaba and Majha regions of the Punjab State more because their landholdings are already pressurised and also, since the girls had a higher level of awareness, while the interior of Malwa continued to be coloured by feudal functioning and pronounced level of submission by the women.

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8 Kapadia, K.M. (1968), Marriage and Family in India London: Oxford University Press.
It is this distancing of the natal family from the girl that gets finally confirmed at the time of the marriage with an accompanying dowry that curtails her avenues to retrace her steps back to her natal home.

**Dowry harassment: A logical outcome**

Dowry demands manifesting in dowry harassment and often leading to threat to life acquire greater visibility. While the dowry demand put across the groom’s family’s assertion for dowry that may or may not be accorded to, however, the harassment forces a reaction from the girl’s family. More often than not, dowry harassment results in submission to the demand by the girl’s family.

Since dowry exchange is normatively sanctioned and materially desired, bargaining for dowry and resort to harassment are not considered outside the realm of typical social behaviour. Thus, interventions are sought to settle the matter amicably with financial adjustments without a break-up of the marriage. The social value of the marriage propels its continuation even at the cost of physical abuse.

**The evolution of dowry laws**

The first effort to curb the menace of dowry was made in 1939 when Government of Sind passed an Act known as ‘Sind Deti Leti Act’. This law did not fully ban the giving and taking of dowry, but rather put some limit on the giving and taking of gifts and prescribed punishment for breaking the law. After Independence, Bihar was the first state to pass a law on dowry known as ‘The Bihar Dowry Restraint Act, 1950’ followed by ‘Andhra Pradesh Dowry Act 1958’. However, both the Acts were not successful in curbing this practice as Bihar Act 1950 defined dowry as anything paid or delivered in consideration of a contract of any betrothal or marriage. The Andhra Pradesh Act defined it as any property or valuable security given or agreed to be given to one party by the other party at the time of marriage or before or after the marriage as consideration for the betrothal. Gifts were not included in both the Acts and offence made was non-cognizable and bailable. The loopholes in both the Acts, however, were rectified in 1961 when the Dowry Prohibition Act was made and dowry was defined in a new perspective making the crime cognizable and non bailable. But in spite of the enactment of the Dowry Prohibition Act 1961, crimes against women, especially physical violence and unnatural deaths, continued to be committed. In fact, the crimes were on the rise and these deaths were considered either suicide or accidents since no proper section existed in the said Act to define
them. It was in 1979-80 when women movements protested against such crimes that amendments in the dowry laws were made.

**LAND MARK CASE OF TARVINDER KAUR**

Tarvinder Kaur, 24 years, of Model Town Delhi, had died of burns, while she was watching T.V. on the evening of May 17 1979. Her mother-in-law poured kerosene on her clothes and her sister-in-law set her afire. In spite of Tarvinder's dying statement to this effect, the police registered a case of suicide. Her father said she had been underconstant pressure to get more dowry from her parents so that her husband could expand his motor spare parts business. On June 1st, a large group marched through the streets where her in-laws lived shouting 'punish the Tarvinder in-laws, stop burning brides'. On June 12, Nair Raksha Samiti organised a large procession from Chandni Chowk to Parliament Street, where a memorandum was presented to the Home Minister. There were working women, housewives, women from minority groups etc and this action by women was given wide publicity in the press and on TV. The Delhi State Mahila Federation held a public meeting on June 26 and a resolution was passed urging the government to make dowry a cognizable offence.

It was after the protest of the women's organisations that the first amendment was made by introducing Section 498-A in 1983 which provided relief to the married women who were victims of domestic violence and all cases pertaining to dowry harassment/cruelty by the husband and relatives started getting registered under this section. Also, dowry prohibition officers were appointed to keep a check on dowry. In 1986, further amendment was made in the Act with the introduction of Section 304-B which defined any unnatural death within seven years of the marriage as a dowry death.

**Pointers**

According to tradition, several kinds of articles are given as dowry, such as, TV, video, cycle, cooler, grinding machine, other articles of household use, jewellery, cash etc. The girl's parents collect dowry with great difficulty, sometimes even by borrowing or mortgaging their house or other property. All parents give dowry to their daughters according to their capacity and social status, however, the trouble is perceived only when dowry is demanded and the bride is harassed to bring more.

It is worth noting that the society does not decry the custom of dowry. Only when there is a demand or harassment, people take recourse to the law. When it is the matter of making a deal, and the price of the boy is determined on the basis of his occupation and property, then dowry takes the form of business commission. As long as there is dowry, there will also be demand for dowry. Considering this, the Government has passed laws against dowry.
Extent of dowry crime in India

In 2007, 8093 incidents of dowry deaths and 75,930 cases of cruelty against women by husbands and relatives were reported in India. Dowry-related crimes form the largest proportion of the reported crime against women. From 1996 to 2007, dowry harassment cases increased by more than 100 per cent and these formed 41 per cent of the total violence cases reported against women.

Graph - 7
Dowry Related Crime in India from 1996-2007

Source: Crime in India, 1996-2007, National Record Crime Bureau

In Punjab, dowry-related cases also formed the largest proportion of the reported violence cases against women. In 1987, there were 63 cases reported under Section 498A and the number increased to 971 in 2007. Dowry deaths have also registered an increase. In 1987, 70 cases were reported which went up to 133 in 2007. The extent of dowry-related abuse is much more widespread if one considers the unreported cases. A survey by the Institute for Development and Communication in 199411 revealed that for every reported dowry harassment case, 299 cases go unreported. The brutality of the dowry death is more visible and for every reported

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case, there were 27 unreported cases of dowry deaths. A more recent study reveals that every seventh household in Punjab has faced dowry harassment.

**Scope of Law: The Dowry Prohibition Act 1961**

Dowry means any property or valuable security given or agreed to be given either directly or indirectly by one party in the marriage to the other party. It is an accepted social fact that dowry is given by the bride’s parents or relatives to the groom or his parents and/or the guardians for the agreement to wed the bride-to-be.

- It does not include dower or mahr in the case of the persons to whom the Muslim Personal Law (Shariat) applies

- Presents which are given at the time of a marriage to the bride or bridegroom (without any demand having been made in that behalf) and, provided such presents are entered in a list maintained in accordance with the rules made under this Act, do not come under dowry, rather they are customary in nature.

**DOWRY LAWS**

**Dowry Exchange - An offence**

- It is an offence to accept dowry.
- It is an offence to help in the giving or taking of dowry.
- It is an offence to demand dowry.

**Penalty for the giver or taker of dowry**

- Imprisonment up to five years.
- Fine up to Rs. 15,000.
- If the amount of dowry exceeds Rs. 15,000, the fine is equal to the amount of the dowry.

**Penalty for demanding dowry**

- Imprisonment for at least six months and fine.
DOWRY HARASSMENT (SECTION 498-A OF IPC)

Pointers
At times, the in-laws, with or without the involvement of the husband, harass the bride for more dowry. It could be a direct demand for money or goods, or indirect hints that she has not brought anything from her parents, along with ill treatment. According to the law, if a husband or any of his relatives is cruel to a woman on account of dowry, they can be sent to jail for three years and can also be fined. The following information will be helpful in understanding the meaning of cruelty:

- Wilfully beating the woman, subjecting her to torture that can endanger her limb or health. Cruelty does not mean only beating.
- Any ill-treatment that forces the woman to commit suicide amounts to cruelty. Cruelty can be both physical as well as mental.
- If a woman, after her marriage, is compelled to bring money or other property and is ill-treated, it amounts to cruelty and such action is punishable.
- Harassing a relative of a woman to give money or property is also cruelty for which the law prescribes a punishment.

Further,
-Demanding dowry in any shape or form either before or after the marriage is an offence.
- No agreement or contract in law is valid to give and receive dowry.
- Whatever gifts are given that should be recorded in the maintenance list of the presents.
- Any person who receives any valuable security/dowry should transfer it to the woman on whose behalf it was received within three months of the marriage and any person who retains the dowry and does not return the same to the woman, is guilty of criminal breach of trust under Section 406 of IPC and shall be sentenced to imprisonment upto 3 years or with fine or both.
- Also, if the husband denies conjugal rights because of less dowry, he can be imprisoned upto 1 year and fined upto Rs. 5,000.

