Report of the fact finding mission to India

11-24 July 2004

Women in India

Country Information and Policy Unit

Immigration and Nationality Directorate
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This document was produced prior to 1 June 2005, when Research Development and Statistics (RDS) assumed responsibility for the delivery of Country of Origin Information. It has therefore not been formatted according to RDS standards.

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1. Preface

1.1 This report has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office from information obtained whilst visiting the country and from reports from a variety of recognised sources. The purpose of the mission was to obtain information that would assist the UK with the consideration of asylum and human rights issues. In particular the purpose was to obtain information on the situation of women in India with specific regard to whether women throughout India are able to access effective protection and whether there exists a willingness and ability to enforce laws designed to protect women. The full terms of reference of the mission are attached at Annex 1.

1.2 The mission met with Indian Government and State Government representatives, and representatives of national and international NGOs in Delhi (the National Capital Territory), Chandigarh, (Punjab), Ahmedabad, (Gujarat) and in Hyderabad, (Andhra Pradesh). These groups were identified by the British High Commission in Delhi and the delegation as ones who could provide the most information related to the purpose of the mission. Not every relevant group was or could be consulted however every effort was made to ensure that the groups seen were as representative as possible of the issues. The mission sought meetings with the Ministry of Home Affairs, central and state police authorities, a women's crime cell and the Bureau of Police Research and Development however these organisations were not able to meet the delegation. The delegation would like to express their gratitude for the help and information they were given. A full list of organisations seen is at Annex 2

1.3 This report is based mainly on information collected from those seen during the mission. It also includes some information relevant to the main issues collected after completion of the mission. It does not contain any Home Office opinion or policy and contains no opinions as to IND's policy towards Indian asylum claims or the treatment of women in India.

1.4 The report includes information from a number of written sources many of which were provided by interviewees during the mission. These sources where used, are appropriately attributed and a full list of sources is at Annex 3.

1.5 In the report care is taken to present the views of the various interviewees in an accurate and transparent way. Unless otherwise indicated, all statements within a paragraph are to be attributed to the source mentioned at the beginning of the paragraph. It is inevitable that this report will contain a number of seemingly contradictory statements. However it should be noted that the report has been produced to reflect exactly what members of the fact-finding mission team were told in their meetings with the various interlocutors.

1.6 There will be occasions when information could be covered in more than one chapter, however, to avoid repetition, this information will usually only appear once, with a cross-reference as required.

1.7 The mission was carried out from the 11 July 2004 to 24 July 2004.

1.8 Additional information relating to the treatment of women in India is included in the Country Report on India published in October 2004 which contains a cross reference to this report. Caseworkers dealing with specific cases must also refer to the relevant sections within the October 2004 Country Report on India.

The report was finalised on 21 December 2004.

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2. Introduction and Background

2.1 India covers an area of 3,287,623 square kilometres (1,269,219 square miles) and whilst it occupies only 2.4% of the world's land area it supports over 15% of the world's population. It has the world's 12th largest economy, and the third largest in Asia behind Japan and China. Nearly two-thirds of the population depends on agriculture for their livelihood. About 25% of the population lives below the poverty line, but a large and growing middle class of 320-340 million has disposable income for consumer goods. According to the July 2002 estimates out of a population of 1,045 million, 506 million are female and 539 million are male. **[16](paras 2.1, 2.2, 3.2, 6.249)**

2.2 Information available prior to the mission presented a mixed picture on the situation of women in India. Although India has signed and ratified the UN Convention on the Elimination of All Forms of Discrimination against Women, and has a number of constitutional safeguards guaranteeing equal rights for women, there was evidence of huge gaps between constitutional guarantees and the daily realities of women's lives. **[16](paras 6.251, 6. 256)**

2.3 The gender imbalance evident in the population statistics reflects a traditional preference for male children. It has been reported that whilst the law prohibits the use of amniocentesis and sonogram tests for sex determination this law was not effectively enforced. Overall the literacy rate reported for women in India is some 50% compared to 65.5% for men. **[16](paras 6.250, 6.260)**

2.4 Domestic violence was reported to be a common and serious problem across all religious, class, and caste boundaries. Societal violence against

women was also a serious problem. Although providing or taking a dowry is illegal the practice is still widespread and where there are disputes over the dowry this can lead to the harassment or death of the woman. It was reported that women do not report the majority of rapes and only 10 percent of rape cases were adjudicated fully by the courts. It was reported that police typically failed to arrest rapists, thus fostering a climate of impunity. Rape in custody was also reported. **[16](paras 6.270, 6.277, 6.283, 6.287, 6.290, 6.282)**

2.5 Sexual harassment was also reported to be common with the vast number of cases going unreported. Although the law prohibits sexual harassment in the workplace enforcement was inadequate. The Government addressed women's concerns primarily through the National Commission for Women, but NGO's were also influential. **[16](paras 6.302, 6.303, 6.308)**

2.6 The first section of this report provides an overview of societal issues and attitudes provided by interviewees seen by the mission. Successive sections deal with violence against women, legislative provisions and the protection mechanisms available to women.

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3. Overview – Societal Issues and Attitudes

Patriarchy

3.1 During the course of the fact finding mission members of the delegation were told by various representatives that India is a patriarchal society, particularly more so in certain geographical areas such as the north where patriarchy is deeply ingrained.

3.2 Ms Kamal Singh, Head of the Governance and Social Justice Department at the British Council in Delhi commented that India is still a very patriarchal society and especially more so in northern India. The concept of the family unit is important and talking about equality is taken to mean breaking the family unit, which is not acceptable within a patriarchal ethos. Men prefer and protect status quo. Women are reluctant to complain and the social and cultural response is to try and keep matters within your family even where this may result in death. Where women turn to their parents for support the parental advice is to endure and even in rape cases there is pressure to withdraw. A hundred kilometres beyond Delhi it becomes clear that women are a hundred years behind the times.

3.3 This view was reiterated by a representative from Oxfam in Delhi who said that patriarchal attitudes are more deeply ingrained in northern India than the south. Cherian Mathews from Oxfam Delhi said there is a constitutional guarantee of equal rights to women and many protections in civil and criminal law, but women are viewed as property. Oxfam is trying to launch a campaign to challenge attitudes and work with the community to look at power structures, human rights in gender issues and to support more dialogue for women. Their view was that legislation without social acceptance does not work until you have more empowered people. The Oxfam/Delhi representative

said that over the last five years there have been improvements for women's rights but they have been in isolated pockets and in certain villages where Oxfam, the women's movement or other organisations have been working. Oxfam aim their campaigns at the huge body of young people who can be targeted as the agents for the future.

3.4 The picture is complex and varied. There are many factors which influence the treatment of women including class, caste, religion and education. There is a north south divide. In the south by and large women have more freedom, but this differs in pockets, whereas in the north it is very feudal in structure, as reported by Ms Fatima Ali Khan, a lecturer from the Women Studies Centre at Osmania University. A woman's place is still perceived as being in the home and women have not left the home. It is considered unsafe for women to be out and this creates a vicious circle because the more women are kept in the more repressed and vulnerable they become. In the domestic realm, the higher up in society she is, then the more social stigma becomes very important and this has nothing to do with income. In India so many women are uneducated and unworldly and do not move outside their village. The Indian media portrays a negative view of women and does not promote any positive ideas for women. The most vulnerable are those that have to live by social standards. However she commented that in Hyderabad women do have more rights and that in Islam women are supposed to have more rights. In the public realm women have all the rights but not in private.

3.5 The Fact Finding Mission (FFM) delegates met with Ms Abha Bhaiya, Chairperson for a women's NGO called Jagori in Delhi and Ms Nandini Rao, Senior Coordinator. It was stated that marriage is a very important premium in Indian society and that divorced women have secondary status. Dr Hanif Lakdawala from Sanchetana, stated that Indian women are taught that they leave their husband's house only in death. This view was echoed by Dr Rainuka Dagar at the Institute for Development and Communication in Punjab, that the family as an institution has a social sanctity with primacy over individual rights. Marriage is integral to the life cycle process and within patriarchy, individual abuse occurs mostly to females and is accepted as part of the adjustment process.

3.6 The delegation met with prominent human rights lawyers in Punjab, Mr Bains and Rajvinder Singh Bains who informed the delegation that Punjab is a male dominated state and that there have been pockets of improvement all over India but not in Punjab because of this ingrained patriarchy. Mr Rajvinder Singh Bains stated that in rural settings women experience problems because the villages are very male dominated. A view from Dr Pramod Kumar at the Institute for Development and Communication, Punjab, is that social legitimacy provides invisibility, for example a husband beating his wife is socially justified. Dr Kumar commented that they were working to make visible the abuse and undermine the norms whereby female subjugation is perceived as normal.

3.7 The concept of patriarchy extends to the police and judiciary. Dr Ila Pathak from AWAG in Gujarat stated that the patriarchal training is so strong

within the police that during gender sensitisation training they have to be reminded that women are still human beings. A representative from Jagori opined that the majority of people who work in the police have a patriarchal mindset making it difficult to get justice. This view was also expressed by Ms Fatima Ali Khan when she commented that even the judges are biased.

3.8 Dr Kumar said a hurdle to the enforcement of laws to protect women was cultural acceptability to gender hierarchies. Even the judiciary is imbued with patriarchal notions. The lack of sensitivity to women's rights exists among women also. Women's rights are not a women's issue but a social issue with the rights of women being inter-linked with the rights of men. It is a social issue and no right can be granted without social recognition.

3.9 Dr Mohini Giri from the Guild of Service in Delhi told the delegation that the status of widows is affected by man and his mindset. Women have changed but there has been no change in the mindset of men who view women as commodities. Communal society vests their honour in women. In respect of the social acceptability of violence, women expect to be beaten so how can they then break the silence however the pendulum is swinging and in the new generation of educated working young women, their tolerance levels are lower. Another dimension to social and domestic violence is the conflict between the traditional view of women as subservient to men and on the other hand the assertion by women of their identity and self esteem, as noted by Meera Khanna, Honorary Vice President at Guild of Service.

