



# **ANNUAL REPORT 2008 – 2009**



**NATIONAL COMMISSION FOR WOMEN**  
4, Deen Dayal Upadhyaya Marg, New Delhi-110002  
<http://ncw.nic.in>



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# 1

## PREFACE

I take pleasure in presenting the Annual Report for the year 2008-09 of the National Commission for Women as envisaged in Section 13 of the National Commission for Women Act, 1990.

During the year under report, the Commission carried forward the activities of the previous year and worked relentlessly towards empowering women by taking up gender issues, suggesting amendments in laws relating to women, generating awareness about women's legal rights, redressing grievances of women complainants as well as taking *suo - moto* cognizance of incidents of atrocities committed against women with a view to helping women victims.



In consonance with the mandate of the Commission to suggest amendments in Laws relating to women where required, the Commission suggested revision of the Prohibition of Sexual Harassment of Women at work place Bill 2008 and necessary amendments to the Dowry Prohibition Act, 1961 as well as the Indecent Representation of Women (Prohibition) Act, 1986. The Commission also reviewed and suggested amendments to the Implementation of the Protection of Women from Domestic Violence Act, 2005, drafted the Revised Scheme for Relief and Rehabilitation of Offences ( by Acids) on women.. The Commission suggested Recommendations on review of the Supreme Court Judgment in S R Batra, and Anr. Vs Smt. Taruna Batra, SLP (civil) 6651- 6652 of 2005 regarding shared household.

The Complaints and Investigation Cell, the core unit of the Commission accessed a large number of cases of women in distress for redressal of their grievances. Apart from dealing with the complaints, the Commission also took up investigation into many cases by taking *suo- moto* cognizance. During the year 2008-09, the Commission resolved 7050 complaints. The NCW has also started an online registration of complaints through its website so that the Commission can be accessed from the remotest corners of the country.

During the year, the Commission conducted several Legal Awareness Programmes to impart practical knowledge to women about their basic legal rights and remedies provided under various laws. In addition, the Commission organized Parivarik Lok Adalats, in collaboration with the State Commissions for Women or the State/District Legal Services Authorities for providing speedy justice to women. Several workshops, public hearings, conferences and consultations on issues such as Surrogacy and Assisted Reproductive Technologies, Indecent representation of women, Compensation to Rape victims, Women working in night shifts, Laws Relating to Marriages- issues and Challenges, Problems Relating to women in North East etc; were also organized.

The special activities/ programmes initiated by the Commission during the year were "Save the Home Save the Family" and "Jago" to safeguard the interests of women. The objective of "Save the Home Save the Family"

initiative is to train and sensitize police personnel in dealing with the cases of atrocities against women, emphasize on reconciliation method in cases of marital disputes, implementation of the Protection of Women from Domestic Violence Act, 2005, complaints under section 498 A, IPC, and ensuring proper networking amongst NGOs, NCW etc; for the purpose. The programme is being part funded by NCW and implemented in association with the Delhi Police Women Cell.

Being anguished over the recent spurt in atrocities against women in Delhi and the NCR region, the Commission launched a programme entitled “ JAGO” designed to encourage every citizen to support the campaign to condemn violence in all forms against women and punish those who commit such inhuman crimes. People from all walks of life including students, nurses, nuns, lawyers, women activists gathered together and took a pledge to stop all forms of atrocities against women. For more than a decade, the Commission has also been working tirelessly for implementation of the long pending legislation for 33% reservation for women. The Commission has been playing its role for impressing upon the Parliamentarians/ Legislatures, for building up consensus in this regard.

I would like to record my gratitude for the support given to the Commission by various Ministries of the Government, particularly, the Prime Minister’s Office for its unflinching support and concern for women as well as the Ministry of Women and Child Development, various State Governments and State Commissions for Women, my own colleagues at the NCW, its officers and staff, who have worked shoulder to shoulder and made it possible to achieve our goals and objectives for the current year.



**(GIRIJA VYAS)**

*Chairperson*

*National Commission for Women*



# 2 INTRODUCTION

The National Commission for Women (NCW) was constituted on 31<sup>st</sup> January, 1992 as a statutory body at the national level, in pursuance of the National Commission for Women Act, 1990 to safeguard the interests of women. It has a wide mandate covering almost all aspects of women's development, viz., to investigate and examine the legal safeguards provided for women under the Constitution and other laws and recommend to Government measures for their effective implementation; review the existing provisions of the Constitution and other laws affecting women and recommend amendments to meet any lacunae, inadequacies or shortcomings in such laws; look into complaints and take suo- moto notice of matters relating to deprivation of women's rights, etc. and take up the issues with appropriate authorities; take up studies/research on issues of relevance to women, participate and advise in the planning process for socio-economic development of women, evaluate the progress made thereof; inspect jails, remand homes, etc. where women are kept under custody and seek remedial action wherever necessary.

In keeping with its mandate, the Commission initiated various steps to improve the status of women and worked for their economic empowerment during the year under report. The Commission's Chairperson, Members and Officers have visited various parts of the country to attend meetings/seminars/workshops/public hearings organized by NCW/NGOs, and to investigate various cases of atrocities committed against women. Besides, they visited short stay homes, orphanages and attended legal awareness camps on legal rights of

women etc; organized by NGOs/Women Study Centres of the Universities to gain first hand knowledge about the problems faced by women there so as to suggest remedial measures and to take up the issues with the concerned authorities.

The Commission received a large number of complaints and also took suo-moto cognizance in several cases to provide speedy justice. The Commission sponsored gender awareness programmes, Parivarik Mahila Lok Adalats, and organized Seminars/ Workshops/ consultations and took up publicity against female foeticide, violence against women, child marriages, etc. in order to generate awareness in the society against these social evils. The NGOs played a significant role in organizing these programmes.

## Composition

The details of the Chairperson and Members of the Commission who served during 2008-09 are as follows:-

- (i) Dr. Girija Vyas, Chairperson - Joined on 16.02.2005 to 15.2.2008 (Re-nominated and joined on 9.4.2008)
- (ii) Ms. Yasmeen Abrar, Member - Joined on 24.05.2005 to 23.5.2008. (Re-nominated and joined on 15.7.2008)
- (iii) Ms. Malini Bhattacharya, Member - Joined on 26.05.2005 to 11.5.2008
- (iv) Ms. Neeva Konwar, Member - Joined on 27.05.2005 to 26.5.2008 (Re-nominated and joined on 15.7.2008)

- (v) Ms. Nirmala Venkatesh, Member - Joined on 15.07.2005 to 14.7.2008 (Re-nominated and joined on 24.9.2008 to 27.2.2009)
- (vi) Ms. Manju S. Hembrom, Member - Joined on 30.06.2006
- (vi) Ms. Wansuk Syiem, Member - joined on 26.9.2008
- (vii) Shri S. Chatterjee, Member Secretary - joined on 10.09.2007

The functions of the Commission are mainly divided into three cells, Complaints and Investigation Cell, Research and Studies Cell and Legal Cell. The activities of each of these cells are presented in Chapter numbers 2, 3 and 4, respectively. The organization chart of the Commission is placed at [Annexure-I](#).

#### **Gist of decisions taken in the meetings of the Commission**

During the year 2008-09, the Commission held a number of meetings to decide on important issues concerning women. A brief account of the meetings is given below:-

##### **1. Commission meeting held on 1<sup>st</sup> April, 2008:-**

(A) The Judgment of Madurai bench of the High Court in the matter of Ms. G. Kavitha Vs Union of India and Ors. in writ Petition NO. 2949 of 2004 where in the petitioner has prayed to issue a writ of declaration that section 64 of the Cr PC 1973 in so far as the restriction of summons shall be made only on adult male member of the family of the person summoned, is unconstitutional and void, was deliberated upon. After deliberations, it was agreed that there was no need to intervene in to the matter. However,

there was a consensus that procedure of serving the summons should be made easy.

- (B) The Commission was apprised that the amendments in the Indecent Representation of Women (Prohibition) Act, 1986 as received from the Ministry of Women and Child Development have been circulated on 19.3.2008 and also put on the website in Feb, 2008. Further consultation would be held before finalizing the recommendations. A copy of draft Broadcasting Code may also be circulated to all Members so that a comprehensive view could be taken as suggested by the Member.
- (C) Inquiry Committee Report in regard to Rape and Kidnapping of a dalit girl (named 'A') of Bhadoi (U. P.) was accepted.
- (D) Regarding Prevention of offences (by acids) Act, 2008, NCW should recommend for payment of compensation to Acid attack victims depending upon the gravity of injury inflicted on the victims. The recommendations may be sent to the Ministries of Home Affairs and Women and Child Development for further action.
- (E) National Consultation on draft policy on Women in Agriculture was approved for holding it in the first/ second week of May, 2008
- (F) A preliminary Consultation of Experts on Surrogacy and Assisted Reproductive Technologies (ART) consisting of 30-40 persons shall be held in the Conference Hall of the Commission.
- (G) Comment of Judge on Shivani Bhatnagar murder case :- The matter was discussed in the meeting at length and it was agreed with voice vote that



praising a convict by the Judge of Delhi High Court will send a wrong signal. A copy of judgment shall be obtained and after examining it, the NCW can file an appeal to expunge the remarks with regard to praise of the convict.

- (H) Short film on National Commission for Women :- It was approved that a phone- in programme to be restarted by NCW with AIR/FM radios which respond to questions as women's right and laws pertaining to women. Recommendations of NCW on policy matters may be integrated with a clear cut classifications and it shall be made a permanent record.
- (I) Regarding request from Shri Sudhir Yadav, IPS, Joint Commissioner of Police, Delhi regarding assistance in conducting sensitization programmes, it was decided that a detailed proposal may be called from Joint Commissioner of Police, Crime Against Women Cell for further examination of the request. This may be done expeditiously.
- (J) Closure of NON-mandate complaints:- A meeting of Coordinators and Counselors of C&I Cell shall be called to brief them regarding the complaints of a woman against another woman (viz. mother-in-law against daughter- in- law). These cases should be taken up by the Commission as these also amount to deprivation of women's rights. It was decided that even in non-mandate cases appropriate action will be taken by writing letters to the concerned authorities, enclosing a copy of the complaint. A letter should also be sent to the complainant that they should contact the relevant authority for further action, who have already been forwarded their complaint.

(K) It was agreed that proposals for conducting Legal Awareness Programmes/ Study etc; shall come through the State Government or be recommended by any Member including Member Secretary of the Commission.

**(2) Commission's Meeting held on 28.4.2008:-**

Regarding National Consultation on Surrogacy and ART, the names of experts namely 1-.Ms. Sarojini or one representative from SAMA, 2- Ms.Imrana Qadir, former professor of Centre for Social Medicine, JNU, 3-Ms.Indu Agnihotri, CWDS, 4- Shri Mohan Rao, Professor, Centre for Social Medicine, JNU, 5- Ms. T. Rajlakshmi, Journalist, Front Line, were approved. It was also decided that some representatives from ICMR shall also be included.

**(3) Commission's Meeting held on 24.9.2008:-**

Printing of modified version of publication "Meera Didi Se Pooncho" was approved. It was also decided that photographs of all Members of NCW shall be inserted in the publication.

**(4) Commission's Meeting held on 11.11.2008:-**

(i) It was decided that each Member will finalize and conduct 4 to 5 State Level Seminars in the States allotted to them, on issues relevant to those States. The Member concerned would be responsible for holding the seminar and make all arrangements in this regard. The help of PS to the Member and one official or coordinator may be taken for the purpose. It is ensured that this is completed within March, 09.

(ii) As regards taking **Suo moto** cognizance of incidents, it was decided that wherever **suo moto** cognizance is to be taken of an incident which is considered very important from the point of view of

investigation etc; the matter should be brought to the notice of the Chairperson. Thereafter a report should be sought from the concerned authority and then officially a Committee should be notified for the purpose so that there is a proper record available of *suo moto* cases. It should also be ensured that the reports on such visits are finalized at the earliest.

However, in cases of urgent importance, the Chairperson may ask Members to visit site etc; depending upon the gravity of the situation. In such cases office will take necessary action to ensure that proper records are maintained of such visits and that the reports from the members after the visit is completed at the earliest and sent to the concerned authorities for further action.

**(5) Commission's Meeting held on 6.2.2009:-**

Regarding constituting of an Inquiry committee to enquire in to the incident of Gangrape of a girl student in Noida, it was decided that the Inquiry committee is to submit a final report expeditiously. The girl was not willing to be

interviewed and police have already taken action, and case is being investigated by police.

**Visit of Foreign Delegates to the National Commission for Women:**

**(1) Visit of American Delegation to NCW**

US Ambassador and Chief of Protocol, Ms. Nancy Brinker visited the National Commission for Women and interacted with the Chairperson and the Members. The Chairperson explained in detail the activities undertaken by the Commission and the programmes to be undertaken in future. Ms. Brinker, who is closely associated with the cure for breast cancer, narrated how she had been able to raise \$ 1 billion for education, research and health services.

Besides, Mr. Sameer Sheth, Chief Global Affairs Unit and Ms. Stephanie Holmes, Second Secretary Political Section, US Embassy, met the chairperson and Members of the Commission, to discuss bilateral issues regarding women.

Professional Staff Member of House Committee on Foreign Affairs Ms. Jasmeet Ahuja, Deputy Chief



*Dr. Girija Vyas interacting with US delegation*



Counsel Ms. Kristin Wells and Senior Advisor and Counsel, Ms. Shanna Winters visited the Commission and interacted with the Chairperson and discussed about women concerns in India.

## **(2) Visit of Norwegian Delegation to NCW**

Norwegian delegation led by Ms. Karianne Robole Soresen, Advisor, Norwegian Immigration Appeals Board visited NCW on 17.10.2008. She was accompanied by Mr. Bernt Sakara and Ms. Eli Melby. The Chairperson discussed the problems of women and gave an overview of the activities of the NCW.

## **(3) Visit of National Human Rights Commission, Rwanda to NCW**

A three - member delegation of Rwanda National Human Rights Commission led by its Vice - President, Mr. Kayumba Deogratias visited the Commission for an interactive session. Shri S. Chatterjee, Member Secretary, briefed them about the composition of the Commission followed by a presentation .

During interaction, the delegates and the Members of the NCW discussed about the social traditions and customs of their respective country. Mr. Deogratias informed that 48% of seats were reserved for women in the Rwanda Parliament.

## **(4) Visit of Ambassador of European Commission to NCW**

Madame Smadje, Ambassador of European Commission visited the National Commission for Women and had a very fruitful interaction with the Commission.

Dr. Girija Vyas, Chairperson of the Commission briefed the Ambassador about the activities and programmes of the Commission. She said that the Indian Constitution was committed to provide equal rights and opportunities to women and the Parliament had

enacted various special laws for women on the recommendations of NCW. She, further, said that the Commission was trying to create awareness among women all over the country about various women - related laws, through workshops and seminars. The Commission was also committed to sensitize the police to gender issues from the level of the constables to the level of the Director General of Police. The Chairperson also mentioned that the Commission was holding workshops and consultations on the issues of female foeticide, NRI marriages, dowry laws, acid throwing etc; to suggest changes in the laws. Expressing positive reaction, the Ambassador said that as their goals were similar that is empowerment of women, she would like to be a partner to the Commission's projects. She further mentioned that they had strong international instruments and substantial funding to support Government as well as non- governmental projects within the concept of gender issues to help women, children and the minorities with access to water, health care, education, sanitation, etc;

## **(5) Visit of National Dalit Commission of Nepal to NCW**

The Chairperson and Members of the National Dalit Commission of Nepal visited NCW to study the structure of the Commission and the activities and programmes undertaken by NCW. In reply to the queries raised by the delegates, the Chairperson of the NCW Dr. Girija Vyas explained the composition of the Commission and also the important women's issues undertaken by it.

She said that the main task of the Commission was to study and monitor all matters relating to the constitutional and legal safeguards provided for women, to review the existing legislations and suggest



*Dr. Girija Vyas addressing the National Dalit Commission of Nepal*

amendments, wherever necessary. She mentioned that the Commission had reviewed many laws, including the Dowry Act, the Domestic Violence Act, the Rape laws, etc; so as to protect the rights of women. Regarding a query on the stature of the Commission, the Chairperson said that the Commission was a statutory body enacted by Parliament and enjoyed the powers of a civil court and could summon any person from any part of India for examination. It was mandatory for the Central Government to consult the Commission on all major policy matters affecting women.

**(5) Foreign visits of the Chairperson, Member:-**

1. Dr. Girija Vyas, Chairperson attended the Indo-European Round Table Meeting at Paris and London during the period 14-16<sup>th</sup> July 2008.
2. Three Members of the commission visited Kathmandu in Nepal to attend a SAARC Convention on Preventing and Combating Trafficking in women and children for prostitution organized by UNIFEM, Shaktivahini, HER, THNET and National Media.

3. A Member of the Commission visited Shelter Home, Maiti, Nepal where orphan and survivor girl children are rehabilitated. They have rehabilitated the children of India in well planned way. They settled the children age-wise and appointed 2 doctors and 4 nurses for looking after them. Children below the age of 2 years have their separate cots and mothers to take care of them. Children more than 4-5 years have boarding house also. There is a provision for prayer, games, feeding sections etc;

There is another Shelter Home namely Kishori Niketan for survivors of trafficking and child labour. Since its inception, 1075 girls have been rehabilitated. The children are provided with education, physical and mental care, vocational training and life skills in the environment of comfort and parental care. The shelter home is giving equal opportunities of education and awareness of human rights to the inmates.

**Press Conferences**

1. Dr. Girija Vyas, Chairperson interacted with Media on 9<sup>th</sup> April, 2008 after rejoining the National



Commission for Women regarding the future programmes which includes “ Save Family Save Home Project.”

She said that the Commission is launching a new project which will focus on saving marriages through counseling. Its “Save Home: Save the Family” campaign will dissuade couples to go for separation and eventual divorce, except in extreme cases. The Commission wants to emphasize the need for professional counseling to save marriages and families in the wake of instances of young couples breaking up marriages over trivial issues. The project also aims at strengthening the role of the police, NCW and other stakeholders to secure justice for women. The thrust of the project will be to sensitize police personnel to gender issues and to ensure proper implementation of the Domestic Violence Act, Section 498A of the IPC and other laws applied in cases of marital discord with the objective of reconciliation and settlement.

2. A Press Conference was held on 2<sup>nd</sup> May, 2008 in the Commission on Draft Bill for the victims of Acid attacks. In the Conference, Dr. Girija Vyas said that National Commission for Women has prepared a Draft Bill for the Victims of Acid Attacks titled “Prevention of Offences (by Acids) Act, 2008.” Acid attacks could be termed as an act of gender based violence that results in, or likely to result in physical, sexual, psychological harm or suffering to women. The medical treatment is a costly affair and very often the victim is left to fend for herself, with nobody to provide support. At present, there is no

provision for providing compensation to them. Such cases are registered under Section 320& 326 of IPC that is grievous hurt, while, actually it is much more than that since it causes permanent and severe damage to various parts of the body.

The proposed law aims to achieve the following objectives: (1) Classification of acid attack as a separate and most heinous form of offence under IPC; (2) To provide medical treatment to victims, including plastic surgery; (3) To provide legal, social and psychological support and arrange rehabilitation mechanism for the acid attack victims; and (4) To regulate sale of acid.

3. A press Conference was held on 10<sup>th</sup> May, 2008 on the Draft policy for Women in Agriculture. While addressing the Press, Dr. Girija Vyas, Chairperson, National Commission for Women said that the Commission had organized a National Consultation on ‘Draft National Policy for Women in Agriculture’ in New Delhi on 10<sup>th</sup> May, 2008. Though women contribute 40% of the agricultural workforce and an estimated 20% rural households are defacto female- headed due to widowhood, desertion or male migration, yet the increased feminization of agricultural work and labour have not been taken in to account in the policy document. There should be gender equality in land and livelihood, she said.
4. A Press Conference was held on 24<sup>th</sup> May, 2008 regarding “Indecent Representation of Women Prohibition Act, 1986” at Mumbai. Dr. Girija Vyas, Chairperson, National Commission for Women informed that the NCW has sought a self-

regulatory mechanism or a new law to deal with indecent representation of women in the print and electronic media. While interacting with the press during the consultation on the indecent Representation of Women Prohibition Act, 1986 at Mumbai, she said that the need to re-look at the existing legislation is also being felt in the wake of representation of women in the television serials which may not be necessarily derogatory but do not show women in appropriate light. The serials often encourage violation of laws. The Commission has recommended enhancement of the punishment on first conviction with fine, which may be raised to Rs.10,000/- and imprisonment for at least six months extendable to five years with a fine up to Rs. 5 lakh for a subsequent violation. The new regulation should cover child pornography also.

5. Dr. Girija Vyas, Chairperson NCW held a Press Conference on 30<sup>th</sup> July, 2008, at Ahmedabad regarding blasts affected victims including women and children, at Ahmedabad. A delegation of the National Commission for Women headed by Dr. Girija Vyas, Chairperson with Member Manju Hembrom visited Ahmedabad to meet the victims of the recent serial bomb blasts. The delegation was also accompanied by Ms Sandhya Bajaj, Member of the National Commission for Protection of Child Rights. The NCW urged the State Government to ensure time- bound disbursement of rehabilitation packages to the victims of the serial bomb blasts. She said that women and children are the most vulnerable group when this kind of tragedy happens. They require special attention and care in the time of

crisis. So, we have asked the centre and the State Government to consider a special package for women and children blasts victims.

6. A Press Conference on Dowry Prohibition Act was held on 10<sup>th</sup> September, 2008 at New Delhi where in Dr. Girija Vyas, Chairperson, NCW said that in view of the large number of dowry related cases, the Commission has proposed several amendments in the Dowry Prohibition Act, 1961 to make it more effective. She said that the main features of the proposal, include, taking away of the phrase in connection with marriage, from the Dowry Prohibition Act because the term has been interpreted by the courts in a very narrow sense. She said there should be change in the section of the Act that puts both the giver and taker of dowry in the same category. Dr. Vyas said that the girl's family was often forced to give dowry; therefore, the Commission had proposed that the taker of dowry would have a more severe punishment with imprisonment up to 5 years, while the giver of dowry will be subjected to a lesser punishment of one year.
7. In a Press Conference held on 13<sup>th</sup> October, 2008 at NCW, New Delhi regarding views of the Commission on Section 498 A of IPC, Dr. Girija Vyas said that several complaints have been received about its misuse and the Commission had detailed deliberations on this and it was felt that at present there is no requirement to amend the Act. However, the Commission has proposed that an advisory be issued to all State Governments that in case of Complaints received under this section, a preliminary investigation should be undertaken by the police and if

necessary, counseling should be done in order to save the marriages. Only where there is a prima facie case of harassment, such cases should be registered.

8. In a Press Conference held on 19<sup>th</sup> December, 2008 at NCW, New Delhi regarding Section 125 of Cr.PC, Dr. Girija Vyas said that the Commission had proposed an amendment to Section 125 of the Criminal Procedure Code which includes widening the definition of wife to include to long term relationship. Contemplating to include only those women live-in relationships, which are in the nature of marriage, the NCW has made it clear that relationships of convenience should not be considered. According to NCW, in certain cases where the relationship is barely six months old and there is no commitment, the court can take a decision to declare it null and void. The

Commission, however, demanded strict protection of the rights of the first wife. The Committee would continue its deliberations and would soon come out with a complete set of recommendations on the issue.

9. A Press Conference on Rise in Crimes against Women in the Capital, was held on 8<sup>th</sup> January, 2009, at New Delhi wherein Dr. Girija Vyas said that despite Public outcry over lack of safety for women in the city, Delhi continues to be vulnerable for women with a reported increase in number of cases of crimes against them. These complaints are a matter of grave concern for us. Our Commission is monitoring the situation and taking strict measures to check it. All State Governments have opened separate women police Stations in each district and major cities to deal with cases of crimes against women, she said.



*At a Press Conference. (From left) Mrs. Yasmeen Abrar, Dr. Girija Vyas, Dr. V. Mohini Giri*



*Press Conference on 19th Dec., 2008 on live-in-relationship*

10. A Press conference on Jago Campaign/ Marriage Laws was held on 28<sup>th</sup> February, 2009 at NCW New Delhi in which Dr. Girija Vyas expressed that due to increase in atrocities against women in Delhi and NCR region, the NCW launched a new initiative entitled Jago designed to encourage every citizen to support the campaign to condemn violence in all forms against women and punish those who commit such inhuman crimes. People from all walks of life including students, nurses, nuns, lawyers, women activists, etc; gathered and took a pledge to stop all forms of atrocities against women. She further said that last year women showed great development in every field but unfortunately, we saw a 30% increase in rape cases too. Therefore, we want to turn the NCR in to a rape free zone and for this we have taken the help of the government and the civil society to curb violence against women through the innovative programme JAGO.

Dr. Girija Vyas said that registration of marriage would help solve problems like child marriage, dowry, bigamy, etc; as well as determine maintenance for the second wife. While discussing Section 498 A of the IPC, she called it the Bramahashtra for protection of women and mentioned about some of the new bills which the NCW was proposing such as compulsory Registration of Marriage Bill, Maintenance Bill and Acid Attack Bill. She said that sensitivity of the judiciary was of highest importance and new laws have to be pragmatic so that they would save homes and at the same time empower women.

#### **Commission 's Newsletter : Rashtra Mahila**

**Rashtra Mahila**, a monthly newsletter of the Commission, published in English and Hindi, continues to disseminate information about the Commission's programmes to women activists, members of legal fraternity, administrators, members of the judiciary, representatives of NGOs, scholars and students all over the country.

The newsletter highlights the activities of the Commission as well as success stories with regard to complaints lodged before the Commission, and also important court and Government decisions affecting women. Despite the increasing cost of printing, the newsletter is available to all its readers, free of cost. The monthly newsletter is also available on the website of the Commission i.e. [www.ncw.nic.in](http://www.ncw.nic.in).

#### **Compaign JAGO**

Deeply disturbed over the recent spurt in atrocities against women in Delhi and the NCR region, the Commission launched a new initiative entitled "JAGO" designed to encourage every citizen to support the campaign to condemn violence in all forms against women and punish those who commit such inhuman crimes. People from all walks of life including students, nurses, nuns, lawyers, women activists gathered together and took a pledge to stop all forms of atrocities against women.

Jago is a one year project, which will be reviewed every three months and will sensitize the police in handling cases of atrocities on women and the judiciary for faster disposal of such cases. Under this, the media will be asked to maintain privacy of the victims and highlight the initiatives taken by the government and the civil society in containing crime,



molestation, ensuring women's safety, besides sensitizing the police about dealing with women victims and accused. The programme will be launched in the National Capital Region and later extended to different parts of the country.

The programme was inaugurated by Smt. Sheila Dikshit, Chief Minister, Delhi, who also administered the pledge "We pledge today that we will no more tolerate atrocities against women in any form. We will strive to ensure that the society is rid of this evil by all means at our command. We will be alert that perpetrators of such atrocities are not able to strike, and if any offence is committed, we will actively take part to ensure that the culprits are brought to book and meted out exemplary justice. We will remain vigilant all the time" and said that the problem against women should be tackled collectively because it involved the entire society. No society or nation could prosper unless women were respected, she added.

Dr. Girija Vyas, Chairperson, NCW said " last year showed great development by women in every field, but unfortunately, we saw a 30 percent increase in rape cases, too. Therefore, we want to turn the NCR in to a rape free zone and for this we have taken the help of the government and the civil society to curb violence against women through this innovative programme of JAGO.

**Visit to Jail:- Member of the Commission** visited the Central Jail at Lakhimpur in Assam and found

it to be overcrowded. However, the Jail Superintendent informed that it will be shifted soon to another place.

**Visit to Hospital:-** A delegation of the National Commission for Women headed by the Chairperson, visited three hospitals at Ahmedabad to meet the victims of serial bomb blasts. She urged the State Government to ensure time-bound disbursement of rehabilitation packages to the victims of the blasts. She said that she has been assured by the Gujarat government that compensation to the victims of serial bomb- blasts would be disbursed within a month's time.

**Member of the** Commission visited the Civil Hospital, Lakhimpur and enquired about the victims of bomb- blast. In this context, she also visited the houses of bomb-blast victims at Jonai. It was followed by a meeting with the departmental heads, NGOs, activists, panchayat and municipality workers.

**Visit to Short Stay Homes/ Nari Niketan:-** Member of the Commission visited Short Stay Homes in Arunachal Pradesh and interacted with the rescued child- marriage victims and women affected by domestic violence.

Member of the Commission, visited Nari Niketan at Bikaner and discussed the problems confronted by the inmates there and also interacted with the in-charge of the Nari Niketan. She then asked for a report from the in-charge in the matter.





# 3

## COMPLAINTS AND INVESTIGATION CELL

The Complaints and Investigation Cell (C & I Cell) is an important component of the Commission. It deals with the complaints received from all over the country including those relating to deprivation of rights of women and those involving injustice to women. The C & I Cell processes the complaints received orally, in writing or online through its website i.e., [www.ncw.nic.in](http://www.ncw.nic.in). In addition, the Commission also takes *suo moto* cognizance of incidents related to commission of heinous crimes against women under Section 10 of the National Commission for Women Act, 1990.

### Procedure of the Complaints and Investigation Cell

As soon as a complaint is received in the NCW (By whatsoever mode), it is sent to the C & I Cell, for registration containing requisite particulars such as date of receipt, number, sender's name and address, case number, category and State, etc. This registration is done within 24 hours from the date of receipt of the complaint. Then, without prejudice to the Chairperson's power to set up an Inquiry Committee, generally, the complaints in which cognizance has been taken are serially noted and equally distributed among the various Counselors in the Complaint and Investigation Cell. Each Counselor is, in turn, attached to a Member.

The Counselor prepares the Brief Transmission Report (BTR) of the cases wherein they suggest the course of action to be taken in the matter strictly as per the power and mandate of the NCW. The said

report is then put up before the respective Member for approval. After the approval of the concerned Member, the Counselor takes necessary action as per the orders/directions and the complainant is accordingly informed. A copy of the Action Taken Report (ATR) received from the concerned authorities is provided to the complainants seeking their comments on the ATRs. If the complainants have no objections to the ATRs, the case is closed after placing it before the concerned Member and after getting due approval of the same. However, if the complainants is not satisfied with the ATR, his / her comments are sought and thereafter appropriate action is taken keeping in view the submission of complainant.

The Chairperson and the Member decide on taking suo- moto cognizance of the incidents, calling for Action Taken Reports from the concerned officials, taking decisions on issuance of summons to the parties for hearing, conducting hearings and recording the statements, conducting counseling and bringing about conciliation and making recommendations on the reports. The C & I Cell functions under the overall supervision and guidance of the Member concerned. The final decision whether to close the matter or to conduct further hearings or to obtain further reports from the concerned authorities or recommend constitution of an Inquiry Committee with the approval of the Commission is taken by the concerned Members.. However, the Committee is constituted only after the due approval of the Chairperson. A letter is generally sent to the complainant in all the cases at the time

of the final disposal of the complaint whether cognizance has been taken by the Commission or not.

The C & I Cell deals with the complaints received so as to provide adequate relief to the complainants and ensure suitable redressal of the grievances of the complainant. The following approaches are adopted for settling the matter:

- (1) Investigations by the police are expedited and monitored.
- (2) Family disputes are resolved or compromised through counseling at the office of the National Commission for women;
- (3) For serious and heinous crimes, the Commission constitutes an Inquiry Committees, which makes on the spot inquiries, examines various witnesses, collects evidence and submits a report with recommendations. Such investigations help in providing immediate relief and justice to the victims of violence and atrocities. The implementation of the recommendation of the report is monitored by the NCW. There is also a provision for having experts /lawyers on these committees.
- (4) A few complaints are also forwarded to the respective State Commissions for Women and other organizations like the National Commission for Women, National commission for Scheduled caste, National Commission for Scheduled Tribes etc; for disposal of the cases at their end if it is in their jurisdiction.
- (5) As per the 1997 Supreme Court Judgment on sexual harassment at work place, in **Vishakha**

***Vs. State of Rajasthan (AIR 1997 Supreme Court 3011), every employer is*** required to provide for an effective complaints procedure and remedies including award of compensation to women victims .In sexual harassment complaints, the concerned organization is urged to constitute a Committee in accordance with the Vishakha case and to inquire into the complaint of the aggrieved woman employee regarding the charges of sexual harassment and to submit a report of the same to the Commission. The cases are regularly monitored and the concerned organizations are directed to expedite the disposal of the matter.

#### **Online Complaint Registration System**

The Online Complaint Registration System was introduced by the NCW in the year 2005. It is a facility incorporated for the speedy and easy registering of complaints through the Commission's website i.e., [www.ncw.nic.in](http://www.ncw.nic.in) and also through the e-mail of the Commission i.e., [ncw@nic.in](mailto:ncw@nic.in). This has resulted in speedier registration and providing registration acknowledgement to the complainants Any one can log on to the above site from any part of India/ world and register his/ her complaint. . The said complaint is given a Registration No. and allotted to a particular counselor. The complaint is then disposed of in the same manner as those received through post / by hand, etc. If the complainant wants to know about the progress of the case, he / she may simply log in to the site and after typing their case number and relevant password, gets the details of the action taken in the matter and also the progress of the case.



### Heads under which complaints are Registered

The complaints received at the Commission are registered at present under the following categories–

- (1) Acid Attack
- (2) Attempt to Murder
- (3) Attempt to rape
- (4) Bigamy / Adultery
- (5) Custody of Children
- (6) Cyber Crime
- (7) Desertion
- (8) Divorce
- (9) Domestic Violence / Matrimonial Dispute
- (10) Dowry Death
- (11) Dowry Harassment
- (12) Female Infanticide / Foeticide
- (13) Harassment at Work Place
- (14) Harassment for Dowry / Cruelty
- (15) Kidnapping / Abduction
- (16) Maintenance
- (17) Miscellaneous
- (18) Molestation / Eve Teasing
- (19) Murder
- (20) Non-mandate
- (21) NRI Marriages
- (22) Police Apathy
- (23) Police Harassment
- (24) Property (Widow's Property, Parent's Property, Stree-dhan Property)
- (25) Rape
- (26) Sexual Harassment at Work Place
- (27) Shelter / Rehabilitation

### Complaints Registered during the financial year 2008-2009 (Category-wise and State-wise)

During the year under report, **12895** complaints/cases were received & registered in the Commission. The Category-wise and State-wise distribution of the complaints / cases received by the Commission for the Financial Year 2008 – 2009 is at Annexure : **A-2** & **A-3**. where in the complaints have been classified in to 27 categories / heads.

As per the Category-wise segregation of the complaints / cases in descending order, received by the Commission during the Financial Year 2008 – 2009 shows that the largest number of complaints numbering **2020** was regarding Dowry Harassment, followed by **1137** complaints of Domestic Violence / Matrimonial Dispute. Cases of Dowry Death numbered **602**, Molestation / Eve Teasing **297**, Kidnapping / Abduction **308**, Police Harassment complaints amounted to **487** whereas Police Apathy complaints were **682**. The complaints Attempt to Rape were **218** and that of rape were **577**. Cases of Sexual harassment at work place were **164** while cases of Harassment at Work Place were 349.. Cases of Bigamy / Adultery were **156** and that of Property (Widows Property, Parents Property, Stree-dhan Property, etc.) were **621**. Cases of NRI Marriages were **41**, Divorce were **10** and that of Desertion were **45**. **08** cases of Acid Attack and **06** cases of Female Infanticide / Foeticide were registered. Miscellaneous cases numbering **4498** of various kind were registered whereas Non-mandate Category cases numbered 508 .

The list of Top Ten Categories (In Descending Order) which have been registered in a large number is as follows :

<b>Sr. No.</b>	<b>Category*</b>	<b>Nos. of Complaints</b>
1.	Dowry Harassment	2020
2.	Domestic Violence/ Matrimonial Dispute	1137
3.	Police Apathy	682
4.	Property (Widows Property, Parents Property, Stree-dhan Property, etc.)	621
5.	Dowry Death	602
6.	Rape	577
7.	Police Harassment	487
8.	Harassment at Work Place	349
9.	Kidnapping / Abduction	308
10.	Molestation / Eve Teasing	297

\* Note : In the above table, the complaints registered under the Miscellaneous/Non- Mandate categories have not been included.