Penalty: Harassment for dowry or ill treatment due to dowry is punishable with imprisonment up to 3 years.
DOWRY DEATH (Section 304-B of IPC)

**Pointers**

If a woman is meted out cruel treatment for not getting dowry and she meets with an unnatural death within seven years of her marriage, her husband and other in-laws will be held responsible for her death. They need not be proved guilty. All that needs to be proved is that some time before her death, the woman was subjected to cruelty over dowry.

**Penalty:** They can be given at least seven years in jail with a maximum of twenty years.

The court will presume that the death has been caused by the in-laws.
After the enforcement of the Dowry Act 1961, each State amended the Act and inserted some sections which are applicable only in their respective States. In Punjab, marriage celebrations are quite lavish and huge amount is spent on the wedding ceremonies and giving dowry. So, the Punjab Government, in order to curtail the expenses of wedding, amended this act and inserted Section 4-A in 1976.

THE DOWRY PROHIBITION (PUNJAB AMENDMENT ACT 1976)

In 1976, Dowry Prohibition Act, 1961 was amended by Punjab Government through Punjab Act 26 of 1976 and introduced Section 4-A which is applicable to the State of Punjab. According to this section, any person who -

1) Displays any presents made at the time of such marriage in the form of cash, ornaments, clothes or other articles

2) Takes in the marriage party of more than 25 persons exclusive of minors and the members of the band

3) Gives in the form of Shagun at the time of Thaka, anything the value of which exceeds 11 rupees

4) Gives to the parents or the relatives of the party anything on occasion of Milini

5) Serves to the marriage party more than two principal meals

can be subjected to punishment.

PUNISHMENT

Imprisonment upto 6 months or with fine which may extend to Rs. 5,000/- or both.

Appointment of Dowry Prohibition Officers

The State Government, as per the Act, has appointed Dowry Prohibition Officers who will perform the following functions:-

- See to it that the provisions of this Act are implemented.
- Prevent taking or abetting the taking of or the demanding of dowry.
- Collect such evidence as necessary for the prosecution of the persons committing offences under the Act.
- Performing additional functions as may be assigned by the State Government.
BOX – 19
GOOD PRACTICE: OUTREACH STRATEGY FOR GENDER-RELATED ABUSE: AMRITSAR

1. **Publically accessible outreach centres**: The Amritsar CPRC is responsive to the cultural sensitivities while dealing with the counselling of the marital disputes. These are largely dowry-related.

<table>
<thead>
<tr>
<th>Total Cases</th>
<th>355</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disposed Off</td>
<td>205</td>
</tr>
<tr>
<td>Compromise</td>
<td>130</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>034</td>
</tr>
<tr>
<td>FIR Lodged</td>
<td>040</td>
</tr>
<tr>
<td>Recommended for FIR</td>
<td>010</td>
</tr>
<tr>
<td>Pending</td>
<td>150</td>
</tr>
</tbody>
</table>

**Source: Women Cell Amritsar, 2009**

1. People's hesitation to approach the Women’s Cell has led the CPRC-Women's Cell to tie up with the more approachable venues of school premises to conduct counselling of the involved parties. They have taken space in two separate schools.

2. **Theatre activism**: Theatre artists are sent to the villages and the interior areas to spread awareness regarding gender violence and drug abuse.

3. **Dovetailing resources**: A prominent NGO, called Pingalwada, is working largely to provide homes for the destitute children and is a partner of the Women’s Cell in providing shelter to the women in need.

4. **Police posts staffed with women**: Eight interior police posts have been provided with women police staff to assist the women involved in domestic violence.

### Table - 12
Status of Cases of Marital Disputes in Amritsar Women Cell From 01-01-2009 to 08-06-2009

<table>
<thead>
<tr>
<th>Status</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disposed Off</td>
<td>205</td>
</tr>
<tr>
<td>Compromise</td>
<td>130</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>034</td>
</tr>
<tr>
<td>FIR Lodged</td>
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<tr>
<td>Recommended for FIR</td>
<td>010</td>
</tr>
<tr>
<td>Pending</td>
<td>150</td>
</tr>
</tbody>
</table>

**Source: Women Cell Amritsar, 2009**

### Table - 13
Awareness of CPRC Functionaries on the Dowry Prohibition Act 1961

<table>
<thead>
<tr>
<th>Law</th>
<th>Meaning</th>
<th>Punishment</th>
<th>Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dowry Demand</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26.6</td>
<td>Well Aware</td>
<td>23.8</td>
<td>25.9</td>
</tr>
<tr>
<td>36.4</td>
<td>Moderately Aware</td>
<td>21.7</td>
<td>24.5</td>
</tr>
<tr>
<td>37.1</td>
<td>Little / Not Aware</td>
<td>54.5</td>
<td>49.7</td>
</tr>
<tr>
<td>Dowry Harassment (498A)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>44.1</td>
<td>Well Aware</td>
<td>39.2</td>
<td>37.8</td>
</tr>
<tr>
<td>31.5</td>
<td>Moderately Aware</td>
<td>23.8</td>
<td>25.2</td>
</tr>
<tr>
<td>24.5</td>
<td>Little / Not Aware</td>
<td>37.1</td>
<td>37.1</td>
</tr>
<tr>
<td>Dowry Death (304B)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>50.3</td>
<td>Well Aware</td>
<td>44.1</td>
<td>42.0</td>
</tr>
<tr>
<td>20.3</td>
<td>Moderately Aware</td>
<td>19.6</td>
<td>20.3</td>
</tr>
<tr>
<td>29.4</td>
<td>Little / Not Aware</td>
<td>36.4</td>
<td>37.8</td>
</tr>
</tbody>
</table>

**Source: IDC Survey, 2009**

The police staff were well-versed in the dowry law and other related legal provisions. The civil staff, on the contrary, were less equipped in terms of legal capacity, but were more gender-sensitive and concerned in resolving the disputes. The more brutal and visible the crime i.e. dowry death, more aware were the CPRC personnel in enforcing the legal provisions and action to be taken.
**ROLE OF POLICE**

- Women police stations can investigate and register the FIR and collect evidence for the prosecution of the case. They can also tie up with the police for further investigation and prosecution in court.

- The CPRC can tie up with Dowry Prohibition Officers, who are also Child Development Project Officers (CDPOs) in Punjab, and they can help in collecting evidence against the accused.

- Arrest the persons against whom the complaint is made without a warrant or without an order of the magistrate.

- Recording the dying declaration in the case of dowry death.

**ROLE OF CPRC-WOMEN CELL**

- Tying up with panchayats and Dowry Prohibition Officers. To check dowry demand and to encourage the recording of the dowry exchanged.

- For dowry harassment, network with Women’s Cell, women police station and police station, so that recovery of the dowry articles can be made and investigation/enquiry can be held properly and promptly.

- Taking the complaint related to dowry and sending it to the concerned police station for investigation.

- Counselling of both parties.

- Follow up in the case and the matter is resolved by involving panchayats and the relatives.

- Act as pressure group by involving the civil society against the persons who are involved in the crime.

- Police has the authority to register an FIR whereas the Women's Cell does not. If, during interaction of the domestic maladjustment cases, the Women's Cell learns that the case is actually of dowry demand or harassment, they can direct it to the police station for lodging an F.I.R. and for further investigation. Also, the police and the Women’s Cell can send notice to summon the other party if they are not responding to their call to discuss the matter.
ROLE OF AFFILIATED AGENCIES

Department of Health and Family Welfare

CPRC can tie up with the department to provide immediate treatment in case of any bodily injury or burns in cases of dowry harassment.

Department of Social Security and Women and Child Development

The CDPOs are appointed as Dowry Prohibition Officers and can network with the police to provide support in the investigations.

Rural Development Department

Police can tie-up with the village panchayats so that any case of harassment or dowry demand is immediately reported to the police and the panchayats, who in turn can help in the investigation of the case.

CHALLENGES

Institutional Mechanisms

- Dowry Prohibition Officers exist only in name. They need to be made effectively operative. Members of CPRC, the committees, the PO will have to be well-versed in the social and legal dimensions of dowry crimes. The concept of dowry is more of a voluntary practice and is a part of the custom and tradition, making legal intervention difficult. Dowry exchange has to be addressed to check dowry harassment and deaths.