3.10 It is stated in a Guild of Service publication entitled Ma-Dham in Vrindavan that "The patriarchal nature of the Indian society vests all economic and social powers in the man." The wife becomes his property making it impossible for her to remarry…."Patriarchy also vests property rights in the man." It is also commented that, "Patriarchy has played the biggest role in the total marginalization of Indian widows."**[18]**

3.11 Ms Urvashi Butalia, Director of Zubaan in Delhi commented that it is difficult to generalise about India but that much more is now known. She suggested that it was worse for women in certain parts of India where society is deeply patriarchal and it is not safe for women to be out. She said women traditionally are not allowed choice in anything yet it is ironic that in the case of widow immolation they are said to have chosen to die. She commented that there is optimism that things will be different with the new government.

3.12 In Ahmedabad Dr Hanif Lakdawala from a Human Rights organisation, Sanchetena also commented that India is a patriarchal society where women are looked down on and this belief still prevails. Women have no right to make decisions about their own life and no right about health care. Once a woman is raped society looks down on her and thinks she is of loose character. Society is communalised and if change was down to just the Government then change would be expected but it is down to society to change and society is deeply ingrained.

3.13 As cited in a brochure for International Women's Day March 2004 (given to the delegates when they visited Asmita), Dr Mohini Giri gave a speech, stating that the patriarchal mindset prevalent in the country was one of the factors responsible for the increase in violence across the country and until that changed no other change was possible. **[11](p9)**

3.14 Asmita is an NGO in Hyderabad who have produced a dance ballet called "War and Peace " to raise awareness amongst rural women in Andhra Pradesh about issues of patriarchy and domestic violence. The brochure for the ballet states that women are aware of the significance of culture in gendering society. "The role of religious myths in reinforcing and legitimising patriarchal norms is critical and has been difficult to contend with." They advocate that the interpretation of myths through traditional art forms and in particular through music carries a powerful message that works at subliminal levels. Their dance ballet is one such effort and experiment to try to subvert patriarchal agendas from a women's perspective.**[13]**

3.15 As cited in a SAHR WARU publication of 2001 entitled "Snuffed Out" a woman is told by her parents that once she is sent to her husband's house she will leave it only in death through "Arthi". The concept being that the husband is everything even if he abuses or beats her. A woman is taught from an early age to endure whatever the marital home offers. This makes it harder for her to make her own decisions when the perception since childhood is that the husband has to be obeyed come what may, with everyone around her endorsing this patriarchy. In childhood she lives by her father's and brother's rules, in adulthood by her husband's and in-laws wishes and in old age by her son's wishes thus she lives to satisfy others. Hindu women are taught that the marital relationship goes beyond life. In communities women are afraid to talk out in cases of unnatural deaths for example, for fear of being ostracised and outcast. When a husband dies the wife is expected to end her days alone whereas when the wife dies the husband is expected to remarry hence not going to the crematorium to perform the last rites.**[20](p30)**

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Effect of Class, Caste, religion and education on the status and treatment of women

3.16 According to a representative from the Institute for Development and Communication in Punjab the nature of discrimination and forms of gender violence that women face differ according to caste, economic and educational status.

3.17 According to Fatima Ali Khan lower class and older women are the most vulnerable and those who have to live by social standards. Many women in India are uneducated and unworldly. The delegation were told that in Hyderabad women have more rights. In Islam women are supposed to have more rights and lots of women own property in their own name.

3.18 An independent report commissioned by the UN, Women in India, how free, how equal 2001 states that "Only 54% of Indian women are literate as compared to 76% men."[28](p8) As recorded in the same report the female literacy rate has increased six-fold in the past 50 years. "Despite this progress, close to 190 million Indian women lack the basic capability to read and write. Female literacy levels vary dramatically between States, only Kerala and Mizoram have even approached universal literacy. In Orissa, Rajasthan, Uttar Pradesh, Arunachal Pradesh, Jharkhand, Madhya Pradesh, Andhra Pradesh and Bihar, almost 50% of women do not know how to read and write.[28](p43)

3.19 Punjab Human rights lawyer Rajvinder Singh Bains stated that in the villages women are subject to more repression and ridicule. Women are victims from all sides in times of conflict, and are denied land. There is no feeling of security and for example you would not let your daughter go out after 8.30 pm at night in Punjab because it would be unsafe.

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Education

3.20 According to Kamal Singh at the British Council girls are performing better than boys educationally and are more competitive, however, interestingly they do not see themselves as future politicians.

3.21 As stated by field officers working with Oxfam in Andhra Pradesh (AP) most rural women are illiterate and in order to undertake vocational training in the Telegu district of AP the women have to have passed 7th grade. A representative from Jagori commented that women's illiteracy rates are still high in rural areas.

3.22 A representative from the Centre for social Justice in Gujarat stated that the Indian female literacy rate is 54.28% and that Gujarat is above the national average at 69.97% and has the highest percentage of literacy in urban areas. In the whole arena of social justice, legal awareness is linked to literacy.

3.23 Ms Lalita Iyer, senior correspondent for a national publication told the delegation that there is a very big focus on women and child welfare in Andhra Pradesh. Good work is ongoing to put girls in school and efforts are being made to enrol children in schools to prevent girl child labour. A concept was initiated by 4 industrialists of giving a meal to a child to encourage school attendance and Congress said that they will add an egg to the meal. Andhra Pradesh was seen as being one of the worst states for child labour however there has been a very proactive and concerted effort to get children out of child labour and in a few years this progress will be evident.

Dalits

3.24 As noted in the US Department of State report 2003 (USSD), "Dalits (formerly called untouchables) were viewed by many Hindus as separate from

or “below” the caste system.” According to the 2001 census, scheduled castes, including Dalits, made up 16 percent, and scheduled tribes were 8 percent of the country’s 2001 population of 1.027 billion, as noted in the same source. “Dalits are among the poorest of citizens, generally do not own land and often are illiterate.”**[40a](p26-27)**

3.25 According to the USSD 2003, “The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offences against disadvantaged persons and provides for stiff penalties for offenders. However, this act had only a modest effect in curbing abuse. Human rights NGOs alleged that caste violence was on the increase.”**[40a](p27)**

3.26 As cited in the Department of Women and Child Development Annual report 2002-2003, the NCW has been involved in trying to raise awareness of tribal women who constitute 10 per cent of the total women’s population. They held workshops, public hearings and visits to tribal girl’s hostels to create awareness of their rights. **[1a](p179)** The National Human Rights Commission (NHRC) undertake studies on the economic and social status of Dalit women.

3.27 The representative at the British Council informed the delegation that Dalit women suffer mental and physical violence although this is not something the British Council has looked at.

3.28 A senior correspondent in Hyderabad, Ms Lalita Iyer, told the delegation that in Andhra Pradesh people are not made conscious of Dalit issues every day, however, when you visit the rural villages the divide becomes very clear.

3.29 An Asmita representative stated that Dalit women suffer abuse in terms of societal violence and caste violence. For example the National Commission for Women (NCW) recently held a meeting in Andhra Pradesh concerning women being labelled as witches. Women recognise violence but in their own community situation it is difficult for them to take action.

3.30 According to Cherian Mathews from Oxfam, Delhi, they have run projects on Dalit girl’s education under the common education programme where DFID supported getting them into main stream education. The location and lack of toilet facilities and the fact that girls are not safe due to the distances from home to school was an issue but the main reason for their non-attendance was economic rather than gender discrimination. Higher Caste teachers had a tendency to treat Dalit children differently, making derogatory remarks. Oxfam are helping to train teachers to build an inclusive not exclusive classroom and have been working in four schools, with the focus being on Dalit girls’ education and the recent budget has been quite positive in terms of education. Change has taken place and the issue now is how to implement it on the ground as for example Uttar Pradesh is not that responsive. There are good national government policies but operationally education lies with the state so ultimately the state has to take responsibility for implementation.

3.31 As cited in “The End of Silence….Dignity of Life for Dalit women” an August 2001 publication given to the delegates by Ms Sheba George at SAHR WARU: Women’s Action and Resource Unit in Gujarat and subsequent

comments made to the delegates, a state level convention was held by SAHR WARU and The Women's Programme, Sanchetana on 14-15 April 2001, which 200 Dalit women from all over Gujarat attended to understand and discuss the social customs and traditions of Dalit communities affecting women. Although Dalit communities are governed by the Hindu Personal Law and other secular laws of India, the subsects within Dalit communities have their own community constitution/customary laws. Entire populations coming under the particular subsect are governed by the community constitution/customary laws of the particular subsect they belong to. These community constitutions/customary laws are framed by male members who are heads/leaders of the community and who constitute the "Nati Panch" of the particular sect of the community. Community laws are apparently one of the main reasons for violence on Dalit women. Despite being governed by the Hindu Personal Law and the Secular Laws, Dalit women continue to refer to their own subcastes customary practices in settling matrimonial disputes, in most cases when there is continuous and intolerable domestic violence. The report states that for Dalit women working in the organised and unorganised sectors, difficulties faced have increased since globalisation.**[19](p10-11)**

3.32 As cited in a SAHR WARU publication, Dr Ruth Manorama, President of National Federation of Dalit Women reported there were enough laws in the Constitution to prevent atrocities on Scheduled Castes and Scheduled Tribes and for education and employment but there was a need for awareness so that Dalit women could demand their rights. She said that in the caste hierarchy Dalits are considered to be casteless and therefore outside the caste system. The report states that social customs and traditions in Dalit communities causes injustice for Dalit women. According to the publication, despite Government schemes for education and social empowerment of Dalit women, in reality it does not reach them and they still lack primary living facilities. Allegedly every 3 hours a Dalit woman is raped.**[19](p13)**

3.33 According to the same publication, "The End of Silence…Dignity of Life for Dalit women" about 70% of Dalit women who are working in the tobacco or cotton fields may be subjected to sexual harassment. Dalit women face violence from within their own community as well as from other castes because of the rigid social laws and customs. Furthermore those that have migrated from villages to cities face increased exploitation. The Secretary of the Department of Social Justice and Empowerment spoke at the Convention saying there are many schemes run by the Social Justice and Empowerment Board, which provide houses for the self-employed as well as education and economic empowerment schemes and the public need to come forward and benefit from the schemes.**[19](p13-15)**

3.34 As stated in the same publication, "Dalit means Scheduled Caste and this Scheduled Caste has its own 22 sub castes and every sub caste has different Parganas each with its own set of rules. Dalits have their own divisions of Vankars, Mochis, Chamars and Bhangis, which are considered to be the lowest sub caste amongst Dalits." Two of the main problems identified were desertion by the husband and widow remarriage. Where husbands desert the family, the daughter suffers because of the fears others will taunt

her about her father so she is not allowed out and no one in the community would be willing to marry her. There is a lack of awareness of rights and laws and an inability to file complaints due to ignorance. Because many are uneducated they are limited to working in the unorganized sectors.**[19](p24,16.18)**

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Economic status of women and property rights

Economic Status

3.35 According to Kamal Singh, Head of Governance and Social Justice Division at the British Council in Delhi, overall women's status is still low in terms of social, economic, educational and political status, although educational status is higher. For the first time issues of man and masculinity are being discussed and the fact these issues are out in the open is a major shift. Talking about equality means breaking the family unit, which is not acceptable under a patriarchal system. The British Council have been looking at women's economic empowerment and leadership issues and have worked with a range of partners with the Empowerment Programme being seen as a springboard.