The State-wise complaints/cases that have been received during the Year 2008-2009 is at Annexure:  
**A-4.** The Commission has received **6813** complaints/cases from Uttar Pradesh, **1910** complaints from Delhi, 919 from Rajasthan, 700 from Haryana and 431 from Madhya Pradesh.

Top Ten States (In Descending Order) which have registered large number of complaints / cases during 2008-09:

<b>Sr. No.</b>	<b>State</b>	<b>Nos. of Complaints</b>
1.	Uttar Pradesh	6813
2.	Delhi	1910

3.	Rajasthan	919
4.	Haryana	700
5.	Madhya Pradesh	431
6.	Bihar	338
7.	Maharashtra	230
8.	Punjab	212
9.	Uttaranchal	212
10.	Tamil Nadu	186

This makes it evident that the NCW has been regarded by the society as an essential unit rendering valuable service to the suffering women and to the Society as well. As an illustration of the procedure and practice of the Commission in handling complaints, there are many successful cases in the Commission and some of the selected successful cases have been given below:-

#### **Selected Successful cases dealt with by the Commission**

1. The NCW received a complaint from Mr. X, a resident of Mathura, Uttar Pradesh, alleging that the husband and in-laws of his daughter subjected her to dowry demand, harassment and torture. When she failed to bring one lakh rupees as demanded by them, she was turned out of her matrimonial home. The complainant made various attempts to bring about reconciliation but could not get success. The complainant approached the NCW for help. The Commission took up the matter with the Senior Superintendent of Police , Mathura (UP) and sought an Action Taken Report from him. On NCW's intervention, an enquiry was conducted and both the parties were called



wherein they reached mutual compromise. The complainant returned to her matrimonial home and her husband assured that he would take care of his wife.

2. The NCW received a complaint from Ms. X, a resident of Mall Road, Delhi. The complainant alleged that her husband was having an extra-marital affair and used to leave frequently. She further alleged that no maintenance was provided to her for meeting the day-to-day needs of her family. The Commission took up the matter and both the parties were called for a personal hearing at the Commission wherein after counseling, an amicable settlement was arrived at. The complainant's husband agreed to give a part of his salary for the maintenance of the family and also agreed that he would stay with his family.
3. The NCW received a complaint from Ms. Z, a resident of Tilak Nagar, New Delhi, regarding the alleged dowry demand & harassment meted out to her by her husband and in-laws. The Commission took up the matter and both the parties were called for a personal hearing at the Commission to sort out the matter at the initial stage itself. After the continuous persuasion and efforts of the Commission, both the parties reached an amicable settlement that the complainant and her husband would reside separately from their in-laws and that their in-laws would not interfere in their personal lives. The complainant's husband also assured the Commission that he would take proper care of his wife.

4. The NCW received a complaint about the physical and mental torture meted out to a minor girl Ms. A, aged about 13 years, by her employers where the girl was employed as a domestic help. As the matter was serious, the Commission immediately sent a team headed by Ms. Manju S. Hembrom, Member, NCW, along with members of Child Line (An NGO from Gurgaon) to rescue the girl from her employers. The team visited the house and the girl was rescued from her employers. Thereafter, the NCW requested the Chief Minister, Government of Haryana, to personally intervene in the matter and to ensure that proper investigation be carried out in the case. The CM, Haryana, directed the DGP, Haryana Police, for looking into the matter and getting it investigated through some Senior Officer and take appropriate action against the employers of the girl.

As a result of the initiative of NCW, the rescued girl Ms. A, had been taken to the Rehabilitation Centre, a Delhi based NGO.

5. The NCW received a complaint from Mrs. S, a resident of Bundi District, Rajasthan, wherein the complainant alleged that she had been subjected to harassment / torture by her husband and in-laws. She requested the Commission to ask her in-laws to return her "Streedhan - Dowry money, jewelry items, valuable goods, etc". The Commission examined the matter regarding recovery of "streedhan" from the in -laws of the complainant and sought an Action Taken Report from the Superintendent of Police, Bundi, Rajasthan, As a result of NCW's

intervention, the police took action and the complainant recovered her valuables.

6. The NCW received a complaint from Mrs. X, New Delhi in October 2008. The complainant had alleged in her application that she got married in the year 1995 to Mr. Y in Uttar Pradesh and had been leading a normal married life and blessed with 4 children. However, subsequently her husband had taken to consuming excessive alcohol on account of which their marital life had been adversely affected. Further, Mr. "X" was also alleged to have resorted to beating his wife and children. He had even sold a piece of land in his village on the advice of his friends. Presently the complainant was residing in her parental house at Delhi. She stated that her husband provided no money for her maintenance for several years and that he had retained the children in his custody. Aggrieved by the situation she submitted her complaint to the Commission. The matter was taken up by the NCW and both the parties were called for a personal hearing at the Commission on an appointed date and were duly heard and counseled. As a result of the above, the husband agreed in writing that he would refrain from beating his wife and children, would support them, and would not sell the remaining land in the village without the permission of his wife and would also not consume liquor.
7. The NCW received a complaint in November 2008 from Mrs. G; resident of New Delhi alleging that she had been subjected to dowry demand, harassment and torture by her husband and in-laws. The NCW sought an Action Taken Report from the Senior Superintendent of Police, District Ghaziabad, Uttar Pradesh and as a result a compromise had been arrived at between both the parties and the dispute amicably resolved.
8. The NCW received a complaint from Mrs. D, a resident of New Delhi in November 2008 stating that she had been harassed and tortured in addition to being financially deprived of by her husband and in-laws. The matter was taken up by the Commission and an Action Taken Report was sought from Senior Superintendent of Police, Faridabad, after which both the parties had arrived at a compromise to live in harmony.
9. The NCW received a complaint from Ms. X of Ghaziabad District, Uttar Pradesh, aged about 35 years, afflicted with health problems, regarding alleged mental torture and gender discrimination meted out to her by her parents. As a result of Commission's taking up the matter and counseling both the parties, after a personal hearing, the parents agreed to pay due attention to their aggrieved daughter based on which the complainant requested for closure of the case.
10. The NCW received a complaint from Mrs. X of Delhi regarding dowry demand and harassment meted out by her husband and in-laws. The Commission called both the parties for a personal hearing during which it was observed that the complainant and her husband had minor differences which had been escalated on account of negligence by the husband thereby compelling her to leave her matrimonial home.



As a result of personal hearing and effective follow-up, the parties arrived at a compromise.

11. The NCW received a complaint from Mrs. X alleging that her husband and in-laws were continuously harassing, torturing and subjecting her to physical and mental torture / domestic violence. The Commission took up the matter and an Action Taken Report was sought from the Superintendent of Police, District Karnal (Haryana), requesting him to look into the complaint and to submit a report of the factual details of the case. In response to the same, the NCW received an Action Taken Report from the Deputy Superintendent of Police, Karnal, wherein it was stated that an F.I.R. under Sections 323/506/34 of IPC had been registered against the alleged persons. In addition to this, the complainant had also initiated proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005, which is pending in the Court.
12. The NCW received a complaint from Mrs. Y, a resident of District Bulandshahar of Uttar Pradesh, alleging that her daughter Ms. A has been kidnapped / abducted by the alleged persons named in her complaint. She further alleged that she approached the concerned Police Station for action but neither her F.I.R. was registered nor was she provided with any help from the concerned Police Officials. She prayed for NCW's intervention so that her daughter may be recovered. The NCW immediately sought an Action Taken Report from the Senior Superintendent of Police, District Bulandshahar, Uttar Pradesh. The NCW received an Action

Taken Report from the Senior Superintendent of Police, District Bulandshahar, stating that an F.I.R. under Sections 363 / 366 of IPC has been registered against the accused persons. One of the accused persons has been arrested and sent to Jail whereas the kidnapped girl has been recovered. In addition to this, after further investigation of the case, Section 376 of IPC has also been added in the aforesaid F.I.R.

13. The NCW received a complaint from Ms. 'A', a resident of District –Faridabad, (Haryana), alleging that she has been abducted and gang-raped by the alleged persons. She further stated that she had reported the matter to the concerned Police and an F.I.R. has been registered at Faridabad. However, she alleged that the police have not yet arrested all the accused persons. She also approached the Director General of Police, Haryana, Inspector General of Police, Faridabad Range and Senior Superintendent of Police, Faridabad, for needful help and intervention in the matter but could not get any positive response from them. Being aggrieved, she approached the NCW and submitted her complaint. The NCW took up the matter with the Senior Superintendent of Police, Faridabad, and requested him to submit an Action Taken Report on the matter. Thereafter, the NCW received an Action Taken Report from the Deputy Superintendent of Police, Faridabad, wherein it was stated that the matter was enquired into and upon investigation it was found that the charges against one of the accused persons were true who has been arrested whereas the other accused persons

had no role in the commission of the alleged offense.

14. The NCW received a complaint from Mrs. X, a resident of Gurgaon District, Haryana, alleging that she has been subjected to harassment / torture / cruelty / domestic violence by her husband and brother-in-law. The Commission took up the matter and both the parties were called for a personal hearing and counseling at the Commission. As a result of mediation, the complainant and her husband resolved their differences. Both the parties were also advised to minimize the interference of the in-laws into their personal lives. The complainant went to her matrimonial home along with her husband. Two follow-ups have been conducted in this regard, which has confirmed that the parties are living in harmony.
15. The NCW received a complaint from Smt. K, a resident of District Moradabad, Uttar Pradesh, alleging that she has been subjected to sexual harassment at her work place. She had alleged in her complaint that during some meeting one teacher Mr. R uttered un-parliamentary words to her in the presence of some other employees, which were named in the complaint. The Commission took up the matter and an Action Taken Report was sought from the Senior Superintendent of Police, District Moradabad, Uttar Pradesh. Thereafter, the Commission received an ATR from the aforesaid authority wherein it was stated that the matter has been amicably resolved between the parties and they have agreed to maintain good relations in future.

#### Investigations undertaken under Sections 10(1) and 10(4) of NCW Act, 1990

The NCW looks into complaints and also takes *sou moto* cognizance of matters relating to deprivation of women's rights and non-implementation of laws enacted to provide protection to women. Some of the selected cases have been described below : -

1. The National Commission for Women took *suo moto* cognizance of the incident wherein a 12-year-old minor girl was reportedly raped in a moving car by a Traffic Constable at Swaroop Nagar in Outer Delhi Area. The matter was taken up by the Commission and the Chairperson, NCW, requested the Commissioner of Police, New Delhi, for initiating action in the matter. Thereafter, the NCW received an action taken report from the Delhi Police, wherein it was informed that :
  - An F. I. R. has been registered against the accused persons;
  - The police swung into action and two accused persons i.e., the Constable and one other accomplice were arrested;
  - The accused Traffic Constable has been dismissed from his services; The vehicle used in the commission of the crime has been seized by the Police;
  - The matter is still under investigation.
2. The National Commission for Women took *suo moto* cognizance of the press clipping "Gharelu Naukrani Ki Fande Mein Jhulti Lash Mili" published in the Dainik Tribune. As the matter was serious, the Commission immediately took up the matter



and action taken reports were sought from the Director General of Police, Haryana , Inspector General of Police, Faridabad, District Magistrate, Palwal & Supdt. of Police, Palwal. The NCW received action taken reports informing that :

- An F. I. R. U/s 302, 363, 366 & 32 of IPC has been registered against the accused persons;
- The deceased's body has been handed over to her brother for her last rites;
- The investigation is still under process and the concerned Police Officers have been directed to investigate the incident thoroughly.

3. The National Commission for Women took ***suo moto*** cognizance of the incident wherein a German girl was reportedly molested in September, 2008, in Chandigarh. The Commission took up the matter and action taken report was sought from the Punjab Police. The following action was taken by the Punjab Police after NCW's intervention :

- An F. I. R. has been registered in the case;
- All the accused persons have been arrested and sent to the Model Jail, Burali, Chandigarh;
- The exhibits taken in the case have been sent to the Director, CFSL, for examination;
- The investigation has been completed and the Challan has been presented in the Court on 21.11.2008. The proceedings before the Hon'ble Court are under process.

4. The National Commission for Women took ***suo moto*** cognizance of the incident wherein a

girl student was reportedly gang-raped in a car in January, 2009, in Noida, District Gautambudh Nagar, Uttar Pradesh. The Commission took up the matter and an Inquiry Committee was constituted which at once visited the concerned Police Station and the place of incidence. The following action was reported by the police in its report submitted to the Commission :

- An F. I. R. U/s 342, 376, 394 of IPC has been registered at P. S. Sector 39, Noida, after the incident was reported to the Police regarding the alleged gang – rape of the victim;
- The victim's medical examination has been carried out by the Police in District Hospital, Noida;
- The Police have also arrested 5 of the accused persons and during the course of interrogation these accused persons have admitted to having committed the heinous crime. All these accused persons belong to Village Garh Chaukhandi, where the alleged incident took place. That, two motor cycles, cricket bat, helmet, three mobile hand sets, etc. has been seized by the Police;
- The names of 6 other accused persons have also come up during the investigation. As regards the arrest of remaining accused persons, the Police have constituted teams for conducting raids & arrests.

5. The National Commission for Women took ***suo moto*** cognizance of the incident of mysterious death of Ms. Scarlett Eden Keeling, an U. K.

girl in Goa. The Commission took up the matter and an Inquiry Committee was constituted which at once visited Goa and enquired into the matter. The following action was taken in the case after NCW's intervention and on the complaint filed by Ms. Fiona Mackeown (Mother of the deceased):

- After second autopsy on the body of the deceased, an F. I. R. U/s 302 of IPC has been registered at Anjuna Police station;
  - During the course of investigation of the case, Sections 376, 328 read with Section 34 of IPC and Section 8 (1) (2) of Goa Children act, 2003, were added;
  - The accused persons have been arrested and are in Judicial Custody;
6. The National Commission for Women took *suo moto* cognizance of the press clipping "Dayan Ke Aarop Mein Dampatti Ki Hatya" published in Dainik Jagraon, New Delhi Edition. The Commission took up the matter and an action taken report was sought from the District Magistrate, Gumla, Jharkhand. The following action was taken/ reported to be taken in the matter :
- An. F. I. R. U/ 302, 34 of IPC & U/s 3/4 of Jharkhand Anti Witchcraft Act, 2001, has been registered against the accused persons;
  - The police have arrested the accused persons and efforts to arrest one of the accused persons are being made who is absconding for fear of arrest.
7. The National Commission for Women took *suo moto* cognizance of the press clipping "Another slur of Haryana Police : SHO booked for rape" published in the Indian Express, New Delhi Edition. The Commission took up the matter and an action taken report was sought from the Director General of Police, Haryana & District Magistrate, Karnal, Haryana. The following action was taken reported to be taken in the matter:
- An F. I. R. U/s 376 (2) (1) of IPC & U/s 3 of SC / ST Act, has been registered at Police Station – Nisingh, Distt. Karnal;
  - The medical examination of the victim has been conducted and her vaginal swabs (Specimen) were sent to the SFL, Maduban for examination;
  - The accused person has been arrested and has been sent to Jail.
  - In addition to this, the accused Inspector has been suspended from the Department;
  - The investigation of the case is still under process.



# 4

## LEGAL CELL

In accordance with the mandate of the Commission, under **Section 10** of the **National Commission for Women Act, 1990**, the Commission during the year 2008-2009 reviewed various laws. The recommendations on enacting of fresh legislations/policies as well as the amendments to the existing laws, affecting and concerning women are briefly given as under:-

- (a) **Review of Laws undertaken during the period.**
- (i) **Review of Implementation of the Protection of Women from Domestic Violence Act, 2005.**

Domestic violence is an issue that transcends boundaries of race, religion, class and sexual orientation. Women are being subjected to extreme acts of physical violence, which takes place within the sanctity of their home. The violence is severe, painful, humiliating and recurrent and most often the victim is too overcome by feelings of fear, shame and powerlessness to do anything about it. A United Nations international survey titled "Domestic Violence Women and Girls", estimates that in each country 20% to 50% of women suffer domestic violence. In India studies have found that more than 40% of married women reported being kicked, slapped or sexually abused for reasons such as their husband's dissatisfaction with their cooking, cleaning, jealousy, and a variety of other motives.

According to Ms Indira Jaising, Director, Lawyers Collective, the need for the civil law on domestic violence was identified from the experiences gained

through the provision of legal aid to women facing violence in intimate relationships. After nearly a decade of advocacy and consensus building by various women's groups across the country, the protection of women from domestic violence act, 2005 was finally brought into force on the 26<sup>th</sup> October, 2006. The enactment of this law is regarded as a significant step towards realizing equality rights of women.

The limitations of the pre – 2005 legal regime on domestic violence were –

- There was no definition of the term 'domestic violence' that comprehensively reflected a women's experience of violence in intimate relationships.
- There was no law to recognize a women's right to residence or her right to civil remedies.
- Legal relief for violence could only be availed of by women in matrimonial relationships.
- Relief under civil laws involved protracted legal proceedings without the guarantee of a satisfactory outcome.
- Criminal law did not allow space for any negotiations.
- Hence a mechanism to facilitate a women's access to courts was missing.

**Thereafter it was decided that to have a law on domestic violence the following should be included :-**

- Clear declaration of the basic intent of the law, namely, the object of preventing domestic violence.
- A clear and unambiguous statement of the right to be free from domestic violence and the recognition of domestic violence as a violation of the human rights of women.
- Definition of domestic violence, which captures women's experience of abuse with some degree of precision.
- Definition of the 'shared household' so that rights can be protected within that household.
- Reliefs that can be given to protect women from violence.
- Infrastructure available to victims of violence that can make the remedy accessible.

As part of the mandate of the National Commission for Women, it was considered essential to engage in an information exchange exercise, where information on the complaints filed as well as action taken by the State Governments in implementing the law, including issues with regard to appointment of Protection Officers, registration of Service providers, problems encountered in implementation of the Act could be collated and evaluated.

With the above objective, the Commission along with the **Lawyers Collective** organized the first workshop on the implementation of the PWDVA on the **11<sup>th</sup> and 12<sup>th</sup> May 2007** at **Mumbai**, the second workshop was organized on **21<sup>st</sup> and 22<sup>nd</sup> June 2007** at **Bangalore**, **Third one was held at Chandigarh on 21<sup>st</sup> and 22<sup>nd</sup> November 2007**, the **fourth workshop was held at Jaipur on 11<sup>th</sup> and 12<sup>th</sup> December 2007**

**and last workshop was held at Kolkotta on 9<sup>th</sup> February 2008.**

The workshops were well attended by the representatives from the State Government Departments, the Police, judicial officers and NGO's

## RECOMMENDATIONS

Now that we have a law, we have to ensure that it is implemented and enforced so that women for whom it is enacted are aware of it, have easy access to it and use it effectively. Hence the following recommendations:

### **Protection Officers:**

- (i) There is a need for appointing full time PO's. Contractual appointments could be considered as is being done so in Delhi and Haryana.
- (ii) Support system consisting of exclusive Pos with adequate staffing should be set up for the implementation of the PWDV Act, so as to be able to achieve the ends of justice expeditiously.
- (iii) NGO's could be considered as PO'S and paid honorarium for the task being performed by them subject to basic minimum facilities such as office, transport, staff, etc
- (iv) The adequate Numbers of PO should be such that they are able to reach to the Taluka/Block level the feasibility of every Panchayat having a women justice committee could also be considered.
- (v) The DIR Index model adopted by the A.P. Police should be circulated in all states with directions that the model be adopted. The Protection Officer should be in charge of maintaining the



DIR index along with process service register to record the serving of summons, etc. by the PO.

- (vi) Role definition and clarity - between the police/WCD/PO/SP

### **Service Providers**

- (i) Notification of Service providers as per rule 11 of the Act is required. Registration of service providers after due verification of their suitability must be done and their phone numbers and addresses must be published and made available.
- (ii) under section 10, a service provider registered under the Act has the power to record DIR and forward a copy thereof to the Magistrate
- (iii) The provision is restrictive and prima facie curtails the NGOs and other organizations who have not registered themselves under the Act or whose registration may not have been done by the concerned authorities, from assisting the women The services have to be accessible to women in remote areas.
- (iv) Map facilities of Government and Government aided services across different geographical regions
- (v) Provision for honorarium to counselors
- (vi) Accountability of service providers – who fail to register and fail to provide services to the aggrieved person

### **Shelter homes and medical facilities**

- (i) Need to notify the facilities available at state, district and block levels

### **Training, Orientation and Dissemination:**

- (i) Training and orientation of all Stake Holders involved in Implementation of PWDVA and also training manual for Pos, SPs, Police and judiciary must be developed separately.
- (ii) Orientation and awareness to other key factors such as the Gram Panchayats and the social justice committees, SHG groups and federations, Anganwadi workers etc. in supporting victims of violence.
- (iii) Awareness on the law, through media campaigns in print, electronic media and other means.
- (iv) Translation of act in all regional languages so that it can be easily disseminated and understood.

### **Central and State Governments:**

- (i) Building a multi-agency response: there is need to build a multi agency response between the Protection officers, Police, Legal Services Authorities, Service Providers, Counselors, etc to aid women facing domestic violence. This response requires coordination amongst the different departments of the Government as well as partnerships with civil society organizations.
- (ii) Adequate allocation of budget for implementation of the Act.
- (iii) Strengthen augment family courts – all cases to be decided by such courts.
- (iv) Increase number of shelter homes – can be outsourced – involve private participation by way of donations from corporate sectors which could be provided tax concessions.

- (v) Need to recognize the role being played by the women commissions in conciliation and mediation of family disputes

***Towards single window clearance/Role clarity***

- Dowry prohibition Act, Section 498A, Domestic violence Act overlap to some extent in sense that they cover various facets of marital disharmony and violence
- State governments have reacted differently to implementation of these Acts – some places we have the police /social welfare departments officers, etc given additional charge to work as dowry prohibition officers /protection officers and in some cases its the Police
- The system Leads to multiplicity of proceeding.
- Directions of the hon'ble Supreme Court judgment dated 18.12.96 in CRL CWP No. 539/86- D.K. Basu vs. State of west Bengal.

***The power to arrest without a warrant should be exercised only after a reasonable satisfaction is reached, after some investigation, as to the genuineness and bonafides of a complaint and a reasonable belief as to both the person's complicity as well as the need to effect arrest.***

- Police in many States now resort to counseling and settlement and do not immediately take action under section 498A. the AP model seeks to achieve this by harmoniously blending the provisions of DV Act and section 498A IPC
- Even on complaints under section 498A IPC the trend is to resort to counseling and rapprochement rather than filing FIRs and charges

and arresting the persons on grounds because the provision is cognizable and non Bail able

- In such a scenario the AP model may serve a useful purpose;
- This may also ensure role clarity between the police and PO's as well as ensure proper coordination between agencies
- Commission strongly feels that counseling should not be carried out by the police, but the police should engage services of a professional counselor or any authority under DV Act and take suitable action thereafter.

***AMENDMENTS PROPOSED TO PWDV Act:***

- (i) Who can write and make DIR's to Magistrate? U/s 9(b) it's the PO's duty to make the Domestic Incident report to the Magistrate, u /s 10 (2) (b) Service providers can record the DIR and forward to Magistrate. Even under the rules (Rule 5) Its only the PO's and SP's authorized to make the DIR.

These provisions are very restrictive and take away the role of the women commissions as well as those associations who are actively engaged in resolving disputes.Its true that such organizations can file applications u/s 12 of the Act but the proviso to section 12, takes away any such role being performed by such organizations, as its made dependent upon the DIR received from PO/SP Even the Police report would be dependent on DIR filed or to be filed by PO/SP. **hence this restrictive provision needs to be amended, authorizing any Statutory Body espousing the cause of women or promoting and protecting Human rights**



**or the police or any NGO to make such report which shall be treated as DIR under the PWDV Act**

(ii) Definition of “**shared household**”, the judgment of the Supreme Court in the matter of S.R. Batra vs. Taruna Batra needs to be reviewed:

The court in the judgment excludes the self-acquired property of the in-laws from the purview of “shared household”. In doing so, the court contradicts the express letter of the law, which in Section 2(s) clearly

Provides that: *“shared household” means a household where the person aggrieved lives or at any stage had lived in a domestic relationship... irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.* Hence, the PWDVA expressly states that the ownership of the shared household is irrelevant to the question of the right to reside in the shared household [Section 17 (1)]. The court states that the relief sought cannot be granted because the premises in question is not joint

family property, and hence, cannot be “shared household”. This too is contradictory to the express provision of Section 17(1).

Such an interpretation is sure to have adverse implications on applications filed by women in cases of NRI marriages, where the husband brings the bride to his parents’ house, lives there for a month and then goes abroad. The wife continues to reside in this house, which quite probably is the self-acquired property of the in-laws. The Batra judgment interpretation would then automatically require the courts to say that since this cannot be considered to be the “shared household”, the wife has no right to live there regardless of whether he makes provision for her visa or accommodation in the new home? Whether this defeats the very purpose of the Act - protecting women, is but a foregone conclusion in cases such as these.

***Hence, a need for an amendment to the definition section 2 (s) and its suggested that the provision be suitably amended as under:***

Present Provision	Proposed Amendment
<p>Shared household” means a household where the person aggrieved <b>lives</b> or at any stage has <b>lived</b> in a domestic relationship either singly or along with the respondent.</p> <p>(and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any</p>	<p>Section 2 (s) “ shared household” means a household where the person aggrieved resides or at any stage has resided in a domestic relationship either singly or along with the respondent.</p> <p>(or has the right to reside by virtue of the domestic relationship, whether owned or tenanted either jointly or singly by the aggrieved person and the respondent, and includes, in the case of a married women, a household owned or tenanted by either of parents</p>

<p>right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member)</p>	<p>of the respondent being her lawfully wedded husband or by the joint family of which the respondent is a member, which was or it her matrimonial home)</p>
<p>irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.</p>	<p>irrespective of whether the respondent or the aggrieved person has any right, title or interest in such shared household.</p>

The definition of “shared household” under Section 2(s) requires some changes in order to ensure that the interest and legitimate rights of a woman in a domestic relationship and facing violence can be upheld, while at the same time, given the concerns raised by the apex court in the Batra judgment. Therefore, the following amendment to the definition is suggested to meet requirements of ensuring protection to married women who reside in households not owned by their husband but by her parents in law, but which nonetheless her matrimonial home.

However, at the same time, in view of the concern raised by the court, it is also expressly clarified in the new definition that only that household belonging to the parents in law will be “shared household” for the purposes of this Act which has been her matrimonial home. This provides the safeguard as identified in the Batra judgment.

(iii) The law is also silent as to evidentiary value, which is to be attached to the reports given by PO or their mode of proof. In laws such as land acquisition Act, the sale deed is read as evidence. The report of PO has no evidentiary value. the PO’s would then be repeatedly

summoned by the courts to lead evidence which would adversely affect their functioning

- (iv) Under section 29 of the Act, **orders** of the Magistrate is appealable, which means that even interim orders are subject to appeal. As every order is made appealable so there are no limits, therefore right to appeal and revision under this Act should be amended and appeal should only be against the final orders. For instance in section 28 of the Hindu Marriage Act 1955, orders made by a court under section 25 & 26 are appealable **if they are not interim orders**.
- (v) Alternate Dispute Resolution could play an important role in the implementation of the PWDV Act. –This could effectively lessen the burden on the courts
- (vi) Section 31 states that a breach of order shall be an offence which is punishable with imprisonment extending to one year. At the same time under section 31(3) the magistrate has been empowered to frame charges under section 498A IPC or any offence under dowry Act. The offence under section 32 is cognizable and non-bailable. There appears to be a conflict. In criminal law an offence punishable with imprisonment for one year is called a summons



case. The procedure for trying a summons case is totally different from trying a case under section 498A IPC. this is likely to lead to complications and needs to be clarified

(vii) Only breach of protection orders is an offence. The law is silent on aspect of breach of other orders such as residence orders, custody orders, etc. section 31 needs to be amended to include breach of other orders as well

(viii) **Rule 3** states that tenure of PO shall be a minimum period of 3 years – in case of contractual appointments this may not be a feasible option, as continuous performance of duties, on contract basis, may lead to regularization which the governments may not agree to hence the ready option being resorted to in giving additional function to a government functionary.

**(ii) Revised scheme for Relief and Rehabilitation to victims of Acid Attack**

The Commission had earlier drafted a Bill titled "Prevention of Offences (By Acids) 2008". Subsequently it was suggested to have a scheme on the lines of relief and rehabilitation to victim of rape and accordingly the Commission has formulated a scheme for relief and rehabilitation of Offences (by Acids) on women and girl child which is on the lines of the scheme relating to rape victims. Main features of the scheme are:-

- *Scheme would be administered by the NCW*
- *The authorities at District and State level shall be the same as suggested for the scheme for relief and rehabilitation of victims of rape*

- *Amount up to Rs 5,00,000/- to be immediately provided towards treatment, and further up to the maximum of Rs30 Lakhs*
- *Rs 5 Lakh earmarked towards rehabilitation of the victim*

*The revised scheme has been sent to the Ministry for consideration. Details are at **Annexure-IV***

**(iii) Finalization of Amendments to Dowry Prohibition Act.**

National Commission for Women had organized a Consultation in September 2008 and based on the recommendation prepared with inputs provided by delegates and Lawyers Collective, the proposed amendments to Dowry Prohibition Act 1961 were finalized. The revised recommendations have been sent to the Ministry for consideration. Details are at **Annexure-V**

**(iv) Revised Bill on Protection to Women from Sexual Harassment at Work Place Bill, 2008.**

The draft bill is to provide prevention and redressal of sexual harassment of woman at workplace. The definition of '**aggrieved woman**' besides any woman employee would include any woman associated with the workplace including students, research scholars in any educational institution, university etc It applies to all workplaces in Government as well as private sector, organized and unorganized sectors. The salient features of the draft bill includes:-

- *Constitution of the **internal complaint committee (ICC)***
- *Appointment of District Officer*

- *Constitution of Local Complaints Committee by the District Officer.*
- *Separate provisions for organized and unorganized sector.*
- *Penalty for publication or making known contents of complaint and enquiry proceedings*

*The revised Bill has been sent to the Ministry for consideration. Details are at Annexure-VI*

**(v) Recommendations on Review of the Supreme Court Judgement in SR Batra and Anr. Vs. Smt. Taruna Batra, SLP (Civil) 6651-6652 of 2005.**

The Commission has recommended the Supreme Court decision on shared household as defined in the PWDV Act in the case the Court held that wife is only entitled to claim a right to residence in a shared household, a 'shared household' would only mean house belonging to or taken on rent by the husband, or house which belongs to joint family of which husband is a member. The house in question belonged to mother in law of Respondent and not to Respondent's husband – Respondent could not claim any right in said house. The grounds on which review sought are:

- A. That the Court has interpreted the term "shared household" under the PWDV Act 2005 section 2 (s) in a narrow and restrictive sense in its paragraph 19 to 23 of the judgment;
- B. Court has not taken into consideration the fact that the aggrieved woman lived in the second floor of the shared household at the given address and was in possession of second floor when she was residing with her husband before she left to reside in her parental home due to

matrimonial dispute. Aggrieved woman should not have been dispossessed without due process of law;

- C. The Hon'ble Court has ignored the settled principle of law that PWDVA **ensures** that every woman in a domestic relationship shall have a right to reside in a shared household, whether or not she has any right, title or beneficial interest in the same;
- D. Section 17 does not in any way, transfer the title to the property on the woman. Married woman's right to reside in the shared household arises from the status of being married and the said right existed prior to the enactment of PWDVA. This right is thus not dependent on the fact of living for any length of time in the shared household. Hon'ble Court in Mangat Mal Vs Punni Devi (1995) 6 SCC 88, categorically stated the word maintenance in section 14 Hindu Succession Act 1956, must encompass a provision for residence in addition to food and clothing. Thus right to reside in shared household is a pre-existing right of a married woman. Under Section 17, the aggrieved woman's right to live in a shared household is irrespective of the fact that she had marked presence in a shared household or not. [2007(6) MLJ 205 (MAD) T Vandana Vs Mrs. Jayanthi Krishnamachari];
- E. That the Court has failed to take into consideration that even before the advent of the Act, the right of a wife to reside in the matrimonial home, was recognized as part of her right to maintenance, at least in so far as Hindus are concerned. In **B.P.Achala Anand vs**



**S. Appi Reddu and Another (20) 3 (SCC 313),** this Hon'ble Court laid down the law on the point as follows :-

“A Hindu wife is entitled to be maintained by her husband. She is entitled to remain under his roof and protection. She is also entitled to separate residence if by reason of the husband's conduct or by his refusal to maintain her in his own place of residence or for just cause she is compelled to live apart from him. Right to residence is part and parcel of wife's right to maintenance.”

- F. It is submitted that such a narrow and restrictive interpretation of “shared household” would give relief to the husband after filing a petition for divorce, or with the intention of filing a petition, connives with the in-laws and deliberately moves out of the house by the in-laws into rented premises and then abandon the wife.
- G. Since the property in question belonged to the mother in law the aggrieved woman could not claim any right in the said house. It is submitted that just because the house was in the name of mother in law it fails to indicate the source of income used to acquire the property. As in the present case the source of income behind the house in question could not be ascertained, the aggrieved woman should not have been denied the right to reside in such shared household.
- H. It's a settled principle of law that the welfare of beneficiary legislation has to be interpreted liberally and in favour of the beneficiary and as PWDVA is enacted for the protection of the

aggrieved women in domestic relationship and aims amongst other to secure a house for a woman, an aggrieved woman's right to reside has to be given priority.

- I. That the PWDVA expressly states that the ownership of the shared household is irrelevant to the question of the right to reside in the shared household [section 17(1)]. The court states that the relief sought cannot be granted because the premises in question is not joint family property, and hence, cannot be “shared household”. This too is contradictory to the express provision of Section 17(1). Such an interpretation is sure to have adverse implications on application filed by women in cases of NRI marriages, where the husband brings the bride to his parents' house, lives there for a month and then goes abroad. The wife continues to reside in this house, which quite probably is the self – acquired property of the in-laws. The Batra judgment interpretation would then automatically require the courts to say that since this cannot be considered to be the “shared household”, the wife has no right to live there regardless of whether he makes provision for her visa or accommodation in the new home? That such interpretation would defeat the very purpose of the Act.
- J. That such interpretation is bound to create adverse consequences for women fighting for right to shelter. In a case before the Hon'ble High Court at Bombay (appeal from order No 866 of 2007 in suit No.3072 of 2007) Smt Hemaxi Atul Joshi vs. Muktaben Karsandas Joshi and Anr, the Hon'ble Court observed that “That

facts in the case of SR Batra and the present matter are almost similar. Taking into consideration the legal position and facts, the appellant cannot claim any legal right of residence in the house belonging to her mother-in-law...."Even here the said house was in fact the matrimonial home, but the Hon'ble Court rejected the argument.

(vi) **Amendments to the Indecent Representation of Women (Prohibition) Act, 1986.**

To widen the scope of the Act and its applicability electronic media or any other media has been added in the definition of "advertisement". A separate chapter on **provisions relating to prohibition and penalties** has been added. It has also been proposed to appoint a Central Authority to govern and regulate the manner in which women are represented in any document published/broadcast/telecast. Details are at **Annexure-VII**

(b) **Court interventions**

**Raj Kumari Awasthi Vs State of U P - 2008CriLJ2539**

In accordance with the provisions as contained under section 125 (1)(b) & (c) of the Criminal Procedure Code, dealing with the issue of maintenance,

***If any person leaving sufficient means neglects or refuses to maintain-***

- b) *His legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or*
- c) His legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself.

Sub-section 1 (c) which states that "his legitimate or illegitimate child (not being married daughter) who has attained majority, where such child is, by **reason of any physical or mental abnormality or injury** unable to maintain itself," — it's a restrictive provision and there should not be any discrimination between specially able child and such child who has attained majority, particularly girl child. Right to be maintained by a parent having sufficient means should be provided to all unmarried daughters, even after they have attained the age of majority who are unable to maintain themselves. This would prevent vagrancy and destitution of girl child, which is one of the main objectives that the provisions for maintenance seek to address.