- If the cases are brought to the notice of police, these are sent to the Women’s Cell for counselling and reconciliation. These cases can now, however, be noted under the Domestic Violence Act and, in case the complainants want to register a case later, it can be easily done.

- A number of false cases are also registered under the Dowry Act. These cases can be investigated with the help of CPRC-Women Cells in coordination with the CDPOs.

Social Challenges

- Since dowry exchange is a tradition, there are no complaints/reporting of dowry demand.

- Dowry demand and associated pressures are resolved within the family as it is considered a private matter. If a complaint is made, the authorities recommend the counselling, advice and adjustment to the women in most cases. A female and her family should be provided all legal avenues and support services available in the State so that they can make an informed choice.
### Box - 20

**Milestones in Dowry Act**

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1939</td>
<td>The provincial Government of Sind passed an enactment known as Sind Deti Leti Act, 1939.</td>
</tr>
<tr>
<td>1950</td>
<td>Enactment of ‘The Bihar Dowry Restraint Act’.</td>
</tr>
<tr>
<td>1953</td>
<td>During the course of discussions on a non-official Bill in the Lok Sabha on 24th April, 1959, the Dowry Prohibition Bill was introduced in the Lok Sabha.</td>
</tr>
<tr>
<td>20th May, 1961</td>
<td>The Dowry Prohibition Bill was passed in the Joint sittings of both the Houses of Parliament and it became an Act – The Dowry Prohibition Act, 1961 (28 of 1961) and it received the assent of the President.</td>
</tr>
<tr>
<td>1975</td>
<td>West Bengal made some amendment in the Dowry Act.</td>
</tr>
<tr>
<td>1976</td>
<td>State Amendments in Dowry Act by Haryana, Himachal Pradesh, Punjab, Bihar, Orissa.</td>
</tr>
<tr>
<td>1977</td>
<td>BJP and Congress introduced the issue of dowry in their manifestoes.</td>
</tr>
<tr>
<td>1979</td>
<td>Mahilla Dakshata Samiti was the first women’s organisation in Delhi, ‘Contemporary Feminist Movement’ to take up the issue of dowry and dowry harassment. It was Stri Sangharash, a fledging feminist group, that drew public attention to dowry-related crimes.</td>
</tr>
<tr>
<td>1979</td>
<td>Stri Sangharash organised a demonstration against the death of Tarvinder Kaur, a young woman from Delhi, whose dying statement was that her in-laws killed her because her parents could not fulfill the in-laws ever-increasing demands. The demonstration was widely reported by the national press.</td>
</tr>
<tr>
<td>1979</td>
<td>One of the biggest demonstrations led by Nari Raksha Samiti (Women’s Rescue Committee) against dowry deaths was headline news. After that, each demonstration was headline news and a public debate began on dowry and dowry related crimes.</td>
</tr>
<tr>
<td>1980</td>
<td>Year after the anti-dowry agitation began; the Government passed a law against dowry-related crimes that recognised abetment to suicide because of dowry demands as a special crime and made mandatory police investigation into the death of any woman within five years of marriage.</td>
</tr>
<tr>
<td>1982</td>
<td>Though the law was passed in 1980, the first positive judgment came only in 1982, when a Delhi Sessions Court Magistrate found two people guilty of the dowry murder and sentenced them to death.</td>
</tr>
<tr>
<td>1983</td>
<td>This judgment was reversed by Delhi High Court. Women’s group from the party affiliated left and autonomous group protested and were held for the contempt of court.</td>
</tr>
<tr>
<td>1983</td>
<td>December 1983, the Criminal Law (Second Amendment Act) was passed, which made cruelty to a wife a cognizable, non-bailable offence punishable upto three years of imprisonment.</td>
</tr>
<tr>
<td>1984</td>
<td>BJP raised the issue of dowry death in the manifesto advocating to treat burn injuries as attempt to murder and dowry death as murder vide Section 302 of I.P.C.</td>
</tr>
<tr>
<td>1984</td>
<td>The Dowry Prohibition Amendment Act substituted for the words as consideration for the marriage of the said parties, but does not include by Act No. 63 of 1984. ‘Explanation I’ omitted by Act No. 63 of 1984.</td>
</tr>
<tr>
<td>1985</td>
<td>The Supreme Court upheld the verdict but converted the sentence to life imprisonment.</td>
</tr>
<tr>
<td>1986</td>
<td>The Dowry Prohibition (Amendment) Act, and substituted for the words ‘or after the marriage’ by Act No 43 of 1986.</td>
</tr>
</tbody>
</table>
FEMALE DESELECTION: THE PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX SELECTION) ACT, 1995

FEMALE DESELECTION

Background

The male child preference continues to dominate, adapting to the changed circumstances and continues to draw its legitimacy from a gender-biased system. The legitimacy attached to the male child preference in the society can be captured from the widespread awareness of and use of methods to determine the sex of the unborn child — both traditional and modern.

The social and familial status of the mother who gives birth to a male child is enhanced. The role of a mother was considered to have remained unfulfilled even after giving birth to a female child if a male child was not born, expressing conformity to the value of motherhood in a patriarchal society.

Support for the male child preference is continued through promotion of the traditional means to beget a male child while circumventing the necessity for killing the female child. The lack of a male child is untenable and the killing of a female foetus uncomfortable, but the choice is clear. Many a time, the decision is left to the couple, allowing others in the family to avoid the blame of having visibly supported a foeticide.

The legitimacy to acquire a male child may differ on the different methods often adopted by the people. Traditional means such as seeking God's blessings, visits to the places of pilgrimage, Mannat, Haqims and alternative remedies/medicines are favoured in all the communities. Sex determination tests are seen as a modern technology which causes blatant elimination of the female life, and are yet to acquire blatant support.

Given the stark attachment to a male child with social structures supporting the social worth of the male child, interventions against the female foeticide did not find many takers. In fact, the use of sex determination tests have been welcomed and rationalised as an effective family planning measure and as a protection of the female child. From a popular point of view, perceiving foeticide as an abuse may not seem to be rational. No doubt, a forced opinion on the methods to curtail foeticide
provided responses like need for legal stringency, increasing the awareness that the practice is a crime, and education of the girl child to enhance her worth. This opinion is belied by the fact that the preference for the male child continues to soar. With the lack of identification of the girl child as a part of her natal family, descent through the male child and typed gender roles, the need for abolishing male-female differentiation does not arise.

**SCOPE OF LAW: PC-PNDT ACT**

- Any prenatal diagnostic technique including ultrasonography for the purpose of determining the sex of a foetus is prohibited.
- No person can cause or allow to be caused the selection of sex before or after conception.
- Advertisement of prenatal diagnostic technique for detection or determination of sex is prohibited.
- Sale of any ultrasound machine or imaging machine or scanner or any other equipment capable of detecting sex of foetus is prohibited to any genetic counselling centre, laboratory or genetic clinic.
- Any other person, not registered under the Act, is prohibited and no such centre capable of undertaking determination of sex of foetus and sex selection can be opened unless it is duly registered under the Act.

**Conditions under which PNDT can be undertaken**

If the medical practitioner finds that PNDT is required for any specific reason, he/she should record the reason in writing:

- Age of the pregnant woman is above 35 years.
- The pregnant woman has undergone two or more spontaneous abortions or foetal loss.
- The pregnant woman had been exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals.
- The pregnant woman or spouse has a family history of mental retardation or physical deformities.
- Any other condition as may be specified by the Medical Board.
• Written consent to be taken on the prescribed form from the pregnant woman in a language which she understands and a copy of her written consent to be given to her and she should also be explained all known side and after effects of such procedures.

• Person conducting prenatal diagnostic procedures shall not communicate to the pregnant woman concerned or her relatives or any other person, the sex of the foetus by words, signs or in any other manner.

