

Shelters, counsellors and medical facilities.

In this article we ask to what extent are the states succeeding in their mandated duty to provide shelter, counselling and medical facilities to survivors of violence. PWDVA recognizes that a survivors of domestic violence require a sensitive and coordinated multi-agency response to address their physical and psychological injuries, their need for temporary shelters to recover from the traumas and heal the devastating scars of long-term abusive and violent relationships.

Recent international¹ and national level research study² confirm gender based violence in India as a hidden epidemic that programmers, policymakers, practitioners, lawmakers and adjudicators need to consider. The research confirms what women activists have been saying for years that there is chronic underreporting of gender based violence by women that the reported incidents constitute only about 7% globally of the actual violence. Yet, there is little concern for this silent and hidden epidemic in our institutions and in many states the shelter situation is such that many women are unable to access shelters directly and voluntarily –their access to state shelters is governed by formal referrals by relevant stakeholders such as protection officers or service providers or through court orders. This is highly unsatisfactory and in fact in contravention of provisions of PWDVA.

Given this situation where a large number of women, we know are suffering multiple forms of violence without seeking any legal remedies or court intervention, it is very important that the state provides safe spaces for women, not just a roof over their heads, but an environment that is emotionally and psychologically safe that gives them breathing space and break from the violence and abuse and an opportunity to build their shattered self-confidence and reflect on their future options. It requires that women can gain voluntary access to such shelters on basis of their needs, access to shelters should not be dependent on court intervention, medical intervention or police intervention or social services involvement because we know that this is only catering at best for a tiny minutiae of women who have sought formal help, the vast majority of women, we know are suffering silently.

Despite all these facilities being mandated by PWDVA , there is little useful data to undertake any comparative or national level implementation analysis because of the lack

¹See, "Tip of the iceberg: Reporting and Gender-Based Violence in Developing Countries ,Tia Palermo, Jennifer Bleck, and Amber Peterman, American Journal Of Epidemiology (2014) 179 (5):602-612.

² See Gupta, Ashish (2014), final working paper, "Reporting and Incidence of violence against women in India" last accessed at <http://riceinstitute.org/wordpress/wp-content/uploads/downloads/2014/10/Reporting-and-incidence-of-violence-against-women-in-India-working-paper-final.pdf>

of engagement of three key stakeholders Shelters, Medical facilities and most importantly legal services:with the evaluation process undertaken by LCWRI³.

Without the active cooperation and functioning of these three key agencies in implementation of any legislation targeting domestic violence, the system will simply only work for those who are either wealthy enough to not need legal aid and can afford to have alternative accommodation and private medical treatment-certainly not the situation for the vast majority of rural and poor urban women.

Other important gaps highlighted by this evaluation included lack of data collection from nodal departments responsible for collecting data

*The primary hurdle in assessing the status of implementation of the Act is lack of data. The nodal departments, which are responsible for getting the data from the notified health centers under the Act, have not done so. They are also responsible for issuing a circular to all stakeholders in a particular jurisdiction, specifying the role of each stakeholder within the Act, other information, and ensuring all stakeholders are linked to each other for better implementation. A uniform reporting system needs to be developed to collect data from all stakeholders under the Act.*⁴

Psychological and emotional trauma and counselling

The provision of counselling services required much deeper probing and examination by those equipped to assess the quality of counsellors, their experience and qualifications. LCRWI reported that on paper there are a number of SPs providing counselling services, many police stations and courts also have a counsellor, however there is little information on what the nature of counselling is, whether counselling is provided by professionals, what are the circumstances and stages at which counselling is provided, the objective of such counselling and whether counselling is at the request of the woman and respects her wishes, etc.

Certainly there are a number of professionally unqualified counsellors who are presently engaged in providing counselling , often with the aim of reconciling the differences between

³ The 3rd LCWRI report, based on data of three states, Maharashtra, Rajasthan and Delhi, speaks about the absence of three key stakeholders who surprisingly were not involved in the evaluation and implementation effort- "Who is absent? MFs (medical facilities) and SHs (shelters), which under the PDWVA, are to help victims of domestic violence to access medical help and shelter services are absent. Medical professionals are the first port of call for many women – who receive injuries due to violence faced at home. However, over the years, health professionals and medical institutions have been absent in the implementation of the PWDVA, and in trainings organized by LCWRI government agencies. The Legal Services Authority are also absent in the implementation of the PWDVA and no stakeholders have been able to use their services effectively. This has been a consistent observation since the Act has been enforced and is shocking, since women are entitled to free legal aid under the Legal Services Authorities Act, 1987.

⁴ Ibid reference 15 executive summary, page 19, 5th Monitoring and Evaluation report on PWDVA 2005.

the survivor and those responsible for the violence. This is problematic where it clearly goes against the wishes of the concerned woman, who is pressured by her or her husband's family to not file a DV case or to return to the shared household on terms that she is unhappy with.

There is a need to have a pool of senior qualified counsellors, psychiatrists and mental health experts to assess the mental health needs of survivors to ensure that they are given the appropriate level of support and certainly to prioritise cases where there are risks of serious self-harm or suicide.

Shelter homes

The PWDV rules establishes a procedure by which Shelter Homes can be registered, again information about the number of shelters is easily available but the quality of life of those living inside the shelters leaves a lot to be desired. The women's movement is gathering momentum to bring about a radical transformation of the state of shelters; a number of research studies and a PIL in case of Gujarat are paving the way to change the very foundations of the state and manner in which the Shelters are presently run. The Odhav Nari Gruh PIL was filed in the High Court of Gujarat by two NGOs working on issue of gender Justice following newspaper articles in Indian express regarding the escape from Odhav of residents, an issue that was reported widely, but the Indian express had gained entry in to the Narigruh. It was therefore able to actually show the inhuman living conditions of residents and narrate their stories cataloguing a plethora of serious human right violations . The PIL was also supported by affidavits of activists working for gender justice who had been to Odhav and most importantly a former resident survivor of domestic violence, herself.

The PIL draw the courts attention to the reported inhuman living conditions inside the homes, lack of medical facilities, hygiene and exploitation of residents and absence of rehabilitation plans for them. Both shelters were established to protect women rescued under the Immoral Traffic prevention act 1956 and in both sets of court proceedings though separated by time span of more than 30 years, important and surprisingly similar questions were raised about the human rights of the residents, their living conditions, access to health facilities, their right to privacy and autonomy and participation in decisions to enter and exit the shelters and most crucially the total absence of any plans and activities for rehabilitation and reintegration of residents after their "time inside".In both cases there were serious allegations of misconduct and misuse of residents by the government servants running the institutions. There were issues of secrecy, lack of openness in running of the institutions and serious issues about the choice, control, autonomy and rights of the residents in the way the

institutions were being run. In Odhav women complained about literally being “locked-up” in -there did not appear to be any clarity about what rights/representations, access to legal advice the women and girls had in either the decision to be admitted to the institution or the decision to leave the institution.

In case of Gujarat PIL, the High Court after a slow start eventually constituted a committee of credible citizens including a judicial officer to visit 8 homes and report to court. The process is underway and there are positive reports of the difference at least in the physical living conditions of shelters as a result of the High Court taking the PIL seriously. Whilst we look forward to the committee report and recommendations, we know that that as far as effective implementation is concerned, it will be a long journey, but one worth making given what is at stake and one that actually needs to be taken up in the vast majority of states and one which cannot have a real life without the High courts' going beyond rhetoric to issue appropriate orders to enforce fundamental rights of women under the Indian Constitution.