In **Raj Kumari Awasthi Vs State of U P - 2008CriLJ2539** the Allahabad High Court observed that Section 125(1)(c) - on a plain reading of the aforesaid provision, it is apparent that a person having sufficient means is only required to maintain his unmarried daughter who has turned major, i.e. after she has crossed the age of eighteen years, only if her inability to maintain herself is due to any physical or mental abnormality or injury, and not otherwise. The position as it stands under this provision is that a college going girl of 18 years, who is not yet married, unless she is unable to maintain herself due to any physical or mental abnormality or injury, can be refused maintenance by her father, who is possessed of sufficient means. But to expect that an unmarried daughter, who is still going to college or staying at home awaiting her marriage, and has no source of independent income to maintain herself can be denied maintenance from her father, who possesses sufficient means only because her inability to maintain herself

is not due to any physical or mental abnormality as required in Section 125(1)(c) of the Code would be extremely harsh and oppressive and in all likelihood violative of Articles 14 and 21 of the Constitution of India.

This provision appears particularly anomalous and discriminatory because in the other clauses of Section 125(1), i.e. in Clauses (a), (b) and (d), a person with sufficient means is required to maintain his wife, his legitimate or illegitimate minor child whether married or not or his father or mother who are unable to maintain themselves and there is no additional requirement for these categories of persons to demonstrate that their inability to maintain themselves is due to physical or mental abnormality or injury for claiming the benefit of this salutary social legislation. The provision also seems contrary to the spirit of Articles 15(3) and 39(e) and (f) of the Constitution of India which veritably enjoin the State to design laws for the welfare of women and children and for ensuring that children and youth are protected from moral and material abandonment. In this view of the matter, ***it was agreed upon that Sub-section 125(1)(c) needs to be amended by the Legislature and the right of to be maintained by a parent having sufficient means should be provided to all unmarried daughters, even after they have attained majority who are unable to maintain themselves.***

Copy of this order be also forwarded to the Law Commissions of India and U.P. and also to the National and U.P. State Commissions for Women for appropriate intervention by these bodies. The Commission agreed with the views of the Hon'ble

Court and filed an intervention application in the High Court of Judicature at Allahabad praying that provision of Section 125 (1) (c) Criminal Procedure Code is discriminatory and violative of the Constitution of India and is liable to be declared ultra vires of the Constitution of India, and accordingly, is liable to be struck down in its present form.

### (c) Seminars and Conference organized

1. A one day "Consultation on Surrogacy and Assisted Reproductive Technologies" was held on 24/4/2008 at National Commission for Women under the Chairmanship of Dr. Girija Vyas.. The guidelines formulated by ICMR regarding ART (Assisted Reproductive Technologies) industry was discussed in the meeting.
2. Workshops on "Indecent Representation of Women" were organized at Mumbai, Kolkata, and Hyderabad. Amendments to the existing law on the subject were discussed in the workshops leading to the amendments to the said Act.



*At the interactive session on a Workshop on "Indecent representation of Women". (From left) Dr. Girija Vyas, Mrs. Renuka Chaudhary*



At the interactive session on a Workshop on “Indecent representation of Women”. (From left) Dr. Girija Vyas speaking to the press.

3. Consultation on ‘Compensation to Rape Victims.’ was organized by NCW on behalf of MWCD on 19<sup>th</sup> June 2008 at Delhi. **The Consultation was presided over by the Hon’ble Minister for Women and Child Development, Smt. Renuka Chowdhury.** National Commission for Women after consultations with the NGOs and advocates working in this field has prepared the Scheme, which provides for compensation maximum of Rs. 2 lakh to the victims of rape.
4. Consultation on ‘Amendments to Dowry Prohibition Act, 1961’ and Draft Bill on Prevention of Offences by Acid, 2008 was organized by NCW on behalf of MWCD on 18<sup>th</sup> September 2008 at Delhi. **The Consultation was presided over by the Hon’ble Minister for Women and Child Development, Smt. Renuka Chowdhury.**
5. Seminar on “Problems relating to women in North East” was held on 19<sup>th</sup> April, 2008 at Gangtok in Sikkim.

6. Seminar on “Women working in Night Shifts” was held on 15<sup>th</sup> September, 2008 at Bangalore.
7. A Seminar on “Laws Relating to Marriages-Issues and Challenges” was held on 31<sup>st</sup> January, 2009 at Delhi.



At the interactive session of the seminar on “Marriage Issues and Challenges”. (From left) Shri S. Chatterjee, Dr. Girija Vyas, Shri K.G. Balakrishnan.

#### **Suo- Moto Case of IAS Rape Convict:**

**The** National Commission for Women’s attention had been drawn to the report appearing in the Media about a rape convict Mr. Ashok Rai having cleared the Civil Service Examination and the High Court reducing his conviction from life imprisonment to five and half years, which he had already spent in the jail.

**Brief of the Case:-** Sunita aged 21 years committed suicide by consuming sulphas tablets on 14<sup>th</sup> April, 2003. A suicide note written by the deceased expressly blamed Mr. Ashok Rai for forcing her to take such an extreme step. The learned Trial



Court convicted Ashok Rai under Section 306/376 IPC and awarded 10 years of rigorous imprisonment for offence under Section 306 IPC and rigorous imprisonment for life for the offence committed under Section 376 IPC.

The Hon'ble High Court, vide the impugned judgment and Order dated 09.02.2009 summarily set aside the conviction of Mr. Ashok Rai for the offences punishable under Section 306 IPC holding that there was no proof of any participative act by Mr. Rai to facilitate the suicide by Sunita so as to sustain conviction under section 306 IPC. The Hon'ble High Court observed that *"considering the totality of circumstances of notice that the appellant and has suffered incarceration for five year and six months and would be entitled to remissions on account of his good conduct in jail; noting further that the appellant has redeemed himself in jail evidenced by the fact that he took his civil services examination and qualified for being appointed to Indian Administrative Services; we are of the opinion that*

*the custodial sentence already suffered by the appellant would meet the ends of justice as a requisite punishment."*

National Commission for Women was concerned that a person convicted of such a heinous crime like rape was attempting to join the government services. NCW sought clarification from DOPT whether such a person convicted for a heinous crime involving moral turpitude is debarred from joining Government Services. The reply from DOPT said that *"success in examination confers not right to appointment unless Government are satisfied after such inquiry as may be considered necessary that the candidate, having regard to his character and antecedents, is suitable in all respects for appointment to the service."*

The judgement sets an extremely retrograde precedent. This was a special case wherein it was decided to approach the Supreme Court in the "rape convict case". The Commission filed an SLP in the Supreme Court against the Delhi High Court Judgment on 16<sup>th</sup> March, 2009.





# 5

## RESEARCH AND STUDIES CELL

Under Section 10(1) (h) of the National Commission for Women Act, 1990, the Commission is required to undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement. In this regard, the Commission has promoted several seminars, public hearings, workshops and research studies in order to obtain relevant inputs on subjects considered of highest priority on issues related to gender equality and empowerment.

During the year 2008-09, the National Commission for Women approved programmes on various subjects related to awareness generation on women related problems and protection of their rights. Particular emphasis was given to generate awareness on women related issues in the backward and underdeveloped rural areas where most of the people are illiterate and traditional. A total of 12 awareness programmes, 227 legal awareness programmes were organized. 3 public hearings were also organized at block and district level and 13 Parivarik Mahila Lok Adalat were organized. Apart from this, 17 national, regional level and state level conference, seminars and workshops were organized to increase awareness and to sensitize the public on women related issues and problems at national, regional and state level. Details are given below :-

### **Legal Awareness Programmes and Parivarik Mahila Lok Adalats sponsored.**

The Commission has approved 227 Legal Awareness Programmes and 13 Parivarik Mahila Lok Adalats during the year 2008-2009.

S. No.	States	Total No. of LAPs
1	Assam	24
2	Andhra Pradesh	17
3	Bihar	9
4	Chattisgarh	08
5	Delhi	19
6	Haryana	17
7	Himachal Pradesh	01
8	Jharkhand	06
9	Kerala	01
10	Karnataka	01
11	Madhya Pradesh	05
12	Maharashtra	06
13	Mizoram	02
14	Manipur	05
15	Orissa	11
16	Rajasthan	37
17	Tamil Nadu	02
18	Tripura	05
19	Uttar Pradesh	30
20	Uttrakhand	04
21	West Bengal	13
22	Punjab	02
23	Nagaland	02
	<b>Total</b>	<b>227</b>

**Parivarik Mahila Lok Adalat**

S. No.	States	Total No. of PMLA
1.	Bihar	1
2.	Himachal Pradesh	1
3.	Uttar Pradesh	10
4.	West Bengal	1
	<b>Total</b>	<b>13</b>

**Important Meetings/Workshops organized by the Commission.**

1. National Consultation on “Draft National Policy for Women in Agriculture” held on 10<sup>th</sup> & 11<sup>th</sup> May, 2008 at India International Centre (IIC), New Delhi.



*At the interactive session on “National Consultation on Draft National Policy for Women in Agriculture”. (From left) Dr. Girija Vyas, Ms. Sayeeda Hamid, Ms. Malini Bhattacharya.*

2. Seminar on “Dayan Pratha” held on 18<sup>th</sup> November, 2008 at Srimanta Kalashetra, Panja Bari, Guwahati (Assam).

3. Seminar on Domestic Violence Act, 2005 held on 28.1.2009 at Guwahati.
4. Regional Seminar on the issue of Empowerment of Women and Panchayat Rules held on 28.2.2009 at Dehradun (Uttarakhand).
5. Seminar on Construction Workers at Chennai held on 23.1.2009
6. Regional Seminar on Violence against women held on 21.2.2009 at Guntur(Andhra Pradesh).
7. Seminar on Empowerment of Women held on 21.2.2009 at Tinsukiya (Assam).

**Save Home Save Family Project**

The National Commission for Women has also initiated a Pilot Project with Delhi Police in May, 2008. The project called ‘Save Home Save Family’ is intended to sensitize police personnel at the Thana /Police Station level in order to deal with women issues effectively. Phase II of the project has been initiated in March, 2009 for setting up three special cells for women and children in Delhi based on Maharashtra model. The major function of the Cells would be to handle cases of violence against women (VAW), provision of police assistance on criminal complaints, referral to family service agencies, counseling, legal aid and generating awareness on VAW. The project is funded by the National Commission for Women and is functioning in association with Tata Institute of Social Sciences (TISS). It also emphasises on adoption.

**The Seminars, Public Hearings/Workshops, Awareness Programme sponsored by NCW.**

1. State level Seminar on “Development Induced Displacement in Orissa and Women’s Rights” –



- by Women's Studies Research Centre, Berhampur University, Orissa.
2. Regional Seminar on "Peace Process and Development of North East India – A Gender Perspective" on 26<sup>th</sup> April, 2008 by Institute of Tai Studies and Research, (Assam).
  3. Conference on "Women Empowerment in Parliamentary and Local Self Government Institutions in India: Role, Status, Participation and Decision Making" - by Academy of Grassroots Studies and Research of India (AGRASRI), Tirupati (A.P).
  4. Regional Conference on "Women in Conflict Situation" - by R.K. Mossang Memorial Society, Dist Changlang (A.P).
  5. State Level Seminar on "Status and Rights of Muslim Women" - by Jagrook Mahila Sanstha Parcham, Saharanpur (U.P)
  6. Seminar on "Micro Finance and women's Empowerment" – by Mrs. Helena Kaushik Women's (P.G) College, Malsisar, Dist. Jhunjhunu (Rajasthan).
  7. State Level Seminar on "Dynamic of Tribal Women Rights Over Minor Forest Produces (MFP) and other Forest Resources in Orissa" – by Integrated Tribal Development for Weaker Section (ITDWS), Koraput (Orissa).
  8. State Level Seminar on "Women and Political Participation" – by Rajiv Gandhi Jan Seva Sansthan, Udaipur (Rajasthan).
  9. State Level Seminar on "Role of Media in Women Empowerment" at Kanpur – by Draupadi Dream Trust, New Delhi.
  10. State Level Seminar on "Child Marriage in West Bengal" – by Silda Swasti Unnayan Samiti, Dist. Paschim Medinipur (West Bengal).
  11. Public Hearing on "Violence against Dalit Women at Orissa" - by Duarshani Shramik Sangha, Orissa.
  12. Public hearing on "Land rights of women in Jagdalpur, Bastar" – by Bastar Samajik Jan Vikas Samiti, Chattisgarh.
  13. Public Hearing on "Issues of Women Atrocities at Puri, Orissa" - by Sanjeevani, Bhubaneswar, Orissa.
  14. Conducting Education & Training through workshop/Seminar /EDN &TRG for poor women headed by house holds – by Abhinav Kala Kendra Vikas Nagar, Ranchi.
  15. Two day Workshop on "Women Police Constables" at Pondicherry - by Pondicherry Women's Commission, (Pondicherry)
  16. Two Awareness Camps on 'Social Exclusion of Women in India' – by Education Rural Development Society, Villupuram Distt. (Tamil Nadu)
  17. One Awareness Programme on "Land Rights of Women" – By Bhartiya Gramodyog Sewa Sansthan, Distt. Hardoi (U.P)
  18. One Awareness Programme on "Land Rights of Women" – by Ujjawal, Gurgaon (Haryana).
  19. One Awareness Programme on "Women Empowerment against Child Marriage" – by Nehru Shiksha Gramin Vikas Sanasthan, Dist. Dousa, Rajasthan.

20. One day programme for Various Self Help Groups regarding “bring down the suicide ratio in Union Territory of Pondicherry” – by Pondicherry Women’s Commission, Pondicherry.
21. Two Awareness Programmes on “Women Participation in NREGA” - by Avtar Smriti Shiksha Evam Kalyan Samiti, Morena, (Madhya Pradesh).
22. One Awareness Programme on “Facilitating Women’s Contribution in ensuring Safe Motherhood and Child Survival at Nandesari (Gujarat)” - by Deepak Charitable Vadodara, Gujarat.

**Research Studies sponsored by NCW**

1. Research Study on “Evaluation of Women’s Self Help Group’s Bank Linkage Programme in Manipur” by - Jana Neta Irawat Foundation for Education, Research, Development and Social Service, (Manipur).
2. Research Study on “Availability of Micro Credit to Women and the Role of SHGs in the District of Sambalpur, Orissa” by - Bharat Integrated Social Welfare Agency (BISWA), (Orissa)
3. Research Study on “Women, Armed Conflicts and its Impacts: A Prismatic Analysis (Comparative Study of Bodoland Territorial Autonomous District and Karbi Anglong District of Assam” by - Omeo Kumar Das Institute of Social Change and Development, (Assam).
4. Research Study on “Coal Mines Women Labour at Dhanbad, Palamau and Ramgarh District (Jharkhand)” by - Centre of Studies for Cultural Identity of Weaker and Suppressed (CSWAS), New Delhi.
5. Study on “Impact of Suicides on Families and Women in Handloom and Power loom Sectors in Andhra Pradesh” by - Noble Social and Educational Society, Tirupati (A.P)
6. Study on “Women in Panchayats in District Almora Uttarakhand” by - Jalagam Samiti Sajgouri, Dist. Almora, Uttarakhand
7. Study on “Increasing of HIV/AIDS Women in Imphal East and West Districts of Manipur” by - State Rural Service Agency (RUSA), Imphal (Manipur).
8. Research Study on “Women engaged in Agriculture and Allied Activities in Barpeta, Assam” – by Dream Progressive Welfare Association, Barpeta, Distt. Barpeta (Assam).
9. Research Study on “Availability of Micro Credit to Women and the Role of SHGs” – by Mother Theresa Rural Development Society, Komarole, Distt. Prakasam (A.P).
10. Research Study on “A Study of Natural, Extent Incidence and Impact of Domestic Violence against Women in Orissa and Delhi” – by Association for Development Initiative, New Delhi.
11. Research Study on Effects of Female Literacy in Villages of Rural Rajasthan – by Massom Society for Social Services, Jodhpur, Rajasthan.
12. Research Study on the “Socio-Economic Status of Women Workers with Disabilities in Bihar and Kerala” – by Ehsaas Foundation, New Delhi.
13. Research Study on “Developing a Counseling Toolkit for Adolescent Girl in NCR of Delhi” – by Avionics Trust, New Delhi.



14. Research Study on” Problems faced by Sarpanches and Panches” – by Gaya (Bihar).

15. Research Study on “Availability of Micro Credit to Women and the Role of Self Help Groups” – by Institute of Social Work, Kolkata (West Bengal).

**1. Study on ‘Understanding women development issues in Rebari (Raika) community-the sheep rearing community of Rajasthan’ conducted by Shri Aasra Vikas Sanstha, Udaipur, Rajasthan.**

In Rajasthan atrocities among women is common phenomenon. Women are yet to take benefit of the various government schemes, laws, and acts formulated to safeguard their interests and protect their rights. The tribal women in general are further marginalized. In Rajasthan one of the most vulnerable communities is Rebari who are semi nomadic in nature. The situation of women in this community is worst in the society. Due to lack of awareness of their rights under various laws and programmes and policies being implemented by the Government, this community has been victim in the society time and again.

**Objectives:**

- To understand the literacy situation among Rebari women/girls of different age groups.
- To study average age of marriage/ motherhood among the Rebari girls/women.
- Customs in Rebari community and their impact on gender relationship.
- To study health issues pertaining to Rebari Girls/ women and their impact on their overall growth.
- To study the change pattern of socio-economic conditions of women/girls in Rebari community.

- Social taboos/ customs bindings to women / girls in Rebari community and their economic situation.
- To understand daily work pattern and life style of women and girls in nomadic system.

**Methodology:**

- The study focused on the district of Pali where there is a high concentration of Rebari, spread over in all the eight Tehsils and approximately 300 villages. Based on the concentration of Rebari families in the area, forty sample villages were identified for detailed study.
- This study used questionnaire, which included their cultural practices during various socio-cultural occasions such as child birth, marriage, festivals, deaths etc.
- The detailed survey included social religious, cultural, political, health, leisure, economic and ecological aspects.
- Replies to the questions were asked about the different rules and regulations applicable for boys and girls in Rebari community.
- Information on Rebari community and their villages was collected from village data sheet. Specific information was collected through personal interviews with school teachers, community leaders, NGO representatives, public representatives etc.
- Data collected were tabulated response -wise respondent -wise.

**Findings:**

- Most of them do not possess permanent resources as land.

- Large numbers of children migrate with their parents and thus do not get education opportunities.
  - Child marriage is rampant among Rebari community.
  - They appear to be in the grip of vicious cycle of poverty, illiteracy and superstitions.
  - Youth face problems in getting new job as they lack proper education and vocational training.
  - For most of their physical, mental, and social ailments, they seem to have traditional dependence on spiritual abstraction rather than scientific and logical solutions.
  - Semi-nomadic life style appears to have made them more susceptible to influence of various social practices and religious belief making them tolerant and conservative.
  - Many a times a caste panchayat's decisions are gender discriminatory.
  - Kinship is defined as the connection or relationship between persons by blood or marriage.
  - Rebaris sale only male animals. Selling of female animals is a taboo as it enables them to own maximum number of child bearing animals in their herd.
  - Selling for slaughter is considered as a sin and is strictly prohibited.
  - Selling of milk is also prohibited, it is considered as equivalent to selling own children. Gradually there are some changes in mindset.
  - Processing of camel milk is also prohibited, whereas hair, wool and dung can be used or sold.
  - If the family is large particularly in joint families, men occupy higher status than women. Older people in the family occupy higher status than younger people.
  - Status of women is determined by the status of their husbands.
  - Status of women in a family varies with the position she holds at given time. The status of an unmarried daughter is very low in her parental family.
  - The status of women is elevated if she gives birth to a male child.
  - Death of the husband is the most unfortunate incident for the wife in the Rebari community; it is followed by series of sufferings in wife's life.
  - Daily house hold chores of Rebari women include from fetching water to cooking, cleaning utensils, grinding grains to everything one can imagine of.
  - In spite of the veil (Pardah) system women are considered as spokes person for the entire family.
  - Rebari women are yet to be part of the mainstream development.
- Recommendations:**
- Rebari Community sustain on animal husbandry, hence grazing rights for their cattle in forest or



forest land should be provided. Land need to be provided for pasture.

- Notifying Rebari under the category of Scheduled tribe is essential.
- Specific efforts to evolve animal rearing by Rebari Community as organized sector.
- Government agencies like MWCD and NCW should work towards protecting the rights of the child especially girls.
- Incentives should be given to the Rebari Community for sending their girl child to schools.
- Thurst should be on capacity building and knowledge building of Rebari girls.

**2. Study on 'Women with HIV psycho –social prospective' conducted by UGC Center for Women Studies, Udaipur, Rajasthan.**

HIV is a virus. Viruses such as HIV cannot grow or reproduce on their own, they need to infect the cells of living organism in order to replicate. The human immune system usually finds and kills viruses fairly quickly. It is not contagious and cannot be passed from person to person like cold and flu viruses or by ordinary social contacts. It is a member of a group of viruses called retroviruses. Retroviruses are simple microscopic organisms dependent on a host for reproduction. A person may be infected with HIV and might be perfectly well with no physical symptoms. As the disease progresses the person begins to have different illness and physical symptoms, because the HIV attacks the immune system itself.

HIV positive persons may have different types of experiences from the normal on the basis of external

stimuli. The onset of physical symptoms may evoke considerable stress about what would happen next. Researches reflect that supportive and quality relationships can decrease the likelihood of suicide among HIV infected individuals.

**Objectives:**

- To see how physical capacity and adaptation level of an individual changes with age.
- To find out how these changes compel for readjustment and create different types of problems
- To probe the influences of an individual's behavior and attitude.
- Keeping the above issues in mind the effect of the above factors on rural and urban women with HIV, and women who are not infected with HIV will be studied.

**Methodology:**

The tests tools for the study are:

- Family environment scale.
- Risk taking questionnaire
- Sex behavior attitude inventory
- Medley Personality inventory

In this study total number of sample is 120 persons. Out of which 60 were HIV positive cases whose age ranges from 22-45years; and 60 were normal cases and their age ranges from 21 to 45 years. The above sample of HIV positive cases is taken after screening around 110 HIV positive cases. These above two groups were again divided into two more groups i.e. rural and urban.

### Findings:

- HIV positive cases have shown their attitude towards sexual behavior differently from the normal.
- HIV infected cases are generally caused due to unsafe sex and also they take sexual activity very casually. This kind of behavior is more influenced by the habit, expectations, and interest of the peer group.
- The present investigation indicates that HIV cases do not take precautionary measures in risky situations.
- HIV cases reported higher degree of sensitivity towards sexual satisfaction. These cases with the characteristics like extrovert and introvert personality attributes. Such personalities do not share their joys with others; they prefer to keep it to themselves.

### Recommendations:

- In the families of HIV positive cases, family environment is disruptive hence demand effective interaction and social support in the family to enhance better family environment.
- As HIV positive cases have casual attitude towards sex, medical and psycho social counseling is needed for sexual health.
- Personality development programme should be organized for HIV positive women; it would enhance their self concept and self-confidence.
- HIV women are found to be risk takers, they should be provided for guidance and counseling for positive risk taking endurance. It would help them for psycho-physical well being.

- On the basis of psycho social variable it is highly recommended that Government agencies should organize awareness programme, seminars, and workshops both in rural and urban areas. Team of medical, sociologists, psychologists and social workers should be made available to the society who can whole heartedly work towards their betterment.
- Number of cases on HIV can be arrested by providing a different perspective towards sex and sound family environment. Sound and balanced personality would lead the society towards better tomorrow.

### 3. Study on 'Female scavengers in Andhra Pradesh' - conducted by Noble and Educational Society

The manual scavengers, though, treated worst than untouchables but they do not belong to single untouchable caste. In different states they have acquired different names, such as 'han', 'hadi' (Bengali), 'Balmiki,' 'Dhanuk' (UP), 'Methar' (Hyderabad), 'Methar', 'Bhangi' (Assam), 'Paki' (Coastal A.P.), 'Thotti' (Tamilnadu) etc. Among the sweepers, it is surprising, that the number of female scavengers are overwhelmingly high in all the States.

Manual scavenging involves removing human and animal excreta using brooms, small tin plates and baskets that are carried on the head. During the rainy season the contents of the baskets drip into the scavenger's hair, cloth, body. These female scavengers experience a number of difficulties at home, office and the society. The society looks down on them more than the untouchable castes. Even after working more than ten hours daily they have to do all the household chores.



### **Objectives:**

- To delineate the socio economic profile of female scavengers and sweepers in the study area.
- To understand the economic status and living conditions of the families of female scavengers/ sweepers.
- To understand the economic status and living conditions of the families of the female scavengers/ sweepers.
- To understand the lifestyles of the children of the female scavengers.
- To study the working conditions and conditions of work of the female scavengers.
- To understand the efforts made by Government agencies, NGOs to rehabilitate the manual scavengers.
- To suggest appropriate measures for the liberation and rehabilitation of the female scavengers.

### **Methodology:**

- The study was carried out in the district of East Godavari of Andhra Pradesh.
- The primary data for this study were collected through interview schedule, interview guides, observation notes, group discussions.
- Two hundred female sweepers were considered for this study.

### **Findings:**

- Majority (98.5%) of the sweeper are Scheduled Caste. Overwhelmingly majority of the

respondents belong to sweeper families, where highest number of sweepers are women.

- These women lack proper living place.
- Literacy rate is very low among these groups. Dropout rate is quite high among these groups.
- These sweeper families rarely own any land. Whatever they earn is mostly spent on food.
- Majority of these families (60%) are indebted and depend on money lenders.
- Almost fifty percent of the respondents enter into this occupation at the tender age between 11-20years.
- Apart from all humiliation, these people, i.e. 50% of female scavengers work on contractual basis, without any future security. They lack awareness on employment security provided to the employee by the employer.

### **Recommendations:**

Recommendations were made to improve the quality of life of the sweeper; hence suggestions were for Central Government, State Government, and local bodies. They are as follows:

#### **Central Government:**

- Government institutions like Ministry of Women and child Development and National Commission for Women should provide some welfare and development measures for these sweepers.
- The above government agencies should constitute grievance redressal cell to look into the grievances of the sweepers.

**State Government:**

- Awareness on rights and responsibilities of sweepers as well as occupational health hazards and importance of cleanliness should be created among them.
- To provide house, loans and subsidies to these sweepers.
- Basic amenities like education, drinking water, residential area with proper drainage, electricity, communication facilities, health care need to be provided to the sweepers as well.
- Irrespective of the nature of employment, all sweepers should be provided with clothes, protective equipments, shoes, condiments, maternity benefits etc.
- Provide permanent employment to the temporary /contractual sweepers.
- Create awareness among them about trade unions and motivate the sweeper to join these unions.
- For hearing the women sweepers' complaint against officials and co-workers, a body/cell to be created to take action against these culprits.
- Motivate the sweepers and their dependants to take up alternate occupations. They can be encouraged to join Self help group (SHG).
- To initiate non formal education programme among the sweepers.
- Motivate the parents to enroll their children in the school.
- To create formal credit institutions so their dependency on the money lenders is lessened.

**Local Bodies:**

- To enact towards providing basic facilities to the sweepers.
  - Action should be taken to ensure their salaries on time every month.
  - Local government bodies and the State government need to work hand in hand for providing all the facilities to the sweepers.
- 4. Study on 'The impact of increasing migration on women in Orissa' conducted by the Sansristi, Bhubaneswar, Orissa.**

The process of migration denotes any movement of groups of people from one locality to another, which can take different form. It has constraining effect on the migrant not only in structural terms but also in cultural terms, this also include abuse, exploitation and emotional psychological distress. Despite the rising number of female migrants, women are not given equal importance as compared to men in migration. While viewing women migrants as dependants, we may often ignore their individual economic contributions. Poverty and search for employment have been the predominant propellants of the migration of people. Orissa being an agrarian economy where majority of the farmers are small land holders, seasonal unemployment, non-application of modern technology had forced the rural people to migrate to urban areas within and outside their districts and also to their neighboring States. With rapid industrialization and globalization, there is rise in female migrant workers. Migration both voluntary and forced ones among women and children is increasing at an alarming rate in the State of Orissa



## **Objectives:**

### **General Objective**

- Women's needs must constitute important aspect of development and specifically policy making.

### **Specific Objectives**

- To define survival migration in the context of women.
- To investigate migration and its causes in the study area-inter state or intra state.
- To assess the impact of migration on women's security in the context of work, food, health, violence.
- To investigate the condition of the female headed households created due to migration.
- To study the changes in women's work due to migration.
- To assess the access of women to Government Schemes on poverty alleviation implemented to stop migration.
- To provide recommendations on the subject.

### **Methodology:**

- This study focuses on the location based research. This research is based on two districts of KBK region, i.e. Nuapada, Bolangir for field survey. The selection of these two regions of KBK emerged after detailed discussion with NGOs and people who had migrated.
- This study considers women who are mostly destitute, landless, belong to marginalized households and also those women who are

left behind when husband migrate for employment.

- A multi-methodological approach has been followed where main emphasis is on layered qualitative approach. In particular, the approach focuses on examining detailed semi structured qualitative interviews with women to ascertain perception of their knowledge and awareness. Forty respondents from each district of Nuapada and Bolangir were taken and focus group discussion was done with women SHG members, old women and migrant women.
- Data collected from Government offices at State, District, and Local headquarters.
- Case studies were done in some cases to highlight the impact of migration on women.
- Apart from primary data, secondary data was collected from Census, Economic Survey, Human Development Report, NGO materials.

### **Findings:**

- It is the brick kilns of AP and within Orissa the whole family migrates to cities like Mumbai, Surat, Nagpur, Raipur, Bangalore, Bhillai for construction work and for rickshaw pulling only men migrate. It was observed that cultivation and wage labor is main occupation of the migrant households. Men are given priority whereas females are deprived of wage labor in their village and also in the nearby areas.
- Collection of forest products is another source of income of the migrant households. Gradually local people's rights on forest is restricted and

hence it is difficult on their part to sustain as well.

- Age is an important factor for women for migration. 80% of the women belonging to the age group of 16 to 24 years were migrating to different places. In the two areas where study was conducted, being drought prone area 90% women had migrated to Andhra Pradesh to work in brick kiln.
- Short term migration appears to be a major livelihood strategy for both males and females in Bolangir and Nuapada district.
- The land holding of migrant households indicates that 28% of the migrant households are landless. Half of the land is not suitable for cultivation hence for sustenance owning land is not sufficient. Low production, scarcity of work, low and irregular payment, heavy debt force the households to take loans; as a consequence they are compelled to migrate.
- As both the districts are prone to draught once there is crop damage the marginal farmers and small farmers resort to selling or mortgaging their land to the moneylenders. It is an underlying cause of related severe problems including debt, impoverishment, starvation and migration.
- As there is lack of availability of food for the family for six to seven months. they agree to migrate as the Dalals provide them food security during this lean season.
- To meet the household expenses, marriage, festivals, funeral ceremony, medical expenses, repayment of old loans, education etc; poor farmers often take loan from money lenders/ Zamindars and in turn mortgage their land. In such cases Zamindars charge very high interest which the poor people fail to repay many a times. Conditions of these loans are stringent and non negotiable.
- In order to repay the loan and avoid the wrath of moneylenders these people take advance from labor contractors. Focused group discussion reveals that, the households are in contact with the village level contractors during financial crisis. It makes them more vulnerable as they sink further into the vicious cycle of debt. Finally they are forced to migrate to repay the Dalal. In this process, they lose their bargaining power both in terms of official wage and better working conditions at working place.
- Neither District Labor Officer nor Panchayat are aware about the number of migrating women.
- The members who migrate are cheated and exploited by the Panchayat officials in distribution facilities. Especially in the women headed households basic amenities are denied as they fail to go to the Panchayat office. No effort is made from government side to provide work during lean season.
- The village level workers are main actors in the migration process.
- Ignorance and lack of awareness is a major hindrance. All the BPL card holders did not even have BPL cards hence are not able to get rice regularly.
- Majority of the women i.e.57.5% women denied the implementation of the scheme of NREGA.



Work allotment under NREGA was not fully operational in the villages. Some villages have got cards and some house holds had applied but have not received the card. Availability of job through card is quite irregular.

- In all the villages, migration starts in the month of October-November and continues till May-June. During migrating season labor contractors /dalals camp in the town to recruit people. All the migrant women with the family members are taken to the worksites by the Sardars and dalals.
- Households who take higher loan work almost sixteen hours a day to pay off their loan. Wages are given to the family head especially male members. There was no individual payment to the other working members of the family.
- Migrant women face various problems both physical and mental. During commuting many a time women are harassed by other co-passengers. While going to work and back from site also women have been subjected to molestation, rape and even kidnapping.
- The women of Nuapada and Bolangir whose husbands have migrated manage their house on their own. They can sustain on their own production for 2-3 months often they end up in distress selling of their harvest; after that they have to mostly survive on wage labor. These women even do not get 10-15 days work during the year in their village and they fail to go to the nearby village. That's why they collect forest products like mahua flower and kendu leaves. It only fetches Rs.200-300/- annually.

- Old people whose son and daughter-in-law migrate too, face various kinds of problems, starting from financial crisis when they are ill there is no one around to help them out. These people are equally harassed and exploited.
- The children of the migrants are affected socially and emotionally. The children who migrate along with their parents discontinue their schooling. During migration season dropout among school going children is quite high.

#### **Recommendations:**

- A political will is required to deal the issue of migration in Bolangir and Nuapada.
- To ensure sustainable livelihood at the migration villages.
- Supplementary source of income for women should be provided.
- Policy matters at National and State level should be stringent to protect women rights and empower the same.
- Policies of migration, trafficking, labor law and employment guarantee programme to be interlinked.
- Structural changes are required from grass root level to National level to sensitize about women rights and justice.
- To set up task force to monitor and prevent migration.
- Registration of the labor contractors at the DLO should be done.
- There should be networking with women organizations/NGOs with host States/ districts for complaint redressal of the women migrants.

**5. Study on woman resource right agenda:  
Developing a case for a "Sansadhani Program  
in Delhi"**

**Objectives of the Proposed Study:**

- To study the composition of woman livelihood groups set in different districts of Delhi against the livelihood provisions provided by the state and the market.
- To find out the current needs of such women and the communities they live in relation to services they have at present.
- To understand the gap between what the women are entitled and what they get from the system against the right based approach
- Suggest solution based on group approach to housing, land and resource rights

**Methodology**

The study collated feedback from the community especially women on their opinions regarding content, pathways, milestones and management inputs to set up their women resource zones or *Sansadhini* in their neighborhood.

**Selection of geographical areas**

The study covers Bawana, Bannuwal Nagar, Saraswati Vihar in Rohini, Rajiv Gandhi slum behind ITO and the Yamuna Pushta areas for the study.

Primary data were collected from 76 HHs in Bawana, 30 Muslim women from Zakhir Nagar and 20 positive women in South Delhi. Apart from the HH survey, 8 Focus group discussion have been conducted with 6 groups of women and 2 groups of men.

**Outcome**

- Women in Bawana have housing rights in term of a house on a plot of 18 sq. or 12 sq. meters as a resettlement package on lease for a period of seven years. This does strengthen the women's position but more is needed to make the position stronger in the area. The family at present stays on the premises owned by women but she may not have a control over the paper or the property.
- In most cases elderly women, mostly mother in law had the housing rights. This survey enabled them to reflect on their position of strength that they are in today.
- Women had some jewellery that they could call their own.
- Most women claimed that what ever is in the home is for all. But they also realize that in legal capacity they are particularly asset less and vulnerable. Only asset they may have is their capacity to provide labour to the house by which they can earn income for survival.
- Almost all women go to their place of origin once a year if finances permit. Only 10% remain in Delhi as they have been thrown outside the family system due to widowhood or are deserted for reasons stated as economic or emotional reason.
- 90% women receive guest from their native place who stay on till they can get employment in Delhi.
- The available work and opportunities are in making stuffed toys and packaging material for



the use of industrial goods and textiles, domestic and factory work.