<table>
<thead>
<tr>
<th>Punishment</th>
<th>For First Offence</th>
<th>For Subsequent Offence</th>
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<tbody>
<tr>
<td>For the person or any pregnant woman going in for sex selection or determination</td>
<td>Imprisonment upto 3 years and fine upto Rs. 50,000.</td>
<td>Imprisonment upto 5 years and fine upto Rs. 100,000 (The penalty is not applied to undergo any such technique).</td>
</tr>
<tr>
<td>For any medical practitioner</td>
<td>Imprisonment upto 3 years and fine upto Rs. 10,000.</td>
<td>Imprisonment upto 5 years and fine upto Rs. 50,000.</td>
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<tr>
<td></td>
<td>Suspension of registration till the case is disposed of and on conviction removal of the name of the doctor from the State Medical Council for a period of 5 years.</td>
<td>Removal of his name permanently from the State Medical Council.</td>
</tr>
<tr>
<td>For the contravention of the provisions of the acts or rules for which no specific punishment is provided</td>
<td>Imprisonment upto 3 months or with fine upto Rs. 1,000 or both.</td>
<td>An additional fine upto 500 rupees daily during which such contravention continues after conviction for the first such contravention.</td>
</tr>
</tbody>
</table>

**Pointers**

Our society favours sons. Several means are adopted to beget a male child. People visit hakims, quacks and midwives for help. In many families, the status of a woman rises when she gives birth to a son. In the event of not begetting a son, she is treated with cruelty. There was even a reported case of a woman being killed by her brothers-in-law for giving birth to a daughter. It is for this reason that the people get the sex of the foetus determined during pregnancy. The pregnancy is terminated if the foetus happens to be female. Such tests are technically intended to check if the foetus is suffering from some serious malady. But this facility is being abused. Such abuse is a legal offence. The effort should be to eliminate the discrimination between boy and girl.
FEMALE INFANTICIDE

Pointers

Even today, a girl is considered to be a burden for the family. In many States, there is a custom to administer poison or strangle or consign to water a female child as soon as she is born, whereas the law does not permit this.

To kill a girl or any child is a crime. The custom of sacrificing a child soon after birth or within a few days of its being born also amounts to infanticide.

Penalty: According to our Constitution, criminal proceedings can be instituted against the persons indulging in such practices.

ROLE OF POLICE

- Police with a search warrant can search the premises suspected to be performing sex selection or providing prenatal sex determination services.

ROLE OF CPRC-WOMEN CELL

CPRC as Non-Government Organisation can be the part of the State Supervisory Board as two eminent women activists from non-government organisation or two legal experts need to be appointed. CPRC can:

- organise awareness camps against the practice of sex selection or prenatal determination of sex.
- review activities of the appropriate authorities functioning in the State.
- provide awareness to the public that if any female is compelled to undergo SDT, she can immediately inform the Women Cell CPRC/or the police control room.

ROLE OF AFFILIATED AGENCIES

Department of Health

Secretary In-charge of the Department of Health and Family Welfare is the Vice Chairperson and Minister In-charge is the Chairperson of the State Level Board. The Board has the power to grant, suspend or cancel registration of the genetic counselling centre, laboratory or clinic.
The CPRC members can be made members of this board.

Every State will constitute a Board under the Health Department to be known as State Supervision Board which will provide:

- Public awareness on this issue.
- Review the activities of the appropriate authorities functioning in the State and recommend appropriate action against them.
- Monitor the implementation of the provisions of the Act and the rules.
- Sending consolidated reports on the various activities undertaken by the State to the Board and Central Government.

**Functions of the State Supervisory Board**

- To create public awareness against the practice of preconception sex selection and prenatal determination of the sex of the foetus leading to female foeticide.
- To review the activities of appropriate authorities.
- To monitor the implementation of the provisions of the Act and the rules and take suitable recommendation relating thereto to the Board and Central Government.
- To send consolidated reports in response to the various activities undertaken in the State under the Act to the Board and to the Central Government.

**ROLE OF SOCIAL WELFARE DEPARTMENT**

The Department has wide networking at the village level through Anganwadi workers and can create awareness on this issue at the village level.

Since all the pregnant/lactating women and children under 6 years of age are recorded with them, they can track and help avoid the cultural negligence resulting in girl child deaths.
ROLE OF RURAL DEVELOPMENT

Panchayats can play a major role in curbing this menace. Apart from creating awareness, they can pass a resolution against this practice. Many panchayats have already done this and, with the support of the police, they can take strict action.

The police can be informed about the centres and the people who want to go in for SDT and they can also keep an eye on their activities.

CHALLENGES

Legal procedures

- It’s a non-bailable, non-cognizable and non-compoundable offence, but is not dealt with in the manner that other cognizable crimes are dealt with. The Court only takes cognizance of an offence if the complaint is made by the appropriate authority concerned, or any officer authorised in this behalf by the Central or State Government. Awareness about this appropriate authority is not widespread. Also, linkages between the different stakeholders at the grassroot level need to be initiated to make the law accessible to the people.

