

National Commission for Women and Lawyers Collective (Women's Rights Initiative)

**“Staying Alive”
2nd National Conference on Implementing
The Protection of Women from Domestic Violence Act, 2005
Supported by UNIFEM South Asia Office**

Press Release

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) was brought into force on October 26th, 2006. From then on the Lawyers Collective in collaboration with the National Commission for Women, and support by the South Asia Office of UNIFEM, has been compiling annual monitoring and evaluation reports on the manner in which this law is being implemented. “Staying Alive: Second Monitoring and Evaluation Report, 2008 on the Protection of Women from Domestic Violence Act, 2005” is a second in this series.

22 judgments under the PWDVA have been delivered by High Courts in different States. This indicates that women and judges have become familiar with this new law. The Delhi High Court dismissed a constitutional challenge to the PWDVA in April this year on the ground that the gender-specific nature of the law does not violate the guarantee of equality as it is a “class legislation” aimed at protecting women as a class that is disproportionately vulnerable to violence. The Supreme Court’s judgment in *Batra v Batra*, which held that women are not entitled to reside in premises owned by the mother-in-law in cases where the husband has a separate property, continues to pose an impediment to realizing the right to reside for women living in the shared household with their in-laws. Women have also complained of delays faced in obtaining interim orders for reliefs from courts. Judicial delays are another cause for impeding the realization of rights recognized under the PWDVA.

Inadequate budgetary allocations for the implementation of the PWDVA are a cause for concern. Only 13 states have allocated specific budgets for the implementation of the PWDVA. Of these states Andhra Pradesh has allocated the highest amount of Rs. 10 crores.

Protection Officers have been appointed at the district level in all states. 10 states have appointed Protection Officers at the sub-district level. Maharashtra has the highest number of appointments of 3,687. However, most appointments made are of existing government officials vested with additional charge. Registration of Service Providers have taken place in only 18 States, although existing shelter homes and medical facilities have been notified in most states, there has been no additional provisions of these much needed facilities. In view of inadequate budgetary allocations and available infrastructure, there is need for coordination between government departments to ensure the optimum delivery of services. Efforts to ensure coordination between government departments have only been initiated in two states- Kerala and Uttarakhand.

Assistance provided to women by the POs is a positive development. POs have taken initiatives which range from interacting with an aggrieved woman with the intention of instilling sense of self-confidence and dignity, to mediating between partners, to counselling and, finally, to document the violence and assist women in navigating the justice system.

They have also proven to be a crucial link between the aggrieved woman and the court especially in cases where the women are unable to afford the services of a private lawyer.

Andhra Pradesh continues to be a model of best practices particularly with regard to state investments in the form of budgetary allocations, infrastructure, training, awareness raising and coordination. Correspondingly, each of the state's 24 districts report a decrease in cases filed under Section 498A of the Indian Penal Code, the state-wise average decrease in cases filed under Section 498A from 2007 to 2008 is 41.2%.

Recommendations:

1. We call upon the Central Government and State Governments to launch mass media campaigns to spread awareness on the rights of women recognized under the PWDVA.
2. We oppose any move towards making Section 498A of the IPC compoundable. The rationale for this move no longer holds as those desirous of settling their cases may do so under the PWDVA.
3. We call upon the Central Government to seek a review of the Supreme Court's decision in *Batra v Batra*.
4. We call upon the judiciary to ensure that cases are decided within statutory timelines.
5. We urge the judiciary to be transparent in the way in which cases under the PWDVA are dealt with. This requires the computerization of orders granted by the Magistrates and the periodic review of such orders by the higher judiciary.
6. We urge the State to locate the office of the Protection Officer within court premises.
7. To decrease women's vulnerability to violence we urge the Central Government to protect women's rights in the workplace by enacting legislation on preventing sexual harassment at the workplace.

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State-wise Budgetary Allocations

State	Budgetary Allocation for PWDVA (2005)
Andhra Pradesh	Rs 10 crore (2007-09)
Assam	Yes, but data not available
NCT Delhi	Rs 50,00,000 per annum (2006-08)
Gujarat	Rs 1,034,000
Haryana	Rs 1 crore
Kerala	Rs 1 crore earmarked for PO appointment and infrastructure.
Madhya Pradesh	Rs 29,200,000
Maharashtra	Rs 25,00,000 for training
Orissa	The nodal department has earmarked Rs 75,000 in the 1 st supplementary budget per district.
Punjab	Rs 50,00,000 (2008-09)
Rajasthan	Rs 25,00,000
Sikkim	Rs. 10,00,000 (2008-09)
Tamil Nadu	Rs 96,72,000 (POs & infrastructure) + Rs 3,53,000 (training) + Rs 50,000 per district (awareness- raising)

**District-wise Registration of Cases under Section 498A (IPC) in Andhra Pradesh:
2006-2008**

District	2006 (January 1- December 31)	2007 (January 1- December 31)	2008 (January 1- August 31)	Numerical Decrease: 2008 vs. 2007	Percentage Decrease: 2008 vs. 2007
Mahaboobnagar	260	203	102	101	50
Adilabad	315	268	177	91	34
Kurnool	150	165	119	46	28
Ananthapur	177	189	88	101	53
Nizamabad	403	401	196	205	51
Prakasham	208	206	123	83	40
Nalgonda	385	418	213	205	49
Khammam	186	219	193	26	12
Guntur	353	493	258	235	48
West Godavari	427	477	354	123	26
East Godavari	386	491	258	233	47
Srikakulam	155	327	177	150	46
Warangal	453	585	298	287	49
Ranga Reddy	63	90	66	24	27
Karimnagar	604	618	310	308	50
Cuddapah	168	205	195	10	5
Nellore	158	177	112	65	37
Krishna	282	336	204	132	39
Vizianagaram	159	251	116	135	54
Medak	212	250	159	91	36
Chittoor	189	379	120	259	68
Hyderabad	893	1138	628	510	45
Cyberabad	748	806	398	408	51
Visakhapatnam	458	641	356	285	44

Number of Cases Filed under the PWDVA (2005)¹

State	Number of Cases Filed	Period of Reporting
Andhra Pradesh	1,625	July 2007 - October 2008
Gujarat	869	July 2007 - August 2008
Himachal Pradesh	202	October 2006 - August 2008
Jharkhand	70	October 2006 - June 2008
Kerala	3,287	October 2006 - October 2008
Maharashtra	2,751	July 2007 - August 2008
Orissa*	64 ²	October 2006 - August 2008
Tamil Nadu*	1,180	October 2006 - July 2008
NCT Delhi*	3,534	October 2006 - August 2008

¹There is no uniformity in the manner in which courts have collated data on the number of cases filed in court, hence the information contained in this Table cannot be compared to data presented in the 1st M&E Report.

² Number of DIRs filed in court.

* Information provided by the nodal department