- Large number of women know cutting and tailoring and the making of teddy bears. Other skills include cooking; skills in agriculture and they can be re- oriented for horticulture and floriculture work; skills in computers, Dai work, HIV Aids training, getting training in Basti sevika bhawan;
- Many spaces in F and G blocks are not in use for its purpose; instead they are being used as a garbage dump and a defecation ground.
- **Productive resources that women would like to have are the following:**
  - 22% want financial assistance
  - 6% wants work to earn
  - 18% do not want any help as they are satisfied with what they have
  - 5% of women didn't give any response
  - 5% want her individual bank account to save her money
  - 9% want to join SHG, for micro-credit services.
- 65% women want to be economically independent whereas 10% do not want any change in the way they are living.
- The solution to increase resources in the name of women may come from a group approach to asset building. Small steps rather ideas that emerged from the FGD were:

- 50% of women have no information regarding government policies and programmes. There are 15% of women who had knowledge regarding schemes, yet are unaware of the correct procedures of the schemes.
- **The need of having** an information center was expressed by the women during the FGD. Community centre has already been granted to Navjyoti. Prayas and other NGOs in the area. Most of the women express to use these centers as a placement hub for workers for domestic and construction work
- **Women group express to have** Sat Sang Bhawan where they can pray their God and use the space for community gatherings.
- Ration shop is the first priority for the community. The women face a lot of hardship in accessing ration.
- Like other women in India most of the women in PWN do not own any resources, their HIV positive status further exacerbates their vulnerability..

#### **Action emerging from the study.**

1. A policy to ensure women resource rights as an obligation of the government and market.
2. System of information and application for grants to women's groups to offer a single window approach:- This system could be an activity of the state commission of women to operate with specific targets of increasing resource base of women to bring equality between men and women ownership in each district by the end of five years.

3. Allocating some already built up infrastructure if newly planned buildings are not available.
4. These pilot projects will have link to another ten projects in eight different states of India that link to Delhi as a migration route.
5. In support of the above, Sathi calls for a civil society window with National Planning Commission and National Commission of Women to lead government in delivering gender equity.
6. **STUDY ON THE SOCIAL AND ECONOMIC IMPACT OF WOMEN MICRO ENTERPRISES UNDER PANCHAYATHI RAJ INSTITUTIONS**

**Study undertaken by LISS INDIA, KOTHAMANGALAM-KERALA**

#### **OBJECTIVES OF THE STUDY**

1. To ascertain the role played by women micro enterprises in empowering women in Kerala
2. To examine the feasibility of women micro enterprises in empowering women in Kerala
3. To assess the role of governmental and non-governmental agencies in this sector.
4. To evaluate the role of various financial agencies and technical agencies including banks, industries etc in promoting women micro enterprises
5. To ascertain whether women empowerment leads to successful women micro enterprises or vice versa.
6. To identify various problems faced by women micro enterprises.
7. To recommend suggestive measures to the government.

#### **Research Methodology**

Three districts namely Ernakulam, Palghat and Idukki were selected for the study. The relevant information was collected through primary and secondary data. Primary data were collected from 30 funding agencies, 90 individual micro enterprises and 330 group enterprises.

**Report constitutes 7 chapters as per details given below:-**

- I. Introduction
- II. Theoretical Setting
- III. Empirical Analysis Case Studies
- V. Executive Summary
- VI. Conclusion and Recommendations

#### **Finding of the Study**

- The middle aged women with their family responsibility and duties made a better use of Panchayat Raj system.
- 30% of the beneficiaries have had school education up to 7th standard, 53.3% of them have high school education and only 16.7% have studied up to pre -university level.
- These women micro enterprises produce a wide variety of products. Among the 90 Individual Micro Enterprises 34.4 % deal with food products; 6.7.% produce Home appliances and other products; 3.3 % are producing Ready Made dresses and 55.6% produce various other commodities like food items, soap etc;
- The study showed that 65.6 % of them received money from the Panchayat and 34.4.% of them received from Kudumbasree.



- 95.6% of the beneficiaries were used fund for their Micro Enterprises. The rest 4.4% used the fund for some other purposes also.
- The success of a Micro Enterprise can be measured in terms of the employment potential. The survey showed that 74.5% of them has less than 5 employers; 13.7% of them could give employment to 5-10 members and 11.8% of them have more than 10 employers.
- The survey showed that 90% of them received income up to Rs. 1000/- per month from their enterprise. 7.8% of them receive income between Rs. 1000 - 3000 and 2.2. % of them received income above Rs. 5000.
- Empowerment can be measured with certain qualitative indices like improvement in the living standards, improvement in the confidence, improvement in the communication skills, ability to create the habit of thrift and saving and improvement in the access to economic resources. All the respondents agree that they have improved a lot in all these respects.
- The empowerment is also visible in the contribution of these women in the social and political sphere of life. It has been found that 94.4% of them participate in the Grama Sabha. 11.1 % of them conducted in the Panchayati Raj Elections. 53.3% of them held various positions in voluntary organizations. 92.2% of them held positions like President/Secretary/ Treasure in their neighborhood groups.
- 9.1% of respondents had to close their enterprises due to lack of proper knowledge

regarding the technology and 27.3% are facing this type of problems.

- It has been found that women prefer to start group micro enterprises than the single owned individual micro enterprises. The reason behind this was that the group enterprises have a capital amount larger than that of a single owned micro enterprise.
- The economic development can be measured in terms of a person access to economic resources. Among the respondents 89.7% agreed that they have improved in their accessed economic resources.
- 31.8% women entrepreneurs were facing problems in running their micro enterprises. Out of which 40% were facing financial problems, 7.6% had employment problem and 20% had marketing problems. Only 4.8% faced the technical problems..

#### **RECOMMENDATIONS TO CENTRAL GOVERNMENT**

- Easy and cheap finance should be ensured for the successful and uninterrupted working of the enterprise. Government should take appropriate steps in this regard.
- Entrepreneurs should be encouraged to produce Quality Products suitable for exports through various incentives and other supporting systems.
- The Government may protect micro enterprises from unhealthy competitions with multinational companies through various measures.
- The consumption of products of women micro enterprises should be encouraged by the Government through public media.

- Successful Women Micro Enterprise should be honored with recognitions and awards.
- Exposure Programmes at National and International levels should be organized for these enterprises.
- Government may set up Women Industrial Estates with all the infrastructures like road, electricity, water supply, warehousing facilities etc.

#### **RECOMMENDATIONS TO STATE GOVERNMENT**

- Latest technology should be made available to the prospective entrepreneurs by the appropriate agencies/authorities.
- Easy and cheap finance should be ensured for the successful and uninterrupted working of the enterprise. Government should take appropriate steps in this regard.
- Many of the enterprises have failed as they could not find suitable market for their products. Hence before starting any enterprise a detailed market survey should be conducted and intensive training in marketing skills is advisable for the entrepreneurs.
- An apex body of women micro enterprises should be set up by the Government at Block/District level, which may procure the products manufactured by the units and sell them through their sales outlets.
- Centralized market at District level should be set up by the authorities, where the enterprises can display their products and sell them directly to the customers.
- During festival seasons, Mega Melas should be organized for these products, where large scale selling can be done through offering attractive discounts.
- Quality consciousness should be generated in the entrepreneurs through regular workshops /seminars, with the help of professionals. An apex body can market the product under a common brand name.
- The apex body should also organize regular workshops for up- gradation of technology and skill of these entrepreneurs.
- Entrepreneurs should be encouraged to produce Quality Products suitable for exports through various incentives and other supporting systems.
- The Government may protect micro enterprises from unhealthy competitions with multinational companies through various measures.
- The consumption of products of women micro enterprises should be encouraged by the Government through public media.
- Successful Women Micro Enterprise should be honored with recognitions and Exposure Programmes at National and International levels should be organized for these enterprises.
- Monitoring agency representing local bodies, Govt. Departments and funding agencies should be set up for the benefits of these micro units.
- Along with the monitoring committee, there should be a Crisis Management Committee for the aid of enterprises in distress and may be advised to avail their expertise with out hesitation.



- Enterprises should be made aware of the various expert services provided by a Government and non-Governmental agencies, right from project identification, Project Preparations, various Govt. Schemes, Financial support, Export incentives etc.
- A Grievance Cell may be set up by the authorities for the benefit of women micro enterprises.
- To overcome the constraints from various formalities and procedures and red tapism involved in it, there should be a Single Window System for the new entrepreneurs.
- Government may set up Women Industrial Estates with all the infrastructures like road, electricity, water supply, warehousing facilities etc.

#### **RECOMMENDATIONS TO LOCAL SELF GOVERNMENT**

- The reason for failure of a number of women micro enterprises in the long run was that the Project identification was not proper and so the unit was not a viable one. Therefore it should be ensured that prospective women entrepreneurs should be given proper guidance and training in identifying suitable projects.
- New entrepreneurs should be encouraged to start units which use local raw materials which are easily available at lower cost
- Latest technology should be made available to the prospective entrepreneurs by the appropriate agencies/authorities.
- Many of the enterprises have failed as they could not find suitable market for their products. Hence before starting any enterprise a detailed

market survey should be conducted and intensive training in marketing skills is advisable for the entrepreneurs.

- Centralized market at District level should be set up by the authorities where the enterprises can display their products and sell them directly to the customers.
- During festival seasons, Mega Melas should be organized for these products, Quality consciousness should be generated in the entrepreneurs through regular workshops/seminars, with the help of professionals.
- By ensuring a Standard Quality of Products of similar units the apex body can market the product under a common brand name.
- The apex body should also organize regular workshops for up-gradation of technology and skill of these entrepreneurs.
- Many micro units of women group fail due to difference of opinion among the group members, mainly because these groups are formed only for the sake of starting a micro unit as they are offered various incentives by the authorities to achieve their targets. Therefore group micro units should be considered for women groups with proven track record only.
- Successful Women Micro Enterprise should be honored with recognitions and awards.
- Opportunities for interaction with successful women enterprises should be encouraged.
- Monitoring agency representing local bodies, Government Departments and funding agencies

should be set up for the benefits of these micro units along with the monitoring committee, there should be a Crisis Management Committee for the aid of enterprises in distress and may be advised to avail their expertise with out hesitation.

- Enterprises should made aware of the various expert services provided by a number of Government and non-Governmental agencies, right from project identification, Project Preparations, various Govt. Schemes, Financial support, Export incentives etc.
- A Grievance Cell may be set up by the authorities for the benefit of women micro enterprises.
- To overcome the constraints from various formalities and procedures and red tapism involved in it, there should be a Single Window System for the new entrepreneurs.

#### **RECOMMENDATIONS TO OTHER AGENCIES (NGOS)**

- It should be ensured that prospective women entrepreneurs should be given proper guidance and training in identifying suitable projects.
- New entrepreneurs should be encouraged to start units which use local raw materials which are easily and cheaply available.

- Many of the enterprises have failed as they could not find suitable market for their products. Hence before starting any enterprise a detailed market survey should be conducted and intensive training in marketing skills is advisable for the entrepreneurs.
- During festival seasons, Mega Melas should be organized for these products, where large scale selling can be done through offering attractive discounts. Quality consciousness should be generated in the entrepreneurs through regular Workshops /seminars, with the help of professionals.
- Successful Women Micro Enterprise should be honoured with recognitions and Awards
- Opportunities for interaction with successful women enterprises should be encouraged.
- Enterprises should made aware of the various expert services provided by a number of Government and non-Governmental agencies, right from project identification, Project Preparations, various Govt. Schemes, Financial support, Export incentives etc.



# 6

## ACCOUNTS OF THE COMMISSION

### BALANCE SHEET (NON PROFIT ORGANISATION) AS AT 31ST MARCH, 2009

CAPITAL FUND AND LIABILITIES	SCHEDULE	CURRENT YEAR	PREVIOUS YEAR
Capital Fund	1	46,038,841.00	47,204,902.00
Reserves and Surplus	2	(2,314,709.18)	14,461,974.00
Earmarked/Endowment Fund		—	—
Secured Loans and Borrowings		—	—
Unsecured Loan and Borrowings		—	—
Defere Credit Liabilities		—	—
Current Liabilities and Provisions	3	12,500,597.00	3,792,481.00
		<b>56,224,728.82</b>	<b>65,459,357.00</b>
<b>ASSETS</b>			
Fixed Assets	4	21,600,966.22	29,204,902.00
Investment -From Earmarked/Endowment Funds		—	—
Inverstment -Others	5	862,257.60	—
Current Assets, Loans & Advances	6	33,761,505.00	36,254,455.00
Miscellaneous Expenditure		—	—
<b>TOTAL (B)</b>		<b>56,224,728.82</b>	<b>65,459,357.00</b>
Significant Accounting Policies	14		
Contingent Liabilities and Notes of Accounts	15		

MEMBER SECRETARY

**INCOME & EXPENDITURE ACCOUNT (NON - PROFIT ORGANISATIONS)  
FOR THE YEAR ENDED 31ST MARCH, 2009**

Amount (Rs.)

<b>INCOME</b>	<b>SCHEDULE</b>	<b>CURRENT YEAR</b>		<b>PREVIOUS YEAR</b>	
		<b>Plan</b>	<b>Non-Plan</b>	<b>Plan</b>	<b>Non-Plan</b>
Income form Sales/Sevices			—		—
Grants/ Subsidies	7	35,350,082.00	31,132,000.00	36,134,128.00	26,000,000.00
Fees/ Subscriptions	8		2,914.00		980.00
Income from Investment (Income on Invest. From Earmarked/ Endow. Funds transferred to Funds)	9		—		104,206.00
Income from Royalty, Publication etc.			—		—
Interest Earned	10		384,427.60		382,502.00
Other Income	11		610.00		189,973.00
Increase/(Decrease) in stock of Finished goods and WIP			—		—
<b>TOTAL (A)</b>		<b>35,350,082.00</b>	<b>31,519,951.60</b>	<b>36,134,128.00</b>	<b>26,677,661.00</b>
<b>EXPENDITURE</b>					
Establishment Expenses	12	5864336.00	20,734,073.00	4,140,593.00	10,774,764.00
Other Administrative Expenses etc.	13	36,002,957.00	14,610,666.00	25,163,117.00	15,265,723.00
Expenditure on Grants, Subsidies etc.			—		—
Interest			—		—
Depreciation (Net Total at the year end)		6,434,684.78			—
<b>TOTAL (B)</b>		<b>48301977.78</b>	<b>35344739.00</b>	<b>29303710</b>	<b>26040487</b>
<b>Balance Being excess of Expenditure over Income (A-B)</b>		<b>(12,951,895.78)</b>	<b>(3,824,787.40)</b>	<b>6,830,418.00</b>	<b>637,174.00</b>
Transfer to Special Reserve		—	—	—	—
Transfer to/from General Reserve		—	—	—	—
<b>Balance Being surplus/(Deficit) carried to Corpus/Capital Fund</b>		<b>(12,951,895.78)</b>	<b>(3,824,787.40)</b>	<b>6,830,418.00</b>	<b>637,174.00</b>

**MEMBER SECRETARY**

## RECEIPTS & PAYMENTS ACCOUNT ( NON - PROFIT ORGANISATIONS) FOR THE YEAR ENDED 31ST MARCH, 2009



RECEIPTS	Amount (Rs.)								
	PREVIOUS YEAR		CURRENT YEAR		PREVIOUS YEAR		CURRENT YEAR		
	Plan	Non-Plan	Plan	Non-Plan	Plan	Non-Plan	Plan	Non-Plan	
Opening Balances									
Cash in hand	695.00		9,483.00	4,457.00	4,140,593.00	10,774,764.00	5,864,336.00	15,925,472.00	
Bank Balance	6,080,304.00	1,419,550.00	1,990,186.4	3,168,740.00	25,163,117	17,167,321.00	42,387,165.00	18,392,427.00	
Grants Received	38,000,000.00	26,000,000.00	36,000,000.00	31,132,000.00	30,603,46.00		4,099,153.00		
Income on Investments					1,865,872.00		649,918.00		
Endow Funds	—		—						
Own Funds	—		—		9,483.00	4,457.00		—	
Interest on Investment		104,906.00			12,901,864	3,168,740.00	9,998.00	288,287.00	
Interest Received									
Bank deposits		345,303.00		273,465.00					
Interest on HBA		32,000.00		24,000.00					
Loans & Advances		—		—					
Investment Encashed		3,000,000.00		—					
Interest on CPF		5,199.00		—					
Other Income									
RTI		980.00		2,914.00					
Miscellaneous		206,924.00		340.00					
Income		—		270.00					
Remittance (Schedule-18)		3061466		4099153.00					
	<b>44,080,999.00</b>	<b>34,175,628.00</b>	<b>48,911,347.00</b>	<b>38,705,339.00</b>	<b>44,080,999.00</b>	<b>34,175,628.00</b>	<b>48,911,347.00</b>	<b>38,705,339.00</b>	

MEMBER SECRETARY

**RECEIPTS & PAYMENTS ACCOUNT-PROVIDENT FUND  
FOR THE YEAR ENDED 31ST MARCH, 2009**

**Amount (Rs.)**

<b>RECEIPTS</b>	<b>CURRENT YEAR</b>	<b>PAYMENTS</b>	<b>CURRENT YEAR</b>
<u>Opening Balances</u>	2143758	Final Payment/Advance/Withdrawl	2,100,354.00
<u>Subscription</u>	747,451.00		
<u>Contribution</u>	361,464.00		
TDS Refunded by Bank	3,190.00		
Interest Earned from CPF	9705.00		
		<u>Closing Balances</u>	
		Bank Balances	380,214.00
		FD in Bank	785,000.00
	<b>3,265,568.00</b>		<b>3,265,568.00</b>

**MEMBER SECRETARY**

**NATIONAL COMMISSION FOR WOMEN  
SCHEDULES FORMING PART OF BALANCE SHEET AS AT MARCH 31, 2009**



**SCHEDULE 1- CAPITAL FUND**

	Current Year	Previous Year
Balance as at the beginning of the year	47,204,902.00	47,204,902.00
Add :- Contribution towards Corpus/Capital Fund	-	-
Add/(Deduct) :- Balance of Net Income/(Expenditure) transferred from the Income and Expenditure Account	-	-
Add: Adjustment Entry for Refund of TDS on Interest	3,190.00	-
Less: Adjustment Entry for sale of Fixed Assets	1,819,169.00	-
Add: Addition of Capital Fund during the year	649,918.00	-
Balance At at the Year End	46,038,841.00	47,204,902.00

**SCHEDULE 2- RESERVES & SURPLUS**

	Current Year	Previous Year
1) <u>Capital Reserve</u>		
As Per Last Account	14,461,974.00	6,994,382.00
Add/(Deduct) :- Net Income/(Expenditure) transferred from the Income and Expenditure Account	(16,776,683.18)	7,467,592.00
TOTAL	(2,314,709.18)	14,461,974.00

MEMBER SECRETARY

**SCHEDULE 3- CURRENT LIABILITIES AND PROVISIONS**

(Amount- Rs.)

		<b>Current Year</b>	<b>Previous Year</b>
<b>CURRENT LIABILITIES</b>			
CPF Payable		1,226,496.00	2,143,758.00
Salary Payable		4,808,601.00	
Income Tax Payable			1,120.00
Outstanding Rent			1,647,603.00
Advances to NGO payable	A + B + C + D	5,146,035.00	
Advances to NGO (NER) payable	E + F + G	1,319,465.00	
		<u>12500597.00</u>	<u>3,792,481.00</u>
<i>Special Study</i>	(A)	<u>2,591,325.00</u>	
Abhiyan, Chattisgarh		249,000.00	
Association for Development Initiative, Kota		223,650.00	
Centre for Social Development, jaipur		97,050.00	
Centre for Studies for cultural indentity of weaker		101,400.00	
Chaitanya Mohan kothi, Gaya		58,800.00	
Ehsaas foundation, New Delhi		152,400.00	
Environics Trust, New Delhi		109,200.00	
Institute of Scial Work, Kolkatta		109,800.00	
Jabala Action Research organisation		48,615.00	
Jalagam samiti saigouri		131,670.00	
Legal services Near Apolo Hospital		65,200.00	
Masoom society for social Science		111,800.00	
Mathura Krishna Foundation, Bihar		41,200.00	
Mother Terisa Rural Development Society		108,360.00	
Ms. Sheela chaoudhary		49,200.00	
Nabakrushna Choudhary Centre for Development Studies		40,000.00	
Noble social & Educational Society		99,540.00	
Pashim Banga Yuba Kalyan Manch		38,640.00	
RK HIV AIDS Centre mumbai		257,400.00	
Shri raj singh Nirwan		232,000.00	
Situational analysis of Homeless Women		150,000.00	
Women study & Development, kochi		116,400.00	
<i>Legal awareness Programme</i>	(B)	<u>1,848,610.00</u>	
Aakash Seva sansthan, udaipur		30,000.00	
All india Women's conference, New Delhi		13,860.00	
Asha Vikas Sansthan		30,000.00	
Ass of People & Nurture Association, jaipur		30,000.00	



	Current Year
Baharpota Premititha Rural Development Society	15,000.00
Bal Avam Mahila Utthan Samiti, Rajasthan	45,000.00
Bapu Yuvak Sangha	30,000.00
Bharat Education & Peae Promotinal Society	15,000.00
Bhartiya Gramodyog Seva Sansthan	15,000.00
Bharitya Manav Adhikar Assoiation	30,000.00
Chattisgarh State Commission for Women	30,000.00
Dalit Mahila Rachnatmak Parishad	15,000.00
District Magistrate & Collector	15,000.00
Dynamic Youth Society	20,000.00
Dyangangabahu Uddeshya Shikshan Sansthan	15,000.00
Gandhi sewa sansthan	15,000.00
Gandhi vidhya mandir shiksha samiti	15,000.00
Giridhar society	30,000.00
Gopal Shikshan Awan Grameen Vikash Sansthan	15,000.00
Gramodya jan jagrity Saity	15,000.00
Gyan Dharshan Acadamy	15,000.00
Holi mashini Foundation	15,000.00
Human rights organisation	30,000.00
India development foundation	15,000.00
Jai sawati gramodhyog sansthan	15,000.00
Jai kalyan avam vikas samiti	15,000.00
Joint women's Programme	30,000.00
Kalyan sewa samiti	30,000.00
Kamalpur babla adarsha jankalyan samiti	15,000.00
Kisan bharti vikas sansthan	30,000.00
Maharashtra sikshan prasarak mandal	30,000.00
Mahatma shiksha prasar samiti	15,000.00
Mahila Jagriti samiti	30,000.00
Mahila jagrukta shiksha & Kalyan samiti	15,000.00
Mahila kalyan evam vidya vikas samiti	15,000.00
Mahila sewak samaj	30,000.00
Mahila shishu swasthya evam uthan samiti	60,000.00
Mahila Vikas samiti	15,000.00
Manav kalyan sansthan	30,000.00
Manav ujwal samaj samiti	15,000.00
Manav vikas mahila kalyan sansthan	45,000.00
Manav vikas sansthan	15,000.00
Matra darshan shiksha samiti	15,000.00
Matra dhashan shiksha samiti, udaipur	15,000.00
Mayur gram in vikas sewa snathan	15,000.00
Modern shiksha vikas samiti	15,000.00
Nari samjotham samiti	15,000.00

	<b>Current Year</b>
Nashter Educational Society	15,000.00
National Youth Association	40,000.00
Nav anchal distt nalanda	30,000.00
New age foundation	15,000.00
New life club	15,000.00
Orissa state commission for women	50,000.00
parvati sewa avam shikshan sansthan	45,000.00
Pragathi Mahila mandali	45,000.00
Prakruti charitable society	30,000.00
Pushpa kekatiya charitable	15,000.00
Rachheri janta vikas gram udyog saiti	12,500.00
Rajat Gramodhyog vikas snsthan	15,000.00
Rural Organisation for Poverty Eradication	15,000.00
Rajendra institute of Education & Social walefare	15,000.00
Rural awareness & walfare trust	15,000.00
Rural Organisation for AGRO Development	40,000.00
Sahara Samiti	30,000.00
Shaid bhagat sing h yuva snagthan	15,000.00
Samaj sansthan & sarvagin vikas sansthan	9,000.00
Samaj uthan samiti	13,250.00
Samta sewa sansthan	30,000.00
Sankalpa District Sivasanagar	40,000.00
Sarbangin Unnayan Samiti	20,000.00
Sarojini naidu mahila vikas avam kalyan sansthan	30,000.00
Savera shikshan sansthan	30,000.00
Shri anand vikas samiti	15,000.00
Shri hari krishan shiksha sewa samiti	15,000.00
Smt sushila devi eduational society	30,000.00
Social action network group	15,000.00
Society for rural upliftment, naupada	15,000.00
Sumitra samajik kalyan sansthan	15,000.00
Su-Samannaya gita bhawan	15,000.00
S.V.S. sansthan	15,000.00
Tarun chetna	15,000.00
Vigyan shiksha kendra	30,000.00
<u>PMLA</u>	<b>195,000.00</b>
( C)	
Haryana state legal service authority	150,000.00
Sainik mahila prashikshan	15,000.00
Shri anand vikas samiti	30,000.00
<u>Seminar &amp; Confrence</u>	<b>511,100.00</b>
(D)	
Abhinav kala kenchha	30,000.00
Avtar smriti siksha evam kalyan	30,000.00



		Current Year
Bastar samajik jan vikas samiti		9,000.00
Bhartiya Gramodyog Sewa sansthan		15,000.00
Duarshani Saramik Sangha		9,000.00
Education & Rural Development		30,000.00
Helena Kaushik Women's collage		30,000.00
Integraed Tribal development for workers		30,000.00
Jogrook mahila sansthan parcham		30,000.00
Navyuf social development institute		56,100.00
Rajiv gandhi janseva sansthan		30,000.00
R.K. Mossang		90,000.00
RK HIV AIDS research & Care centre		50,000.00
Role of women writer in social awakening		18,000.00
Sanjeevani		9,000.00
Silda swasti unnayan samiti		30,000.00
Ujjawal, Gurgaon		15,000.00
<b><u>Advance to NGO (NER)</u></b>	<b>E + F + G</b>	<b>1,319,465.00</b>
<b><u>Legal Awareness Programme</u></b>	<b>(E)</b>	<b>985,000.00</b>
Arunachal State Commission of Women		300,000.00
Asha women & Child Development society		20,000.00
Assam state commission for women		50,000.00
Cosmos Mission assam		20,000.00
Craft society of Tripura		20,000.00
Daylta sewa mancha		20,000.00
Dyanamic Youth society		20,000.00
Jazzy, Guwahati		20,000.00
Lachima Bikash Samittee		20,000.00
Mazkazul maarif nagoan		15,000.00
Meghalaya state commission for women		140,000.00
Mizoram state commission for women		220,000.00
North east women entrepreneur		20,000.00
Phakun harmoti Gaon shrimata sankar		40,000.00
Socio Oriental fast industrial association		20,000.00
Sun club assam		20,000.00
Su prabahat society		20,000.00
<b><u>Seminar &amp; Confrence</u></b>	<b>(F)</b>	<b>90,000.00</b>
Environment & economics Management		30,000.00
Institute of tai studies & Research		60,000.00
<b><u>Special Studies</u></b>	<b>(G)</b>	<b>244,465.00</b>
Dream Progressive Welfare Association		109,800.00
Jana Neta irawat foundation		37,065.00
Omeo kumar das institute A social charge		48,000.00
Rural service Agency (RUSA)		49,600.00

MEMBER SECRETARY

**SCHEDULE 4- FIXED ASSETS**

(Amount- Rs.)

	Current Year	Previous Year
1) Land	3,689,781.00	3,689,781.00
2) Building	875,174.40	972,416.00
3) Furniture & Fixtures	4,634,580.75	4,869,520.00
4) Machinery & Equipments	5,673,346.57	15,206,800.00
5) Computer	2,877,001.60	-
6) Vehicle	3,175,050.90	3,790,354.00
7) Books & Publications	676,031.00	676,031.00
	<u>21,600,966.22</u>	<u>29,204,902.00</u>

**SCHEDULE 5- INVESTMENT OTHERS**

(Amount- Rs.)

	Current Year	Previous Year
CPF Investment	785,000.00	-
Add : Accrued interest	77,257.60	-
	<u>862,257.60</u>	<u>-</u>

MEMBER SECRETARY



	<b>Current Year</b>	<b>Previous Year</b>
<u>Advances to Employees</u>	<u>1,108,813.00</u>	<u>-</u>
<u>Repair &amp; Maintenance Vehicle</u>	<u>2,500.00</u>	
Arun kumar	2,500.00	
<u>Office Expenses</u>	<u>4,906.00</u>	
Arun kumar	806.00	
Jai Bhagwan	4,000.00	
SC Sharma	100.00	
<u>Travelling Expenses</u>	<u>736,005.00</u>	
Manju S hembram	200,396.00	
Neeva Kaunwar	99,452.00	
Rekha Dawar	26,800.00	
S Chatterjee	4,000.00	
Wansuk Syiem	82,342.00	
Yasmeen Abrar	116,360.00	
Yogesh Mehta	206,655.00	
<u>Leave Travel Concession</u>	<u>365,402.00</u>	
Neelmani Sharma	150,037.00	
Yogesh Mehta	215,365.00	



		<b>Current Year</b>	<b>Previous Year</b>
<u>OMCA</u>		11,153.00	11,153.00
Other Motor Car Advance		11,153.00	11,153.00
<u>Under NER</u>	D	1,810,096.00	-
<u>Advance to Employee</u>		1,810,096.00	-
<u>Seminar &amp; Conference</u>		1,810,096.00	-
<i>Yoesh Mehta (NER)</i>		11,596.00	
Neeva Konwar		300,000.00	
Wansuk Syiem		800,000.00	
Yogesh Mehta		698,500.00	
<u>Other</u>			
Advance to Provident Fund		-	2,143,758.00
CPWD		18,000,000.00	18,000,000.00
ICCW		1,098,402.00	-
	E	19,098,402.00	20,143,758.00
TOTAL F (B+C+D+E)		33,068,076.00	20,154,911.00
Security Deposit	G	15,000.00	15,000.00
TOTAL A+F+G		33,761,505.00	36,254,455.00

MEMBER SECRETARY

**NATIONAL COMMISSION FOR WOMEN  
SCHEDULES FORMING PART OF INCOME & EXPENDITURE FOR THE YEAR ENDED MARCH 31, 2009**

**SCHEDULE 7- GRANTS**

	<b>Current year</b>		<b>Previous Year</b>	
	Plan	Non-Plan	Plan	Non-Plan
1) Central Government				
Grant	36000000.00	31,132,000.00	38000000.00	260000000
Less: Amount Grant in aid Capitalised	649,918		1865872	
Total Grant	<u>35,350,082.00</u>	<u>31,132,000.00</u>	<u>36134128.00</u>	<u>26,000,000.00</u>

**SCHEDULE 8- FEES/ SUBSCRIPTIONS**

	<b>Current year</b>		<b>Previous Year</b>	
	Plan	Non-Plan	Plan	Non-Plan
1) Entrance Fees	-	-	-	-
2) Annual Fees/ Subscription	-	-	-	-
3) RTI Fees	-	2,914.00	-	980
		<u>2,914.00</u>		<u>980</u>

MEMBER SECRETARY

**SCHEDULE 9 & 10- INTEREST EARNED**

	Current year		Previous Year	
	Plan	Non-Plan	Plan	Non-Plan
1) On Saving Bank Account				
a) With Schedule Bank	-	273,465.00		345303
b) Interest on investment	-			104206
2) Interest on HIBA		24,000.00		32000
3) Interst Earned on CPF		9,705.00		5199
4) InterstEarned on FDR		77,257.60		
		<b>384,427.60</b>		<b>486708</b>

**SCHEDULE 11- OTHER INCOME**

	Current year		Previous Year	
	Plan	Non-Plan	Plan	Non-Plan
1) Income	-	270.00	0	
2) Mis. Income	-	340.00	0	189973
3) Other Income	-	-	0	
	-	<b>610.00</b>	<b>0</b>	<b>189973</b>

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**SCHEDULE 12- ESTABLISHMENT EXPENSES**

		(Amount- Rs.)			
		Current year		Previous Year	
		Plan	Non-Plan	Plan	Non-Plan
1	Salary:-				
	CP & Members		9,298,348.00		3749717
	Officers		5,884,495.00		5988020
	Staff		5,102,393.00		
2	Wages	5,121,910.00		3648066	
3	Contribution to CPF		387,034.00		276573
4	Contribution to Other Funds:-				
	LSC		61,803.00		760454
	PC				
5	Payment for Professional Fees & Services	742,426.00		492527	
		5864336	20734073.00	4,140,593.00	10774764.00

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### **SCHEDULE 13- OTHER ADMINISTRATIVE EXPENSES**

(Amount- Rs.)

	Current year		Previous Year	
	Plan	Non-Plan	Plan	Non-Plan
Advertisement Exps.	6,118,063.00		4424409	
Legal Awareness Programme	6,454,973.00			
Printing	957,912.00		1296841	
Seminar & Conference	9,090,938.00		14211979	
Special Study	8,101,734.00		4634366	
NRCW	428,156.00		595522	
PMLA	510,000.00			
Office Expenses		1,562,350.00		2704058
Repair & Maintenance		289,645.00		477883
Telephone		703,053.00		748810
Travelling Expenses		3,895,177.00		3751928
Audit Fees		60,080.00		57255
Bank Charges		33,084.00		6659
Petrol, Oil & Lubricants		853,490.00		808426
Interest paid on CPF		74,177.00		120292
Rent, Rates & Taxes		7,139,610.00		6590412
Advertisement NER	403,330.00			
Legal Awareness Programme NER	2,285,000.00			
Seminar & Conference NER	579,590.00			
Special Study NER	1,073,261.00			
	<u>36002957.00</u>	<u>14610666.00</u>	<u>25163117.00</u>	<u>15265723.00</u>

MEMBER SECRETARY

**NATIONAL COMMISSION FOR WOMEN  
SCHEDULES FORMING PART OF RECEIPT & PAYMENT AS AT MARCH 31, 2009**

**SCHEDULE 16- ESTABLISHMENT EXPENSES**

	(Amount- Rs.)			
	Plan	Current year Non-Plan	Previous Year Plan	Non-Plan
1 Salary:-				
CP & Members		6,443,717.00		3749717
Officers		4,826,568.00		5988020
Staff		4,206,350.00		
2 Wages	5,121,910.00		3648066	
3 Contribution to CPF		387,034.00		276573
4 Contribution to Other Funds:-				
LSC		61,803.00		760454
PC				
5 Payment for Professional Fees & Services	742,426.00		492527	
	5864336	15,925,472.00	4,140,593.00	10774764.00

MEMBER SECRETARY

**NATIONAL COMMISSION FOR WOMEN  
SCHEDULES FORMING PART OF RECEIPT & PAYMENT AS AT MARCH 31, 2009**



**SCHEDULE 17- OTHER ADMINISTRATIVE EXPENSES**

Particulars	Total amount debited	Current Year O/s balance	Total payment	Previous Year
<b>1 <u>Under Plan</u></b>				
Advertisement Exps.	6,118,063.00	-	6,118,063.00	4424409
Legal Awareness Programme	6,454,973.00	1,848,610.00	4,606,363.00	
Printing	957,912.00	-	957,912.00	1996841
Seminar & Conference	9,090,938.00	511,100.00	8,579,838.00	14211979
Special Study	8,101,734.00	2,591,325.00	5,510,409.00	4634366
NRCW	428,156.00	-	428,156.00	595592
PMLA	510,000.00	195,000.00	315,000.00	
Advances for :- Seminar & Conference	11,020,812.00		11,020,812.00	
Motor Vehicle	4,400.00		4,400.00	
Festival Advance	14,400.00		14,400.00	
	<b>37,555,353.00</b>	<b>A</b>	<b>37,555,353.00</b>	<b>25163117.00</b>
<b>2 <u>Under Non Plan</u></b>				
Office Expenses	1,562,350.00		1,562,350.00	2704058
Repair & Maintenance	289,645.00		289,645.00	477883
Telephone	703,053.00		703,053.00	748810
Travelling Expenses	3,895,177.00		3,895,177.00	3751928
Audit Fees	60,080.00		60,080.00	57255
Bank Charges	33,084.00		33,084.00	6659
Petrol, Oil & Lubricants	853,490.00		853,490.00	808426
Rent, Rates & Taxes	9,885,615.00		9,885,615.00	5492010
Advances for :- Office expenses	4,906.00		4,906.00	
Travelling expenses	736,005.00		736,005.00	
Repair & maintenance	2,500.00		2,500.00	
LTC Advance	365,402.00		365,402.00	
Income Tax paid for previous year	1,120.00		1,120.00	
CPF Interest				120992
Investment				3000000
	<b>18,392,427.00</b>	<b>B</b>	<b>18,392,427.00</b>	<b>17167321.00</b>
<b>Note 1</b>				
Rent for :- Previous Year		1,647,603.00		
Current Year		7,139,610.00		
Advance (2009)		1,098,402.00		
		<b>9,885,615.00</b>		

Under NER

3

<u>Particulars</u>	<u>Total amount debited</u>	<u>O/s balance</u>	<u>Total payment</u>	<u>Previous Year</u>
Advertisement	403,330.00	-	403,330.00	
Legal Awareness Programme	2,285,000.00	985,000.00	1,300,000.00	
Seminar & Conference	579,590.00	90,000.00	489,590.00	
Special Study	1,073,261.00	244,465.00	828,796.00	
Advances for Seminar & Conference			1,810,096.00	
		C	<u>4,831,812.00</u>	
		Total A+B+C	60,779,592.00	

MEMBER SECRETARY



## **Remittance Schedule-18**

	Previous year		Current year	
	Addition	Amount Remitted	Addition	Amount Remitted
GPF	1159610.00	1159610.00	1396188.00	1,396,188.00
Licence Fee	84140.00	84140.00	93885.00	93,885.00
Income tax	1004382.00	1003262.00	1633159.00	1,633,159.00
CGHS	16190.00	16190.00	29250.00	29,250.00
Postal Life Insurance	6912.00	6912.00	0.00	-
CGEGIS	14775.00	14775.00	16046.00	16,046.00
HBA	108345.00	108345.00	72759.00	72,759.00
Interest on HBA	31898.00	31898.00	18000.00	18,000.00
MCA + (Intt.)	15000.00	15000.00	36000.00	36,000.00
OMCA	22580.00	22580.00	14800.00	14,800.00
Interest on OMCA	5600.00	5600.00	0.00	-
Festival Advance	2550.00	2550.00	2250.00	2,250.00
Computer Advance	15340.00	15340.00	8040.00	8,040.00
CPF Subscription	557072.00	557072.00	767028.00	767,028.00
Family Benefit fund	120.00	120.00	0.00	-
SFBF-HBA	198.00	198.00	0.00	-
GEH-Fund	60.00	60.00	0.00	-
Life Insurance premium	1767.00	1767.00	0.00	-
CSIR Thrift Society	14400.00	14400.00	9216.00	9216.00
Beneolent Fund	99.00	99.00	132.00	132.00
Water Charges	360.00	360.00	-	-
Other Recovery	68.00	68.00	2,400.00	2,400.00
<b>Total</b>	<b>3061466.00</b>	<b>3060346.00</b>	<b>4099153.00</b>	<b>4099153.00</b>

MEMBER SECRETARY

**NATIONAL COMMISSION FOR WOMEN**

**SCHEDULES -14 FORMING PART OF THE FINANCIAL ACCOUNTS FOR THE YEAR ENDING  
31.03.2009**

**SIGNIFICANT ACCOUNTING POLICIES**

**1. ACCOUNTING CONVENTION**

The financial statements are prepared on accrual basis. Financial statements have been prepared in new format for Central Autonomous bodies (Non Profit Organisation and Similar Institution) as provided by the office of the CAG Ministry of Finance.