3.36 The National Human Rights Commission told the delegation that the Constitution guarantees equality so technically equal rights exist, but the problem is inadequate access, because society is backward.

3.37 The NCW will be conducting workshops on the economic empowerment of women but details have yet to be finalised. A representative at the NCW said the first requirement is to empower women and to make them economically self-sufficient before they can be empowered. Globalisation is affecting small home industries such as sewing and embroidery, which are women's industries. This is because machinery has replaced hand sewing and this affects women's employment.

3.38 According to Jagori, widows and divorced women have secondary status in society. The highest female status is afforded to a married woman with a son.

3.39 The Guild of Service is a voluntary national organisation working with marginalised women such as women from Kashmir, riot victims in Gujarat and are involved in work on issues of religious discrimination and have a particular focus on widows. As noted in a Guild of Service 2004 publication given to the delegates, entitled Ma-Dham in Vrindavan, "Economically women have also improved their status in the last few years. June 2002 – the past decade has seen a powerful movement toward economic, social and environmental integration. It must be remembered that women's economic empowerment increases conversely with the perpetuation of patriarchal practice. Ie the more patriarchal a society the less option a woman has to be economically empowered. Kerala which has a long history of gender sensitivity shows that 78% of the women work in non-agricultural services and their contribution is

accounted for. On the other hand Bihar and UP show women in primary sector – agriculture based occupation indicating low state occupation and unaccounted for economic contribution."… While globalisation potentially can enhance lives its promise has been unevenly realised…"Broad divides persist between rich and poor; between information "haves" and "have-nots"; between educated and uneducated people. Major gaps continue between the economic opportunities and status afforded to women and those offered to men in training, credit, employment opportunities, workplace roles and wages."… However it is acknowledged that women's economic integration is a powerful impetus for progress in terms of economic, social and environmental progress…."Improving women's economic status saves lives by promoting health, encouraging economic progress, and enhancing the social status of women."**[18]**

3.40 According to a booklet entitled Human Rights and Gender Issues, produced by the Institute of Social Sciences, based in New Delhi the Government has taken up many issues of women's empowerment in the National Policy for the Empowerment of Women which they announced in 2001. Some of the objectives and "policy prescriptions" of this National Policy for the Empowerment of Women are geared towards better implementation of human rights for women and children. The booklet comments that this elaborate agenda which provides an enabling framework for realising women's human rights, has to be judged by the efficacy with which the objectives are put into practice.**[3](p26)**

3.41 Ms Visa Ravindran, a freelance journalist in southern India told the delegation that there is a rural/urban difference and this is also related to education levels.

3.42 Ms Fatima Ali Khan, interviewed in Hyderabad, from the Department of Women's Studies at Osmania University, also affiliated to Saathi, a small organisation of academics, stated that in India the picture is so complex and varies a great deal where many factors influence the treatment of women, including class, caste, religion and education. Where you think women are empowered they are not and where you think they are weak, they are strong. Some of the most educated could be in the worse position and sometimes will not speak out until their dying declaration. Working class women are very independent because they do not have much to lose and are able to cope on their own with no social stigma.

3.43 According to the same source the more vulnerable ones are those that have to live by some social standard. Lower class and older women are the most vulnerable. However in Hyderabad, both lower and upper class women have many more rights. The greater the plurality of culture the better the environment. For example Islamic women are supposed to have more rights. Muslim marriage is like a contract, whereby parents provide a certain amount of money in case of divorce, for example in Bombay a small amount of 11,000 rps.

3.44 Dr Rainuka Dagar at the Institute for Development and Communication stated that abuse can be categorised according to social placement. For example, in lower income-groups female resource deprivation may be termed as cultural neglect, leading to paucity of nutrition, health and maternal care.

3.45 Dr Kumar stated that in States experiencing more development like Punjab and Haryana, crime against women have registered a higher growth rate. Moreover, certain forms of crimes have become more stark. For example, the share of dowry related crimes has increased manifold in contrast to an increase in rape. The more educated a woman is, the more dowry she has to be provided with. Therefore, a universal explanation of the treatment of women is no explanation at all.

3.46 Dr Kumar, Director at the Institute for Development and Communication in Chandigarh was asked if the position of women in Punjab was better or worse than the rest of India. His response was that it is a relative to both state prosperity and access to resources vis-à-vis men. On certain indicators women were worse off than in other states. For example in the context of Punjab, there is a food surplus in the state, but a high number of women are anaemic, participation in the workforce by women is low in Punjab as compared to other developed states, domestic violence in Punjab is quite high and the sex ratio is among the lowest in Punjab. However, gender sensitisation is gaining acceptance even among law enforcement agencies. Initially the police were sceptical of gender issues, now at least the top police functionaries are responding to it.

3.47 Dr Dagar's view was that the universal principle that a scarce resource has a scarcity value, functioned in the reverse in context to women. For instance, the sex ratio is adverse in most of the developed states and crime against them continues to be high.

3.48 According to Human Rights activists in Punjab, because India is still very patriarchal, particularly northern India, the question of equality for women is not possible. They have no economic independence because the man has all the control. Often the poor take to alcohol or drugs and again the woman suffers. It was also stated that in Punjab parents will not marry their daughter to anyone who is not economically viable and the anecdote was given that a man may take out a loan to buy a wife, then if unable to repay the loan they sell the woman again. In Punjab women suffer the most and during the militancy women lost about 7,000-8,000 men. Dependants of militants have no where to go and it was claimed that the Government did not compensate them. A human rights lawyer in Punjab, Mr Rajvinder Singh Bains stated that in situations of conflict women are the victims from all sides. In terms of any improvements seen for women in India, the same source indicated that there have been pockets of improvement in the whole country but not in Punjab and this may be due to the fact that it is a male dominated State.

3.49 Dr Dagar from the Institute of Development and Communication in Punjab was of the view that during militancy in Punjab women were presented as a symbol of identity politics, hence, suffered abuse from both protagonists

and opponents of the religious extremist movement. They were forced to submit to the codes of conduct unleashed by the militants and targeted by the enforcement agencies.

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Property rights

3.50 According to Kamal Singh, Head of the Governance and Social Justice Division at the British Council, since the Hindu Succession Act 1956 the right has remained in theory but women still have no access to property. She said there is a constitutional guarantee of equal rights for women and numerous protections in the criminal and civil law but women are still viewed as property.

3.51 According to a representative at the Department of Women and Child Development in Delhi, inheritance of property and the system of dowry pose the main problems. It is a very old system which they are trying to change in order to give women equal rights. Much is determined culturally as well as by legislation, therefore something in addition to legislation is needed because women have yet to be afforded equal property rights. Regarding economic empowerment, within the last decade women's self help groups have taken off on a large scale where women and adolescents are becoming the focus and they are also working on improving women's education and health status, including reproductive health.

3.52 With regard to the inheritance of property, as noted by a representative from the National Human Rights Commission (NHRC), women do not have equal rights and under the system of dowry the wife is not entitled to a division of property. Dr Ila Pathak from AWAG in Ahmedebad informed the delegation that no woman has property rights, not even urban women.

3.53 Dr Basu at AIWC informed the delegation that awareness of the laws is needed in the villages and with particular regard to property rights because women do not demand a share of the property because they would not want to be ostracised by the family.

3.54 The Oxfam representative from Delhi said that women have no equal share in property and that this has impacted on the decline of the sex ratio for girls in progressive states because essentially it is interlinked with women's property rights, although this has been amended in the south. Women can inherit but do not inherit a fair share.

3.55 Dr Rainuka Dagar from the Institute for Development and Communication in Chandigarh stated, a share of natal resources is more of "a gift" rather than a right. No doubt, among upper income, educated and professional families daughters do receive a portion of property but this would not be an equal share or include landed property.

3.56 The Commissioner at the Department for Women and Child Development in Andhra Pradesh reported that the Hindu Succession Act is a

state-wide act. Girls did not have a right to parental property but now a daughter has equal rights in the property of her parents.

3.57 According to Fatima Ali Khan, a University lecturer from the Department of Women's Studies at Osmania University, Muslim women can own and inherit property and this amounts to real ownership and even in the slums this is happening. In the upper classes women who own property get rent and do not account for the money to their husbands. So it differs between cultures and occupations. In business communities such as Bombay and Gujarat they look at things in a different way. However in other communities when they talk of the whole family owning property that means the father and the brothers. In the public realm women have all the rights but not in private.

3.58 As noted by a representative from the Department of Women and Child Development in Delhi, the government's national policy of empowerment of women goes across all sectors. In the main the policy is statements of intent, trying to change basic patriarchy, social and cultural issues.

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Widows

3.59 One of the Punjabi lawyers informed the delegation that widows may become destitute because the prospect of remarriage is still very rare in Punjab and is not encouraged. Brothers will not give the husband's land over to the widow even though she has a legal right to it. The law accepts her but society does not. He commented that deception is practised on women with brothers giving sisters gifts as a sweetener and that it is not unusual for half of the dowry items to come from the brothers' houses. However, if she were to try to claim her share in land then that would be enough to brand her an outcast. Sisters are expected to look after their parents. Culture is very strong in villages and this is how society operates.

3.60 Dr Basu at AIWC told the delegation that widows are thrown out of the house with nowhere to go. Women in villages do not demand their property rights because they do not want to be cast out of the family.