Social challenges

- Male child preference is rooted in our society. It is difficult to force the people not to deselect a girl child. The doctors are also part of the same society where the male child is considered necessary. Strong community networks sometimes compel the doctors to go in for ultrasound tests.
- Legal awareness and addressing the male child preference should be a strong strategy for Women’s Cell.
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tbody>
<tr>
<td>1974</td>
<td>The All India Institute of Medical Sciences (AIIMS), as part of its research in the Department of Human Cytogenesis, used amniocentesis to detect foetal abnormalities. The test involved extraction of fluid from the abdominal wall of a pregnant woman between 15-17th week of pregnancy.</td>
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<tr>
<td>1975</td>
<td>The mis-utilisation of test allowing the abortion of female foeticide came to be known to AIIMS. Subsequently, in May 1975, an Article ‘The Indian Paediatrics’ mentioned these incidences.</td>
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<tr>
<td>1976</td>
<td>In response, the Indian Council of Medical Research halted the AIIMS tests since the new reproductive technology for detecting abnormalities was being misused.</td>
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<tr>
<td>1979</td>
<td>Punjab had the first sex determination clinic known as ‘New Bhandari Clinic’ in Amritsar. It had advertised its services through the media, in the railway compartments and distribution of hand bills in public places.</td>
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</table>
| 1982 | A controversy pertaining to an error in the abortion of a male child of an influential family brought the sex determination clinic in Amritsar ‘New Bhandari Clinic’ in the national limelight.  
  i. Women organisations in Delhi condemned the use of scientific technology and recommended that Government should restrict the use of amniocenteses to research and tracing establishments, called the Indian Council to take severe action against any members and social organisations asked to be vigilant regarding the commercial spread of these technologies.  
  ii. Media reporting led the Ministry of Social Welfare to seek Union Health Minister’s intervention to deal with the issue. In a conference of the State Ministers of Health, the representatives were advised to take appropriate and preventive action. Subsequently, the District Medical Officer in Amritsar pressurised the management of ‘New Bhandari Clinic’ but was unable to take action since the clinic had not violated any law. |
<p>| 1984 | Forum Against Sex Determination and Sex Pre-selection was formed in Mumbai, Maharashtra. |
| 1986 | Social awareness campaigns were initiated in Maharashtra, such as a Parent the Daughter Yatra picketed in front of the clinics conducting sex determination tests. |
| 1986 | Maharashtra State started giving serious consideration to the issue and a Private Member’s Bill in the State Assembly was prepared. Under the Maharashtra bill, the State Department of Public Health commissioned a survey of the sex determination clinics in Mumbai. The doctors who were against sex determination tests formed an independent forum with the contentious doctors supporting the campaign against sex-determined pregnancies. |
| 1987 | Maharashtra constituted an Expert Committee on sex determination and female foeticide. |
| 1988 | Maharashtra Government had introduced a bill to regulate the use of scientific technologies of pre-natal diagnosis. These were to be solely used for detecting genetic / metabolic chromosomes for congenital abnormalities. |</p>
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<thead>
<tr>
<th>Year</th>
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<tbody>
<tr>
<td>1991</td>
<td>Health and Consumer Groups in Gujarat successfully lobbied with the State Government to ban a test selling herbal pharmaceutical claiming an ancient ayurvedic technique to ensure a male child.</td>
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<tr>
<td>1994 (September)</td>
<td>The Pre-Natal Diagnosis Test (PNDT)(Regulations and Prevention of Misuse) Act was passed at the central level and sex determination tests were banned all over the country.</td>
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<tr>
<td>1995</td>
<td>Beijing Declaration to which India was a signatory emphasised the elimination of the harmful attitudes and practices including son preference which result in female foeticides and pre-natal sex selection. It also recognised that some of these violated human rights and ethical medical principles.</td>
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<tr>
<td>1996</td>
<td>Delhi Artificial Insemination (Human Act) enumerated the duties of the qualified medical practitioners/Government hospitals performing artificial insemination with a view to not segregate XX and XY chromosomes for artificial insemination.</td>
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<tr>
<td>1996</td>
<td>Rules released by the Central Government for the pre-conception and pre-natal diagnosis techniques.</td>
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<tr>
<td>2000</td>
<td>The Indian Medical Association sent out directions to its branches asking to prevent the members from breaking the laws on PNDT.</td>
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<td>2000</td>
<td>Public interest litigation filed in Supreme Court regarding inefficiency of PNDT Act.</td>
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<td>2001</td>
<td>Supreme Court passed interim order to the State Governments to take necessary steps for the implementation of the Act.</td>
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<td>2001</td>
<td>Supreme Court issued orders to those multinational companies supplying ultrasound machines to identify the purchasers of these machines.</td>
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<td>2001</td>
<td>In December 2001, Supreme Court called upon Chief Secretaries and Health Secretaries of Punjab, Haryana, Delhi, Bihar, Rajasthan, Gujarat, Uttar Pradesh, Maharashtra and West Bengal to be present before the court (29 January 2001) for non compliance of orders passed.</td>
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<td>2001</td>
<td>Appropriate authorities in Delhi and Faridabad took action in the cases of Misuse of Ultrasound. Punjab Government initiated a Pilot Project in Ludhiana to combat technology with technology that used computer efficiency to track women susceptible to female foeticide.</td>
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<td>2003</td>
<td>Action against TV serial ‘Kyunki Saas Bhi Kabhi Bahu Thi’ and “Kudrat” for promotion of Sex Determination test.</td>
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<td>2003</td>
<td>First sealing of Ultra Diagnosis Centre in Faridabad, Haryana.</td>
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<td>2005</td>
<td>Sting operation to check female foeticide in Gujarat, Punjab, Haryana and Delhi.</td>
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<td>2006 (March 26)</td>
<td>The first conviction with a prison term under PNDT Act was sentenced to a doctor and his assistant in Palwal, Haryana.</td>
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<table>
<thead>
<tr>
<th>CRIME</th>
<th>PUNISHMENT</th>
</tr>
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<tbody>
<tr>
<td><strong>1. The Protection of Women From Domestic Violence Act, 2005</strong></td>
<td>For protection officer for not discharging duty</td>
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<td></td>
<td>Upto 1 year and fine upto Rs. 20,000.</td>
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<td></td>
<td>For the respondent</td>
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<td></td>
<td>Upto 1 year and fine upto Rs. 20,000.</td>
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<tr>
<td><strong>1. Demanding Dowry</strong></td>
<td>Upto 6 months to 2 years</td>
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<td><strong>2. ill-treatment or harassment for Dowry</strong></td>
<td>Upto 3 years</td>
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<tr>
<td><strong>3. Giving or taking dowry</strong></td>
<td>Upto 5 years</td>
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<tr>
<td><strong>4. Causing death for dowry</strong></td>
<td>Upto 7 years</td>
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<tr>
<td><strong>1. Rape</strong></td>
<td>Upto 7 years to life</td>
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<tr>
<td><strong>2. Molestation</strong></td>
<td>Upto 2 years</td>
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<tr>
<td><strong>3. Eve teasing</strong></td>
<td>Upto 1 year</td>
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<tr>
<td><strong>4. Prostitution</strong></td>
<td>Upto 10 years</td>
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<tr>
<td><strong>5. Sexual Harassment at work place</strong></td>
<td>• Under section 209 of IPC upto 1 year</td>
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<tr>
<td></td>
<td>• Section 354 of IPC upto 2 years</td>
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<tr>
<td></td>
<td>• Under section 509 of IPC 1 year</td>
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<tr>
<td></td>
<td>• Under Indecent Representation of Women Act</td>
</tr>
<tr>
<td><strong>1. The Preconception and Prenatal Diagnostic techniques</strong></td>
<td>For Medical Practitioners</td>
</tr>
<tr>
<td>(Prohibition of Sex Selection, 1994)</td>
<td>(First offence)</td>
</tr>
<tr>
<td></td>
<td>• Upto 3 years and fine upto Rs. 10,000.</td>
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<tr>
<td></td>
<td>• Suspension of registration till the case is disposed of and on conviction for a period of 5 years.</td>
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<td></td>
<td>Subsequent Offence</td>
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<tr>
<td></td>
<td>• Upto 5 years and fine upto Rs. 50,000.</td>
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<tr>
<td></td>
<td>• Suspension of registration permanently.</td>
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<td></td>
<td>For person seeking the aid</td>
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<tr>
<td></td>
<td>(First offence)</td>
</tr>
<tr>
<td></td>
<td>• Upto 3 years and fine upto Rs. 50,000.</td>
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<tr>
<td></td>
<td>Subsequent offence</td>
</tr>
<tr>
<td></td>
<td>• Upto 5 years and fine upto Rs. 100,000.</td>
</tr>
<tr>
<td><strong>2. Infanticide</strong></td>
<td>Upto 10 years</td>
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<tr>
<td><strong>1. Marrying a second time when first wife is alive (Bigamy)</strong></td>
<td>Upto 7 years</td>
</tr>
<tr>
<td><strong>2. Marrying through deception without legal ceremony. (Fraudulent Marriage)</strong></td>
<td>Upto 7 years</td>
</tr>
</tbody>
</table>
Given that ‘the justice systems make modest contribution to the control of violence in any society’, their role in traditionally patriarchal societies while providing gender-responsive facilities and services can be to promote visibility to violence against women (especially when many forms of VAW are culturally accepted and promoted); to reflect state commitment to women safety and security, to build public trust for use of gender-responsive facilities or to integrate global gender standards in service-delivery while creating norms for unacceptance for violence against women. Individual services, such as, provision of shelters, globally comparable facilities for victims may not register significantly as output measures and may not impact as an integrative measure for victims who would not use the services unless the programme has acceptance within the community. Even though in highly gender unequal societies where, women lack community protection.

The availability of these services may not make them accessible. In countries of South Asia most criminal justice systems lack sensitivity to gender needs and also facilities to deal with, for instance, rape victims under trauma. The use of abusive language, intimidating body overtures and indecent conduct is part of routine activity. In some of these communities survival and livelihood issues also may take precedence over gender rights. Yet, some of these countries may be better placed on legal and constitutional commitments and have created adequate space for political gender-sensitive movements. Even when there is a multi-sector response on gender issues, they may lack social control mechanisms in the delivery of gender-sensitive services. The point being that gender-responsive services in themselves may not have much outreach and may need to be bridged through community structures, appealing to cultural sensibilities. In this context, cultural specificities and gender capital within the criminal justice system could be a useful set of capacities. Gender capital is an interactive set of resources that enable culturally-sensitive gender just outcomes. A framework taking the gender
positioning in society as a base suggests the nature of support from stakeholders, gender capacities within the criminal justice system, gender oversights and community to be inter-linked and components strengthened where weak, to safeguard women rights. The four resources of gender capital are the community, gender stakeholders, gender-specific capacities within criminal justice system and gender oversights of the criminal justice system. The gender stakeholders in the community include women rights groups, police gender networks, media interface and political support from national to local levels. Stakeholders are part of an integrated perspective to communicate, negotiate and manage relationships to promote gender safety. The stakeholders ownership of police services provides legitimacy and is a bridge to deliver gender-responsive police initiatives. The second resource refers to the gender capacities of the criminal justice system. It includes gender rights established and protected by law, gender capacities created in criminal justice institutions, multi-sectoral linkages across the criminal justice system (courts, prisons) and state departments, such as, health, education, women ministries, etc. While world over, state capacities are committed to gender rights and gender-based violence, implementation in terms of gender just legislation, policy and practice are in varying stages of enactment with a range of changes being enacted. Most countries are attuned to providing progressive gender laws. Gender-sensitive mechanisms and protocols within the criminal justice system are in processes from the planning stage to a multi-sectoral response. These have to be put in place to culminate as part of the gender capital. For outreach to the community both gender stakeholders and community itself must be attuned to the unacceptance of VAWG.

Social control mechanisms are essential for accountability as this pertains to the third resource. These oversights could include internal controls within the police to external bodies layered from the state executive to the grassroots police stations, civil society organisations, women rights commissions. This resource is perhaps the weakest in evolution.