**2. INVESTMENTS**

2.1 Investments classified as “short term investments” & “Long Term Investments” are carried at cost in form of Fixed Deposits in the Nationalized bank.

**3. FIXED ASSETS**

3.1 Fixed assets are stated at cost of acquisition inclusive of inward freight, duties and taxes and incidental and direct expenses related to the acquisition. In respect of projects involving construction, related pre-operational expenses (including interest on loans for specific project prior to its completion), form part of the value of the assets capitalized.

3.2 Fixed Assets received by way of non-monetary grants includes publication only and are capitalized at book value.

**4. DEPRECIATION**

4.1 Depreciation is provided on straight-line method as per rates specified in the Income-tax Act, 1961. The financial statements are prepared on the basis of accrual basis from current year (2008-09). Depreciation charged on fixed assets from this year.

**5. GOVERNMENT GRANTS/SUBSIDIES**

5.1 Government grants/subsidy is accounted on realization basis.



## **SCHEDULE-15 FORMING PART OF THE ACCOUNTS FOR THE PERIOD ENDED 31.3.2009**

### **NOTES ON ACCOUNTS**

#### **1. CONTINGENT LIABILITIES**

- 1.1 Claims against the Commission not acknowledged as debts – Rs. NIL (Previous year Rs. NIL)
- 1.2 In respect of :
- Bank guarantees given by/on behalf of the Commission – Rs. NIL (Previous year Rs. NIL)
  - Letters of credit opened by Bank on behalf of the Commission – Rs. NIL (Previous year Rs. NIL)
  - Bills discounted with Commission – Rs. NIL (Previous year Rs. NIL)
- 1.3 Disputed demands in respect of:
- Income – tax Rs. Nil (previous year Rs. NIL)
  - Sales – Tax Rs. Nil (previous year Rs. NIL)
  - Municipal Tax Rs. Nil (previous year Rs. NIL)
- 1.4 In respect of claims from parties for non-execution of orders, but contested by the Commission Rs. NIL (Previous year Rs. NIL)

#### **2. CAPITAL COMMITMENTS**

Estimated value of the Building of National Commission for Women for Women is Rs. 6.09 crores.  
Rs. 1.80 crore advance payment made to CPWD remaining to be executed.

#### **3. CURRENT ASSETS, LOANS AND ADVANCES**

In the opinion of the Commission, the current assets, loans and advances have a value on realization in the ordinary course of business, equal at least to the aggregate amount shown in the Balance Sheet.

#### **4. TAXATION**

In view of no taxable income under Income- tax Act, 1961, no provision for Income tax has been considered necessary.

**5. FOREIGN CURRENCY TRANSACTIONS**

5.1 Value of imports calculated on C.I.F.Basis:

Purchase of finished goods	NIL
Raw Materials & Components (including in transit)	NIL
Capital Goods	NIL
Stores, Spares and Consumables	NIL

5.2 Expenditure in foreign currency :

(a) Travel	NIL
(b) Remittances and Interest payment to Financial Institution / Banks in Foreign Currency.	NIL
(C) Other expenditure	NIL
Commission on sales	NIL
Legal and Professional Expenses	NIL
Miscellaneous Expenses	NIL

5.3 Earnings:

Value of exports on FOB basis	NIL
-------------------------------	-----

6. The presentation of the financial statements is based on the prescribed format given by Office of DGACR applicable to our Commission.
7. No liability towards Gratuity payable on death/retirement and Accumulated leave encashment benefits to the employees has been made in the books of accounts.
8. The Ministry of Women and Child Development, Govt. of India funds the National Commission for Women. The summarized position of the Grants received by the Commission for the year ending March, 2009 is as under:

S.No.	Particular	Plan (Rs.)	Non-Plan(Rs.)
1.	Unspent balance of Grant at the beginning of the year	1,29,01,864	31,68,740
	Unspent balance of Cash in hand at the beginning of the year	9,483	4,457
2.	Grants received during the year	3,30,00,000	3,11,32,000
3.	Grants received during the year for North East Regions	30,00,000	—
4.	Unspent balance of the Grant at the end of the year	9,928	2,88287



9. Grants/Financial Assistance to NGO's etc. having similar aims and objectives are being accounted for and booked as expenditure on adjustment of grant/financial assistance.
10. Depreciation has not been provided for on Assets of the Commission from current year i.e. 2008-09.
11. During the last year (2007-08) Fixed Assets amounting to Rs. 18.19 lakhs were auctioned but their book value were not written off from the fixed assets register. The necessary entries has been made in this financial year (2008-09) by written off the book value of fixed assets.
12. Schedule 1 to 13 and 15 to 18 are annexed to which form an integral part of the balance sheet and the Income and Expenditure account for the year ended 2008-09.

**[Member Secretary]**

## **AUDIT CERTIFICATE**

### **Separate Audit Report of the Comptroller & Auditor General of India on the Accounts of National Commission for Women (NCW) for the year ended 31 March, 2009**

We have audited the attached Balance Sheet of National Commission for Women (NCW) as on 31<sup>st</sup> March, 2009 and Income & Expenditure Account/Receipts & Payment Account for the year ended on that day under Section 19(2) of the Comptroller & Auditor General's (Duties, Powers & Conditions of Service) Act, 1971 read with Section 12(2) of the National Commission for Women Act, 1990. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audit.

2. This separate Audit Report contains the comments of the Comptroller and Auditor General of India (CAG) on the accounting treatment only with regard to classification, conformity with the best accounting practice, accounting standards and disclosure norms etc. Audit observations on financial transactions with regard to compliance with the Law, Rules & Regulations (Propriety and Regularity) and efficiency-cum-performance aspects etc., if any are reported through Inspection Report/CAG's Audit Reports separately.

3. We have conducted our audit in accordance with auditing standards generally accepted in India. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatements. An audit includes examining, on a test basis, evidences supporting the amounts and disclosure in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of financial statements. We believe that our audit provides a reasonable basis for our opinion.

4. Based on our audit, we report that:

- i. We have obtained all the information and explanations, which to the best of our knowledge and belief were necessary for the purpose of our audit.
- ii. The Balance Sheet and Income & Expenditure Account/Receipts & Payment Account dealt with by this report have not been prepared as per the common format of accounts prescribed by Ministry of Finance.
- iii. In our opinion, proper books of accounts and other relevant records have been maintained by the NCW as per Section 12 (2) of the National Commission for Women Act, 1990. in so far as it appears from our examination of such books.
- iv. We further report that:

#### **A. Balance Sheet**

##### **A.1 Liabilities**



### **A.1.1 Provisions**

No provision had been made for leave salary contribution and pension contribution which is not in accordance with with format of accounts approved by the Ministry of Finance.

### **B. General**

#### **B General**

- (i) The accounts of the Commission were revised at the instance of audit. As a result of revision, Current Liabilities and Provisions increased by Rs. 64.66 lakh and Current Assets Loans and Advances decreased by the same amount.
- (ii) Remittances of Rs. 40.99 lakh that were not included in the Receipts & Payment Account have now been included resulting in increase on both receipt as well as payment side of the Receipt and Payment Account by the same amount.

### **C Grants-in-aid**

The National Commission for Women is mainly financed by the Ministry of Women & Child Development. During the year 2008-09, NCW had received grants-in-aid of Rs. 671.32 lakh (Rs 330.00 *la'di* under - Plan, Rs. 30.00 lakh under Plan - North Eastern Region and Rs. 311.32 lakh under - Non Plan). Additionally, the Commission had unspent grants of Rs. 160.84 lakh (Rs. 129.11 lakh under plan and Rs. 31.73 lakh under non plan) carried forward from the previous years. It also has internal receipts of Rs. 3.85 lakh under Non-Plan. Out of the total amount the NCW utilized Rs. 842.97 lakh (Rs. 489.52 lakh under Plan and Rs. 353.45 lakh under Non-Plan) leaving a deficit balance of Rs. 167.80 lakh (Rs. 129.52 lakh under Plan and Rs.38.28 lakh under Non-Plan) as on 31<sup>st</sup> March 2009.

### **D. Management letter**

Deficiencies which have not been included in the Audit Report have been brought to the notice of the Commission through a management letter issued separately for remedial/corrective action.

- v. Subject to our observations in the preceding paragraphs, we report that the Balance sheet and Income and Expenditure Account Receipts and Payments Account dealt with by this report are in agreement with the book of accounts.
- vi. In our opinion and to the best of our information and according to the explanation given to us, the said financial statements read together with the Accounting Policies and Notes on Accounts, and subject to the significant matters stated above and other matters mentioned in Annexure to this Audit Report give a true and fair view in conformity with accounting principles generally accepted in India:

- (a) In so far as it relates to the Balance Sheet, of the state of affairs of the National Commission for Women as at 31 March, 2009 and
- (b) In so far as it relates to Income and Expenditure Account of the deficit for the year ended on that date.

For and on behalf of the C&AG of India

Place : New Delhi  
(Date : 03.12.2009)

**Pr. Director General of Audit  
(Central Expenditure)**

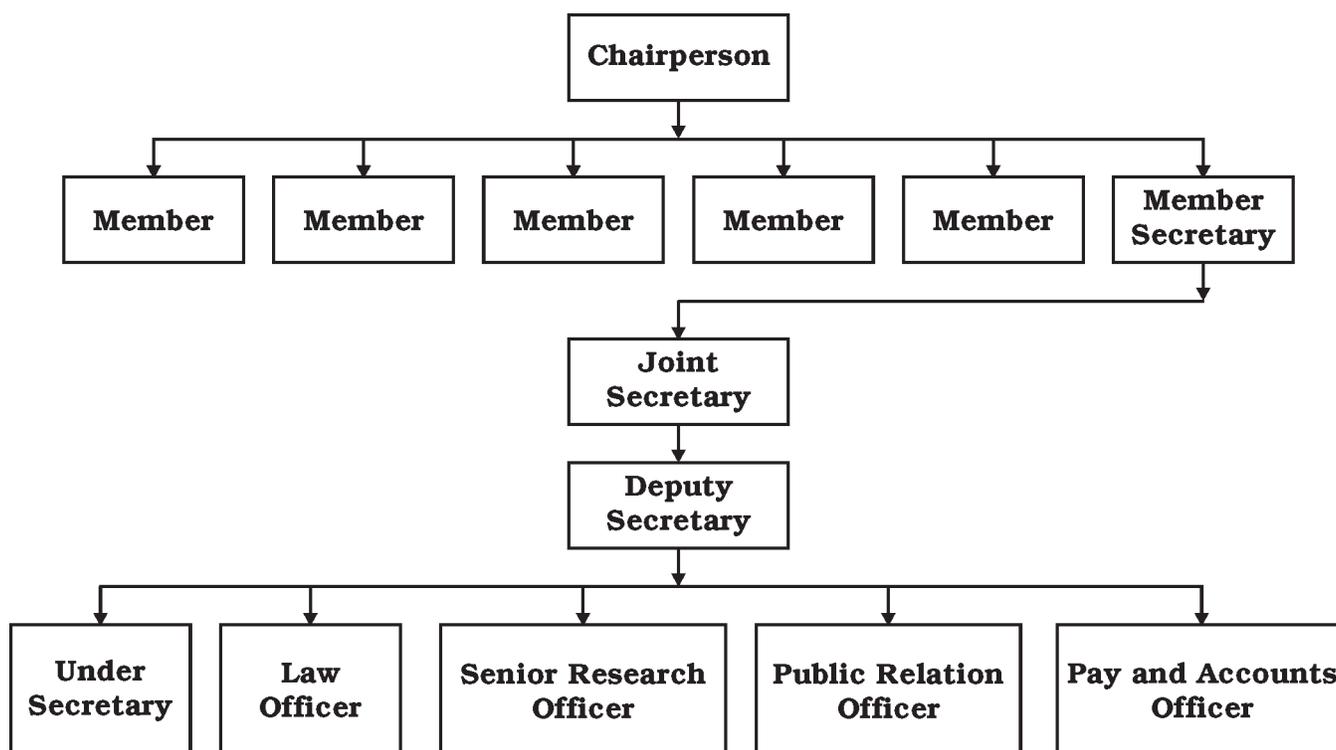


# 7

## ANNEXURES

Annexure - I

### ORGANIZATION CHART



Government of India National Commission for Women Nature-Wise Report of the Complaints Received by NCW in the Financial Year : 2008-2009														
S.No.	Nature	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
1	ACID ATTACK	0	0	0	0	0	0	5	0	1	0	1	0	8
2	ATTEMPT TO MURDER	2	0	8	5	9	8	4	4	2	3	1	0	40
3	ATTEMPT TO RAPE	19	17	35	23	20	21	5	12	19	15	17	14	217
4	BIGAMY/ADULTRY	28	22	19	10	18	5	4	14	8	9	12	7	156
5	CUSTODY OF CHILDREN	3	4	2	1	0	0	0	1	1	0	0	1	13
6	CYBER CRIME	0	1	0	0	3	0	0	0	0	0	0	0	4
7	DESERTION	2	4	16	3	10	1	3	1	1	2	1	1	45
8	DIVORCE	3	2	0	0	2	1	1	1	0	0	0	0	10
9	DOMESTIC VIOLENCE/MATRIMONIAL DISPUTE	80	91	137	100	85	108	86	71	99	79	108	93	137
10	DOWRY DEATH	75	50	91	45	44	51	36	60	43	42	29	36	602
11	DOWRY HARASSMENT	233	163	259	172	137	178	134	168	147	140	126	163	2020
12	FEMALE INFANTICIDE/FOETICIDE	0	1	2	1	0	0	1	0	1	0	0	0	6
13	HARASSMENT AT WORKPLACE	61	51	43	26	28	20	8	23	21	9	32	22	349
14	HARASSMENT FOR DOWRY/CRUELTY	2	0	0	0	0	0	0	1	0	0	0	0	3
15	KIDNAPPING/ABDUCTION	44	33	50	29	11	25	17	18	19	30	27	0	308
16	MAINTENANCE	17	5	15	7	6	6	3	6	9	3	5	3	85
17	MISCELLANEOUS	224	207	274	270	326	375	393	445	513	453	526	492	4498
18	MOLESTATION/EVE TEASING	49	35	47	20	17	15	18	22	21	18	20	15	257
19	MURDER	0	0	2	0	0	0	0	0	0	0	0	1	3
20	NON-MANDATE	141	137	2	228	0	0	0	0	0	0	0	0	508
21	NRI MARRIAGES	4	9	5	3	3	4	2	6	3	1	1	0	41
22	POLICE-APATHY	64	57	90	49	35	22	23	29	47	70	64	132	882
23	POLICE HARASSMENT	73	56	68	62	36	19	20	36	36	26	40	15	487
24	PROPERTY (WIDOWS PROPERTY, PARENTS PROPERTY, STREE DHAN PROPERTY)	91	73	91	64	38	35	19	52	63	38	30	27	621
25	RAPE	46	48	75	39	47	51	36	43	44	57	42	49	577
26	RAPE/ATTEMPT TO RAPE	1	0	0	0	0	0	0	0	0	0	0	0	1
27	SEXUAL HARASSMENT AT WORK PLACE	24	18	21	11	16	14	17	10	10	0	7	9	164
28	SHELTER/REHABILITATION	0	0	2	2	2	0	0	1	0	0	0	0	7
	Total	1286	1084	1359	1170	893	964	830	1025	1108	1002	1089	1085	12895

## State-Wise Report of the Complaints Received by NCW in the Financial Year : 2008-2009

S.No.	State	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
1	Andaman and Nicobar Islands	2	1	0	0	1	3	1	0	3	0	0	0	11
2	Andhra Pradesh	19	10	21	16	4	8	5	9	4	6	17	16	135
3	Arunachal Pradesh	0	0	0	0	0	0	0	0	0	0	0	0	0
4	Assam	4	4	2	5	3	4	1	2	2	2	3	8	40
5	Bihar	33	28	28	38	26	19	20	24	37	21	30	34	338
6	Chandigarh	0	2	2	1	4	2	4	0	0	0	0	0	15
7	Chattisgarh	5	8	6	9	9	7	4	4	4	4	3	6	69
8	Coadra & Nagar Haveli	0	0	0	0	1	0	0	0	0	0	1	0	2
9	Daman & Diu	0	0	0	0	0	0	0	0	0	0	0	0	0
10	Delhi	181	176	182	166	176	140	124	152	150	143	160	160	1910
11	Goa	0	1	0	0	1	0	0	0	1	0	1	0	4
12	Gujrat	10	4	13	10	10	10	8	5	8	7	17	9	111
13	Haryana	70	78	88	66	47	50	52	47	44	39	64	55	700
14	Himachal Pradesh	2	5	2	4	2	3	0	1	1	3	5	6	34
15	Jammu & Kashmir	3	4	5	1	1	1	2	1	0	2	2	2	24
16	Jharkhand	21	15	18	17	8	15	11	17	15	7	15	19	178
17	Karnataka	8	7	7	5	3	8	3	4	6	5	13	13	82
18	Kerala	0	2	0	2	4	2	1	0	4	0	1	3	19
19	Lakshadweep	0	0	0	0	0	0	0	1	0	0	0	0	1
20	Madhya Pradesh	49	43	54	39	32	25	26	26	25	23	52	37	431
21	Maharashtra	16	20	22	17	13	19	12	16	1	25	29	23	230
22	Manipur	0	0	0	0	0	2	0	0	1	0	0	0	3
23	Mezhalaya	1	0	1	1	0	1	0	1	0	1	2	0	8
24	Mizoram	0	0	0	0	0	0	0	C	C	0	0	1	1
25	Nagaland	0	0	0	1	0	0	1	1	0	0	0	0	3
26	Orissa	6	9	11	4	0	4	1	5	2	5	6	9	62
27	Pondicherry	0	1	0	0	0	0	0	0	0	1	2	2	6
28	Punjab	20	29	20	17	21	14	16	19	9	16	12	19	212
29	Rajasthan	87	87	126	101	96	52	43	61	46	10	65	85	919
30	Sikkim	0	0	1	0	0	0	0	0	0	0	0	0	1
31	Tamilnadu	17	28	14	9	11	5	10	1	17	U	28	21	186
32	Tripura	0	0	0	1	0	0	1	1	0	0	0	0	0
33	Uttar Pradesh	703	491	702	608	400	550	458	595	681	572	526	527	6813
34	Uttaranchal	16	15	27	19	13	13	17	13	15	19	25	20	212
35	West Bengal	13	16	7	13	7	7	9	12	15	13	10	10	132
	Total	1286	1084	1356	1170	893	964	830	1025	11CG	1002	1089	10	12895

## **SCHEME FOR RELIEF AND REHABILITATION OF OFFENCES (BY ACIDS) ON WOMEN AND CHILDREN NATIONAL COMMISSION FOR WOMEN**

### **Statement of object and reasons**

In most cases, acid attacks permanently disfigure, debilitate and, eventually, destroy the victim, both physically and psychologically. While many attacks have resulted in slow and painful deaths, cases like that of Haseena (in April 1999) and in other cases have resulted in young women getting disfigured, maimed and confined to homes for life. They continue to battle medical complications as acid seeps into the body and harms internal organs over an extended period of time. The victim needs both short term and long term medical facilities in the form of specialized plastic surgery. But it is almost impossible for the victim's family to pay for the extensive surgeries needed to reconstruct the damaged face of the victim and thus many of the victims remain like a living corpse. As these surgeries are performed at different stages to give a person a close resemblance to their earlier looks, these operations cost the victim from minimum two lacs to several lacs of rupees.

It has also been observed that there is no scope for rehabilitation for acid survivors and there is no one to provide support. Despite the fact that in most cases the victim knows the violator, the perpetrators often escape the law and are rarely brought to justice under the Code of Criminal Procedure and the Penal Code.

Acid attacks can be termed as an act of gender-based violence that results in, or is likely to result in, physical, sexual, psychological harm or suffering to women. The Declaration on the Elimination of Violence against Women 1993 stipulates that

States should condemn violence against women and pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should:

- Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence;
- ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counseling, and health and social services, facilities and programmes, as well as support structures, and should take all



other appropriate measures to promote their safety and physical and psychological rehabilitation;

- include in government budgets adequate resources for their activities related to the elimination of violence against women;

Thus on the basis of the above stated reasons, the proposed law seeks to focus on achieving the following major objectives:-

- To assist the victim of acid attack by way of providing for her medical treatment services and also provide social and psychological support.
- To arrange rehabilitation mechanisms/schemes taking into account the specific needs of the victim.

## CHAPTER I SHORT TITLE, APPLICATION AND DEFINITIONS

### 1. **Short title, extent and commencement**

- (1) This Scheme may be called scheme for relief and rehabilitation of offences (by Acids) on women and children
- (2) It extends to the whole of India except the State of Jammu and Kashmir
- (3) It shall come into force on such date as the Central Government may by notification in the official Gazette, appoint.

### 2. **Application.** - This scheme applies to victims (women and children) of acid attacks.

### 3. **Definitions.** - (1) for the purposes of the scheme, unless the context otherwise requires.-

- (a) "Acid" shall mean and includes any substance which has the character of acidic or corrosive or burning nature that is capable of causing bodily injuries leading to scars or disfigurement or temporary or permanent disability.
- (b) "Acid attack" means any act of throwing acid or using acid in any form on the victim with the intention of or with knowledge that

such person is likely to cause to the other person Permanent or partial damage or deformity or disfiguration to any part of the body of such person.

- (c) "Appropriate Government" means the central and the state Government
- (d) "Child" means any person under 18 years of age
- (e) "District Board " means the district *criminal injuries relief and rehabilitation board at district level;*
- (f) "DISTRICT MONITORING COMMITTEE" committee established in each district
- (g) "domestic violence" as defined in PWDV Act 2005
- (h) "Victim" means a woman or a child.
- (i) "Medical treatment" shall include corrective surgeries, psychological counseling
- (j) "Medical facility " means any medical hospital government funded or private which provides for specialised treatment to victims of burn injuries , acid attacks
- (k) National Board" means the National Criminal Injuries Compensation Board;
- (l) "Offence" shall mean any offence punishable under the IPC or under any law



(m) “Service provider” means any voluntary association registered under the society’s registration Act 1860 or a company registered under the companies Act 1956 or any other law for the time being in force, which espouses the cause of women and/or provides for support and rehabilitation of victims of acid attacks

(n) “State Board” means State Criminal Injuries Relief and Rehabilitation Board at State level

## **CHAPTER II IMPLEMENTING AUTHORITIES UNDER THE SCHEME**

### **4. CONSTITUTION OF NATIONAL CRIMINAL INJURIES RELIEF AND REHABILITATION BOARD**

The Central Government shall by notification constitute a body to be known as National Criminal Injuries Compensation Board;

(ii) The National Board shall consist of: -

- The Chairperson, National Commission for Women who shall be the President of the Board, ex-officio.

- An officer not below the rank of Joint Secretary of the Central Government in the Ministry of Women and Child Development.
- One woman Member to be appointed from amongst persons

having knowledge of or practical experience in matters relating to criminal Law.

- Two women representatives of NGOs or women Activists working in the field of empowerment of women.
- An officer of NCW shall be the Member Secretary of the Board, ex-officio.

### **5. Procedure of business and Term of Office of the Members of the Board**

Term of Office of the Members of the Board, shall be for 3 years. The President and the Members of District, State and National Criminal Injuries Compensation Board would work on honorary basis. Non official Members of National, State and District Boards will be eligible to get a sitting fee of Rs.500/- for each meeting. Non - official Members of District Monitoring Committee will be entitled to on honorarium of Rs.500/- for each case. Members of the National, State and District Boards who are government servants would work on honorary basis and would be entitled to TA/DA as per rules applicable to them from their regular head of account.

### **6. Appointment of officers and other employees of the Board**

For the purpose of enabling it efficiently to discharge its functions,

the National Board may, appoint (whether on deputation or otherwise) including short term contract such number of officers and other employees as it may consider necessary

**7. Functions of the National Board**

The National Board shall administer the Scheme and to that effect:-

- a) Lay down policies and procedures for the effective implementation and administration of the Scheme.
- b) Review, from time to time, and advise the Central Government on the quantum payable and other relief's provided under the Scheme.
- c) Advise the Ministry to issue suitable advisories to state government for directing the public prosecutors to plead before the competent court to award suitable compensation to the victims and appraise the court on the actions initiated as per the scheme.
- d) Estimate the requirement of the funds/budget. Administer and Allocate funds to the State Boards.
- e) Issue directions to the appropriate authorities under the Scheme for ensuring proper medical, psychological and legal assistance to the victim.
- f) Frame and issue guidelines on the rehabilitation schemes in consultation with the Central and State government.

- g) Monitor and evaluate the implementation of the scheme and seek periodical reports.
- h) Co-ordinate and Monitor the functioning of the state and district authorities constituted under this Scheme for the implementation of the Scheme.
- i) The Board may inquire or cause to be inquired suo moto or otherwise or on a petition presented to it by a victim or any person on her behalf or by an NGO, into any complaint alleging the offence of acid attack and /or with respect to any matter in connection with the provisions of the scheme and refer the matter to the appropriate District or State Board.
- j) Administer the Insurance scheme or group insurance and notify the agents as may be prescribed
- k) Recommend to the government regarding any fee ,tax or charge to be levied from any person, body or association or manufacturer dealing in chemicals including acids including creating a Consortium of acid and chemical manufactures from whom the appropriate Government may levy license or such other fee which could be used to form a corpus fund out of which, compensation could be given to the victim on an immediate basis.
- l) Any other matter as may be prescribed.



## 8. CONSTITUTION OF THE STATE BOARD –

- (i) The State Government shall constitute by notification in the Official Gazette State Criminal Injuries Relief and Rehabilitation Board at State level
- (ii) The State Board shall consist of:-
- Secretary, of the department of Women and Child development/ department of social welfare who shall be the President;
  - Joint Secretary of Department of Home
  - The Member Secretary or any member of the State Women Commission.
  - An officer of the Law department of the State or the Union territory
  - Three Representatives from amongst women Activists and eminent lawyers working in the field of empowerment of women.

## 9. FUNCTIONS OF THE STATE BOARD

- (i) The State Board shall co-ordinate and monitor the functions of the District Board;
- (ii) The State Board shall ensure proper disbursement of the funds allocated to it by the Central Government / National Board and any additional amount supplemented by the State Government, to the district Boards.

- (iii) Issue directions to the appropriate authorities under the scheme for ensuring proper medical, psychological and legal assistance to the victim.
- (iv) The Board may inquire suo moto or otherwise on a petition presented to it by a victim or any person on her behalf into any complaint alleging the offence of acid attack and /or with respect to any matter in connection with the provisions of the scheme and refer the matter to the District Board.
- (v) The Board shall entertain all appeals against the decision of the District Board and in deserving cases recommend enhancing of the relief amount with prior approval of the National Board.

## 10. CONSTITUTION OF DISTRICT CRIMINAL INJURIES RELIEF AND REHABILITATION BOARD;

- (a) Upon the notification of the scheme, there shall be established at every District, a Board called the ***District criminal Injuries relief and rehabilitation Board;***
- (b) The board shall have exclusive jurisdiction to deal with applications received under the scheme in that district;
- (c) The board shall be headed by the Collector or the District Magistrate by whatever name he/she is called who shall be the President and comprise of

four other members nominated by the State government, where one of them has expertise in matters relating to criminal law, one has experience in the field of empowerment of women, a Medical doctor and a representative of Panchayati Raj Institution or municipality in the District, out of which at least three members would be women.

**11. FUNCTIONS OF THE DISTRICT CIRRB**

- (a) The Board shall consider the claims and award financial relief/rehabilitation as the case may be in all cases of acid attacks in accordance with the procedure prescribed under this scheme.
- (b) The Board shall coordinate and monitor the activities of the District Monitoring Committee (DMC), as provided under the Scheme, and/or with the Governmental and non – Government organizations for rendering assistance to the victim, in the form of any legal, medical, psychological or any other form of aid/ assistance.
- (c) Implement any scheme for rehabilitation of acid attack victims framed by the State or National Criminal Injuries Relief and Rehabilitation Board.

**12. POWERS OF THE DISTRICT BOARD**

- (a) The board shall be the authority to consider the claims and award financial relief in all cases of alleging the offence by acids and order such other relief and rehabilitation measures as deemed fit in the circumstances of the case.
- (b) The Collector or the District Magistrate as the President of the Board shall exercise the powers conferred upon him under the Cr.P.C. or under any other law by the State Government, for carrying out the functions under the Scheme ;

**13. DISTRICT MONITORING COMMITTEE** - The State Government shall establish in every District, a Monitoring Committee, which shall be headed by the Superintendent of Police of the District. The committee shall comprise of the following other members, whom the District Collector/ District Magistrate would nominate:

- (i) A police officer, preferably a woman
- (ii) A woman social activist or a counsellor;
- (iii) A Lawyer
- (v) A Medical doctor;
- (vi) A representative of the Panchayati Raj Institution or Municipality

**14. FUNCTIONS OF THE DISTRICT MONITORING COMMITTEE:**



The District Monitoring committee shall perform the following functions;

- (a) To arrange for psychological and medical aid and counselling to the victim.
- (b) To arrange for legal aid to the victim in filing the FIR till the conclusion of the trial;
- (c) To initiate suitable measures to ensure the protection of the victim and witnesses till the conclusion of the trial.
- (d) Monitor and expedite the progress of the investigation.
- (e) To aid and assist in opposing bails, filing appeals and making application for protection of the victim.
- (f) In cases of young victims, to see that they receive education or professional training or training for self-employment.
- (g) To assist them in securing employment.
- (h) To facilitate the victims' rehabilitation.
- (j) To arrange shelter to the victim, for such period as the circumstances warrant.
- (m) Either on its own or through any service provider, provide immediate assistance to the victim in the form

of medical aid and other support services

- (n) Undertake a field visit and spot inquiry and take suo moto cognisance of any incident of acid attack
- (o) Create awareness about the means by which public can notify the board of any acid attack, develop networking strategies in coordination with NGO's and other stakeholders towards strengthening the support systems, conduct advocacy work with police and other stakeholders.
- (vii) Maintain records and statistics on acid attacks
- (vii) Any other matter as may be prescribed

### **CHAPTER III PROCEDURE FOR ASSISTANCE**

#### **15. Procedure for providing assistance to the victims**

- (a) A victim, or her dependents or immediate family member or any voluntary organization espousing the cause of women/child may apply to the District Board for financial and other relief in accordance with the application form as may be prescribed
- (b) In case of death caused by or results as a consequence of acid attack, the children or other dependents of the

deceased or any voluntary organization espousing the cause of women/child or service provider, may apply to the board for relief in accordance with the provisions of the scheme .

- (c) Where the legal heir is—
- (i) A child, the application may be made on his behalf by the father or guardian or by any authorized voluntary organization;
  - (ii) A mentally ill person within the meaning of the Mental Health Act, the Application may be made by the person with whom the victim normally resides or a duly authorized medical officer or a voluntary organization;
- (d) An applicant shall submit all/any of the following documents with the application:
- (i) Medical certificate, where the application is being made by or on behalf of the victim; or
  - (ii) The death certificate of the victim/ post mortem report, where a legal heir is making the application including copy of post mortem report or
  - (iii) Copy of FIR/Complaint.
- (e) **On the receipt of the application, the District Board shall satisfy itself about the claim, make a preliminary assessment about the nature of the claim.**

(f) **After having been prima facie satisfied that a case of acid attack has been made out, the board shall order an interim financial relief of an amount upto Rs.5,00,000/- within a period of thirty days from the date of receipt of the application. The payment would directly be sent to the hospital where the acid attack survivor is undergoing the treatment and be utilised for the purposes of treatment to the victim.**

(g) Any further sum of money as approved by the Board/monitoring authority, from time to time shall be met towards the treatment of the victim, subject to a maximum of **Rs. 25 Lakhs** inclusive of the interim compensation

(h) **Where death of the victim results The Board shall on the facts and circumstances of the case, pay a lump sum not exceeding Rs. 2,00,000/- to the legal heir preferably the children of the deceased so as to protect the best interests of the child . This would be in addition to any expenses incurred towards the treatment of the victim.**

(i) The Board shall in addition to the above, take such measures for the purposes of the rehabilitation, legal aid or any special needs of the victim in consultation with the monitoring authority or service provider. The board or the



monitoring authority shall cater to the special needs and rehabilitation of such victims to an amount upto **Rs. 5 Lakhs**

- (j) The relief's provided under the scheme shall not be subject to convictions or acquittals or whether the identity of the persons committing the crime is known or otherwise.
- (k) While conducting any home study or enquiry, the fact that the victim was at any time subjected to any act of domestic violence shall be taken into account and the question whether the legal heir is the husband or the relatives of the husband shall be determined accordingly by the Board or by the monitoring authority.

#### **CHAPTER IV FINANCE**

#### **16.**

- (i) The central government shall provide the budgetary requirements for the implementation of the scheme, to the MWCD which would be transferred to the National Board as Grant in Aid
- (ii) The budgetary allocations shall be made in consultation with the National Criminal Injuries Relief and Rehabilitation Board.

- (iii) National Board would allocate fund to State Board. The State Criminal Injuries Relief and Rehabilitation Board would in turn allocate funds to District Criminal Injuries Relief and Rehabilitation Boards.
- (iv) All fines/costs compensation, collected from persons convicted of offences by acids by a competent court would be credited to the National Criminal Injuries Relief and Rehabilitation Board, if so ordered by the court.
- (v) The Budgetary allocations shall be used for meeting:-
  - a) The cost of assistance provided under this Scheme,
  - b) Any other expenses required for functioning of National, State & District Criminal Injuries Relief and Rehabilitation Boards including the funds required for rehabilitation of the victims which are required to be met by the district monitoring committees.