3.61 Mr Hanif Lakdawala from Sanchetena stated that property plays a big role in Hindu laws where women do not receive much property. For example ostensibly widows may be treated well but their social life would be cut off with people no longer inviting them out socially etc. Over the last 35 years there has been a decline in the support given to widows by sons, forcing them to live in poverty and a Muslim widow would be treated no differently to a Hindu widow in this respect.

3.62 Dr Mohini Giri informed the delegation that the status of widows is affected by man and his mindset. Women have changed but men have not changed their mindsets with women still being regarded as commodities. According to the Guild of Service publication entitled Ma-Dham in Vrindavan, … "Customary tradition gives her no right to her natal home. With the death of

her husband, her right in the marital home is questioned."… A widow is afforded low status in society resulting in economic deprivation. A widow's economic status is marginalised and the patralineal form of inheritance is a major contributory factor. The Hindu Succession Act, 1956 brought about some changes. If a man died intestate his share would be divided amongst his heirs who would be his sons, daughters, widow, mother, children of a predeceased son or daughter, widowed daughter-in-law, and children of a predeceased son's, pre-deceased son. **[18]**

3.63 According to the same source, under the Hindu Succession Act women became absolute owners of the inherited property and she was free to do what she wanted with the property which on her death would be subdivided amongst her heirs. This is the legal position but in practice there may be a totally different outcome with many obstacles preventing a woman gaining full control of the inherited property. Women who do inherit are often cheated out of their share. A widow whose husband had not separated from the joint estate is given only usage rights over the land and her share is not registered so she may be deprived of her usage rights. Although the inheritance rights of a widow are recognised in law, in practice many still do not inherit and those that do have their rights severely restricted. Daughters have even less claim and are more likely to inherit if they have no brothers but often these families will adopt a male heir so she is unable to inherit completely. This discrimination is down to the patriarchal attitudes towards daughters.**[18]**

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Gender discrimination

3.64 The National Commission for Women has identified almost 40 discriminatory laws and sent recommendations to the Government but the representative commented that amending laws is quite a process. Implementation is one of the main barriers to enforcement because not many women are aware of their rights and this is due to the patriarchal society.

3.65 The National Human Rights Commission noted that many laws exist to protect women but one of the reasons that they are not implemented is cultural and the lack of implementation is an issue. The NHRC representative stated that the National Commission for Women reviews every legal provision to see whether it is discriminatory and together with the NHRC they have identified 39 discriminatory laws already on the statute book.

3.66 The Oxfam representative explained that Oxfam supports various gender equality programs and has a primary focus on 10 states identified as poverty pockets. There is a constitutional guarantee of equal rights to women and there are also many protections in the criminal and civil law, however women are still viewed as property. The women's movement has tried to ensure accountability and to mobilise women and the Supreme Court has taken a leading role in sex harassment and trafficking cases. Gender discrimination is the fundamental reason why girls do not attend school. The Delhi representative from Oxfam described a social structure where women are not

valued. In northern India the patriarchal attitudes are deeply ingrained with very limited opportunities or facilities for women.

3.67 Dr Hanif Lakdawala said that in Gujarat, gender discrimination is prevalent in health care systems where doctors and the health system are insensitive to women. He commented that doctors are disrespectful to women not affording them any privacy and there is an overriding presumption that they are poor. Women who can, prefer to attend private hospitals.

3.68 A field officer working with Oxfam in Andhra Pradesh stated that women are not seen as equal citizens and that work was needed to change mindsets.

3.69 According to Kamal Singh at the British Council, gender issues, violence against women and masculinity issues are now being addressed more by lawyers as well as others and women's rights are discussed more openly. The police along with the British Council and the Bureau of Police Research and Development were involved in a programme of group exercises looking at gender trainers, sexual harassment in the work place and what exactly is meant by equal opportunities for women in police, as the police is a male dominated profession. State issues and policies were looked at as well as training and recruitment. They organised the First National Conference for Women in Police, which was a participatory conference whereby they all worked together on what they would like to do. There is still concern that gender bias is a mindset and this is why it is not making a difference. The whole issue of promoting human rights and getting women into leadership, and getting critical members involved, should bring about change.

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Declining sex ratios and female infanticide and foeticide

3.70 According to the July 2002 estimates as cited in the CIA World Factbook 2002, In India, out of a population of 1,045 million, 506 million are female.**[22](p3)**

3.71 As cited in chapter 6, Sex Composition of the population of the 2001 Census, "Sex composition of the human population is one of the basic characteristics, which is extremely vital for any meaningful demographic analysis. Indian Census has the tradition of bringing out disaggregated information by sex on various aspects of population. The first and foremost is the simple count of males and females. Changes in sex composition largely reflects the underlying socio-economic and cultural patterns of a society in different ways. Sex ratio defined here as the number of females per 1000 males in the population, is an important social indicator to measure the extent of prevailing equity between males and females in a society at a given point of time. It is mainly the outcome of the interplay of sex differentials in mortality, sex selective migration, sex ratio at birth and at times the sex differential in population enumeration."**[31b]**

3.72 The same source notes that an ordinary person would consider that the balance should be even between males and females in the population,

however the sexes show imbalance in different populations across the world. "It has been estimated that around the year 2000, the world had 986 females against 1000 males."… With the exception of Japan and Indonesia, other Asian countries show low sex ratios with males being predominant over females and this appears to be attributed in the main to the sheer weight of population. **[31b]**

3.73 "According to the Census of India 2001, the sex ratio stands at 933 for the country as a whole. This is a welcome improvement from the 1991 Census, which had recorded 927 females for every 1000 males….The sex ratio in the country had always remained unfavourable to females. Moreover, barring some hiccups, it has shown a long term declining trend. The sex ratio at the beginning of the twentieth century was 972 and thereafter showed continuous decline until 1941. In 1951 there was a marginal increase of one point, but thereafter it again dropped for two consecutive decades to reach 930 in 1971. In fact, between 1961-71, the country saw the sharpest decline of 11 points in the sex ratio. Thereafter it has fluctuated marginally around 930 in successive censuses." **[31b]**

3.74 As stated in the same source, some of the reasons put forward for this imbalance in the sex ratio in India are; neglect of the girl child resulting in a higher mortality rate at younger ages, high maternal mortality, sex selective female abortions, female infanticide and change in sex ratio at birth. It is considered that generally 943-952 female births take place for every 1000 male births, resulting in a disparity of approximately 50 females for every 1000 males in every birth cohort, which many believe is an unalterable constant. **[31b]**

3.75 The same source notes that "The overall sex ratio of India is dependent on the sex ratios obtained in different States and Union territories and their relative weights in terms of size of population."…"The diversity in sex ratio among the States and Union territories is phenomenal. …The changes in sex ratio over time, therefore, are dependent on the changes in the ratios of the individual States and Union territories and their relative share in population." **[31b]**

3.76 The Census of India cites that, "It is clear that the sex ratio in the age group 0-6 has decreased at a much faster pace than the overall sex ratio of the country after 1981. The decreasing sex ratio in this child population perhaps has a cascading effect on population over a period of time leading to diminishing sex ratio in the country. One thing is clear the imbalance that has set in at this early age group is difficult to be removed and would remain to haunt the population for a long time to come. To say the least, demographically the sex ratio of 927 of the population in the age group 0-6 does not appear to augur well for the future of the country." **[31b]**

3.77 The overall impression given by some of the representatives from the various organisations was that the sex ratio for females was declining (more so in some states) and this was attributed to the issues of dowry and a cultural preference for boys linked to a deeply patriarchal society and economic

factors. It was also suggested that in more progressive states the decline is more pronounced due to greater access to technology.

3.78 The 2001 Census showed a large gap in the sex ratio with fewer girls so the Department of Women and Child Development is trying to address this by raising the status of the girl child. (For government policy on addressing sex ratio refer to Section 7).

3.79 According to data from the 2001 Census the sex ratio for women of all ages was 876 in Punjab; 861 in Haryana; 821 in Delhi; 921 in Rajasthan; 898 in Uttar Pradesh; 919 in Bihar; 920 in Gujarat; 919 in Madhya Pradesh; 922 in Maharashtra and1058 in Kerala. (see table below for more details of State sex ratios in the 0-6 age group) **[31]**

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3.80 Census of India 2001

Basic Population Data
(India, States & Union territories)
T 00-004: Population in the age group 0-6 years by sex and sex ratio (0-6)

State Code	India/State/Ut	Persons (0-6)	Males (0-6)	Females (0-6)	Sex Ratio
	India@	163,819,614	84,999,203	78,820,411	927 (women to men)
01	Jammu & Kashmir	1,485,803	765,394	720,409	941
02	Himachal Pradesh	793,137	418,426	374,711	896
03	Punjab	3,171,829	1,763,801	1,408,028	798
04	Chandigarh	115,613	62,664	52,949	845
05	Uttaranchal	1,360,032	712,949	647,083	908
06	Haryana	3,335,537	1,833,655	1,501,882	819
07	Delhi	2,016,849	1,079,618	937,231	868
08	Rajasthan	10,651,002	5,579,616	5,071,386	909
09	Uttar Pradesh	31,624,628	16,509,033	15,115,595	916
10	Bihar	16,806,063	8,652,705	8,153,358	942
11	Sikkim	78,195	39,842	38,353	963
12	Arunachal Pradesh	205,871	104,833	101,038	964
13	Nagaland	289,678	147,524	142,154	964
14	Manipur@	308,585	157,682	150,903	957
15	Mizoram	143,734	73,176	70,558	964
16	Tripura	436,446	222,002	214,444	966
17	Meghalaya	467,979	237,215	230,764	973
18	Assam	4,498,075	2,289,116	2,208,959	965
19	West Bengal	11,414,222	5,824,180	5,590,042	960
20	Jharkhand	4,956,827	2,522,036	2,434,791	965
21	Orissa	5,358,810	2,744,552	2,614,258	953
22	Chhattisgarh	3,554,916	1,800,413	1,754,503	975
23	Madhya Pradesh	10,782,214	5,579,847	5,202,367	932
24	Gujarat	7,532,404	4,000,148	3,532,256	883
25	Daman & Diu	20,578	10,685	9,893	926
26	Dadra & Nagar Haveli	40,199	20,308	19,891	979
27	Maharashtra	13,671,126	7,146,432	6,524,694	913
28	Andhra Pradesh	10,171,857	5,187,321	4,984,536	961
29	Karnataka	7,182,100	3,690,958	3,491,142	946
30	Goa	145,968	75,338	70,630	938
31	Lakshadweep	9,091	4,641	4,450	959
32	Kerala	3,793,146	1,935,027	1,858,119	960
33	Tamil Nadu	7,235,160	3,725,616	3,509,544	942
34	Pondicherry	117,159	59,565	57,594	967
35	Andaman & Nicobar Islands	44,781	22,885	21,896	957

Source: Primary Census Abstract : Census of India 2001**[31]**

Note: @' – Excludes Mao-Maram, Paomata and Purul sub-divisions of Senapati district of Manipur The population of Manipur including the estimated population of the three sub-divisions of Senapati district is 2,291,125 (males 1,161,173 and females 1,129,952) **[31]**

3.81 These figures show a variation from a lows of 798 in Punjab and 819 in Haryana to higher figures of 979 in Dadra & Nagar Haveli and 975 in Chhattisgarh.**[31]**

3.82 A representative from Asmita stated that female foeticide crosses classes and castes and is rampant in Andhra Pradesh with the medical profession viewing it as a choice rather than a crime. She commented that where you have the right to abortion it is difficult to prove if the foetus is being aborted on gender grounds. However scanning centres can be charged and punished where one or two cases are proved.