The community itself is the fourth layer of the gender capital. Gender sensitivities and claim to rights has to occur within the societies before they venture to seek justice for violations. If the community perceives (correctly or incorrectly) the police to be a combative law enforcement agency with a violent and hegemonic masculine imagery,
vulnerable groups, such as, minorities and women may avoid contact with the police not only as victims, but also as a career option.

The role of each of these resources has to be located within the local site which may vary from a rights-oriented community to one that shuns police-public interactions. Initiatives would need to vary from a participatory exchange to confidence-building measures in building safe and gender secure societies

How do programmes and policies on justice and safety interface with gender capital? Are assessments across programmes tracking these initiatives? Is there a measure for participation of stakeholders, of institutionalised gender initiatives and oversights functioning in the public domain? Does a composite measure get evolved? Also, are culture specific forms of violence captured? Is the multi-sectionality across forms, variations in population groups or over time and site identified? These issues need to be tackled as capacities to advance gender justice evolve.

Included here is the relevance of cultural forms of gender violence to capture, analyze and monitor patterns in VAWG.

1. Relevance of cultural specific forms of VAWG

Measures of rights violative cultural practices can be useful indicators of both gender inequalities and their manifestation in a forms of violence. Many cultural practices form part of the social structure necessary for the existence of gender inequalities and in turn, shape the form of VAWG. The practice of male child preference in Indian society, in particular, is one such cultural parameter.

Male child preference is practiced through religious bigotry, cultural neglect of the girl child and female foeticide to manifest as female de-selection of the girl child. The sharply declining child sex ratio first evidenced in the economically developed states of India, and more recently across all states, is not captured as a crime due to the normative acceptance of male child preference. However, the prevalence of female foeticide can be captured through the declining child sex ratios. The child sex ratio (and changes in it) can be a proxy indicator for both VAWG and gender inequalities.

Reporting of VAWG is poor. At best, violent cultural practices may have negligible reporting but are still widespread. Bihar, India, for instance, has recorded a
decrease in VAW for the years 2007-2010. While there are only a few incidents of female foeticide reported, the state has registered a fall in child sex ratios to signal a much wider practice of female foeticide. A fall or improvement in female de-selection practices proxy through the child sex ratio indicates increasing gender asymmetries including increase in a form of violence, even though reported VAWG has declined.

Variations across forms of violence, strata, caste and other identities can help inform ambiguity of prevailing rates. Shifts in all forms of violence may be a more robust indicator of change in violence rather than a composite reporting or change in VAWG. In Doaba, Punjab which reflects the least gender asymmetries, highest per capita reporting on VAWG has the largest proportion of reportings of non-resident Indians’ (NRIs) desertion of wives. While other proportion of some forms of VAWG may decrease, increases in this form suggest a particular manifestation of VAWG. If the site and culture-specific forms are not captured, a different picture is presented.

Decrease in violence across all forms of violence and particularly for historically submerged populations, such as, Scheduled Castes women is likely to reflect decrease in general violence against women.

Comparing reported and unreported data gaps in reported and unreported violence is likely to suggest level of acceptance to VAWG. In a time series study (1995, 2000, 2005, 2010) across Punjab, grave violence (rape and dowry deaths) were found to have the least gap in reported-unreported violence. Sexual harassment (eve-teasing), wife-beating, dowry demand, female foeticide have huge gaps in reported-unreported data. In a study of Chandigarh, 98 per cent women reported ‘affront to their dignity by word, sound or gesture intending to insult their modesty’. Yet, in the year 2010, the study of only four cases was reported. Most women stated they felt unsafe outside their homes, especially after dark, but accepted it as part of their context. When ‘non-grave offences’ are seen as unacceptable then it would signify a change in social value.

2. Linking VAWG and identity politics

Forms of violence change in frequency, site and population groups. Partner violence may be prevalent across all sets of population while sexual harassment/eve-teasing
prevalent in the public domains, female foeticide in upper and middle peasantry. It is relevant to contextualise these changes particularly in multicultural identity assertive societies. Certain forms of violence against women emerge from assertive identity politics in multicultural societies. Women are both a symbol of group identity to be protected and a target of the identity's honour. Also, in a caste-ridden society like India sexual violence of lower caste women by upper caste men has been part of the structural relations. Decline in a form can reflect value change in the unacceptance of VAWG or even a change in social context. Decrease in sexual crimes against Scheduled Caste women by non-Scheduled Caste men can point to assertion by Scheduled Caste against continued subjugation or a decline in VAWG against the most vulnerable population groups, connoting a safer environment for women.

(i) Source and nature of reporting: Reporting of sexual abuse of Scheduled Caste women by upper caste men through mediums, such as, local bodies, community policing centres, state women commissioners will also reflect decreased tolerance to violence against women. In Punjab, traditionally, local bodies (panchayats) dominated by the powerful Jat peasantry do not report cases of abuse of lower caste women by upper caste men as it is historically considered a privilege of the landowning castes. Assertions against such violation by lower caste members is dealt with informally.¹ Support by local bodies to women from all castes would be an indicator of change.

3. Reported and Quasi reported data

Initiatives transcending authority systems and in keeping with cultural notions of space have elicited public confidence to span the divides of domestic, overcome politics of shame to bridge with public support mechanisms. Women cells (in Amritsar, Punjab, for instance, have been opened in schools to overcome unwillingness to go to police related premises), community policing centres, state women commissions all address cases of VAWG. A lot of data exists within government sectors outside reported crime statistics which can be drawn to capture trends in changes in VAWG. Cases are compiled with women departments, Alternate Justice Mechanisms including state women commissions.

(i) Examining the source of reported violence can reflect increased confidence in approaching police or increase in VAWG incidents. If reporting to police directly has remained constant while reporting through mediums has increased it is likely that reporting, and not incidents, are increasing.

- Decrease in cases of VAWG in established alternative and informal domains, such as, women cell, women's commission, local bodies, etc. can also reflect a decrease in incidence of violence against women.

(ii) Violence against women is being addressed through a layer of institutions. For instance, the Domestic Violence Officers are women department functionaries. Cases can be reported either to the protection officer or to the police directly. Thus, a number of cases do not reach the police, but may be directly resolved by the Magistrate through the PO. Community policing programme as the one in Punjab provides for the functions of a women cell within its operative structure. Cases reported to the women cell are not part of reported cases since no first information report is registered. These cases are resolved through counselling at the level of NGOs and other civil society members that may not even include a professional counsellor. Similar is the case of Lok Adalats. Incidents of VAWG combined across institutions will provide a more representative picture to the extent and nature of violence.
INTERNATIONAL INSTRUMENTS

  
  Date of adoption: 18 December 1979

  Under CEDAW, State Parties undertake: ‘(c) ... to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation’ (Art. 2). This commitment requires that police services are reformed to ensure effective and equal legal protection of women, and themselves do not discriminate against women. CEDAW further calls for equal representation of women and men in areas of work, requiring that police reforms address equal access to opportunities.

  
  Year of adoption: 1992

  The CEDAW Committee’s General Recommendation 19 states that gender-sensitive training of law enforcement officers is essential for the effective implementation of the Convention (para. 24-b).

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1 Taken from Geneva Centre for the Democratic Control of Armed Forces (DCAF), Gender and SSR Toolkit, International and Regional Laws and Instruments related to Security Sector Reform and Gender, pp. 5-6

Date of adoption: 20 December 1993

The Declaration calls upon States to take ‘measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women’ (Art. 4-i).


Date of adoption: 15 September 1995

The Platform for Action states that ‘women may be vulnerable to violence perpetrated by persons in positions of authority in both conflict and non-conflict situations. Training of all officials in humanitarian and human rights law and the punishment of the perpetrators of violent acts against women would help to ensure that such violence does not take place at the hands of the public officials in whom women should be able to place trust, including police and prison officials and the security forces’ (para. 121). Governments committed to provide gender-sensitive human rights education and training to police (para. 232-i) and ensure that women have the same rights as men to be police officers (para. 232-m).