- 17. Accounts and Audit-** The Central Boards and state Government or the monitoring authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account and the balance-sheet. These Accounts will be audited by The C&AG of India.

## CHAPTER V MISC PROVISIONS

18. **Duty of the Government** – (a) the Appropriate Government shall in consultation with the National Board and the Monitoring agency frame guidelines to regulate and control the sale, distribution and procurement of acids in any form
- (b) The appropriate Government shall act on the recommendations made by the National Board within a period of sixty days from the date of submission of the recommendation
19. **Duty of medical facility** – (a) No medical hospital or speciality, government owned or privately owned shall deny specialised or any form of treatment to any victim on any ground, when such victim is brought before or approaches such facility for treatment.
- (b) Where such medical facility receives such a victim for treatment it shall forthwith inform the monitoring agency or the national Board and the police of the same, but shall in no manner or on any ground refuse treatment to such victim
- (d) For the purposes of treatment, the police report or the FIR shall not be relevant precondition

## Criminal law Amendment – amendments in IPC, etc

### Amendment in IPC

1. **INSERTION OF NEW SECTION 326 A - throwing or using of acid in any form on the body of other person** - Notwithstanding anything contained in section 324 or 326 of the Code , Whoever does any act of throwing acid or using acid in any form on the other person with the intention of or with knowledge that he is likely to cause such person Permanent or partial damage or deformity disfiguration or disability to any part of the body of such person shall be punished with imprisonment of either description for a term which **shall not be less than TEN years** but which **may extend to Life** and shall also be liable to fine which shall be a minimum of RS 2 Lakhs and may extend to Rs 5 lakhs

The offence shall be cognizable, Non-bailable and non-compoundable

Explanation \_ the term “acid” and “acid attack” – as defined in section 3(a) and (b) of the prevention of offences (by acids) scheme 2008

**Justification:** although the offences relating to acid throwing is covered under section 320 and 326 of the IPC but keeping in view the extreme heinous nature of the act and the fact that under section 326 the offence can be punished with imprisonment



For life or with imprisonment of either description for a term **which may extend to ten years, it is proposed in the Bill that at least the minimum punishment be not less than 10 years and extend to life imprisonment**

Further using acid with intention or knowledge is a punishable offence irrespective of the nature and extent of injury; therefore there is no need for categorisation of various forms of disability

- 2. INSERTION OF NEW Section 326 B - Attempt to throw or use acid in any form on the other person - Whoever** does any act with such intention or knowledge and under such circumstances that, if he by that act caused Permanent or partial damage or deformity disfiguration or disability to any part of the body of such person, shall be punished with imprisonment of either description for a term which shall not be less than 7 years and shall also be liable to fine to a minimum of Rs 1 lakh

**Amendments proposed in the Indian Evidence Act**

- 1. INSERTION OF NEW Section 114 B Presumption as to acid attack -** When the question is whether a person has committed the act of throwing acid on the woman the Court shall presume, having regard to the

circumstances of the case and the statement of the victim, that such person had thrown acid on the woman  
**Amendments to the Criminal Procedure Code**

**Insertion of new section 357A - Defraying of expenses -** Notwithstanding anything contained in Section 357 of Code of criminal procedure or in any other law for the time being in force, the court may when passing judgment for the offence under section 326 A or 326 B of the IPC -

- (a) In the payment to any person of compensation for any loss or injury caused by the offence and may order the recovery of the amount from the assets of the accused
- (b) Defraying of expenses incurred by the concerned authorities under for assistance to victims of acid attacks
- (c) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or if an appeal be presented, before the decision of the appeal.
- (d) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

**FINANCIAL IMPLICATIONS OF THE SCHEME**

**During the 11th Plan 2008-09 to 2011-12**

	<b>INTERIM</b>	<b>RELIEF and REHAB</b>	<b>Final Settlement</b>	<b>Establishment (in crores)</b>	<b>Total (in crores)</b>
	5 LAKH	5 LAKH	20 LAKH	3	
	<b>100 Cases</b>				
2008-09	5 crores	5 crores	20 crores	3	33
2009-10	5 crores	5 crores	20 crores	3	33
2010-11	5 crores	5 crores	20 crores	3	33
2011-12	5 crores	5 crores	20 crores	3	33



## **THE NATIONAL COMMISSION FOR WOMEN RECOMMENDATIONS AND SUGGESTIONS ON AMENDMENTS TO THE DOWRY PROHIBITION ACT, 1961**

### **I. Introduction**

The issue relating to the deep rooted evil of dowry was taken up in the CONVENTION organized by the NATIONAL COMMISSION FOR WOMEN on the 22<sup>nd</sup> of November, 2005, at the Symposia Hall of the NASC, Pusa, New Delhi.

Though the legislation, THE DOWRY PROHIBITION ACT, 1961, aptly prohibits the giving or taking of dowry, it was felt that the present law has been totally ineffective to curb this social evil. The convention, which was attended by chairpersons of various State Commissions for Women, members of NGOs', Civil Servants as well as retired and working police officers from various states, felt that there was a dire need to make the requisite amendments to the Act so as to make it effective.

The background note prepared by the lawyers collective as well as the inputs provided by the NCW and other delegates was discussed and on basis of which, after consultations with the Lawyers Collective, the following recommendations are being made suggesting suitable amendments to the Act.

II. PRESENT LAW AND PROPOSED AMENDMENTS:

1. SECTION 2: DEFINITION OF DOWRY

Present Act	Proposed	Remarks
<p>“Dowry” means any property or valuable security given or agreed to be given either directly or indirectly-</p> <p>(a) By one party to a marriage to the other party to the marriage; or</p> <p>b) By the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person; at or before or any time after the marriage in connection with the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.</p>	<p>“Dowry” means any property or valuable security given or agreed to be given either directly or indirectly</p> <p>(a) By one party to am marriage to the other party to the marriage</p> <p>(b) by the parent of either party to the marriage or by any other person, to either party to the marriage or to any other person <b>at or before or any time after the marriage</b>, but does not include dower or <i>mahr</i> in the case of persons to whom the Muslim Personal Law (<i>shariat</i>) applies</p> <p>(2) Nothing in this section shall apply to, or in relation to,-</p> <p>(a) <b>Gifts</b> given at the time of marriage to the bride <b>voluntarily</b> (without any demand having been made in that behalf) Provided that such gifts are entered in a list maintained in accordance with the rules made under the Act;</p> <p>(b) <b>Gifts</b> which are given at the time of a marriage to the bridegroom <b>voluntarily</b> (without any demand having been made</p>	<p>Term in connection with marriage is proposed to be deleted</p> <p>The sub section (2) to section 3 is proposed to be included within the broad definition of dowry</p> <p>The expression “<b>presents</b>” to be substituted by the term “<b>gifts</b>”</p>



<p><b>Explanation II:</b> The expression “valuable</p>	<p>in that behalf) Provided that such <b>gifts</b> are entered in a list maintained in accordance with the rules made under the Act;</p> <p>Provided further that where such <b>gifts</b> are made by or on behalf of the bride or any person related to the bride, such gifts are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.</p> <p>Provided further that the <b>list of gifts is authenticated and signed by the Protection Officer or a service provider appointed /recognized under the Protection of Women Against Domestic Violence Act, 2005.</b></p> <p><b>Explanation I-</b> for the purposes of this section, ‘<b>indirectly</b>’ means-Any willful conduct or harassment of such a nature, which is likely to coerce the woman to meet any unlawful demand of any property or valuable security or is on account of failure by her or any person related to her to meet such demand.</p> <p><b>Explanation II-</b>The expression ‘valuable security’ has the same</p>	<p>A proviso regarding the registration of lists of gifts to be introduced.</p> <p>An explanation of the term “indirectly” to be included.</p> <p>An explanation to be provide to the items that</p>
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<p>security” has the same meaning as in section 30 of the Indian Penal Code (45 of 1860)</p>	<p>meaning as in Section 30 of the Indian Penal Code.</p> <p><b>Explanation III</b>-The expression “gifts” means the transfer by one person to another of any existing movable or immovable property made voluntarily and without any consideration in money or in money’s worth. This expression includes and is not limited to the following:</p> <ul style="list-style-type: none"> <li>(i) Gifts made before the nuptial fire</li> <li>(ii) Gifts made at the bridal procession, i.e. while the bride is being led from the residence of her parents to that of her husband.</li> <li>(iii) Gifts made in token of love, that is, those made by her father-in-law and mother-in-law and those made at the time of the bride-making obeisance at the feet of elders.</li> <li>(iv) Gifts made by the father of the bride.</li> <li>(v) Gifts made by the mother of the bride</li> <li>(vi) Gifts made by the brother of the bride</li> <li>(vii) Dower of mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies. - A gift would be said to be “Customary in nature” if it can be proved that</li> </ul>	<p>constitute “gifts” and should include a reference to items received in Stridhan and Mahr</p>
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	<p>a. A practice of such an exchange has been unbroken over a series of years</p> <p>b. If has existed sufficiently over a long period of time</p> <p>c. It is reasonable.d. It is not in derogation with the existing law of the land.</p> <p><b>EXPLANATION IV-</b> the expression voluntary used in the explanation II above means gifts being given without any demand having been made in that behalf or pursuant to any form of coercion, threat, inducement or promise.</p> <p>Explanation V A gift would be said to be “Customary in nature” if it can be proved that</p> <p>e. A practice of such an exchange has been unbroken over a series of years</p> <p>f. If has existed sufficiently over a long period of time</p> <p>g. It is reasonable.</p> <p>h. It is not in derogation with the existing law of the land.</p> <p>However will not include gifts given at the time of child birth.</p>	<p>An explanation to be included to explain the term “voluntary” in relation to the exchange of gifts</p>
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**A. Justification for the proposed amendments to the definition of “Dowry”**

The definition of “dowry” as at present raises the following issues:

- *What is meant by the phrase “directly or indirectly”?*
- *How the phrase “in connection with marriage” be defined?*
- *What time period is envisaged by the use of the phrase “any time after marriage”?*
- *Does this definition include all gifts and exchanges given in connection with marriage?*

To gather an understanding of the coverage of this law, the definition in Section 2 has to be read in conjunction with Section 3 which provides for the penalties for the act of giving or taking of dowry. Under this provision, exemptions are provided to the following categories of exchanges:

- Presents given at the time of the marriage to the bride without any prior demands being made for such presents.
- Presents that are “customary” in nature and of a value that is not excessive having regard to the financial status of the person by whom, or on whose behalf such presents are being given.

- A list of all such presents have to be maintained according to the Rules formulated under this law.

It is evident from a reading of both these provisions, that the law does not prohibit all exchanges at the time of marriage. At the same time the Act, does put in place some safeguards to ensure that the presents given at the time of marriage are not pursuant to any demands being made or any other form of coercion. To this extent, Section 4 of the DPA stipulates separate penalties for those making any demands for dowry. Unfortunately, the DPA not only penalizes those who make demands for dowry or take dowry but also those who give dowry. This ignores the reality of the present society wherein the practice of dowry is so ingrained that dowry is given even without any demands made in this regard. Parents of the bride feel compelled to give dowry in order to ensure the “happiness” and “security” of their daughter by appeasing the in-laws by giving them dowry.

The following issues need to be addressed to ensure the effective implementation of the law in so far as the definition of “dowry” is concerned:

**I. Definition of dowry to be brought under one provision**

The stated objective of the DPA is to prohibit the practice of dowry. However, at the same time, the intention of the law is not to penalize all voluntary exchanges or gifts given at the time of the marriage or during the course of the marriage. The distinctions



between “dowry” and other “presents” have been given under 2 separate provisions of the DPA.

Section 2 provides the definition of dowry by enlisting the different forms of exchanges that take place “in connection with the marriage”. Section 3, while providing for penalties for the act of giving or taking dowry, provides exemptions to presents that are voluntarily made to either party to the marriages or relatives provided that a list is maintained of all such presents. An additional safeguard provided in Section 3 states that “gifts” should be customary in nature and that the value of such gifts should not be excessive, having regard to the financial status of the giver.

Despite these provisions the Act does not provide adequate guidelines for differentiating items given under the guise of “gift/presents” from those extorted as “dowry”. If the intent of the law is to prohibit dowry, meaning thereby, any exchanges given pursuant to demands or under any form of coercion whether implicit or explicit, a clear distinction must be made between “gifts” given voluntarily from those given under duress or compulsion.

The definition of “dowry” along with the exemptions of exchanges that do not constitute dowry should be provided under the auspices of one provision.

The expression “presents” used in Section 3(2) of the Act should be substituted with the expression “gifts” to indicate the voluntary intent behind the exchange. The

expression “gifts” finds definition in law under the Gift-Tax Act 1958.

Further, a distinction between “dowry” and “Stridhan” or gifts received, as stridhan must be provided for.

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## **II Distinction between “Dowry and “Stridhan”.**

There appears to be a certain amount of confusion over the terms “dowry” and “Stridhan”. “Stridhan” as a concept of Hindu

law has arisen from the concept of “Varadakshina” which is associated with an approved Hindu marriage practice of “Kanyadaan”. *Kanyadaan* being the gifts which the father of the bride gives to the father of the groom. “*Varadakshina*” was the presents in cash or kind which were to be given to the bridegroom. Both *kanyadaan* and *varadakshina* were considered meritorious acts and were voluntary in nature. Presents, given to the daughter on the occasion of the marriage constituted her “*Stridhan*” i.e. her separate property.

The term “*Stridhan*” literally means the “woman’s property”. According to the *Smritika*, the *Stridhan* constituted those properties which she received by way of gifts from her relatives, which included mostly movable property such as ornaments, jewellery, dresses. Sometimes even land or property or even houses were given as gifts. The purpose behind deeming properties as “*Stridhan*” was to ensure that

- The woman had full right over its disposal or alienation
- On her death, all types of *Stridhan*, devolved upon her heirs.

The husband of the woman had the limited power to use or alienate the “*Stridhan*” and that too only in cases of distress or emergency and even in such cases, he was obligated to return the same once the emergency period was tided over. Thus the conclusion is that all types of *Stridhan* are properties given to her by way of gifts and without any “demand, coercion, undue

influence or even pressure”. However in the past there have been a catena of cases where the distinction between dowry and *Stridhan* has been misunderstood. In the case of *Kailash Vati v. Ayodhya Prakash*<sup>2</sup> Chief Justice Sandhwalia, while recognizing the distinction between *stridhan* and dowry, used both the words interchangeably as if one meant the other. He opined as follows:

*“The Dowry Prohibition Act 1961 does not bar traditional giving of presents at or about the time of wedding . Thus such presents or dowry given by the parents is therefore not at all within the definition of the statute”.*

He further went on to state that:

*“Law as it stands today visualizes a complete and full ownership of her individual property by a Hindu wife and in this context the factum of marriage is of little or not relevance and she can own and possess property in the same manner as a Hindu male ...Once it is held that a Hindu wife can own property in her own right , then it is purely a question of fact whether the dowry or traditional presents given to her, were to be individually owned by her or had been gifted to the husband alone.....Once it is found that as a fact that these articles of dowry were so given to her individually and in her own right , then I am unable to see how the mere factum of marriage would alter any such property right and divest her of ownership either totally or partially”.*

Here the presumption is that whatever property the bride receives as “gifts” stays under her control in the matrimonial home



and that she can share it with her husband or the rest of the family by exercising her discretion. This is contrary to what happens in reality where the bride does not have any control over her belongings or her essentials.

It was only in the case of *Pratibha Rani V. Suraj Kumar*<sup>3</sup> the Supreme Court tried to arrive at a definition of “*Stridhan*” by enlisting the following exchanges as constituting *stridhan*

- (i) gifts made before the nuptial fire
- (ii) gifts made at the bridal procession, i.e. while the bride is being led from her residence of her parents to that of her husband.
- (iii) Gifts made in token of love, that is, those made by her father-in-law and mother-in-law and those made at the time of the bride making obeisance at the feet of elders.
- (iv) Gifts made by the father of the bride
- (v) Gifts made by the mother of the bride
- (vi) Gifts made by the brother of the bride.

The judgment further clarified that

“The Hindu married woman is the absolute owner of her *Stridhan* property and can deal with it in any manner she likes. Ordinarily the husband has no right or interest in it with the sole exception that in times of extreme distress but he is morally

bound to restore it or its value when he is able to do so”

Fazl Ali J further observed that

*“I am amazed to find that so deeply drowned and inherently are some of the High Courts concept of matrimonial home qua Stridhan property of married woman that they refuse to believe that such properties which were meant for exclusive use of the wife, could also be legally entrusted to the Husband and his relations. He specifically stated that the concept that the “Stridhan” of the woman becomes the Joint property of the two houses as soon as she enters her matrimonial house is in direct Contravention of Hindu law.”*

The differentiation of the two terms is towards ensuring that in case of the future breakdown of marriage the woman can at least retrieve gifts received as *Stridhan*. Thus even if at the time of marriage or during the marriage “gifts” should be given under the cover of “*Stridhan*” so that she will at least have a right to claim them back. **A reference to the items that can be received as “Stridhan” should therefore find specific mention under the DPA.**

### **III. Deletion of the term “in connection with marriage” Deletion of the term “in connection with marriage”**

This amendment of substitution of the phrase “in consideration” with “in connection with marriage” was brought about with the intention to include demand of property, giving of property or agreement to give

<sup>3</sup> AIR 1985 S.C 628

property by one party to marriage to the other party of marriage etc need not be prior to or at the time of the marriage, the same may be even after marriage. This amendment was further explained in the case of *Yogendra Kumar Bansal v. Smt Anju*<sup>4</sup> where the Allahabad High Court said that

*“Now Dowry means any property given or agreed to be given by the parents (or any others) of a party to the marriage or before marriage or at any time after the marriage in connection with marriage”.* Thus where the husband demanded an amount of Rs 50,000 by way of dowry some days after the marriage from the wife’s father and in the event of her not being able to give that amount was subjected to torture, it would mean that the amount was demanded in connection with the marriage and it was a demand of dowry even though it was demanded after marriage.

The phrase *“in connection with marriage”* however is ambiguous and has not been interpreted in a uniform manner. The question of whether gifts received under coercion/ pursuant to demands being made, after the completion of the marriage ceremony, but during the course of the marriage, are included in the definition of dowry remains unanswered.

The courts in the past have interpreted this clause in the favour of the defendants when they claimed that any gifts were exchanged out of affection rather than as a demand having any connection with marriage. Thus the defendants would often escape liability altogether solely based on

classification of the property demanded. The requirement that dowry be defined as being *“in connection with marriage”* fails to recognize that most marriage negotiations are done confidentially and that any discussion about dowry exchange will be covert. Defendants can easily be acquitted by arguing that gifts given during marriage over a period of years were voluntary, out of affection, or connected with events apart from marriage, such as childbirths or religious festivals. In the case of *Arjun Dhondida Kamble v. State of Maharashtra*<sup>5</sup> where the deceased had committed suicide due to the non fulfillment of a demand made by the in-laws even though the demand was in conformity with the existent custom. The Bombay High Court held that *“giving presents are a part of a custom and giving such presents at festive occasions is in no connection with marriage. There is always an expectation amongst relatives thus such demands would not qualify as dowry”.* Similarly in the case of *Madan Lal v. Amar Nath*<sup>6</sup> the court stated that *“property given either to secure an agreement to marry or given at the time of marriage in exchange for of as the reason for the marriage, as it were. It, may also include property given subsequent to the marriage but expressly deferred as the reason for the marriage but “would not include property that may pass hands subsequent to the marriage, even months or years after it, merely to save the marriage from being broken or to smoothen the course of matrimonial life, or to keep the family of the in-laws of the wife better disposed towards her”.*

<sup>4</sup> 1989 Allahabad Law Journal 914

<sup>5</sup> (1993)1 Mh LJ 1007



The misinterpretation of the term ‘in connection with marriage’ is manifested in the recent case of the Supreme Court- *Satvir Singh v State Of Punjab*<sup>6</sup> The Court held:

There are three occasions related to dowry. One is before the marriage, second is at the time of marriage and the third is at any time after the marriage. The third occasion may appear to be an unending period. But the crucial words are in connection with the marriage of the said parties. This means that giving or agreeing to give any property or valuable security on any of the above three stages should have been in connection with the marriage of the parties. There can be many other instances for payment of money or giving property as between the spouses. For example, some customary payments in connection with birth of a child or other ceremonies are prevalent in different societies. Such payments are not enveloped within the ambit of dowry.

The definition of “dowry”, in the DPA, must be amended to include a specific prohibition of exchanges made both at the time of and any time after the marriage. Emphasis needs to be placed on the existence of “**demand**” even if the gifts may be “Customary” in nature. Hence the term “in connection with marriages” should be deleted.

**Recently the supreme court of India in criminal appeal no. 1613 of 2005** Decided on: 05.01.2007, in the matter of Appasaheb and anr. Vs. state of Maharashtra held that

***“Demand for money on account of some financial stringency or for meeting***

<sup>6</sup> 26(1984) DLT 480

***some urgent domestic expenses cannot be termed as a demand for dowry as the said word is normally understood. dowry means any property or valuable security to be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties hence a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential”***

in the case , a demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure could not be termed as a demand for dowry The evidence adduced by the prosecution did not, therefore, show that any demand for “dowry as defined in Section 2 of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for was some money for meeting domestic expenses and for purchasing manure. Since an essential ingredient of section 304B IPC viz. demand for DOWRY is not established, the conviction of the appellants Could not be sustained.

**The case reinforces the need for amendment as proposed above**

#### **iv. Clarification of the term “indirectly”**

The meaning of the term “indirectly” used in Section 2 remains unclear. Does the term “indirectly” apply in cases where the in-laws do not demand for it but create an environment wherein the bride is compelled

to bring lavish gifts for her in laws? Does this term include situations where the bride is not coerced but there is an expectation from the in-laws to bring certain gifts? Would demands for more “customary gifts” also fall under the act of “Demanding Dowry”?

Leaving this term undefined places the burden of proving that dowry was demanded, in an indirect manner, on dowry victims and their families. There have been inconsistencies in the manner in which this term has been interpreted by various courts. It is a known fact that even after the marriage, demand for more valuables is continuously made. What is more difficult is make the distinction between “voluntary” and “involuntary”. In the case of *Chandrashekar v. State Representative Inspector of Police*<sup>8</sup> the issue was whether the demand for more customary gifts at the time of “Pongal Servasi” would amount to demand for dowry? The Counsel for the accused submitted that expecting gifts at the time of a function would not fall under the definition of dowry. In the case of *S. Reddy v. State of Andhra Pradesh*<sup>9</sup> the Supreme Court has clearly said that Dowry as a quid pro quo for marriage is prohibited and not the giving of traditional presents to bride or the bridegroom by friends and relatives. Thus voluntary gifts given at or before or after the marriage as the case may be would not fall within the ambit of dowry. In these cases what needs to be looked into is not the fact as to whether a particular item is “Customary” in nature or not. What needs deeper analysis is whether the fact of “demand” was present or not. Would the demand for valuables under the cover of “customary gifts” be an indirect way of

demanding Dowry? What needs to be looked into is whether that item was “Demanded” or not.

The definition of dowry, under the DPA, must therefore include an explanation of the term “indirectly” to include all conduct or harassment to coerce the woman into meeting any demands for property or valuable security.

### **Conclusion:**

#### **Amendments required in the definition of “dowry”**

- The definition of dowry along with the exceptions should be provided under one provision.
- The expression “presents” to be substituted by the term “gifts” to indicate the voluntary nature of the exchange.
- An explanation to be provided to the items that constitute “gifts” and should include a reference to items received as *stridhan* and *mahr*
- An explanation to be included to explain the term “voluntary” in relation to the exchange of gifts.
- An explanation of the term “indirectly” to be included.
- A proviso should be introduced allowing for the registration of lists of gifts maintained under this Act by the Protection Officer appointed under the Protection of Women Against Domestic Violence Act, 2005. (Hereinafter the “PWDV Act”)

<sup>1</sup> AIR 2003 Mad

<sup>2</sup> AIR 1996 SC 2184



## 2. SECTION 3: PENALTY FOR GIVING OR TAKING DOWRY

Present Law	Proposed amendments	Remarks
<p>(1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than [five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more]:</p> <p>PROVIDED that the court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than [five years].</p> <p>(2) Nothing in sub-section (1) shall apply to or in relation to-</p> <p>(a) presents given at the time of marriage to the bride (without any demand having been made in that behalf) Provided that such gifts are entered in a list maintained in accordance with the rules made under the Act;</p> <p>(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that</p>	<p>(1) If any person, after the commencement of this Act, takes or abets the taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees, or the amount of the value of such dowry, whichever is more.</p> <p>Provided that the court may, for adequate and special reasons to be recorded in the judgement impose a sentence of imprisonment for a term of less than five years</p> <p><b>Omitted</b></p>	<p>Provide for separate penalty for giving and taking of dowry</p> <p>The sub section (2) is proposed to be included in the broad definition of dowry</p>

<p>behalf) Provided that such presents are entered in a list maintained in accordance with the rules made under the Act; Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such gifts are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.</p>	<p>(2) If any person after the commencement of the Act, gives dowry, shall be punishable with imprisonment of a term which shall not be less than 1 year, and with a fine which shall not be less than fifteen thousand rupees, unless, such person can prove that he was compelled to give dowry.</p> <p>(3) If parents, or in the absence of the parents, the relatives of the bride or the bridegroom fail to maintain a list of gifts in accordance with Section 2(2)(a) and (b) and the provisos there under, shall be punishable with imprisonment of not less than 3 years and with a fine of not less than fifteen thousand rupees.</p> <p>(4) Notwithstanding anything contained in any law for the time being in force a statement by the person aggrieved or the parents or the relatives of the person aggrieved by the offence shall not subject such person to a prosecution under this Act.</p>	<p>Introduce penalties for the non-maintenance of lists of gifts received at the time of the marriage.</p> <p>Section 7(3) of the Present Act proposed to be incorporated as Section 3(4) Giver can be treated as an aggrieved and it becomes important to state that such an aggrieved will not be liable to prosecution.</p>
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### **Justification for the proposed amendments in section 3 of the Act**

Section 3 of the Dowry Prohibition Act 1961 reads as follows:

[(1)] If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than <sup>1</sup>[five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more]:

PROVIDED that the court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than <sup>1</sup>[five years].

This provision penalizes the acts of both giving and taking dowry. The Supreme Court, emphasized on the role played by the giver and not only the taker of dowry in the case *'In Re: Enforcement of Dowry Prohibition Act'*<sup>1</sup>. It was held that refusal by the bride's father to pay dowry, refusal of the girls to get married if dowry is insisted upon and the attaching of a social stigma to those who demand dowry, can alone ultimately put an end to this system or at least reduce its prevalence. This automatically implies that the giver is also equally responsible in the prevalence of dowry in our society. It would thus be logical to prosecute not only the taker, but also the giver if the need arises.

This raises two highly problematic issues. First, if both the giver and taker of

dowry are held culpable under the law then there is no one left to complain against the act. Section 3 has, therefore, had the effect of discouraging parents of the bride from complaining against a demand for dowry.

Secondly, the practice of dowry has to be examined in the broader context of the devalued status of women. Parents are often compelled to pay dowry to ensure the security and happiness of their daughter in her matrimonial home. Misguided as their actions may be, they are in no way comparable to the malicious intent of the persons making the demand for dowry. If the groom's family did not demand, threaten or coerce the payment of dowry then there would be no question of the bride's family succumbing to such demands. Social and cultural pressures on the givers of dowry must also be taken into account. Hence the giver and the taker of dowry cannot be placed on the same footing under the law. At the same time, the culpability of the givers of dowry cannot be negated. Hence there must be a distinction made between the extent of culpability of the givers and the takers of dowry.

The provisions of the DPA provide limited protection to the givers of dowry seeking to file a complaint under this law. Under Section 7(3), of the DPA, prosecutions under this law cannot be initiated based on statements made by a person aggrieved. This provision reads as follows:

*“Notwithstanding anything contained in any law for the time being in force a statement made by the person aggrieved by the offence*

<sup>1</sup> I (2005) DMC 805 (SC)

*shall not subject such person to a prosecution under this Act”*

This immunity, however, is inadequate and does not specifically cover the parents or relatives of the bride. Further, there is no definition of the term “person aggrieved” under the Act.

Finally, there are no penalties provided for the failure to maintain lists of gifts exchanged in connection with the marriage. The maintenance of lists of gifts is crucial for the effective implementation of the law. Further, this list provides the basis for a woman to retrieve items given to her at the time of the marriage. The persons responsible for the maintenance of such lists should be identified and penalties imposed for the failure to maintain such lists.

Hence amendments are required in Section 3 of the DPA to the following effect

- provide for separate penalties to the giver and takers of dowry
- Introduce penalties for the non-maintenance of lists of gifts received at the time of the marriage.
- Include parents and relatives of the bride as aggrieved persons within the ambit of Section 7 (3) of the DPA.



### 3. SECTION 6: REVERSION OF DOWRY

Present Law	Proposed amendments	Remarks
<p><b>1. Dowry to be for the benefit of the wife or her heirs-</b> (1) where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman –</p> <p>(a) if the dowry was received before marriage, within [3 months] after the date of marriage; or</p> <p>(b)if the dowry was received at the time of or after the marriage, within[3 months] after the date of receipts; or</p> <p>(c) If the dowry was received at the time of or after the marriage, within [3 months] after she has attained the age of eighteen years, and pending such transfer, shall hold it in trust for the benefit of the woman</p> <p>[(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified thereof [or as required by sub-section 3[(3)] he shall be punishable with imprisonment for a term which shall not be less than 6 months, but which</p>	<p><b>Dowry ,gifts or stridhan to be for the benefit of the wife or her heirs-</b> (1) where any dowry or <b>stridhan or gifts</b> is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman -</p> <p>(a) if the dowry, stridhan or gifts was received before marriage, within [3 months] after the date of marriage; or</p> <p>(b)if the dowry ,stridhan or gifts was received at the time of or after the marriage, within[3 months] after the date of receipts; or</p> <p>(c) If the dowry , stridhan or gifts was received at the time of or after the marriage, within [3 months] after she has attained the age of eighteen years, and pending such transfer, shall hold it in trust for the benefit of the woman</p> <p>[(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified thereof [or as required by sub-section</p>	<p>Inclusion of stridhan and gifts</p>

<p>may extend to two years or with fine [which shall not be less than five thousand rupees, but which may extend to ten thousand rupees] or with both.]</p> <p>(3) Where the woman entitled to a property under sub-section (1) dies before receiving it, <b>the heirs of the woman shall be entitled to claim it from the person holding It for the time being:</b></p> <p>[Provided that where such woman dies within seven years of her marriage, otherwise than due to natural causes, such property shall,-</p> <p>(a) if she has no children, be transferred to her parents, or</p> <p>(b) if she has children, be transferred to such children and pending such transfer, be held in trust for such children]</p> <p>[(3A) Where a person convicted under sub-section (2) for failure to transfer any property as required by sub-section (1)[or sub-section (3)] has not, before his conviction under that section, transferred such property to the woman entitled thereto or, as the case may be [her heirs, parents or children] the court shall,</p>	<p>3[(3),] he shall be punishable with imprisonment for a term which shall not be less than 6 months, but which may extend to two years or with fine [which shall not be less than five thousand rupees, but which may extend to ten thousand rupees] or with both.</p> <p>(3) Where the woman entitled to a property under sub-section (1) dies before receiving it-</p> <p>——Deleted</p> <p>(a) if she has no children, be transferred to her parents, or</p> <p>(b) if she has children, be transferred to such children and pending such transfer, be held in trust for such children]</p> <p>[(3A) Where a person convicted under sub-section (2) for failure to transfer any property as required by sub-section (1)[or sub-section (3)] has not, before his conviction under that section, transferred such property to the woman entitled thereto or, as the case may be [her heirs, parents or children] the court shall, in addition to awarding</p>	<p>The provision relating to death of a woman in unnatural circumstances should be deleted and property obtained by dowry to revert to the parents of the woman or her children, as the case may be on the death of the woman</p>
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<p>in addition to awarding punishment under that sub-section, direct, by order in writing, that such person shall transfer the property to the woman or as the case may be, [her heirs, parents or children ] within such period as may be specified in the order, and if such person fail to comply with the direction within the period so specified, an amount equal to the value of the property may be recovered from him as if it were a fine imposed by such court and paid to such woman or, as the case may be, [her heir, parents or children ].</p> <p>(4) Nothing contained in this sub-section shall affect the provisions of section 3 or section 4.</p>	<p>punishment under that sub-section, direct, by order in writing, that such person shall transfer the property to the woman or as the case may be, [her heirs, parents or children ] within such period as may be specified in the order, and if such person fail to comply with the direction within the period so specified, an amount equal to the value of the property may be recovered from him as if it were a fine imposed by such court and paid to such woman or, as the case may be, [her heir, parents or children ].</p> <p>(4) Nothing contained in this sub-section shall affect the provisions of section 3 or section 4.</p>	
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### **Justification of proposed amendments in reversion of Dowry**

This clause provides that all property or movables given as dowry will have to be transferred to the woman. Till such time the transfer takes place, such property is held in trust for her benefit by the person in whose possession the property is. Failure to transfer the property within the period prescribed will attract the penalties provided for in the clause.

The problematic issue that arises *vis-à-vis* this provision is in relation to the manner of devolution of such property on the death of the woman.. Hence if the woman dies:

- Due to natural circumstances, the property will devolve on the heirs of the woman.
- However if the woman dies in unnatural circumstances, that too within the first seven years of marriage, then such property devolves upon only her children and in the absence of her children, reverts back to her parents.

Thus as per this provision, if the woman dies due to natural causes, the property is equally divided amongst her heirs. Under most inheritance laws in India, the husband is recognized as an heir of the wife. Let us take for instance

- Under Section 15(1) of the Hindu Succession Act, 1956, the husband

is recognized as a Class I heir in addition to her children and the children of any pre-deceased son or daughter. The exception to this says that the property if was “inherited” from her parents then upon her death it shall revert back to the heirs of her parents. However gifts received at the time of marriage from her parents which would basically amount to Stridhan would be governed by Section 15(1).

- The Hanafi law states that in case a woman dies leaving behind her husband and children then her husband would take 3/4<sup>th</sup> as a sharer and the residue 1/4<sup>th</sup> goes to her children. The Shai law of inheritance states that in case there is a lineal descendents then the husband takes 1/4<sup>th</sup> of the property else takes ½ of the property.

This means that the property will in most cases devolve upon the perpetrator of the offence, in this case the husband, on the death of the woman. This situation is averted only, if it is shown that the woman died in unnatural circumstances within the first seven years of marriage. The prescribed time period of seven years is not reflective of the situations in which dowry demands and dowry related harassment continue beyond the first seven years of marriage. Secondly, death caused in unnatural situations is difficult to prove in most cases, as is evident



from the discussions in details in the subsequent sections on Section 304B IPC. Sufficed to state, that the difficulties in proving death due to natural causes is resultant from an incorrect recording of such deaths as accidents, reluctance to place reliance on the dying declarations of the women, lack of witnesses as the offence takes place within the confines of the home, *inter alia*.

### **Recommendation**

- The provision relating to the death of the woman in unnatural

circumstance should be deleted and all property obtained as dowry to revert to the parents of the woman or her children, as the case may be on the death of the woman for any reason whatsoever. The justification for this is that the taking of dowry by the husband itself was illegal, the Dowry liable to be returned in her lifetime or on her death cannot give rise to a claim of inheritance.