3.83 During a telephone conference with journalist Ms Visa Ravindran, whilst in Hyderabad, the delegation were informed that poverty is not the only cause for killing a female child or female foetus in Andhra Pradesh. Haryana next to Punjab has a bad sex ratio yet is one of the most prosperous areas and in Tamil Nadu the sex ratio has gone up slightly. The sex ratio in Andhra Pradesh went up slightly in 2001 then went down, giving a mixed signal. The number of adult women has gone up but the sex ratio between 0-6 years has gone down and there is a greater momentum on the part of NGOs to go to places where foeticide has been practised with many NGO's now involved in this issue. Furthermore there is a joint effort from Government level. In Kerala family planning is working because of high literacy levels yet it is one of the most backward states for women with the highest suicide rate in the country. This was attributed to a number of factors such as lack of industries resulting in high unemployment.

3.84 According to the National Human Rights Commission report 2001-2002 the Commission took suo moto cognisance of a news item published in the Hindu on 22 January 2000 regarding the suffering of women of the Lambada tribe of Telangana region in Andhra Pradesh, where it was reported that on some occasions the women had been compelled to sell or kill their infant girls after birth. Their actions were mainly down to poverty and illiteracy. The commission obtained a detailed report from the AP Government confirming that there had been occasions where girl children were given away for adoption or sold and often the recipients' details were not known. The Commission considered the issue in a meeting on 26 April 2001 and further directions were given to the state Government who responded with a detailed report on how they would address the problem and in light of that report the Commission closed proceedings. **[14](p73-74)**

3.85 A human rights activist in Punjab stated that female infanticide is a problem in Punjab where women are viewed as an economic liability in the household. Consequently infanticide is now re-appearing in Punjab despite having been in decline over the last 15 years. Decline in the sex ratio in

Punjab is attributed to both societal and economic reasons. This view was echoed by Rajvinder Singh Bains, a human rights lawyer who said that in Punjab the sex ratio difference is so blatant (standing at 870 to 1000). Women are seen as an additional responsibility and in Punjab there is now a low ratio of women to men with Punjab having one of the lowest ratios in the country.

3.86 Dr Kumar from the Institute for Development and Communication in Chandigarh informed the delegation that in economically developed states with a historically adverse sex ratio, female foeticide is increasing due to access to technology becoming easier. However, technology is not the determining cause, it is rather deep-rooted cultural practices of male child preference which is at the core of the problem. There is a demand for such tests as there is little guilt involved in comparison to the more brutal practice of infanticide. Although female foeticide is unlawful, it is viewed as socially desirable. There is public support but legal reprimand. Termination of pregnancy is lawful but a fine can be imposed for misuse, such as sex-determination, which is unlawful. Until a person believes the act to be illegitimate there will be no social change. For example, 20 years ago, if you went on a local bus with a family of 7 children no one would stare, but these days if you had 7 children everyone would stare and there would be social guilt attached. Things will not change until the act is perceived as illegitimate and social conscience is more likely to be more effective than the illegality aspect. It was reported that Punjab has both a lowest sex ratio and child sex ratio.

3.87 The Institute is currently working on this issue and they are trying to change the fact that there are no preventative mechanisms in place. Dr Dagar explained that socio cultural placement also affected the practice of this abuse, for example, in the lower groups girls may be dying from cultural neglect rather than from the adoption of female foeticide. For example, in lower income groups the resource of food and health care may be more scarce resulting in deaths from prolonged malnutrition or diarrhoea. Among upper income groups, dowry exchange enhances the spectre of female liability and is a factor in the occurrence of female foeticide.

3.88 According to Dr Hanif Lakdawara in Gujarat, the sex ratio is currently declining a lot and has gone down by 10 in the 0-6 age group with fewer girls than boys. This decline has happened over a period of time and stands at 830 to1,000 which is very depressing. (See paragrah 3.80 for 2001 Census)

3.89 The Oxfam representative in Delhi stated that the sex ratio is declining in states which are prospering economically for example Punjab. A study of sex ratios in Delhi shows that it is the prosperous areas where the sex ratio is bad. This essentially is to do with women's property rights and their lack of an equal share, although this has been amended in the South. Furthermore it is also connected to religious custom and belief, as it is the son who performs the last rites for the parents. It is also down to a social structure where women are not valued.

3.90 As noted in a recent India Today article "Numbers Game" dated 20 September 2004 the chart below, (based on figures from the 2001 Census) shows the sex ratio (of all ages) amongst various religious groups in India: **[30](p7-8)**

	HINDUS	MUSLIMS	SIKHS	CHRISTIANS	BUDDHISTS	JAINS	OTHERS
Total population (in million)	827	138	19	24	7.9	4.2	6.6
% of total population	80.5	13.4	1.9	2.3	0.8	0.4	0.6
% population in urban areas	26	35	26.5	34	38	76	9.5
Sex ratio (0-6 years)	925	950	786	964	942	870	976

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Awareness of rights, literacy and access to information

3.91 According to Dr Aparna Basu at the All India Women's Conference (AIWC), in the last 5-10 years there has been a much greater awareness of women's issues with everyone talking about gender, gender issues and gender sensitisation. Electronic media brings issues to illiterate people as well, she gave an example where girls go to crisis centres having run away from home because they want to study instead of getting married. In one village where this happened there is now a movement of girls wanting to study. This was a view supported by Kamal Singh of the British Council, who stated that women's rights are discussed more openly.

3.92 According to a representative from the National Commission for Women (NCW), not many women are aware of their rights because of the patriarchal society. Women are not aware of the services available to them so the NCW run campaigns and legal awareness camps to raise awareness. An NCW panel visits rural areas to bring awareness of women's rights and to spread the message that a husband has no right to beat his wife. They also hold district empowerment camps on health issues such as the right to attend a Government hospital and entitlement to family planning and free examinations. They intend to conduct workshops on the economic empowerment of women, which are yet to be finalised. The first requirement is to empower women and make them economically self-sufficient.

3.93 A representative from the National Human Rights Commission (NHRC) informed the delegation that technically the Constitution guarantees equal rights to women and men but because society is still backward in certain states this is not always the case. Literacy is spreading slowly and through NGOs, civil society groups and the media, awareness is spreading. Womens'

involvement in Panchayat elections has empowered a lot of women, for example they have played a big part in Bihar.

3.94 The Centre for Social Justice in Gujarat stated that they are involved in spreading and creating legal awareness among the vulnerable to ensure the legal and human rights of the vulnerable by providing free legal services. They have created a grass root orientated network of law centres to instil a human rights perspective in the judiciary and stakeholders and to improve legal education. They run socio legal organisations in 29 Talukas in 8 districts of Gujarat and support several other organisations working for social change. There are 25 lawyers and 35 paralegals working on these issues. (They also link grassroots experiences with the police, and are involved in advocacy for law reforms.) They have also initiated a Working Group on Women's Rights and collaborate with various networks working for women.

3.95 Dr Kumar at the Institute for Development and Communication noted that in states experiencing more development women's rights are violated at a much faster rate eg in Punjab and Haryana amongst others. In Maharashtra and south Kerala for example, the more educated the woman is then the more dowry is expected, therefore the more education results in more violation. Women's access to education and health has increased. Women's education has changed for the better with better access. Women are getting educated resulting in greater mobility in terms of seeking employment in call centres and it has always been easy to get a job in Bombay.

3.96 Ms Lalita Iyer, a Senior correspondent for a national publication, The Week, told members of the fact finding mission that women lack awareness of their rights and this is a phenomenon. In one of two locations awareness has increased amongst upper castes but never amongst the Dalits.

3.97 Asmita, an NGO based in Hyderabad, produced a number of dance ballets on domestic violence. According to a representative from Asmita the ballet is so powerful and cannot be dismissed, carrying a message to unite against domestic violence and patriarchy. In addition campaigns and summer village fairs were held attracting between 1,000 to 2,000 women where health, reproductive health and violence were discussed. The women who come recognise violence, however in their own situation it is difficult to take action unless the community is strong enough to offer support. There is greater awareness and public consciousness for example when a girl was raped by her father – the community took her away and said she was mentally deranged but now neighbours help and there are more panels and discussions.

3.98 When asked if Asmita were optimistic for the future, the response was that their experience over the last 10 years has shown that with the assertion of rights, violence increases the more you fight it. However there has been awareness and a change in the public consciousness and women are no longer accepting it. Previously where neighbours would not get involved today they will bring women to Asmita. Also there are now lots of TV panel discussions raising awareness.

3.99 AWAG an NGO in Ahmedeabad, run awareness raising workshops for women, a help line and provide counselling and legal assistance. AWAG is registered as a society and as a public trust and receives funding from the Government, also international and individual funding. They are Gujarat based and take up issues of advocacy at national level and are involved in gender sensitisation training. Dr Ila Pathak is secretary of the trust committee.