Date of adoption: 2 February 1998

The annexure of the Resolution provides concrete examples of state action needed for the police to combat violence against women. In Paragraph 8, the States are urged: ‘...to empower the police to respond promptly to incidents of violence against women’ and ‘to encourage women to join police forces,
including at the operational level’. In addition, ‘Member States, in cooperation with non-governmental organizations, including organizations seeking women’s equality, and in collaboration with relevant professional associations, are urged …: (a) to provide for or to encourage mandatory cross-cultural and gender-sensitivity training modules for police … that deal with the unacceptability of violence against women, its impact and consequences and that promote an adequate response to the issue of violence against women’ (Annexure para. 12).


Date of adoption: 31 October 2000

UN SCR 1325 is a key document in influencing police organisations to incorporate gender aspects into the reforms. Paragraph 8-c ‘calls on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including …measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary’. The Council invites Member States to incorporate the protection, rights and the particular needs of women, as well as the importance of involving women in all peacekeeping and peace-building measures, into their national training programmes for military and civilian police personnel in the preparation for deployment (Art. 6).
NATIONAL INSTRUMENTS

- National Policy for the Empowerment of Women

Year of adoption: 2001

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. The goal of this Policy is to bring about the advancement, development and empowerment of women.

- Policy Prescriptions for the Judicial-Legal Systems

Judicial-legal system is being made more responsive and gender sensitive to women's needs, especially in cases of domestic violence and personal assault. New laws will be enacted and the existing laws reviewed to ensure that justice is quick and the punishment meted out to the culprits is commensurate with the severity of the offence.

- Violence Against Women

All forms of violence against women, physical and mental, whether at domestic or societal levels, including those arising from the customs, traditions or the accepted practices shall be dealt with effectively with a view to eliminating its incidence. Institutions and mechanisms/schemes for assistance will be created and strengthened for the prevention of such violence, including sexual harassment at the workplace and customs like dowry; for the rehabilitation of the victims of violence and for taking effective action against the perpetrators of such violence. A special emphasis will also be laid on the programmes and measures to deal with trafficking in women and girls.

2 http://wed.nic.in/empwomen.htm
Legislation

13.1 The existing legislative structure is reviewed and additional legislative measures taken by the identified departments to implement the Policy. This also involves a review of all the existing laws including personal, customary and tribal laws, subordinate legislation, related rules as well as the executive and administrative regulations to eliminate all gender-discriminatory references. The process was initially planned over a time period 2000-2003. The specific measures required were evolved through a consultation process involving civil society, National Commission for Women and Department of Women and Child Development. In appropriate cases, the consultation process is widened to include other stakeholders too.

13.2 Effective implementation of legislation is promoted by involving civil society and community. Appropriate changes in legislation are undertaken, if necessary.

13.3 In addition, the following specific measures are also undertaken to implement the legislation effectively.

(a) Strict enforcement of all the relevant legal provisions and speedy redressal of the grievances is ensured, with a special focus on violence and gender-related atrocities.

(b) Measures to prevent and punish sexual harassment at the place of work, protection for the women workers in the organized/unorganized sector and strict enforcement of the relevant laws, such as Equal Remuneration Act and Minimum Wages Act, are undertaken.

(c) Crimes against women, their incidence, prevention, investigation, detection and prosecution are regularly reviewed at all the Crime Review fora and Conferences at the Central, State and District levels.
The recognised local voluntary organizations were authorized to lodge Complaints and facilitate registration, investigations and legal proceedings related to violence and atrocities against girls and women.

(d) Women’s Cells in Police Stations, encourage Women Police Stations, Family Courts, Mahila Courts, Counselling Centres, Legal Aid Centres and Nyaya Panchayats are strengthened and expanded to eliminate violence and atrocities against women.

(e) Widespread dissemination of information on all aspects of legal rights, human rights and other entitlements of women is done through specially designed legal literacy programmes and rights information programmes.

Gender Sensitization

Training of the personnel of the executive, legislative and judicial wings of the State, with a special focus on the policy and programme framers, implementation and development agencies, law enforcement machinery and the judiciary, as well as the non-governmental organizations will be undertaken. Other measures will include:

(a) Promoting societal awareness to gender issues and women’s human rights.

(b) Review of curriculum and educational materials to include gender education and human rights issues

(c) Removal of all references deemed to be derogatory to the dignity of women from all public documents and legal instruments.

(d) Use of different forms of mass media to communicate social messages relating to women’s equality and empowerment.
PUNJAB INSTRUMENTS

☐ Punjab Police Strategic Plan

Year of adoption: 2008

Goals

- Goal 1 – To control crime and ensure safety and security of the citizens.
- Goal 2 – To equip, train and sensitise the police force to tackle organized crimes, trans-border and trans-national crimes with special reference to terrorism, naxalism, money laundering, human smuggling and human trafficking.
- Goal 3 – To implement special programmes to tackle crimes against the vulnerable and under-privileged sections of the society with special reference to women, children and the weaker sections
- Goal 4 – To check the menace of drug trafficking with all its intricacies, networking and linkages etc.
- Goal 5 – To inculcate discipline, pro-people orientation and upgradation of the skills of the police personnel to optimize efficiency and effectiveness in service delivery.
- Goal 6 – To respond with sensitivity and in a just manner to the ethnic, religious, gender and class diversities.
- Goal 7 – To ensure representation of diversity in the police force with special reference to caste and gender as per the existing guidelines of the various Commissions.
- Goal 8 – To enhance community participation and co-operation in the delivery of police services and strengthen the on-going initiatives in community policing.
- Goal 9 – To make police systems more accessible to the people through introduction of transparent and accountable police performance.
- Goal 10 – To enhance professionalism in the department through exposure to the latest forensic inputs, human resource management skills.

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3 http://www.punjabpoliceindia.org/StrategicPlan.aspx
• Goal 11 – Introducing a robust and user-friendly information technology (IT) environment and linking up the department with e-governance initiatives of the state
• Goal 12 – To streamline financial management and procurement procedures.
• Goal 13 – To improve the police infrastructure at every level and to provide a congenial work environment to the force.
• Goal 14 – Establish and maintain a modern and reliable communications system.
• Goal 15 – Effective grievance redressal system through responsive and transparent policing.
• Goal 16 – To enhance the department’s relationships with governmental entities, the public, and other stakeholders.
• Goal 17 – To increase employee job satisfaction and improve living and working conditions of the officials.

Community Policing Resource Centre

Standing order on Community Policing

Date of adoption: 2003

A comprehensive plan for institutionalising community policing in Punjab by setting up Community Police Resource Centres (CPRC) was submitted to the Government of Punjab for approval after a thorough review of the existing schemes and after obtaining professional inputs from the experts in the field. The Government of Punjab conveyed its approval vide Memo No.16/163/2002-4H(5)/415 dated 28.01.2003.

Objectives of the Standing Order

• To set up Community Police Resource Centres (CPRC) for providing continuity and sustainability to the ad-hoc initiatives.
• To ensure greater community participation in the police work.
• To implement community-oriented schemes in partnership with NGOs, grassroot organisations and other government departments.

4 Punjab Police, Community Policing Resource Centre (CPRC)
FUNCTIONS AND ACTIVITIES TO BE PERFORMED BY THE COMMUNITY POLICE RESOURCE CENTRES

☐ GRIEVANCE REDRESSAL CENTRE

- One of the common complaints of the police is the lack of availability of the police officers at lower levels. A Duty Officer shall always be available at the centre for about 12 hours to improve the accessibility of the police to the people.

- This will act as a nodal place for the community-oriented schemes like combating domestic violence, assistance to the elders, legal aid to the vulnerable sections of society etc.

- Meetings of the Resident Welfare Associations, Traffic Regulation Committees, Economic Offences Wings will be organised under this unit.

☐ NODAL PLACE FOR COMMUNITY-ORIENTED SCHEMES

- Drug de-addiction
- Women counselling
- Traffic management

☐ COMMUNITY SERVICE-CUM-INFORMATION CENTRE

Nowadays, the non-criminal matters or non-enforcement situations dominate the police work as there has been a tremendous increase in the proportion of the service-related to crime-related demands. The purpose is to improve the quality of police-public contact by providing a single window at the centres for the following services:

- **Foreigners Counter**
  - Registration of the foreigners-their arrival and departure.
  - Extension of residential permits of the foreigners.
  - N.R.I. complaints and enquiries.
  - Passport verification.
  - Emergency/urgent passport verification.
  - MRG enquires for the loss of passports abroad.
• **Verification Counter**
  - NOC for arms licences.
  - Permission for religious/political processions.
  - Permission for use of loudspeakers/orchestras at religious or social functions.
  - Request for security arrangements at political/sports/religious and social functions.
  - Character/service verification.
  - Verification for the registration of vehicles.
  - Verification of tenants.
  - Registration of servants.
  - Other verifications.