**4. SECTION 7: COGNIZANCE OF OFFENCES**

<b>Present Law</b>	<b>Proposed amendments</b>	<b>Remarks</b>
<p>(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),-</p> <p>(a) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act;</p> <p>(b) No court shall take cognizance of an offence under this Act except upon-</p> <p>(i) Its own knowledge or a police report of the facts which constitute such offence, or</p> <p>(ii) A complaint by the person aggrieved by the offence or a parent or other relative of such person, or by any recognized welfare institution or organisation;</p> <p>(c) It shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorized by this Act on any person convicted of any offence under this Act.</p> <p><i>Explanation:</i> For the purposes of this sub-section, "recognized</p>	<p>(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-</p> <p>(a) the person aggrieved permanently resides or carries on business or is employed; or</p> <p>(b) the respondent resides or carries on business or is employed; or</p> <p>(c) the cause of action has arisen,</p> <p>Shall be the competent court to try offences under this Act.</p> <p>(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), -</p> <p>(a) No court shall take cognizance of an offence under this Act except upon-</p> <p>(i) Its own knowledge or a police report of the facts which constitute such offence, or</p> <p>(ii) A complaint by the person aggrieved by the offence or a parent or other relative of such person, or <b>by any</b></p>	<p>A clause regarding the jurisdiction to be included.</p>



<p>welfare institution or organisation” means a social welfare institution or organisation recognized in this behalf by the Central or State Government</p> <p>(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to any offence punishable under this Act.]</p> <p><sup>4</sup>[(3) Notwithstanding anything contained in any law for the time being in force, a statement made by the person aggrieved by the offence shall not subject such person to a prosecution.</p>	<p><b>recognized service provider or protection officer;</b></p> <p>(b) It shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorized by this Act on any person convicted of any offence under this Act.</p> <p><i>Explanation 1:</i> For the purposes of this subsection, “<b>service provider</b>” <b>“has the same meaning as in the Protection Of Women from Domestic Violence Act.2005</b></p> <p><i>Explanation 2:</i> For the purposes of this subsection, the expression “protection officer” will have the same meaning as in Section 8B of the Act.</p> <p>(3) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to any offence punishable under this Act.]</p> <p>— Shifted as above mentioned</p>	<p>The term “any recognized welfare institution or organization” to be replaced by “any recognized service provider or protection officer.</p>
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### Justifications for proposed amendments:

1. Justification for adding Section 7(1) to the present Section

The present clause, while specifying the court in which an offence under the DPA can be tried, makes no mention of the place in which the court should be based. Ordinarily, due to a marital discord, the wife starts living at the residence of her parents or any other place, which may be completely unconnected with the place of occurrence of the marital offence. Therefore, it becomes imperative that law provides to the woman the opportunity to file a case not only where the offence was committed, but also where she permanently or temporarily resides. This would make the process of filing a case convenient for the victims and will encourage them to come forward in this regard. The Protection of Women from Domestic Violence Act” 2005 explicitly states that the court where the woman resides or is employed is competent to try the offence, even if the cause of action had not arisen there. This provision needs also to be incorporated in the Dowry Prohibition Act.

The need to include this provision explicitly can also be inferred from the Supreme Court decision in the case *Y Abraham Ajith & Ors V. Inspector of Police, Chennai*. The court held that no part of cause of action pertaining to dowry arose in Chennai where the victim was residing, and therefore, the magistrate at Chennai had no jurisdiction

to deal with the matter. Accordingly, the proceedings were quashed.

2. Recognizing the role of authorities under the Protection of Women against Domestic Violence Act 2005 for effective implementation of the DPA

- **Inclusion of Service Providers** - The recently enacted Protection of Women from Domestic Violence Act, 2005 recognizes any registered voluntary association desirous of protecting the rights of women and registered with the State Government as a service provider. Hence the term ‘any recognized welfare institution of organization’ can be assimilated into the term ‘service provider’ for better clarity as to who can complain to the magistrate.
- **Inclusion of Protection Officers**- Under the PWDV Act, the State Government has the power to appoint Protection Officers in each district to ensure that the provisions of the Act are complied with. These officers have the power to present an application to the magistrate. These officers should, therefore, be empowered under the Dowry Prohibition Act to bring complaints against the offence of dowry.

5. Insertion of a new section - SECTION 7A-procedure for obtaining orders of relief’s:

SECTION 7A(1) An aggrieved person, or a parent or relative of such person, or a



protection officer or a service provider may present an application to the Magistrate seeking one or more reliefs under Chapter IV (section 12 – 26) of the Protection Of Women From Domestic Violence Act 2005

(2) Provided further that provisions contained in **section 31 of the protection of women from domestic violence Act 2005 shall apply in relation to this Act**

### **JUSTIFICATION**

The Protection of Women from Domestic Violence Act, 2005 has moved in a positive direction from mere punishments and arrests to the necessity of providing victim protection. It must be realized that just empowering the law to give punishments to the accused will not help the victim overcome her economic or mental trauma caused by the act of violence or harassment. In this situation it is important for the law to take a humane step towards the aggrieved and provide her with the necessary protection orders.

The term 'dowry' is stated to have the same meaning in the Protection Of Women

from Domestic Violence Act, 2005 as given in Section 2 of the Dowry Prohibition Act, 1961 This automatically implies that all the protection and residence orders which can be given under the Act also applies to violence or harassment in connection to a demand for dowry. But the Dowry Prohibition Act, 1961 only deals with punishment or penalty imposed with regard to the giving or taking of dowry. It does not authorize the magistrate to issue any protection orders, monetary relief or residence orders in favour of the victim. Thus if a case is registered with regard to the taking or demanding of dowry, the Magistrate, if reading the sections of the Dowry Prohibition Act, 1961 might not be able to Issue the required protection orders in favour of the victim. It thus becomes imperative that the necessary orders that can be passed to benefit the victim be also incorporated in the Dowry Prohibition Act, 1961.

Further that the applicability of section 31 of the Protection of women from domestic violence Act would further harmonize the Acts and there may not be an immediate recourse to invoking the provisions of section 498A of IPC

**6. SECTION 8B-DOWRY PROHIBITION OFFICERS**

<b>Present Law</b>	<b>Proposed amendments</b>	<b>Remarks</b>
<p>(1) The State Government may appoint as many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act.</p> <p>(2) Every Dowry Prohibition Officers shall exercise and perform the following powers and functions, namely-</p> <p>a) to see that the provisions of this Act are complied with;</p> <p>(b) to prevent, as far as possible, the taking or abetting the taking of, or the demanding of, dowry;</p> <p>(c) to collect such evidence as may be necessary for the prosecution of persons committing offences under the Act; and</p> <p>(d) to perform such additional functions as may be assigned to him by</p>	<p>(1) The protection officers appointed under section 8 of the Protection of women from domestic violence Act 2005 , shall exercise and perform the following powers and functions, in addition to those provided under the protection of women from domestic violence Act 2005 , namely.</p> <p>(a) to see that the provisions of this Act are complied with;</p> <p>(b)to prevent, as far as possible, the taking or abetting the taking of, or the demanding of, dowry;</p> <p>(c) to authenticate and sign the list of presents which are given at the time of marriage to the bride or bridegroom or direct the service provider to do so</p> <p>(d) to collect such evidence as may be necessary for the prosecution of persons committing offences under the Act</p>	<p><b>‘shall &amp; ‘Protection Officers</b></p>



<p>the State Government, or as may be specified in the rules made under this Act.</p> <p>3) The State Government may, by notification in the Official Gazette, confer such powers of a police officer as may be specified in the notification on the Dowry Prohibition Officer who shall exercise such powers subject to such limitations and conditions as may be specified by rules made under this Act.</p>	<p>(e) To create awareness among the people about the evils of dowry and give wide publicity through the concerned Government Department.</p> <p>f) To issue directions that schools and colleges be given awareness about dowry as a social evil and to this effect take assistance of the advisory boards and/or voluntary organizations</p> <p><b>(g)</b> to perform such additional functions as may be assigned to him by the State Government, or as may be specified in the rules made under this Act.</p> <p>(h) to perform such duties as assigned to him in the Protection Of Women From Domestic Violence Act, 2005</p> <p>(3) The State Government may, by notification in the Official Gazette, confer such powers of a police officer as may be specified in the notification on the Protection Officer who shall exercise such powers subject to such limitations and conditions as may be specified by rules made under this Act.</p> <p>4) The State Government <b>shall</b>, for the purpose of advising and assisting the</p>	
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<p>4) The State Government may, for the purpose of advising and assisting the Dowry Prohibition Officers in the efficient performance of their functions under this Act, appoint an advisory board consisting of not more than five social welfare workers (out of whom at least two shall be women) from the area in respect of which such Dowry Prohibition Officer exercises jurisdiction under sub-section (1).]</p>	<p>Protection Officers in the efficient performance of their functions under this Act, appoint an advisory board of not more than five members consisting of</p> <ul style="list-style-type: none"> <li>• The SDM as the Chairman</li> <li>• A Representative from the police</li> <li>• An Advocate</li> <li>• Representatives from the social sector/NGO</li> </ul> <p>Out of whom at least two shall be women from the area in respect of which such Protection Officer exercises jurisdiction under sub-section (1).</p>	
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## **Justification for proposed amendments:**

### **1.Substitution of “Dowry Prohibition Officers” with “Protection Officers”:**

Section 3 of the PWDV Act provides a definition of domestic violence and includes within its ambit, under sub clause (b) the following:

*“Harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demands for any dowry or any other property or valuable security.”*

The Protection Of Women from Domestic Violence Act, 2005 includes harassment in regard to a demand for dowry in the definition of domestic violence. Under this Act, dowry has the same definition as Section 2 of the Dowry Prohibition Act, 1961. The State Government under the PWDV Act shall appoint Protection Officers in each district with specific duties and powers. The Dowry Prohibition Act, 1961 on the other hand also directs the State Government to appoint Dowry Prohibition Officers under Section 8B.

To avoid overlapping of powers and confusion in the minds of common people, it is important to assimilate the two. The Protection Officer being already given specific powers and functions under the Protection of Women from Domestic Violence Act, 2005, the appointment of additional Dowry prohibition officers would lead to confusion as to the powers of each of these appointees.

Already, it has been seen that the appointment of Dowry Prohibition Officers has been mainly ceremonial. Even the Supreme Court in the case *In Re: Enforcement of Dowry Prohibition Act*, has also issued directions to the Union of India and the states to activate the officers has recognized need to take more effective steps to make the Dowry Prohibition Officers effective.

Keeping the present scenario in mind, it would thus be a logical step to substitute the Dowry Prohibition Officers with the Protection Officers. Besides having the same duties as assigned in the Protection of Women From Domestic Violence Act, 2005 the Dowry Prohibition Act, 1961 can give power to the officers to authenticate the list of gifts prepared at the time of marriage.

### **2. Additional Functions to the already existing functions of the Protection Officers**

Dowry is a social evil having its roots in the conservative mindset of many people. To make sure that the practice of giving and taking dowry is completely eradicated from the society, it becomes imperative that people are made aware of the practice as an unnecessary evil. Hence, the Protection Officer apart from ensuring the compliance of the Dowry Prohibition Act, 1961 should also be given the responsibility to create awareness among the people through various means.

Further, it is important that children at a young age in schools and colleges be imparted the necessary awareness so that the youth of this country can bring about a

positive change. The manner of appointment and qualifications of the protection officers will be provided under the Rules formulated under the Protection of Women from Domestic Violence act

### **3. Justification for substituting the word “may” by “shall” regarding the appointment of advisory boards**

The appointment of the advisory boards should be made mandatory for the State Government. This would not only ensure more effectiveness of the Protection Officers but will also help them in carrying out their duties. Hence, the word ‘may’ has been replaced by ‘shall’ in the recommendation.

### **4. Appointment of an Advisory Board**

Section 8B (4) allows for the appointment of an advisory board to assist the Dowry Prohibition Officers in discharging functions. The appointment of such advisory boards should be made mandatory for the State Government. This would not only ensure more effectiveness of the Protection Officers but will also help them in carrying out their duties. Hence, the word ‘may’ has to be replaced by ‘shall’ in the recommendation.

Separate rules laying down the constitution and the manner of functioning of such advisory boards must be formulated. The overall objective behind the appointment of the Advisory Board is to ensure that the provisions of the Act are complied with.

It is suggested that the Advisory Board may comprise of the following:

- The District Magistrate as the Chairman
- A Representative from the police
- An Advocate
- Representatives from the social sector

The Advisory Board so constituted should act in an advisory capacity to the Protection Officers. This Board will also be effective in monitoring the functions of the Protection Officers and ensuring accountability. The Protection Officers can seek the help of the members in carrying out his functions under the Act. It shall be the duty of the Protection Officer to submit a monthly report to the board regarding the number of dowry complaints received and the action taken by the respective Protection Officers. The members of the board shall analyze this report and a comprehensive report stating the progress of the state towards the eradication of dowry may be presented to the State Government by the advisory boards.

### **7. Insertion of new section 8C-Duties of the Government**

Recommended Section 8 C

The Civil Services (Conduct) Rules, 1964 specifically prohibits government servants from giving and taking Dowry or abetting the giving and taking of Dowry<sup>1</sup>.Rule



13A of the Central Civil services (Conduct) rules lays down:

No government servant shall –

- (i) Give or take or abet the giving and taking of Dowry or
- (ii) Demand directly or indirectly, from the parents or guardians of a bride or bridegroom, as the case may be, any Dowry.

Explanation – For the purpose of this rule, dowry has the same meaning as in the Dowry prohibition Act, 1961.

A similar provision has also been enacted in the Indian Services (Conduct) Rules, 1968.

However at present, there is no provision under the DPA to ensure the accountability of the government to spread awareness against the practice of dowry. To this extent, public servants who hold positions of responsibility should lead the campaign against dowry as models to be emulated. The cue for the insertion of a provision in this regard may be taken from the Kerala Dowry Prohibition Rules. In order to counter the growing menace of dowry, the Kerala State Government made it mandatory for all its employees to give a declaration, at the time of marriage, stating that they had not accepted any dowry. This declaration has to be signed by the wife, father and father-in-law of the employee.

The government should also be vested with the responsibility of creating awareness against the practice of dowry. Dowry is a social evil and it is essential that a strong message is sent out against the giving and taking of dowry. The government should, therefore, be vested with the responsibility of providing maximum publicity to the provisions of this law.

To incorporate these provisions, there should be an introduction of Section 8C as follows

- (1) The Central Government shall issue instructions to the effect that every Government Servant as well as public servant shall after his marriage furnish a declaration to his Head of Department stating that he has not taken any dowry. The declaration shall be signed by his wife, father and father in law.
- (2) The Central Government shall take all steps to ensure that the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals.

It is also suggested that similar provision be incorporated for state government employees

<sup>11</sup> Government of India , cabinet Secretariat , Department of Personal and Administrative Reform , Notification No 11013/12/75 Est.(A) 13.2.1976

**8. SECTION 9: POWER TO MAKE RULES**

<b>Present Law</b>	<b>Proposed amendments</b>	<b>Remarks</b>
<p>(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.</p> <p>[(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-</p> <p>(a) the form and manner in which, and the persons by whom, any list of presents referred to in sub-section (2) of section 3 shall be maintained and all other matters connected therewith; and</p> <p>(b) the better co-ordination of policy and action with respect to the administration of this Act.</p>	<p>(1) The Central Government, may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-</p> <p>(a) the form and manner in which, and the persons by whom, any list of presents referred to in sub-section (2) of section 3 shall be maintained and all other matters connected therewith; and</p> <p>(b) The better co-ordination of policy and action with respect to the administration of this Act.</p> <p>(c) The constitution and tenure of the advisory committee and the qualifications for the members appointed to the advisory committee.</p> <p>(d) The powers and functions of the advisory committee.</p> <p>(e) procedure to be followed by advisory committee for inter alia convening meetings and providing assistance to PO</p>	



<p>6[(3) Every rules made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p>	<p>in the discharge of his functions</p> <p>(f) format in which a declaration shall be made by a public or government servant stating that he has not received any dowry</p> <p>6[(3) Every rules made by the central government shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p>	
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**Justification on the proposed amendment:**

1. Justification for proposing the power to make rules regarding the qualifications of a protection officer to vest with the Central government

The Protection Officers, as stated in the Protection of Women from Domestic Violence Act, 2005 are appointed not only to provide assistance to the victim but also assist the Magistrate in the implementation of the Act. It is important that the rules regarding appointment etc. to such a position should be uniform throughout the country. Hence the power to decide their qualifications etc should vest with the Central Government. The Central Government should prescribe such a qualification that is competent and qualified enough to carry out the duties. The object is to make the Protection Officers as effective as possible and not be a failure like the Dowry Prohibition Officers.

2. Justification for recommending the issuance of special Instruction with regard to government employees

It must be especially made sure that Government Servants, who bear the responsibility of being the representatives of the public, do not take or demand dowry. Thus, a special provision has been suggested in this context. An example can be cited from the state of Kerala, where, in a move to end the increasing dowry menace, the State Government has made it mandatory for all its employees to give a declaration after marriage stating that they have not accepted

any dowry. The declaration to be submitted to the head of department would have to be signed by the father, father-in-law and wife of the employee, as per the amended Kerala Dowry Prohibition Rules under the Dowry Prohibition Act 1961.

3. Justification for recommending the Central Government to give wide publicity of the Act

Dowry is a social evil and hence it is essential that a strong message against the giving or taking of dowry be circulated among the public. Advertisements shown on popular media such as radio and television

4. Inclusion of power to make rules for the appointment and functioning of advisory boards under Section 8B In view of the recommendations made in the preceding section on the role and functions of the Protection Officers, the Central Government should be vested with the powers to formulate Rules on the appointment and manner of functioning of the Advisory Boards appointed under this law.

**9. SECTION 10: POWER OF STATE GOVERNMENT TO MAKE RULES**

- (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -



- (a) The additional functions to be performed by the Dowry Prohibition Officer under sub-section (2) of section 8B;
- (b) Limitations and conditions subject to which a Dowry Prohibition Officer may exercise his functions under sub-section (3) of section 8B;
- (3) Every rule made by the State Government under this section shall be laid as soon as may be after it is made before the State Legislature.

#### **RECOMMENDATION-SECTION 10**

- (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) The additional functions to be performed by the Protection Officer under sub-section (2) of section 8B;

(b) Limitations and conditions subject to which a Dowry Prohibition Officer may exercise his functions under sub-section (3) of section 8B;

**(3) The State Government, in case where registration of marriages is compulsory under certain laws, may provide for powers to the competent authority registering marriage to order the**

**list as per the dowry prohibition (maintenance of lists of presents to the bride and bridegroom) Rules 1985 to be annexed to the memorandum required for obtaining marriage certificate.**

**(4) The State Government shall issue such instructions to the effect that every government servant and public servant shall after his marriage furnish a declaration on affidavit, to his head of office stating that he has not taken any dowry and such declaration may be signed by his wife or her relative.**

(5) Every rule made by the State Government under this section shall be laid as soon as may be after it is made before the State Legislature.

#### **Recommendations on better co-ordination of policy and action with respect to administration of this Act.**

- There should be a central and state monitoring committee
- which could coordinate with the advisory boards
- Representatives from the National commission for women and state women commissions should be included in the committee
- The committee may function under the Ministry looking into women issues
- Power to issue advisories to the state government and central

government on effective implementation of the Act and Rules

- Monitor the role, functions and effectiveness of Protection officers
- Provisions need to be made for composition and effective functioning of the CAW Cells which should involve NGO's for conciliation and mediation proceedings

### **Justification for recommending it to be mandatory to submit the list of presents with the marriage registrar**

It has already been recommended that the list of presents under the Dowry Prohibition (Maintenance Of Lists Of Presents To The Bride And Bridegroom) Rules, 1985 has to be signed by the Protection Officer for authentication. The same has also to be maintained by him. However, in some states in India like Tamil Nadu and Andhra Pradesh, the registration of marriage has been made compulsory. Hence the Registrar should also be made the verifying authority. Also recently the Hon'ble Supreme court in transfer petition 291/2005 *seema vs ashwini kumar* has directed the states to frame rules for compulsory registration of marriages

### **10. Recommendation - section 304B IPC**

**304B. Dowry Death (Indian Penal Code (45 of 1860).** – (1) *Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal*

**circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death” and such husband or relatives shall be deemed to have caused her death.**

*Explanation - For the purposes of this sub section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961.*

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

- The words ‘soon before’ used in section 304-B (1) must be deleted and replaced by the words ‘anytime before’.
  - The minimum punishment in section 304 B (2) be raised from seven years to ten years.
  - After the words “imprisonment for life” occurring in section 304 B (2), the words “or death” may be added.
- Rationale -

The punishment is to be enhanced for the following reasons -

- a) To keep this offence at par with murder and by no stretch of imagination it is less grave an offence than the murder.



- b) To create deterrence in the minds of the people indulging in such heinous crimes. By now it is more than clear that neither the Dowry Prohibition Act nor the amended provisions of I.P.C. could deter the people and could not register the success. The committee found that because of the above said discrepancies in the provision the law has failed in its objective. By incorporating the above changes law can be made effective.
- c) Also the time limit of presumption may be increased because seven years is very short a time and often the offence is executed in a pre-planned manner.
- d) The minimum punishment should be increased from seven to ten years.

Section 304 B of the IPC was inserted by an amendment to the IPC in the year. This provision penalizes “dowry death” and puts in place presumption to arrive at a finding of dowry death. However prior to benefiting under this presumption the following has to be proved

- (i) Death of a married woman within 7 years of her marriage;
- (ii) Proof that the said woman was subjected to cruelty or harassment by her husband or relations of the husband, such cruelty should have taken place “soon before” her death

- (iii) Such cruelty or harassment should have a nexus with a demand for dowry.

The difficult however lies in proving all these components simultaneously.

### **I. The “Seven years” limit**

A first issue of Section 304 B, which requires some perusal is the seven years limit for dowry death, claims to benefit from the presumption that the defendant caused the death. Section 113 B of the Indian Evidence Act, 1872 will only allow this presumption if evidence of cruelty is shown and only if unnatural death occurred within the first seven years of marriage. The seven years limit must be reassessed since the reasoning for its existence is flawed. The rationale behind providing this limitation was that seven years would be an ample time to calm an abusive relationship. But as we hear about cases where criminals are waiting until the seven years are over to kill their victims, it becomes clear that the abuse will not stop as long as there is economic gain from it. Seven years limit only postpones murder since demands for dowry recur throughout a marriage; time should not be a determining factor when claims may be brought. As long as the abuse continues it should be punishable by law.

### **II. The exclusion of the term “soon before”**

The second issue is that

- The woman should have been subjected to harassment/cruelty just soon before her death

While Section 304B of the Indian Penal Code (45 of 1860) and Section 113 B of the Indian Evidence Act, 1872 strengthens dowry death prosecutions by allowing the court to presume that dowry death had occurred if the prosecution can prove that the husband or his relatives subjected the Dowry victim to “cruelty”. It has to be further proved that the victim was subject to cruelty and harassment “soon before” her death.

In most cases the circumstances and the premises in which incidents of dowry death occurs, acts as a major deterrent because

- The husband or the relatives tamper with the evidence
- The few witnesses who are available are generally the relatives or the neighbors who in most cases are not forthcoming with their support to the victim.
- Due to very little contact with the natal family or any kind of organization, there is a tremendous lack of written evidence, as far as any previous incidents of cruelty are concerned.

The dilemma that most courts face is in the interpretation of how soon is “soon before”. In the case of *Dinesh Seth and others v. State*<sup>12</sup> the deceased had left her matrimonial home due to the harassment faced. She was found dead after 15 days on her return to her matrimonial home. It was held by the Delhi High Court that there was proof of harassment

<sup>12</sup> 2003 CrLJ 4532

<sup>13</sup> 64(1996) DLT 781

but does not qualify to be “soon before” hence will not fall under Section 304B of the IPC. However in the case of *Vipin Kumar and others V State*<sup>2</sup> where the deceased was found dead 2 days after her return to her matrimonial home the Delhi High Court held it to be “soon before” her death. The Courts in a catena of cases have held that held that the proximity and the live link test have to be applied for a case to qualify under section 304B. Thus in the case of *Kunhiabduklah and another v. State of Punjab*<sup>3</sup> the Court stated that “soon before” is a relative term and would depend upon the circumstances of each case. The fact of time interval has to be kept in mind but there has to be proximity and a live link connection between the Dowry related harassment and death. In the case of *Savalram v State of Madras*<sup>4</sup> there was an eight month gap between the last report of Dowry related harassment and the death of the deceased. The Bombay High Court held that it would not fall under Section 304B because “soon before” is not proved. The court fails to take into account the difference between last occurrence of harassment and the last report of occurrence of harassment. Thus there is a need to draw light upon the fact that just because no harassment was reported there was actually no harassment and that harassment can continue over a period of time.

### **“Subject to harassment in connection with Dowry”**

The third issue which requires perusal is that, for 304B to be applicable the harassment or cruelty should have occurred

<sup>14</sup> 2004(48) ACC 950 SC

<sup>15</sup> [2004]1 DMC 339



**“in connection with Dowry”.** In understanding what “cruelty in connection to Dowry” meant, the Bombay High Court in the case of *Bhivia Tukaram Tarkase v. State of Maharashtra*<sup>5</sup> where the deceased other than many incidents of violence had not been allowed to attend her brothers wedding, held that it was harassment but cannot be linked to demand for dowry. Here the court seems to have taken very narrow interpretation of the law. Violence may take different forms. Dowry may be the cause and the effect is manifested in the form of violence. In the case of *Nandkishore @ Kishore v. State of Maharashtra*<sup>6</sup>, where the deceased had died due to severe burns and earlier she had filed a complaint to the police about harassment faced but nothing specific about “dowry harassment”. The Court said that Section 304B would not be applicable as there is no nexus between dowry demand and Cruelty. The court two must coexist and should not be independent of one another.

### **11. Importance of prompt medical examination and investigation**

As mentioned in the above paragraphs, in most cases it is very difficult to prove a case of dowry death due to the nature and the circumstances under which such crimes occur. Immediate medical examination of the deceased and proper investigation of the site of crime is then, the only evidences available for the prosecution. In the case of *State of Uttar Pradesh v. Satya Narain Tiwari*<sup>7</sup> where the deceased was found dead due to severe burns and the in-laws said that she had committed suicide. It was the post mortem

<sup>16</sup> (2000)1 Mh LJ 593

<sup>17</sup> 1995 Cri LJ 3706

report which indicated the fracture of the hyoid bone and the fact that the door was found properly intact whereas the accused had claimed that they had to break down the door since the deceased had locked herself in which assisted the prosecution in their case. Similarly in the case of *Mulakh Raj v. Satish Kumar*<sup>8</sup> where the deceased was found with 95% burns the post Mortem report revealed that she died due to asphyxia as a result of strangulation and that the body had been burnt as an attempt to destroy the evidence of death.

As clearly reflected from the above cases where the prosecution has benefited from the prompt investigation and Post mortem report. Attention may have to be drawn to Section 174(4)(v) of the CrPC, which states that

(v) *Police officer for any other reason considers it expedient so to do, he shall subject to such rules as the state government may prescribe in this behalf .....*”

**The State Governments will have to lay formulate rules laying in detail the steps and the time period to be followed while carrying out an investigation.**

### **12. Dying Declarations**

A dying declaration made by a person on the verge of his death has a special sanctity as in that solemn moment; a person is most likely to make any untrue statement. A dying Declaration therefore enjoys almost a sacrosanct status, as a piece of evidence, coming as it does from the mouth of the deceased victim. In case there are more than

<sup>18</sup> 2005 Cri LJ 3684

<sup>19</sup> AIR 1992 SC 1175

one Dying Declarations then the court also has to scrutinize all of them and find out if each one of them pass the test of being trustworthy.<sup>9</sup> Though dying declarations are by no means the only evidence that can be relied upon or obtained in cases of death and in fact proper investigation of the scene of crime may lead to further evidences so will the post mortem results. The statement of the deceased is sought to be relied upon to reveal the real cause of death.

Section 113A and B of the Indian Evidence Act, 1872 shifts the burden of proof on the accused that he did not abet the suicide or cause the dowry death in cases where there is evidence of harassment. Given the context where neighbors or the Husbands family are bound to support the accused and the little contact the victim may have had with her parents or any social organization are in most cases the only bit of evidence which would help her case. However as experience reveals, in most cases where the woman may be in a position to make a statement after her marriage she prefers not to implicate the husband for various reasons. The negative repercussion of this lack of dying declaration implicating the husband often leads to closer of investigation and the police tend to not look into any other evidence, though in a few cases of death of women where the woman has made a dying declaration not implicating the husband, the court has convicted the husband on the basis of other evidences.<sup>10</sup> In the case of *Laxman*<sup>11</sup> the Trial Court and the High Court acquitted the husband but the Supreme Court found him guilty of burning

his wife to death. This reflects that unless our courts scan the evidence carefully there is a likelihood of culprits escaping punishment.

As far as dying declarations are concerned there is a certain amount of legal privilege it receives. However it has been observed that this privilege has been diluted when the maker is a woman. Thus in the case of *Laxmi v. Om Prakash*<sup>12</sup> The Supreme Court discarded five dying declarations made by a woman to five different people including the Doctor in the space of that one day that she had remained alive on the ground that no doctor certified that she was fit enough to make a statement. There is a need to look into this entire factor of how violence against women is accepted by society without any qualms.

The recording of the statement of the victim, which often becomes her dying declaration, is a part of the investigative procedure but it often turns into a procedure for absolving the real perpetrator of the crime. Meant to be recorded in privacy, the dying declaration is often taken in the presence of the victims' husband and the rest of the in laws.

Section 174 of the Code of Criminal Procedure, 1973 contains a provision that empowers a magistrate to make an inquiry into cases of suspicious deaths. The new amendment made in 1983 empowers the magistrate to hold such an inquiry when a woman dies while living with her husband and her in laws or other relations within the first seven years of marriage. However the

<sup>20</sup>*Kundula bala Subrahmanyam vs . State of A.P (1993)2 SCC 684*



callousness of our investigating authorities is brought to clear relief by the Supreme Court's decision in *Lichhamadevi v. State of Rajasthan*<sup>13</sup>. In this particular case the mother in law was found to have poured kerosene and ignited it on the victim and she said that her elder son might have burnt the victim. The husband who was a silent spectator to all of these and who did not even go to rescue his wife or called the ambulance after the incident was never charge sheeted. Also the victim's statement before the doctor was not treated as a dying declaration it was treated merely as a communication between a doctor and a patient.

Thus what may be needed over here is the strengthening of the entire structure be it the investigation, the complaint mechanism and the attitude of the judiciary. The Vimochana and the House committee made various recommendations regarding the holistic approach while dealing with Dowry Deaths.

- The death of woman in unnatural circumstances has to go through 2 procedural tiers. The first is investigation by the police and the inquest officer with the assistance from the Doctor who perform the post mortem as well as forensic experts. Since the fate of the case will depend on the thoroughness of this investigation.
- There is a great need to make sure that the police register a complaint immediately after receiving

information about grievous injuries sustained by a woman under suspicious circumstances. There is a need for the police to go and actually seal up the house where the incident occurred so that the evidence does not get tampered but which never happens in most cases. Since most of the cases of "Dowry Death" are reduce to accidents and suicidal in order to avoid workload there is a need for the higher authorities in the investigative department to investigate all cases of attempted suicides and death under suspicious circumstances.

### **Implementation**

Even after the campaign and amendments in the Dowry laws there has not been any lessening of the evil of Dowry .A writ was filed in the Supreme Court in the year 1997 praying that the Central and the State government should frame rules under Section 9 and 10 of the Dowry Prohibition Act 1961 and providing for additional functions to be performed by the concerned officers under Section 8B of the Act. It also pleaded for appointment of Dowry Prohibition Officers by states as required under Section 8B ,to furnish details regarding the working of Dowry Prohibition Officers wherever they have been appointed and for setting up of Advisory Boards as mandated under Section 8B of the Act. Various interim orders were passed and it was submitted that most of the states have framed rules under this act and

<sup>21</sup> *Pawan Kumar v. State of Haryana* 2001 AIR SCW 1111

<sup>22</sup> AIR 1986 SC 250

Dowry prohibition officers have been appointed in most states. However what seems to be the concern is that will the purpose of the law be achieved?

Thus In Re Enforcement and Implementation of the Dowry Prohibition Act 1961<sup>14</sup> the Supreme Court stated that in addition to directing the respondents to implement all the interim directions which were issued in this case thus far, we further

- Direct the Union of India and the States to take more effective steps to implement the provisions of the Dowry various rules framed there under. In that process, they are also directed to activate the Dowry Prohibition officers. It directed the Central Government to frame rules under Section 9(2)(b) of the Act if it has not already been framed.
- It directed the respondents to take steps to ensure that submitting of the list as contemplated by the act and the rules is strictly implemented.
- We direct the Union of India and the State government to consider whether appropriate rules cannot be framed for compelling males, seeking government employment, to furnish information on whether they had taken Dowry and if taken, whether the same has been made over to the wife as contemplated by Section 6 of the Act, calling for such information also from those already in employment. Since it is necessary to arouse the conscience of the people against the demand and acceptance of Dowry.
- We also direct the Union of India and the State Governments to take steps for the effective stepping up of anti-dowry Literacy among the people through Lok Adalats, radio broadcasts, television and newspapers. These directions will be implemented and continue to be implemented rigorously by the respondents.