3.100 As reported by the Institute of Social Sciences in a publication entitled Human Rights and Gender Issues, there is a need for greater awareness of women of the availability of legal provisions and support systems open to them. NGO's involved in women's issues have played a significant part in this…"Their struggles for securing justice for women and for restoration of their rights may not always be in the limelight but there is no doubt that by mobilising women, by espousing women's quest for justice and by imparting knowledge and skills, they are making a valuable contribution to protecting women's human rights."**[3](p28)** This publication was given to the delegates during the course of their fact finding mission.

3.101 As cited in the Guild of Service publication, Ma-Dham In Vrindavan, despite many laws having been passed in India since independence, most widows in India have very limited legal knowledge of their rights and lack the financial capacity to assert their rights.**[18]**

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4. Violence against women

Crimes Against women

4.1 According to the US State Department Report 2003, "The press consistently reported that violence against women was increasing, although local women's organisations claimed that there simply had been increased reporting."**[40a](p22)**

4.2 Crimes which specifically target women include trafficking, rape, kidnapping and abduction, dowry death, domestic violence, sexual harassment and molestation, as noted in an Institute of Social Sciences publication entitled "Human Rights and Gender Issues".**[3](p15)**

4.3 The Institute of Social Sciences report states that violence against women stalks women from cradle to grave and begins with violence towards the unborn female foetus through the misuse of medical technology. The Government has published new studies based on crime statistics and these show a rising trend in crimes such as rape, assault, abduction and sexual harassment of women. Violence also becomes part of marriage and family life. Increasing numbers of women are turning to NGOs and the law for help. Sometimes the end result of this violence may be murder or suicide. Violence

is seen as a way of exercising domination and control over women's lives.[3](p17-19)

4.4 A representative from Jagori commented that in the last 15 years there has been a piece-meal approach to issues of violence. The representative said it was difficult to say if the police had improved or got worse since gender sensitisation training, but by making a difference in one police station in one village it helps to spread the word and changes significantly. It has changed in pockets and there has been a certain amount of development in the infrastructure, an example being the Crime Against Women Cells and the Mahila Thanas (women's police stations) in smaller places. When asked who the key players were the response was the NHRC, NCW and other Human rights organisations along with the women's movement, have all been key players.

4.5 As stated in the Institute of Social Sciences publication, Human Rights and Gender Issues, the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, Government of India (GOI), publish crime statistics annually in a data series, Crime in India.[3](p15) This annual report indicates trends in crimes against women in different parts of India. The NCRB tries to report on the six major crimes against women, it is however suggested that the actual number of offences may be higher due to a bias towards under reporting of crimes against women. Furthermore there is no systematic recording of gang rape, organised trafficking in women or the sale of girl children.[3](p15)

4.6 According to records from the National Crime Records Bureau for 2002, "A total of 1,47,678 crimes against women were reported in the country during 2002 compared to 1,43,795 during 2001 recording 2.7% increase during 2002. These crimes have reported continual increase since 1998 when 1,31,475 crimes were reported in the country signifying 12.3 per cent increase in 2002 over 1998. Andhra Pradesh, accounting for nearly 7.3 per cent of the country's population, contributed 12.8% towards total incidents of crimes against women in the country by reporting 18,880 cases. Uttar Pradesh with nearly 16% share of the country's population followed with contribution of 10.6% by reporting 15,647 cases during the year."[51](chapter 5)

4.7 According to the same source "The rate of crime increased marginally from 14.0 in 2001 to 14.1 during the year 2002. Chhattisgarh, Madhya Pradesh and Andhra Pradesh were the top three states in the order of crime rate with crime rates at 38.4, 24.6 and 24.5 respectively."[51](chapter 5)

4.8 Incidence of crimes committed against women during 2003 (see following table below, source [12c])

SL NO.	STATE/UT	RAPE	KIDNAPPING & ABDUCTION	DOWRY DEATHS	CRUELTY BY HUSBAND & HIS RELATIVES	MOLESTATION	EVE-TEASING	IMPORTING OF GIRLS (UP TO 21 YEARS)	SATI PREVENTION ACT	I.T.P ACT	INDECENT REPERESENTATI-ON OF WOMEN (PROHIBITION) ACT	DOWRY PROHIBITION ACT	TOTAL
1	ANDHRA PRADESH	910	978	571	7119	3999	2597	14	0	279	1884	243	18594
2	ARUNACHAL PRADESH	31	37	1	8	58	0	0	0	0	0	0	135
3	ASSAM	1049	1028	46	1074	326	19	0	0	14	33	28	3617
4	BIHAR	787	581	745	1186	370	11	0	0	3	1	823	4507
5	GOA	886	181	85	527	1474	605	2	0	5	546	10	4321
6	CHHATISGARH	26	12	1	22	20	5	0	0	25	0	0	111
7	GUJARAT	208	723	86	3159	686	149	14	0	66	48	6	5145
8	HARYANA	320	305	213	1452	337	1270	4	0	50	1	70	4022
9	HIMACHAL PRADESH	117	101	9	210	247	13	0	0	5	1	4	707
10	JAMMU & KASHMIR	211	622	4	65	875	376	0	0	2	0	4	2159
11	JHARKHAND	626	231	230	416	285	3	0	0	3	72	231	2097
12	KARNATAKA	321	258	230	1704	1585	84	0	0	1361	0	341	5884
13	KERALA	366	121	26	2866	2007	80	0	0	156	19	3	5644
14	MADHYA PRADESH	2651	658	615	2561	6794	3073	11	0	17	350	28	16758
15	MAHARASHTRA	1168	727	410	4860	2622	1593	1	0	177	14	19	11591
16	MANIPUR	18	70	0	4	44	0	0	0	0	0	0	136
17	MEGHALAYA	34	8	0	5	17	3	1	0	1	0	0	69
18	MIZORAM	49	4	0	2	85	0	0	0	0	0	0	140
19	NAGALAND	10	0	0	0	1	0	0	0	0	0	0	11
20	ORISSA	694	412	276	812	1541	152	0	0	4	0	352	4243
21	PUNJAB	351	385	120	923	322	189	9	0	41	2	4	2346
22	RAJASTHAN	1050	1750	462	5733	2715	33	0	0	52	86	3	11884
23	SIKKIM	10	0	3	25	25	0	0	0	0	0	0	38
24	TAMIL NADU	461	665	181	1315	1921	727	14	0	2544	73	274	8175
25	TRIPURA	114	51	17	244	127	0	0	0	0	4	0	557
26	UTTAR PRADESH	845	1403	1413	2534	1387	4388	0	0	17	68	57	12112
27	UTTANCHAL	71	102	63	289	93	103	0	0	1	0	0	722
28	WEST BENGAL	999	737	343	544	1186	71	1	0	152	1	17	4051
	TOTAL (STATES)	**14383**	**12150**	**6147**	**39637**	**31149**	**15544**	**71**	**0**	**4975**	**3203**	**2517**	**129776**
29	A & N ISLANDS	2	2	4	6	10	2	0	0	0	0	0	26
30	CHANDIGARH	17	28	3	93	10	50	0	0	4	11	0	216
31	D & N HAVELI	1	0	0	0	1	0	0	0	0	0	0	2
32	DAMAN & DIU	4	1	1	0	3	0	0	0	0	0	0	9
33	DELHI	399	865	130	547	486	100	0	0	38	0	9	2574
34	LAKSHADWEEP	2	0	0	1	1	0	0	0	0	0	0	4
35	PONDICHERRY	1	11	0	3	56	24	0	0	12	0	6	113
	TOTAL (UTS)	**426**	**907**	**138**	**650**	**567**	**176**	**0**	**0**	**54**	**11**	**15**	**2944**
	TOTAL (ALL INDIA)	**14809**	**13057**	**6285**	**40287**	**31716**	**15720**	**71**	**0**	**5029**	**3214**	**2532**	**132720**

SOURCE: MONTHLY CRIME STATISTICS (In Response to a Parliamentary Question No : 830 for 21-7-2004) [12c] NOTE: FIGURES ARE PROVISIONAL

4.9 Chart showing statistics of the number of various crimes against women reported during the last three years and up to 15 June 2004 NCT (National Capital Territory) of Delhi: (as cited in a Home Ministry response to an unstarred question dated 19 July 2004) *

Sl.No.	**Crime Head**	**YEARS**			
		2001	**2002**	**2003**	**2004(Up to 15/06/2004)**
1.	Dowry Death	117	135	130	60
2.	Rape	400	403	490	248
3.	Molestation of Women	502	446	489	270
4.	406 IPC Relating To Dowry	10	4	7	4
5.	498-A IPC Cruelty By Husband or In-Laws	1208	1252	1211	530
6.	Dowry Prohibition Act	7	7	14	7
7.	Kidnapping/ Abduction of Women	1061	893	797	402
8.	Eve-Teasing	593	976	1599	1051

[12d]

*(The total (provisional) population of the territory of Delhi as at 2001 Census was 13,782,976 as noted in Europa World Year Book, 2004 **[39](p2075)**