• **Crime Counter**
  - Copies of F.I.R.
  - Copies of untraced reports.
  - Progress of investigation of the criminal cases.
  - Parole cases.
  - Economic offences-fraud, forgery, cheating etc.
  - Fraud/cheating by the travel agents.

The Information Centre shall also provide relevant information on the procedures, rules, law, regulations relating to the citizen’s rights, punishment for the various crimes, accident and crime prone areas and the corresponding safety measures etc.

- **VICTIM RELIEF CENTRE**

The victim remains a ‘forgotten actor’ in the criminal justice process in India. It is time we switched attention from the offender to the victim and recognised that the victim is a key player in the criminal justice process.

Since the police is the first point of contact with the criminal justice system, the police response plays an important role in shaping the victim’s experience. The
victim needs to be provided with information about the progress of the case, about trial dates, bail and final decisions.

The **Victim Relief Centre** would focus on the victims, their rights, needs and expectations. Particular efforts have to be made to improve the police response to the victims of sexual and violent crime. There is need for specially trained women officers to avoid insensitive questioning. **Victim Helplines** and **Women Helplines** should be set up. It should be possible to enlist the help of the society, NGOs and voluntary agencies for this purpose. The vast reservoir of knowledge and experience of the retired officers from the Judiciary, Police, Revenue and other departments could also be tapped for the purpose.

Specially trained volunteers should handle counselling and other victim support schemes - right to be heard, right to be kept informed about the progress of ‘their case’, to provide information, to be protected by the law enforcement agencies, and to receive respect, recognition and support.

The Victim Relief Centre would provide facilities such as:

- Space and comfortable sitting arrangements for children, women and other victims.
- First Aid facility.
- Ambulance services.
- Professionally qualified doctors, psychiatrists and psychologists will be on its panel and on call to offer the required attention to the traumatized persons.

**CHILDREN’S PROTECTION UNIT** has been envisaged to provide immediate assistance to the victims of child abuse. This will also serve as a forum for a positive interface between the responsible citizens of tomorrow and the police and will help dispel the negative connotations associated with the police.

- Child Help Line
- A library for children containing story books and Punjabi and Hindi fiction.
- Information on police working.
- Awareness material on display such as posters and pamphlets on the rights of children, women and citizens.
- Child Protection Kit (for victims of sexual abuse).
Coverage

In the first phase, the scheme was implemented in the districts of Moga, Bathinda, Hoshiarpur, Jalandhar, Ludhiana, Patiala and Amritsar.

In the second and third phases, it is to be implemented in the remaining districts of the State. All districts of Punjab are to have CPRCs.

Funding And Resource Mobilisation

- Each CPRC shall be allocated Rs. 10,00,000/- as a one-time grant to meet the initial cost of setting up the Centre. This amount shall be met from the funds allocated for the Police Modernization. Guidelines for incurring the expenditure shall be issued separately.

- Recurring expenditure shall be met out of the police budget.

- Each Centre shall open a separate account for the donations and the project funding from external organizations for which efforts should be made to get the CPRC at the district level registered as a Society under the Societies Registration Act, 1860.

- This account shall be jointly operated by the SP In-charge of the CPRC and a community representative nominated by the District Level Committee from amongst its members.

- This account shall be audited annually and approved by the District Level CPRC Committee and forwarded to the State Level Committee for information.

ADMINISTRATION OF COMMUNITY POLICE RESOURCE CENTRES

The Community Affairs Division (CAD) will be set up at the Punjab Police Headquarters to design, develop, implement and monitor programmes in the area of community policing. The CAD will take decisions on the various reports and periodical returns which will be required to be received from the field units for better monitoring and implementation of the scheme. A Nodal Officer of the CAD in the rank of ADGP nominated by the State Government will be responsible for policy formulation, implementation, review and evaluation of the scheme. The Nodal Officer shall be assisted by the IGP/Headquarters who shall be redesignated IGP/Headquarters-cum-Community Affairs. An officer in the rank of DIG shall be posted in CAD and shall be designated DIG Community Affairs.
The CAD shall function in consultation and conjunction with a State Level Steering Committee and District Committees.

The **State Level Steering Committee** will be the apex policy formulation and advisory body at the state level and shall function through a **State Level Coordination and Review Committee**.

The role of the Committee shall be:

- To lay down policy for conceptualising and institutionalising the community policing initiatives in the state.
- To issue broad guidelines for the successful running of the CPRCs.
- To coordinate and conduct a periodical review of the working of these centres.
- To provide budgetary and financial support.

**MEMBERS**

**Officials**

- Nodal Officer of the Community Affairs Division – Convener
- IGP (Headquarters)-cum-Community Affairs
- IGP/Zones
- DIG (Ranges)
- Director – PPA, Phillaur
- Any other officer to be co-opted by the Nodal Officer

**Non-officials**

- Three representatives of the State Level Non-Governmental Organisations
- Five professionals drawn from various fields
- Dr. D.J. Singh, PPA Phillaur
- Dr. Pramod Kumar, Director, Institute for Development and Communication, Chandigarh
- Prof. S. L. Sharma, Course Director, Institute for Correctional Administration, Chandigarh
- Mr. Shankar Sen, Former Director, National Police Academy, Hyderabad

**Note:** Officials from the Departments of Health, Education, Social Welfare, Social Security and Women and Child Development may be asked to participate in these meetings as special invitees as and when required.

**Term:** The term of the members shall be two-years extendable up to three years.

### DISTRICT LEVEL COMMITTEE

- The number of members of a District Level Committee should not exceed 25.
- District Senior Superintendent of Police – Convener
- Community Representative – Co-convener

### MEMBERS

- **Official members**
  - SP (Headquarters)-cum-Community Affairs
  - DSP (Headquarters)-cum-Community Affairs (Convener)
  - District Health Officer
  - District Education Officer
  - District Women and Child Development Officer
  - Representative of State and District Level NGOs*
  - Advocates*
  - Experts from the fields of Sociology and Psychology*

*As per requirement

- **Non-official members**
  - Heads of Medical Colleges or Hospitals, Principals of schools and colleges, senior academics, renowned poets, theatre and cultural personalities – 5
- Representatives of NGOs and community representatives – 3
- Commerce, industry, trade union, youth representatives – 5

**Note:** At least four women shall be nominated as members.

**Term:** The term of the members shall be two years extendable up to three years.

**FUNCTIONS**

- These Committees shall issue guidelines for running the CPRC and shall also be responsible for coordinating their activities. All proposals for the new proposed schemes shall be examined by the Committee.
- The Committee shall meet at least four times in a year.
- The decisions taken by the Committee shall be sent to the State Level Coordination Committee through CAD for information.

**ADMINISTRATION OF THE CPRC AT DISTRICT LEVEL**

- The SP (Headquarters) shall be responsible for the smooth running of the CPRC and will be redesignated SP/Headquarters-cum-Community Affairs Officer.
- The DSP (Headquarters) shall be in-charge of the CPRC and shall be redesignated DSP/Headquarters-cum-Community Affairs Officer.
- Two non-Gazetted officers of the police department will be engaged to provide CPRC services.
- Local NGO and volunteer support should be mobilised to implement various schemes from time to time.

**ADMINISTRATION OF THE CPRC AT SUB-DIVISION LEVEL**

- The DSP Sub-division shall be responsible for the smooth running of the CPRC and will be redesignated as DSP/Sub-Division-cum-Community Affairs Officer.
- One non-gazetted police officer will be engaged to provide CPRC services.
- Local NGO and volunteer support should be mobilised to implement various schemes from time to time.
ADMINISTRATION OF THE CPRC AT POLICE STATION LEVEL

- The SHO of the Police Station shall be responsible for the smooth running of the CPRC and will be redesignated SHO/Police Station-cum-Community Affairs Officer.

- One non-gazetted police officer will be earmarked to provide CPRC services.

- Local NGO and volunteer support should be mobilised to implement various schemes from time to time.