<sup>23</sup> (2001) 6 SCC 118

<sup>24</sup> AIR 1988 1785

<sup>25</sup> I (2005) DMC 805 (SC)



	<p style="text-align: center;"><b>THE PROHIBITION OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE BILL</b></p> <p><b>PREAMBLE</b></p> <p><b>(A Bill conferring upon women the right to protection against sexual harassment and towards that end for the prevention and redressal of sexual harassment of women)</b></p> <p><i>Whereas</i> Sexual Harassment infringes the fundamental right of a woman to gentler equality under Articles 14 and 15 of the Constitution of India and her right to life and live with dignity under Article 21 of the Constitution which includes a right to a safe environment free from sexual harassment.</p> <p><i>And Whereas</i> the right to protection from sexual harassment and the right to work with dignity are recognized as universal human rights by international conventions and instruments such as Convention on the Elimination of all forms of Discrimination against Women (CEDAW), which has been ratified by the Government of India.</p> <p><i>And Whereas</i> the Supreme Court in <i>Vishakha vs State of Rajasthan</i> [1997 (7) SCC 323] has formulated guidelines to address sexual harassment until a suitable legislation is enacted in this respect.</p> <p>Be it enacted by Parliament in the year of the Republic of India as follows:</p>	
	<p><b>CHAPTER I</b></p> <p><b>PRILIMINARY</b></p>	
	<p>1. <b>(1) This Act may be called the Prohibition of sexual harassment of women at workplace bill, 2010</b></p> <p><b>(2) It extends to the whole of</b> India except the State of Jammu and Kashmir.</p>	<p><b>Short title, extent and commencement</b></p>

	<p>(3) It shall come into force on such date as the Central Government may. by notification in the Official Gazette, point.</p>	
	<p>2. In this Act, unless the context otherwise requires.-</p> <p>(a) “aggrieved woman’ in relation to a work place means a woman, against whom an act of sexual harassment has been or alleged to have been committed and includes an employee, student, research scholar, patient, etc.:</p> <p>(b) “appropriate Government” means in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly-</p> <p style="padding-left: 40px;">(i) by the Central Government or the Union territory administration, the Central Government:</p> <p style="padding-left: 40px;">(ii) by the State Government, the State Government.</p> <p>(c) “Chairperson” means the Chairperson of the Committee or of the Local Committee, as the case may be:</p> <p>(d) “Committee means an Internal Complaints Committee constituted under section 4;</p> <p>(e) “District Officer” means an officer appointed under section 5:</p> <p>(f) “employee” means a person employed at a workplace for any work on regular, temporary, ad-hoc or daily wage basis, either directly or by or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a domestic worker, a co-worker, a contract worker, probationer, trainee, apprentice or by any other name called;</p> <p>(g) “employer” means:-</p>	<p><b>Definitions.</b></p>



	<p>(i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf:</p> <p>(ii) in any workplace not covered under clause (i), any person responsible for the management, supervision and control of the of the workplace:</p> <p>(h) “Local Committee” means the Local Complaints Committee constituted under section 6;</p> <p>(i) “member” means a member of the Committee or of the Local Committee, as the case may be:</p> <p>(j) “prescribed” means prescribed by rules made under this Act:</p> <p>(k) “respondent” means a person against whom a complaint has been made under section 7;</p> <p>(1) “Workplace” includes:-</p> <p>(i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;</p> <p>(ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational,</p>	
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	<p>entertainment, industrial or financial activities including production, supply, sale, distribution or service;</p> <p>(iii) a house or dwelling place;</p> <p>(iv) any place, vehicle either by air, land, rail or sea visited by the employee arising out of, or during and in the course of, employment;</p> <p>(v) “Unorganized Sector” which shall come within the meaning of “workplace”, means all private unincorporated enterprises including own account enterprises engaged in any agriculture, industry, trade and/or business and includes sectors as mentioned in the schedule, being illustrative.</p> <p><b>(m) “National Commission” means the National Commission for Women constituted under the national Commission for women Act 1990</b></p> <p><b>(o) “State ‘ Commission” means the state commissions for women constituted in the respective states</b></p>	
	<p><b>3. At any workplace, no woman, shall be subjected to sexual harassment including unwelcome sexually determined behavior, physical contact, advances, sexually coloured remarks, showing pornography, sexual demand, request for sexual favours or any other unwelcome conduct of sexual nature whether verbal, textual, physical, graphic or electronic or by any other actions, which may include, but is not limited to -</b></p> <p>(i) implied or overt promise of preferential treatment in employment; or</p> <p>(ii) implied or overt threat of detrimental treatment in employment; or</p> <p>(iii) implied or overt threat about the present or future employment status:</p>	





	<p>(iv) conduct which interferes with work or creates an intimidating or offensive or hostile work environment; or</p> <p>(v) Humiliating conduct constituting health and safety problems.</p>	
Constitution of Internal Complaints Committee.	<p style="text-align: center;"><b>CHAPTER II</b></p> <p style="text-align: center;"><b>CONSTITUTION OF COMMITTEES</b></p> <p><b>4. (1) For the purpose of this Act, every employer of a work place shall constitute, by an Office Order in writing, an Internal Complaints Committee.</b></p> <p>Provided that where the offices or administrative units of the workplace are located at different places, the Committee shall as far as practicable be constituted at all administrative units or offices.</p> <p>(2) The Committee shall consist of the following members namely:-</p> <p>(a) a Chairperson, from amongst employees, who shall be a senior level woman, committed to the cause of women. In case a senior level woman employee is not available, the Chairperson shall be appointed from a sister organization or a nongovernmental organization:</p> <p>(b) not less than two members from amongst employees committed to the cause of women or who have had experience in social work: and</p> <p>(c) one member from amongst such non-governmental organisations or associations or other interests committed to the cause of women, as may be specified:</p> <p>Provided that atleast fifty per cent of the members so nominated shall be women.</p> <p><b>(3) The Chairperson and every member of the Committee shall hold office for such period as may be specified by the employer.</b></p>	

	<p>(4) The Chairperson and members of the Committee shall be entitled to such allowances or remuneration as may be prescribed.</p> <p>5) Where the Chairperson or any member of the Committee contravenes the provisions of section 14, such Chairperson or member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh appointment in accordance with the provisions of this section.</p>	
	<p><b>5. The appropriate Government may appoint a District Magistrate or Additional District Magistrate or the Collector or Additional Collector as a District Officer for every District to carry out the functions under this Act.</b></p>	<p><b>Appointment of District Officer</b></p>
	<p><b>6. (1) Where at a workplace, constitution of the Committee is not possible or practicable, or where the Committee has not been constituted by the employer of any work place, or where the complaint is against the employer himself, the District Officer may constitute one or more than one Local Complaints Committee as may be required.</b></p> <p>(2) The Local Committee shall consist of the; following members:-</p> <p>(a) a chairperson to be appointed by the <b>district officer</b> from amongst women committed to the cause of women;</p> <p>(b) one member to be appointed by the <b>district officer</b> from amongst the registered trade unions or workers associations functioning in that block or district:</p> <p>(c) two members, of whom at least one shall be a woman, to be appointed by the <b>district officer</b> from amongst such Non-Governmental Organizations or associations or other interests committed to the cause of women, as may be specified;</p> <p>(d) one Protection Officer appointed by the State Government under the Protection of Women from</p>	<p><b>Constitution of Internal Complaints Committee.</b></p>



	<p><b>Domestic Violence Act, 2005 in the District</b> or any other officer such as inspectors or additional inspectors under tin-shops and establishments <b>Acts of the respective slates</b> additional inspectors under the factories Act 1948 or any other public servant at the district level appointed under any law for the time being in force</p> <p>Provided that at least fifty per cent of the members, so nominated shall be women.</p> <p><b>(3) The Chairperson and every member of the Local Committee shall hold office for such period, as may be</b> specified by the district officer.</p> <p>(4) The Chairperson and Members of the Local Committee shall be entitled to such allowances or remuneration as may be prescribed.</p> <p>(5) The Central Government may, after due-appropriation made by Parliament by law in this behalf, pay to the State Government by way of grants such sums of money as the Central Government may think fit for being utilized <i>for</i> the purposes of sub-section 4). The State Governments may identify a suitable agency and transfer the grants to that agency. The agency shall pay to the district officer, appointed as per Section 5 of the Act, such amount as may be required for the purposes of sub-section” (4).</p> <p>(6) The jurisdiction of the Local Committee shall be limited to the area as may be specified by the District officer</p> <p>(7) Where the Chairperson or any member of the Local Committee contravenes the provisions of section 14, such Chairperson or member, as the case may be, shall be removed from the Local Committee and the vacancy so created or any casual vacancy shall be filled by fresh appointment in accordance with the provisions of this section.</p> <p>(8) The Local Committee shall have the powers of the Civil Court for the purposes of administration of oath, summoning of witnesses, service of summons and recording of evidence.</p>	43 of 2005
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	<p style="text-align: center;"><b>CHAPTER III</b> <b>COMPLAINT</b></p>	
<p>Complaint of sexual harassment.</p>	<p>7, (1) An aggrieved woman may make a complaint of sexual harassment at workplace to the Committee or the Local Committee, or to the Commission as the case may be, in writing:</p> <p>Provided that where such complaint cannot be made in writing, the Chairperson or any member of the Committee or the Local Committee, as the case may be, shall render all reasonable assistance to the woman making the complaint to reduce the same in writing.</p> <p><b>Provided further that a complainant may file a complaint to the local committee or to the Commission where the Committee has not been constituted by the employer of any work place, or where the complaint is against the employer</b></p> <p>(2) Where the aggrieved woman is not able to make a complaint on account of <del>Annual Report 2008-09</del> physical or mental incapacity or death or otherwise or legal heir or such other person as may be prescribed may make a complaint under this section.</p> <p><b>(3) Where a complaint is made before the National or the State Commission for women, the commission may in the first instance direct the employer or the district officer to enquire into the matter and in cases where a complaint is against the employer himself and where the circumstances warrant so, the commission may itself conduct the enquiry in accordance with the procedure prescribed under the Act.</b></p> <p>8. (1) At the aggrieved woman the Committee or the Local Committee, as the case may be may, before initiating enquiry under this Act, take steps to settle the matter between her and the respondent through conciliation.</p> <p>(2) Where a settlement is arrived at under sub-section (1), the Committee or the Local Committee, as the case may be, shall record the</p>	<p style="text-align: center;"><b>Conciliation</b></p>





	<p>settlement and recommend to the employer or the District Officer to take action as prescribed in the reconciliation statement.</p> <p>(3) The Committee or the Local Committee, as the case <i>may</i> be, shall provide the copies of the settlement recorded under sub-section (2) to the aggrieved woman and the respondent.</p> <p>(4) Where a settlement is arrived at under sub-section (1). no further enquiry shall be conducted by the Committee or the Local Committee, as the case may be.</p>	
	<p>9. (1) Where conciliation under sub-section (1) of section 8 is not arrived at, the Committee or the Local Committee, as the case may be, shall, subject to the provisions of section 14, <b><u>proceed to make enquiry into the complaint in accordance with its service and conduct rules /standing orders / policies and where no such rules exist then in such a manner as may be prescribed:</u></b></p> <p>Provided that where the aggrieved woman informs the Committee or the Local Committee, as the case may be. that any term or condition of the conciliation arrived at under sub-section (1) of section 8 has not been complied with by the respondent, the Committee or the Local Committee shall also proceed to make inquiry into the complaint.</p> <p>(2) The Committee or the Local Committee, as the case may be, shall have such powers for the purpose of making enquiry under sub-section (1) as may be prescribed.</p> <p>(3) The enquiry under sub-section (1) shall be completed within a period of ninety days.</p> <p>(4) Where the Committee or the Local Committee, as the case may be, fails to complete the enquiry within the period specified under sub-section (3), the employer or the District Officer, as the case may be, may take such action as may be prescribed.</p> <p><b>(5) In cases where, the allegation of Sexual Harassment is against the employer of the</b></p>	<p><b>Enquiry into complaint.</b></p>

	<p><b>aggrieved woman, or against the person in charge of the workplace concerned, she may lodge the complaint with the national or state commission or to the local complaints Committee if she so chooses;</b></p> <p><b>Provided further that every employer of the workplace shall ensure that the chairperson of the Committee be sufficiently senior to the person against whom a complaint has been made and where the defendant employed in a workplace or organization holds a senior position as head of the workplace or is the employer or is the person in charge of the workplace concerned, the appropriate Government shall appoint a ad hoc committee headed by a chairperson who shall be senior in rank and status to the defendant or provide the option to the complainant to lodge the complaint with the local complaint committee or with the national or state women commissions</b></p>	
	<p>ANNUAL REPORT <b>CHAPTER IV</b> 2008-09 <b>ENQUIRY INTO COMPLAINT</b></p>	
<p><b>Action during pendency of enquiry.</b></p>	<p>10. (1) During the pendency of enquiry, on a written request made by the aggrieved woman, the Committee or the Local Committee, as the case may be, may recommend to the employer to--</p> <p>(a) transfer the aggrieved woman or the respondent to any other workplace; or</p> <p>(b) grant leave to the aggrieved woman; or</p> <p>(c) grant to the aggrieved woman any other relief which may be prescribed.</p> <p>Provided that no woman shall be transferred except on her own request or suspended;</p> <p>And,</p> <p>The leave granted to her under this section will be in addition to the leave she would be entitled to otherwise if the case is proved;</p>	



	<p>(2) On the recommendation of the committee or the Local Committee, as the case may be, under sub-section (1), the employer or the District Officer may take such necessary action as may be deemed proper.</p>	
Enquiry report.	<p><b>11.</b> (1) On the completion of an enquiry under this Act. the Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, District officer. The report shall also be made available to all the concerned parties.</p> <p>(2) Where the committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer or the District Officer that no action is required to be taken in the matter.</p> <p>(3) Where the <b>Committee</b> arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer to take action for misconduct in accordance with the provisions of the service rules/conduct rules or policies governing disciplinary matters applicable to the respondent</p> <p>(4) Where the Local Committee, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be.</p> <p>(a) to take action for misconduct in accordance with the provisions of the service rules conduct rules or policies governing disciplinary matters applicable to the respondent</p> <p>(b) where no such service rules have been made, in such manner as may be prescribed:</p> <p>(4) Where any recommendation has been made to the employer or the District Officer under sub-</p>	

	<p>section (3) (4) he shall act upon the recommendation within sixty days of its receipt by him.</p>	
<p>Penalties which may be imposed where no rules exist</p>	<p><b>12. Where no service or disciplinary rules exist,</b> the District officer may impose any of the following penalties</p> <p>(a) Direct the employer to :-</p> <p>(i) Obtain a written apology from the respondent or</p> <p>(ii) suspend the respondent for a period not exceeding 15 days during which the respondent shall be entitled to such allowances as may be prescribed by the district officer or</p> <p>(iii) <b>terminate</b> the respondent from service or</p> <p><b>(b) Direct the employer or the respondent to pay to the respondent such sum of compensation to the aggrieved woman or to legal heirs, as it may determine, in accordance with the provisions of section 13; provided that Recover form pay / salary/wages, in no case, shall exceed one-fourth of the salary/wages earned in that month;</b></p> <p><b>(c) Revocation suspension of any license or registration, for such period as may be specified, issued under any law for the time being in force, provided that an opportunity to the employer / respondent to be heard, is afforded before initiating any action or</b></p> <p><b>(d) Cessation as a beneficiary under any Central or State sponsored schemes</b></p> <p><b>(e) Any other matter as may be prescribed</b></p>	
	<p><b>13. (1)</b> For the purpose of determining the compensation to be paid to the aggrieved woman under clause (b) of section 12, the district officer, shall have regard to-</p> <p>(a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman:</p>	<p>Determination of compensation.</p>



	<ul style="list-style-type: none"><li>(b) the loss in the career opportunity due to the incident of sexual harassment;</li><li>(c) medical expenses incurred by the victim for physical or psychiatric treatment;</li><li>(d) the income and financial status of the respondent;</li><li>(e) Feasibility of such payment in lump sum or in installments.</li></ul>	
<b>Recovery of compensation</b>	<p><b>14. Where any compensation is ordered on the respondent or employer under section 12 is not paid,—</b></p> <ul style="list-style-type: none"><li><b>(i) the District officer may recover the amount so payable by detaining or selling the goods belonging to such person which are under his control; or</b></li><li><b>(iii) If the amount cannot be recovered from such person in the manner provided in clause (i) the district officer shall proceed to recover from such person the amount specified as if it were an arrear of land revenue.</b></li></ul>	
	<p><b>15.</b> Whoever contravenes and fails to comply with the decision of the district officer under sec 12, 13 and 14 of this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.</p> <p>(2) If any person who has been convicted of any offence punishable under sub section (1) is again guilty of an offence involving a contravention or failure of compliance of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months or with fine which shall not be less than</p>	Contravention of the orders of the district officer

	five hundred rupees but which may extend to two thousand rupees or with both:	
	<p><b>16. (1)</b> Where the Committee or the Local ; Committee, as the case may be, arrives at a j ft conclusion that the allegation against the respondent j <sup>c</sup> is false or malicious or the aggrieved woman or any other person making the complaint has produced any forge'd or misleading document, it may recommend to <sup>l</sup> the employer or the District Officer to lake action against the woman or the person who has made the complaint in accordance with the provisions of the service rules applicable to her or him or where no such service rules have been made, in such manner as may be prescribed.</p> <p>(2) Where the Committee or the Local Committee. as the case may be. arrives at a conclusion that during the enquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer to take action in accordance with the provisions of the service rules applicable to the said witness <sup>or</sup> where no such service rules have been made, in such manner as may be prescribed.</p>	Punishment for false or maticious complaint and false evidence.
Prohibition of publication of making known contents of complaint and enquiry proceedings.	<p><b>17.</b> Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under sub-section (1) of section 7, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and enquiry proceedings, recommendations of the Committee or the Local Committee, as die case may be, and die action taken by the employer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:</p> <p>Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the identity and address of the aggrieved woman and witnesses.</p>	22 of 2005



<p>Prohibition of publication of making known contents of complaint and enquiry proceedings.</p>	<p><b>18.</b> Where any person entrusted with the duty to handle or deal with the complaint, enquiry or any recommendations or action to be taken under the provisions of this Act contravenes the provisions of section 14 shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules have been made, in such manner as may be prescribed.</p>	
<p>Appeal</p>	<p>19. (1) Any person aggrieved by any order passed under <b>sub-section (2) of Section 11 or sub-section (3) and (4) of section 11 or section 12 or section 16</b> may prefer an appeal in accordance with the provisions of the service rules applicable to the said person or where no such service rules have been made or is applicable to the person aggrieved, in such manner as may be prescribed within 30 days from the date of the passing/receipt of the order of the Committee</p> <p>(2) the Appellate forum shall grant an oral hearing to the Appellant and may pass interim directions in <b>the nature of grant of leave, transfer or restraining orders against the Respondent or any other order as deemed appropriate;</b></p>	
	<p><b>CHAPTER V</b></p> <p><b>DUTIES OF EMPLOYER</b></p>	
<p>Duties of the Employer</p>	<p><b>20.</b> The employer shall-</p> <p>(a) provide a safe working environment at the workplace which will include safety from the employees of the establishment as well as third parties coming into contact at the workplace;</p> <p>(b) display at 'any conspicuous place in the workplace the Office Order made under sub-section (1) of section 4;</p> <p>(c) undertake workshops and training programmes at regular intervals for sensitizing the members;</p> <p>(d) provide necessary facilities to the Committee or the Local Committee, as the case may be, to deal with the complaint and conduct enquiry:</p>	

	<p>(e) ensure the attendance of respondent and witnesses before the Committee or the Local Committee, as the case may be:</p> <p>(f) make available such information to the Committee or the Local Committee, as the case may be, as it may require with regard to the complaint made under sub-section (1) of section 7:</p> <p>(g) Assist the woman if she so chooses in the filing of a criminal complaint in relation to the offence:</p> <p>(h) Initiate criminal action under the Penal Code or any other law for the time being in force against the perpetrator after the conclusion of the enquiry, or without waiting for the enquiry, where the perpetrator is not an employee in the work place where the incident of sexual harassment has taken place.</p>	
	<p>21. Exemption of employer or manager from liability in certain cases</p> <p>(1) Where the employer or manager of an establishment is charged with an offence against this Act or the rules or orders made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge: and if, after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court—</p> <p>(a) That he has used due diligence to enforce the execution of this Act. and</p> <p>(b) That the said other person committed the offence in question without his knowledge consent or connivance, that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer or manager, and the employer or manager shall be discharged from any liability under this Act.</p>	<p>Exemption of employer or manager from liability in certain cases</p>



	<p style="text-align: center;"><b>CHAPTER VI</b></p> <p style="text-align: center;"><b>DUTIES OF DISTINCT OFFICER</b></p> <p><b>22.</b> The District officer shall</p> <ol style="list-style-type: none"><li>1. Have the overall responsibility to ensure that the provisions of the Act are complied with and fulfill the duties of the Employer as in Clauses (d) to (I) of Section 17 where the employer himself is the accused.</li><li>2. also administer the fines received under the Act and create a corpus and utilize the same for the benefit of the victims as may be prescribed:</li><li>3. ensure that timely reports are furnished by the Committee:</li><li>4. conduct or cause to be conducted surprise checks on establishment to ensure that women are working in a sexual harassment free work places:</li><li>5. guide establishments in engaging civil society organizations for creation of awareness on sexual harassment and the rights of the women;</li></ol>	
	<p><b>23. Monitoring of the Act</b></p> <p>(1) The National Commission for women or, as the case may be, the State Commission for women shall, in addition to the functions assigned to them under their respective Acts examine and review the implementation of this Act and advise the appropriate Government on its implementation</p> <p>(2) The said Commissions shall, while inquiring into any matters relating to have the same powers as assigned to them under their respective Act.</p>	<p><b>Monitoring of the Act</b></p>
	<p style="text-align: center;"><b>CHAPTER VII</b></p> <p style="text-align: center;"><b>MISCELLANEOUS</b></p>	
	<p><b>24.</b> The Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in</p>	<p>Committee to submit annual report.</p>

	such form and at such time as may be prescribed, an annual report and submit the same to the employer or the District Officer.	
	<b>25.</b> The employer shall include a section on the cases filed and judgments conferred under this Act in each annual report of his organization.	Employer to include information in annual report
	<p><b>26.</b> (1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing,-</p> <p>(a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require:</p> <p>(b) authorise any officer or to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.</p> <p>(2) Every employer and District Officer shall produce on demand before the officer conducting the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.</p> <p><b>27.</b> (1) Where the employer or the District Officer fails to-</p> <p>(a) constitute a Committee nuclei- sub-section ( 1) of section 4 or under sub-section ( 1 ) of section 6. as the case may be;</p> <p>(b) take action under sections 11. 12 and 20; and</p> <p>(c) contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder.</p> <p>he or she shall be punishable with fine which may extend to rupees fifty thousand. (2) The line collected under sub-section (1) shall be kept in a corpus created and utilized for any purpose as may be prescribed.</p>	



<p>Power of the appropriate Government to make rules.</p>	<p><b>28.</b> (1) The Central Government may, by notification in the official gazette, make rules for carrying out the provisions of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) the allowances and remuneration to be paid to the Chairperson and members under sub-section (4) of section 4;</p> <p>(b) the allowances and remuneration to be paid to the Chairperson and members under sub-section (4) of section 6;</p> <p>(c) the person who may make complaint under sub-section (2) of section 7;</p> <p>(d) the manner of enquiry under sub-section (1) of section 9;</p> <p>(e) the powers for making enquiry under sub-section (2) of section 9;</p> <p>(f) the action to be taken by employer or District Officer under sub-section (4) of section 9;</p> <p>(g) the relief to be recommended under clause (c) of sub-section (1) of section 10;</p> <p>(h) the manner of action to be taken under clause (a) of sub-section (3) of section 11 ;</p> <p>(i) the manner of action to be taken under sub-section (1) of section 12;</p> <p>(j) the manner of action to be taken under sub-section (2) of section 12;</p> <p>(k) the manner of action to be taken under section 15;</p> <p>(l) the manner of appeal under section 16;</p> <p>(m) the manner of utilization of lines under sub-section (2) of section 18;</p>	
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	<p>(n) the form and time for preparation of annual report by Committee under section 19; and</p> <p>(o) the purpose for which the fine collected may be utilized under sub-section (2) of section 22.</p> <p>(3) Every rule, made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House: of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more ; successive sessions, and if, before the expiry the session immediately following the session or the successive sessions aforesaid, both Houses agree in making an modification in the rule or both Houses agree that the rule should not be made, the rule should thereafter have effect only in such modified form or be of be no effect, as the case may be; so, however, that any such modification or annulment shall be ; without prejudice to the validity of anything previously done under that rule.</p> <p>(4i) Every rule made under <del>ANNUAL REPORT</del> the State Government shall be laid, as <del>2008-09</del> may be alter ii is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.</p>	
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***Annexure - VII***

**PROHIBITION OF INDECENT REPRESENTATION OF WOMEN AND CHILDREN ACT, 2008.  
AMENDMENT TO INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986.  
(10<sup>TH</sup> AUGUST 2009)**

	<b>PRESENT PROVISION</b>	<b>PROPOSED</b>	<b>Justification</b>
Section 1 - Short title, extent and commence ment	<p>(1) This Act may be called the Indecent Representation of Women (Prohibition) Act, 1986.</p> <p>(2) It extends to the whole of India, except the State of Jammu and Kashmir.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p>	<p><b>Chapter 1 : short title</b></p> <p>(1) This Act may be called the <b>Prohibition of Indecent representation of Women and Children Act, 2008.</b></p> <p>(2) It extends to the whole of India, except the State of Jammu and Kashmir.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p>	<p>It is proposed to recast the entire present Act and frame the legislation afresh</p>

Section 2 – Definitions		<b>Chapter II Definitions</b>	
Section 2 (a)	Section 2 (a)  "advertisement" includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas;	<b>Section 2 (a)</b>  "advertisement" includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light <b>including laser</b> Light, sound, smoke, gas, <b>fibre optic, electronic or any other media.</b>	To widen the scope of the Act and its applicability
Section 2(b)	Not present	<b>Section 2(b)</b>  "authority" means the Central authority under section 9 of the Act designated to regulate/prohibit indecent representation of women	To create a mechanism within the act to ensure that provisions of the act are implemented
Section 2 (c)	"distribution" includes distribution by way of samples whether free or otherwise	<b>Section 2 (c)</b>  "distribution" includes distribution by way of samples whether free or otherwise	



<p>Section 2 (d)</p>	<p>(c) "indecent representation of women" means the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to, or denigrating, women, or is likely to deprave, corrupt or injure the public morality or morals;</p>	<p>Section 2 ( d ) "Indecent representation of women" means (i) depiction of women as a sexual object which is lascivious or appeals to the prurient interests; or  (ii) depiction in any manner of the figure of a woman, her form or body or any part thereof In such a way as to have the effect of being indecent or derogatory to or denigrating women; or which is likely to deprave, corrupt or injure the public morality or morals."</p>	
<p>Section 2(d) (e) and</p>	<p>No change</p>	<p>No change proposed in the remaining sections</p>	
<p>(f)</p>	<p>proposed</p>	<p>2(d) (e) (f) but they will re-numbered as (e) (f) and (g)</p>	

<p>New clause to be introduced after existing sec.2(f) as section 2 (g)</p>	<p>Not in present law</p>	<p>Section 2 (h) 'publish means to prepare, to print or to distribute to anyone for publishing in any book, newspaper, magazine, posters, graffiti or periodicals or electronically/digitally conceived/perceived files distributed through audiovisual media including computer, satellite related /connected intra or internet communications</p>	<p>To extend the applicability of the Act to visual media and computer, including internet</p>
		<p><b>Chapter III provisions relating to prohibition and penalties</b></p>	
<p>Section 3</p>	<p>Sec 3. <b>Prohibition of advertisements containing indecent representation of Women-</b></p>	<p><b>Section 3 Prohibition of advertisements containing indecent or derogatory representation of</b></p>	



	No person shall publish or cause to be published, or arrange or take part in the publication or exhibition of, any advertisement which contains indecent representation of women in any form	<b>Women-</b> No person shall publish, or cause to be published, or arrange or take part in the publication or exhibition of any advertisement which contains indecent or derogatory representation of women in any form	
<b>Section 4 -</b>	<b>Prohibition of publication or sending by post of books, pamphlets, etc., containing indecent representation of women</b> No person shall produce or cause to produce, sell, let to hire, distribute, circulate or send by post any book, pamphlet, paper, slide, film writing, drawing, painting, photograph, representation or figure which contains indecent representation of women	<b>Section 4 .Prohibition of publication or sending by post of books, pamphlets, etc; containing indecent representation of women-</b> No person shall produce or cause to be produced, sell, let to hire, distribute, circulate or send by post or <b>by any other means</b> any book, pamphlet, paper, slide, film writing, drawing, painting, photograph,	Widen the scope of the Act inclusion of term “ by any other means “

	in any form	representation or figure which contains indecent representation of women in any form	
Section 5	<b>PRESENT section 5</b> Present provision deals with powers to enter and search which is proposed to be dealt with separately in the proposed amendment		
section 5 <b>PRESENT section 6</b> Present provision deals penalty	<b>section 6</b> <b>Penalty-</b> Any person who contravenes the provisions of Section 3 or Section 4 shall be punishable on imprisonment of either description for a term which may <i>extend to two years, and with fine which may extend to two thousand rupees</i> , and in the even of a second or subsequent conviction with imprisonment for term of <i>not less than six months but which may extend to five years and also with a fine not less</i>	<b>Proposed section 5</b> <b>Penalty-</b> (1) Any person who Contravenes the provisions of Section 3 and 4 shall be punishable for imprisonment of either description for a term not less than to two months which may extend to <i>two years, and with fine which may extend to two thousand rupees</i> , and in the event of a second or subsequent conviction with imprisonment for	



	<i>than ten thousand rupees but which may extend to one lakh rupees.</i>	<i>term of not less than six months but which may extend to five years and also with a fine not less than ten thousand rupees but which may extend to five lakh rupees.</i>	
<b>New section 6</b>	<b>Section 7 of present Act Offences by companies.-</b> (1) Where an offence under this Act has been committed by a company, every person, who, at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:  Provided that nothing contained in this subsection shall render any	<b>Proposed section 6 Offences by companies.-</b> (1) Where an offence under this Act has been committed by a company, every person, who, at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:	

	<p>such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.</p>	<p>Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.</p>	
<b>6(2)</b>	<p>Present section 7 (2)</p> <p>Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager,</p>	<p>Proposed section 6 (2)</p> <p>Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such</p>	



	<p>secretary or other officer shall be proceeded against and punished accordingly.</p> <p>Explanation – For the purpose of this section.-</p> <p>"company" means any body corporate and includes a firm or other association of individuals; and</p> <p>"Director", in relation to a firm, means a partner in the firm.</p>	<p>director, manager, secretary or other officer shall be proceeded against and punished accordingly.</p> <p>Explanation – For the purpose of this section.-</p> <p>"company" means any body corporate and includes a firm or other association of individuals; and</p> <p>"Director", in relation to a firm, means a partner in the firm.</p>	
<p><b>New section 7</b></p>	<p><b>Present section 8</b></p> <p><b>Offences to be cognizable and bailable (1)</b></p> <p>Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this Act shall be bailable.</p>	<p><b>Proposed section 7</b></p> <p><b>Offences to be cognizable and bailable</b></p> <p>(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this</p>	

	(2) An offence punishable under this Act shall be cognizable.	Act shall be bailable.  (2) An offence punishable under this Act shall be cognizable.	
		<b>Chapter IV CENTRAL AUTHORITY</b>	
Section 8	Does not exist	8. Central Authority- 1. The Central Government shall appoint a Central Authority to govern and regulate the manner in which women are represented in any document published/broadcast/telecast; 2. The Authority shall be headed by the Member Secretary, National Commission for Women and shall have representatives from Advertising Standards Council of India, Press Council of India, Ministry of Information and Broadcasting and one	



		member experienced in working on women's issue to be nominated by the National Commission for Women;	
Section 9	Present section 9 deals with <b>Powers to enter and search which is dealt with separately</b>	<b>Section 9 – Powers and functions of the Central Authority –</b> The Central Authority shall have the following powers and functions in respect of complaints  <b>a.</b> To receive appeals/complaints or grievances regarding a programme or an advertisement broadcast or publication and adjudicate on the same in accordance with its procedure ; <b>b.</b> investigate , take suo moto notice and examine all matters relating to complaints under section 292-294 of the IPC , in so far it	

		<p>relates to and concerns women and the indecent representation of women Act as defined under Section 2 of the Act;</p> <p>Or refer the case to the authorized bodies under section 9 of the Act</p> <p><b>c.</b>To requisition tapes of any program or advertisement or publication as deemed necessary.</p> <p><b>d.</b> To consider such complaints and facilitate their settlements by passing a reasoned decision in writing within 60 (sixty) days of receipt of the said appeal/complaint.</p> <p><b>e.</b> To function in consonance with the principles of natural justice and give its</p>	
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		<p>decisions based on the written statement filed by a complainant and after providing a reasonable opportunity.</p> <p><b>f.</b> Recommend to the Central Government, guidelines or norms or amendments of prescribed guidelines or norms, in the light of its experience in the discharge of its functions, as well as on such other issues as may be referred to it by the Government;</p> <p><b>g.</b> Lay-down the standards of quality of service to be provided by the service providers/advertisers /publishers etc and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of</p>	
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		<p>broadcasting service;</p> <p>h. coordinate with the respective state governments for effective implementation of the provisions of the Act;</p> <p><b>i.</b> monitor administer and promote standards of advertising practices in India with a view to ensuring that Advertising is not offensive to generally accepted norms and not indecent as defined in the Act</p> <p><b>j.</b> promote code for Self-Regulation in Advertising, media and publishing</p> <p>(2) For the purpose of performing its functions or holding any inquiry under this Act, the Committee I shall have the same powers throughout India as are vested in a civil court</p>	
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		<p>while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:--</p> <p>(a) summoning and enforcing the attendance of persons and examining them on oath;</p> <p>(b) requiring the discovery and inspection of documents;</p> <p>(c) receiving evidence on affidavits;</p> <p>(d) requisitioning any public record or copies thereof from any court or office;</p> <p>(e) issuing commissions for the examination of witness or documents;</p> <p>and</p>	
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		<p>(f) Any other matter, which may be prescribed.</p> <p>(3) Every inquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).</p>	
Section 10	Does not exist	<p>10. Orders that may be passed by the Authority:</p> <p>1. If the Authority comes to a conclusion that the advertiser or the publisher is at default, it may:</p> <p>(i) Direct it not to telecast or advertise or publish the objectionable programme or advertisement pending decision;</p> <p>(ii) Direct suitable edition to the advertisement or the programme, as the case</p>	



		<p>maybe,</p> <p>(iii) Direct that such an advertisement or the programme, as the case maybe, shall not be broadcast;</p> <p>(iv) Direct to broadcast/publish an apology/disclaimer/warning in a suitable manner as may be prescribed by it;</p> <p>(v) Pass any other orders as it may deem fit.</p> <p>2. In cases where the Authority does not find any merit in the Complaint, the authority may:</p> <p>i. Dismiss the complaint;</p> <p>ii. Dismiss the Complaint with costs in cases where the Committee finds that the complaint was with malafides;</p>	
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		3. The orders passed by the authority shall be sent to the complainant and the advertiser /publisher /broadcaster.	
Section 11	Not present in the previous act	11. Complaints: 1. Any person, group of persons, organization may make a complaint before the Central Authority about the any representation in violation of section 3 and 4 of the Act after paying the requisite fee; 2. The Complaint shall be in writing and indicate clearly the nature of publication and the manner in which it came to the notice of the Complainant;	
<b>New section 12</b>	<b>Present section 5</b> <b>Powers to enter and search.-</b> (1) Subject to such rules as may be	<b>New section 12</b> <b>Powers to enter and search.-</b> (1) Subject to such rules as may be	



	<p>prescribed, any Gazetted Officer authorized by the State Government may, within the local limits of the area for which he is so authorized:-</p> <p>enter and search at all reasonable times, with such assistance, if any , as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;</p> <p>seize any advertisement or any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which he has reason to believe contravenes any of the provisions of this Act;</p>	<p>prescribed, any Gazetted Officer authorized by the Central authority may, within the local limits of the area for which he is so authorized enter and search at all reasonable times, with such assistance, if any , as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;</p> <p>seize any advertisement or any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which he has reason to believe contravenes any of the provisions of this Act;</p> <p>examine any record, register, document or</p>	
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	<p>examine any record, register, document or any other material object found in any place mentioned in Cl.(a) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.</p> <p>Provided that no entry under this sub-section shall be made into a private dwelling-house without a warrant:</p> <p>Provided further that the power of seizure under this sub-section may be exercised in respect of any document, article or thing which contains any such advertisement, including the contents, if any, of such document, article or thing if the advertisement cannot be separated by</p>	<p>any other material object found in any place mentioned in Cl.(a) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.</p> <p>Provided that no entry under this sub-section shall be made into a private dwelling-house without a warrant:</p> <p>Provided further that the power of seizure under this sub-section may be exercised in respect of any document, article or thing which contains any such advertisement, including the contents, if any, of such document, article or</p>	
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	reason of its being embossed or otherwise from such document, article or thing without affecting the integrity, utility or saleable value thereof.	thing if the advertisement cannot be separated by reason of its being embossed or otherwise from such document, article or thing without affecting the integrity, utility or saleable value thereof.	
<b>12 (2)</b>	Present section 5(2)  The provisions of the Code of Criminal Procedure, 1973(2 of 1974), shall, so far as may be, apply to any search or seizure made under the authority of a warrant issued under Sec.94 of the said Code.	Renumbered as section 12(2_)	
<b>12(3)</b>	Present section 5 (3)  Where any person seizes anything under Cl.(b) or Cl.(c) of sub section (1), he shall, as soon as may be, inform the nearest Magistrate and take his orders as to the custody thereof.	Renumbered as section 12(3)	

12(4)	Not in present provisions	Section 12(4) the state governments shall within a period of 3 months from the date of commencement of the Act , by official notification nominate such number of gazetted officers as considered necessary for the purposes of section 22(1) (2) and (3)	Make provisions mandatory for notification of officers
<b>New section 13</b>	<b>Present sec 9 Protection of action taken in good faith.-</b> No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or any State Government for anything which is in good faith done or intended to be done under this Act.	<b>Proposed sec 13 Protection of action taken in good faith.-</b> No suit, prosecution or other legal proceeding shall lie against <b>any member /official of the council</b> , the Central Government or any State Government or any officer of the Central Government or any State Government for anything which is in good faith done or	



		intended to be done under this Act.	
<b>New section 14</b>	No provision in present law	<b>Section 14</b> <b>Duty to self regulate</b> Every advertisement agency, media group, production house, publications engaged in the production/display of ad-films, advertisements shall be under an obligation to create and maintain a self regulatory mechanism , which would scrutinize examine every such film, advertisement both in print and film and any other entertainment product made for public circulation and private circulation and shall certify the document fit for public use and not contravening provisions of the Act then permit	

		exhibition to the public or any group of body;	
<b>Section 15</b> -	<p>Present section 10</p> <p>Power to make rules</p> <p>(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>-</p> <p>(a) the manner in which theseizure of advertisements or other articles shall be made, and the manner in which the seizure list shall be prepared and delivered to the person from whose custody any advertisement</p>	Renumbered as section 15	



	<p>or other article has been seized;</p> <p>(b) any other matter which is required to be, or may be, prescribed.</p> <p>(3) Every rule made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be;</p>		
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	<p>so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p>		
<p><b>New section 16</b></p>		<p><b>Section 16 - Repeal and savings</b> - Repeal and savings.- (1) The Indecent representation of Women (prohibition) Act, 1986 is hereby repealed.</p> <p>(2) Notwithstanding such repeal, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.</p>	