4.10 Incidents & Rate of Crime Committed Against Women In States, UT's and Cities During 2002

SLNo.	State/UT	Incidence	Percentage Contribution to All-India Total	Estimated Mid-Year Population (In Lakhs)	Rate of Total Conizable Crimes	Rank*	Rank**
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
STATES:							
1	ANDHRA PRADESH	18880	12.8	769.2	24.5	3	1
2	ARUNACHAL PRADESH	159	0.1	11.2	14.3	14	25
3	ASSAM	5092	3.4	272.5	18.7	8	13
4	BIHAR	5743	3.9	851.7	6.7	28	11
5	CHHATTISGARH	8182	5.5	213.0	38.4	1	7
6	GOA	76	0.1	13.9	5.5	30	28
7	GUJARAT	5373	3.6	517.9	10.4	20	12
8	HARYANA	4385	3.0	216.4	20.3	6	15
9	HIMACHAL PRADESH	838	0.6	61.8	13.6	16	21
10	JAMMU & KASHMIR	2016	1.4	104.4	19.3	7	19
11	JHARKHAND	2490	1.7	275.4	9.0	24	16
12	KARNATAKA	6170	4.2	536.8	11.5	18	9
13	KERALA	5829	3.9	322.7	18.1	9	10
14	MADHYA PRADESH	15260	10.3	620.7	24.6	2	3
15	MAHARASHTRA	11322	7.7	988.3	11.5	19	5
16	MANIPUR	170	0.1	24.4	7.0	27	24
17	MEGHALAYA	71	0.0	23.6	3.0	34	29
18	MIZORAM	154	0.1	9.1	16.9	10	26
19	NAGALAND	26	0.0	20.5	1.3	35	32
20	ORISSA	4779	3.2	373.4	12.8	17	14
21	PUNJAB	2295	1.6	247.7	9.3	22	17
22	RAJASTHAN	12049	8.2	581.30	20.7	4	4
23	SIKKIM	28	0.0	5.5	5.1	31	30
24	TAMIL NADU	9798	6.6	629.4	15.6	12	6
25	TRIPURA	536	0.4	32.5	16.5	11	22
26	UTTAR PRADESH	15647	10.6	1708.1	9.2	23	2
27	UTTARANCHAL	870	0.6	86.8	10.0	21	20
28	WEST BENGAL	6842	4.6	817.1	8.4	25	8
	TOTAL (STATES)	**145080**	**98.2**	**10335.15**	**14.0**		
UNION TERRITORIES							
29	A & N ISLANDS	27	0.0	3.7	7.4	26	31
30	CHANDIGARH	189	0.1	9.3	20.3	5	23
31	D & N HAVELI	15	0.0	2.3	6.6	29	33
32	DAMAN & DIU	8	0.0	1.6	4.9	32	34
33	DELHI	2216	1.5	143.8	15.4	13	18
34	LAKSHADWEEP	2	0.0	0.6	3.2	33	35
35	PONDICHERRY	141	0.1	9.9	14.2	15	27
	TOTAL (UTS)	**2598**	**1.8**	**171.25**	**15.2**		
	TOTAL (ALL-INDIA)	**147678**	**100.0**	**10506.40**	**14.1**		

4.11 Incidents & Rate of Crime Committed Against Women In States, UT's and Cities During 2002

SLNo.	State/UT	Incidence	Percentage Contribution To All-India Total	Population (In Lakhs) @	Rate of Total Cognizable Crimes	Rank*	Rank**
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
CITIES:							
36	AGRA	736	3.7	13.2	55.7	3	10
37	AHMEDABAD	599	3.0	45.2	13.3	26	12
38	ALLAHABAD	168	0.8	10.5	16.0	23	31
39	AMRITSAR	105	0.5	10.1	10.4	28	34
40	ASANSOL	32	0.2	10.9	2.9	35	35
41	BANGALORE	1331	6.7	56.9	23.4	18	5
42	BHOPAL	416	2.1	14.6	28.6	10	16
43	CHENAI	1823	9.2	64.3	28.4	11	2
44	COIMBATORE	289	1.5	14.5	20.0	19	23
45	DELHI (CITY)	1862	9.4	127.9	14.6	25	1
46	DHANBAD	285	1.4	10.6	26.8	13	24
47	FARIDABAD	969	4.9	10.6	91.8	2	6
48	HYDERABAD	1588	8.0	55.3	28.7	9	3
49	INDORE	438	2.2	16.4	26.7	14	15
50	JABALPUR	336	1.7	11.2	30.1	7	20
51	JAIPUR	765	3.9	23.2	32.9	6	8
52	JAMSHEDPUR	168	0.8	11.0	15.2	24	30
53	KANPUR	736	3.7	26.9	27.4	12	9
54	KOCHI	137	0.7	13.6	10.1	29	32
55	KOLKATA	558	2.8	132.2	4.2	34	13
56	LUCKNOW	652	3.3	22.7	28.8	8	11
57	LUDHIANA	488	2.5	14.0	35.0	4	14
58	MADURAI	397	2.0	12.0	33.2	5	18
59	MEERUT	293	1.5	11.7	25.1	16	22
60	MUMBAI	854	4.3	163.7	5.2	33	7
61	NAGPUR	412	2.1	21.2	19.4	20	17
62	NASIK	192	1.0	11.5	16.7	22	29
63	PATNA	226	1.1	17.1	13.2	27	27
64	PUNE	376	1.9	37.6	10.0	30	19
65	RAJKOT	260	1.3	10.0	25.9	15	25
66	SURAT	259	1.3	28.1	9.2	31	26
67	VADODARA	132	0.7	14.9	8.8	32	33
68	VARANSI	216	1.1	12.1	17.8	21	28
69	VIJAYAWADA	1364	6.9	10.1	134.9	1	4
70	VISHAKHAPATNAM	332	1.7	13.3	25.0	17	21
	TOTAL (CITIES)	**19794**	**100.0**	**1078.80**	**18.3**		

1.* Rank on the basis of Rate of total cognizable crimes (Col6.)

2. ** Rank on the basis of Percentage share (Col.4)

3. @ based on actual census of 2001

4.12 Trend Analysis

According to NCRB, "The crime head-wise details of reported crimes during 1998 to 2002 along with percentage variation is presented in table-5 (A) . It is observed that crimes against women reported an increase of 2.7 per cent over 2001 and 12.3 per cent 1998 . The IPC component of crimes against women contributed 89 per cent of total crimes while only 11 percent were SLL crimes against women ." **[51](chapter 5)**

Crime Head-wise Incidents of Crime Against Women during 1998-2002 and percentage Variation In 2002 over 2001

Sl. No.	Crime Head	Year					Percentage variation in 2002 over 2001
		1998	1999	2000	2001	2002	
1	Rape	15151	15468	16496	16075	16373	1.8
2	Kidnaping & Abduction	16351	15962	15023	14645	14506	-0.9
3	Dowry Death	6975	6699	6995	6851	6822	-0.4
4	Torture	41376	43823	45778	49170	49237	0.1
5	Molestation	30959	32311	32940	34124	33943	-0.5
6	Sexual Harassment	8054	8858	11024	9746	10155	4.2
7	Importation of Girls	146	1	64	114	76	-33.3
8	Sati Prevention Act	0	0	0	0	0	0
9	Immoral Traffic (P) Act	8695	9363	9515	8796	11242	27.8
10	Indecent Rep. of Women Act	190	222	662	1052	2508	138.4
11	Dowry Prohibition Act	3578	3064	2876	3222	2816	-12.6
	Total	131475	135771	141373	143795	147678	2.7

Proportion of crime against women (IPC) towards total IPC crimes

Sl. No	Year	Total IPC Crimes	Crime Against women (IPC cases)	Percentage to Total IPC crimes
1	1998	17,78,815	1,19,012	6.7
2	1999	17,64,629	1,23,122	7.0
3	2000	17,71,084	1,28,320	7.2
4	2001	17,69,308	1,30,725	7.4
5	2002	17,80,330	1,31,112	7.4

"The proportion of IPC crimes committed against women (IPC) towards total IPC crimes increased continually during past years from 6.7 per cent in 1998 to 7.4 per cent during 2001 and 2002."

[51](chapter 5)

(NB Indian notation of figures places the comma after 2 place rather than 3)

4.13 According to the National Crime Records Bureau statistics for 2002, "Despite the existence of a number of special legislation for providing protection to women, crime against women has increased. Women continue to be victims of various types of crimes."… Only crimes which are directed specifically to women are categorised as "Crimes Against women" although they may be victims of other types of crime such as robbery or murder. Crimes under this classification are broadly classified under two categories: Crimes under the Indian Penal Code which include rape – s376, kidnapping & abduction, homicide for dowry, dowry deaths or attempts (sections 302/302 – B IPC), torture, both mental and physical (s498A), molestation (s354), sexual harassment (s509) also previously referred to as eve-teasing, importation of girls up to 21 years of age s 366.**[51](chapter 5)**

4.14 The other category falls under the Special and Local Laws (SLL) and though not gender specific the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. The gender specific laws for which crime statistics are recorded throughout the country are
(i) Immoral Traffic (Prevention) Act, 1956
(ii) Dowry Prohibition Act, 1961
(iii) The Child Marriage Restraint (Amendment) Act, 1979
(iv) Indecent Representation of Women (Prohibition) Act, 1986
(v) Commission of Sati (Prevention) Act, 1987**[51](chapter 5)**

4.15 According to the UN sponsored publication, "Women in India, How Free, How Equal?" "Official statistics show a clear trend over the last decade – there has been a dramatic increase in the number of reported crimes against women."**[28](p71)** "The rise in reported crimes has occasionally been interpreted as a positive development, showing that more and more women are "breaking the silence" and an increasingly gender sensitive police force is recording their complaints with sympathy and efficiency. However, the picture becomes disturbing when these statistics are seen side by side with the decrease in the number of convictions and the increasing number of pending cases in the courts."**[28](71-72)**

4.16 Members of the delegation were given an information pack produced by Jagori on sexual violence. Jagori along with women's groups all over India has been campaigning against violence against women for almost 20 years. "The Indian Women's movement in fact has been responsible for the huge advances made in understanding violence against women, and bringing what was considered "private" issues – such as dowry related violence, domestic violence and child sexual abuse – in public view. The legal advances and debates which are going on today – whether the draft of the Bill of Domestic Violence, amendments to the rape law and the Sexual Assault Bill, as well as the Supreme Court guidelines on sexual harassment at the work place – are all outcomes of these struggles to make issues of violence against women a serious concern." The information pack was produced with the aim of highlighting some of these issues and breaking the silence and apathy surrounding them.**[10]**

4.17 According to a response provided by the Minister of State in the Ministry of Human Resource Development to an unstarred question (for written response only) in the Lok Sahba (20 July 2004) about the killing of women branded as witches during the last 4 years. The NCRB collated information in relation to murders pertaining to witchcraft. The figures provided are below:

Sl.No.	Year	No. of cases
1.	2000	126
2.	2001	126
3.	2002	151
4.	2003	129*

*figure for 2003 is provisional.

4.18 He also stated that responsibility for combating this evil practice lay with the States. Some of the States such as Bihar and Jharkhand where the practice has been prevalent have adopted their own laws to deal with it. "The State of Chhattisgarh which has not adopted any special law in this regard is of the view that the menace has to be dealt with through awareness generation and spread of education."**[12c]**

4.19 In response to a starred question (which is asked orally with a written response provided once the oral answer is given) in the Rajya Sabha on 14 July 2004 concerning atrocities on women, whether there was an increase and what measures had been taken to stop such incidents, the Minister of Home Affairs stated that, "As per statistics compiled by the National Crime Records Bureau, the incidence of crimes committed against women in the country showed an increase in 2002 (147678 cases) in comparison to 2001 (143795 cases). However, in 2003 the incidence of crimes committed against women went down to 132720 cases as per provisional figures for the year 2003 available so far."**[12f]**

4.20 As cited in the same response, certain measures to check crime against women were sent by the national government in a recent advisory to State Governments requesting them to take the following measures:

i) Sensitize police officials charged with the responsibility of protecting women,
ii) Vigorously enforce existing legislation relating to dowry violence,
iii) Set up women police cells in police stations and exclusive women police stations,
iv) Provide institutional support to the victims of violence,
v) Provide counselling to victims of rape
vi) Take measures to eliminate trafficking in women
vii) Enforce wider recruitment of women police officers, and
viii) Train police personnel in special laws dealing with atrocities against women.**[12f]**

4.21 Kamal Singh at the British Council said that a lot of women tolerate violence, the social and cultural response would be to try to keep it within your family and because of this ethos the end result may even be death. According to a study undertaken by the British Council in 2001, there is a high level of

tolerance from young people to accept violence as shown in a 2001 study in Calcutta. There is also a lot of stereo-typing when it comes to violence against women, such as “she attracted it”.

4.22 This view was echoed by the representative from the Guild of Service in respect of the social acceptability of violence, who said that women expect to be beaten so how can they break the silence? However she said that in the new generation of educated working young women, their tolerance levels are lower and the pendulum is swinging. According to Kamal Singh at the British Council, in the last 5-10 years violence against women has been recognised and there is more awareness and in the next 5-10 years she would like to see the situation improve.

4.23 The Centre for Social Justice representative interviewed in Gujarat, stated that patriarchal mindsets lead to the acceptance of violence. Oxfam, Delhi also re-iterated this view saying women are viewed as property in India’s patriarchal society and violence has been kept within the four walls. Women are trapped in a domestic violence situation as in reality where can they go when they are unable to leave because of the social complications.

4.24 As noted by Oxfam in Hyderabad, women face various forms of violence but mainly within the family, and often the cause is dowry. A representative from Asmita “identity” Resource Centre informed the delegation that women face a lot of demands for money and a great deal of anger and violence.

4.25 As cited in the pamphlet “Human Rights and Gender Issues”, produced by the Institute of Social Sciences, given to members of the FFM, there is a growing escalation of crimes against women. According to NCRB figures, in the year 2000 crimes against women increased by 4% from that of the previous year. There was 6% increase in cases of rapes and 24% of sexual harassment. It also bears mentioning that a large number of crimes against women go unreported due to the social stigma attached to them. Additionally a large number of cases reported to the police are also not registered. **[3](foreword)**

4.26 The representative from the Centre for Social Justice in Gujarat informed the delegation that Gujarat is the second highest state in terms of violence against women. Every year 2,545 cases involving crime against women are reported in Gujarat. For every 50 unreported cases involving incidences of serious sex offences in Gujarat only one case is reported which equates to11.5 % of the total number. Dowry is the leading cause of death among women, around 6,700 women die on account of dowry annually in India but accidental deaths are not included in that statistic so the figure is much higher. Twenty-five percent of the cases handled by the Centre per year are domestic violence (they have to limit it). Many suicidal deaths/murders of women actually get reported as accidents.

4.27 As stated in the International Women’s Day March 2004 brochure, “The Women’s movement made the many kinds of violence women face in their everyday lives into a political issue – rape, domestic violence and sexual harassment. Women’s groups across the country addressed this problem

through protests against violence, setting up of counselling centres, lobbying for laws etc." It states that, "These forms of violence are not only increasing, but newer forms of violence like trafficking, female foeticide, sale of girl babies, violence on women elected representatives have emerged in recent times."[11]

4.28 Included in the pamphlet were statistics provided by Andhra Pradesh Women's Network showing the results of a sample survey they conducted across the state and which they claim shows an increase in violence. According to an excerpt from this section, "Violence against women has been rising steadily at home, at the workplace and on the street. This becomes clear if one looks at the cases registered in the police stations in the last 5 years."[11]

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4.29 Crimes in Andhra Pradesh 2002

Crimes on Women	**1998**	**2002**	**% (percentage)**
Dowry murders	84	98	16.0
Dowry deaths	455	431	- 5.2
Provoke to suicide	842	950	12.8
Dowry torments	4149	7035	69.5
Atrocities	812	953	17.3
Dowry Prohibition Act	292	777	166.0
Kidnaps	721	892	23.7
Second Marriage	486	501	3.08
Sexual Harassment	2745	3707	35.04
Murders	599	529	-11.68

[11]

4.30 A representative from Andhra Pradesh based Asmita reported that societal, caste and communal violence against women occurs but not on the scale of Gujarat. In Andhra Pradesh there are problems for Dalit women due to the combination of being both Dalit and women, in respect of caste violence and there has been an increase in the number of cases of women being labelled as witches and killed. The NCW recently came to AP in connection with this issue. Women do go out at night but it is the same as any city where they may experience harassment. It is dangerous in Hyderabad for very young girls to be alone because there is a lot of trafficking and it is particularly dangerous for migrants where they may get picked up at bus stops in the morning as part of the trafficking racket. On lonely stretches it is very dangerous, the same as for everyone.

4.31 Jagori in Delhi has a violence intervention unit which takes up cases, campaigns and provides back up information for women. Jagori has been campaigning against violence against women for almost twenty years. They claim that the Indian women's movement has been responsible for huge advances made in understanding violence against women and bringing previously considered "private issues" such as dowry related violence, domestic violence and child sexual abuse into the public view.

4.32 According to a representative at the National Commission for Women (NCW), violence against women is the main issue everywhere. Now the media pays so much attention the issue has been brought out into the open. In the last 20 years rape has been widely reported and now incidents of rape are reported everywhere. There is now more awareness of violence because of reporting in comparison to 20 years ago. Dr Basu from AIWC reinforced this view saying the issue of violence against women has been on the agenda more in the last 20 years and is the reason why NGO's have taken up dowry deaths.

4.33 Ms Visa Ravindran told the delegates that one year the NCW 's theme was violence against women, they devoted seminars and a workshop and held discussions on domestic violence across the country, although domestic violence was not their only focus. The same source commented that violence against women cuts across class but more people are ready to speak about it now. Law enforcers say that a woman files a complaint in the heat of the moment and then in the morning withdraws the complaint because of family pressure etc. She identified a connection between domestic violence, poverty and patriarchy. There is a link between domestic violence and alcoholism, the acceptance of male dominance and the shame attached to bringing family conflict into the public domain go back to religion and cultural belief. An example was given where in a cluster of villages near Chennai, where a nursing college and hospital have been functioning, the nurses had become role models. Village women have organised themselves into women's groups called "Magalir Manrams" and this has given them a great deal of self-confidence. Joint action helps them to fight back when they are threatened.

4.34 An Institute for Development and Communication (IDC) Chandigarh report entitled, Combating violence against women in Punjab-2001 states, "In Punjab sexual violence against the female is institutionalized and supported by deep rooted social norms and beliefs. Predominant among them is the popular acceptance of human sexuality as being synonymous with male sexual needs which at times is seen to be driven by biological necessity." The same report continues, "The female sexual submissiveness to men was found to endure due to the belief that male sexual aggression is natural and also in compliance to the male's hegemonic status in particular to his role as breadwinner. It was mainly accepted that the male earns and provides for the family and it is his convenience that matters rather than any consideration to the wife." **[36](p61-62)**

4.35 The Institute for Development and Communication (IDC) Chandigarh report Combating Violence Against Women in Punjab, also states, "Legally in

India, sexual crimes are listed to include eve-teasing, molestation and rape. While eve-teasing has been defined as word, gesture or act intended to insult the modesty of a woman, molestation is assault of criminal force against a woman with the intent to outrage her modesty, while for rape a more conventional definition is used whereby a man has intercourse with a woman against her consent, will or these are obtained by threat/fear or deceit." The report continues that the reported crimes in Punjab between 1991-2000 indicate an increase in both rape and molestation, 34 cases of rape were reported in 1991, which increased to 310 in 2000. In the same time span reported molestations increased from 7 to 323. In comparison eve-teasing, emerged as a reported abuse in 1992 and only 27 cases were registered in 2000. **[36](p66-67)**

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Domestic violence

4.36 According to the US Department of State Report 2003, published 2004, "Domestic violence was common and a serious problem. In a survey by the National Family Health Survey released in 2002, 56 percent of the women said that domestic violence was justified. These sentiments led to underreporting and combined with ineffective prosecution, made progress against domestic violence difficult. According to the National Crime Records Bureau (NCRB), there were 49,170 cases of domestic violence reported in the country from 1998-2001."**[40a](p22)**

4.37 According to a representative from the institute for Development and Communication in Chandigarh, the issues and forms of violence facing women differ according to caste, economic and educational status but domestic violence cuts across all of these.

4.38 As cited in the pamphlet Human Rights and Gender Issues produced by the Institute of Social Sciences, the NHFS collected information (in 1998-99) on women's perceptions about the legitimacy of husbands beating their wives. A substantial proportion of women surveyed (between 33-40 percent) felt that a husband would be justified in beating his wife if there is a particular lapse on her part, such as neglecting the home or the children; going out without informing the husband; being unfaithful, showing disrespect to in-law; not cooking properly. Over-all, almost three out of every five women surveyed (56 per cent) justified domestic violence on one or the other ground mentioned above."**[3](p22)** According to the same pamphlet in the domestic sphere too, violence becomes a means for domination and control – of women's bodies, their labour, their assets and their mobility, and on another plane, their emotions, ideas and attitudes. Male violence generates an over-all climate of fear which then succeeds in imposing the values of male superiority and female subordination.**[3](p9)**

4.39 Jagori are primarily concerned with violence against women and are involved in a violence intervention unit which takes up cases, campaigns and provides back up information for women. The representative from Jagori

informed the delegation that women approach them who have suffered sexual violence within marriage. Rape is not recognised within marriage.

4.40 Members of the delegation met with the programme officer for Oxfam in Andhra Pradesh and field officers from the Andhra Pradesh Women's Network established in October 2002 with the objective of creating a violence free and just society. There are 25 members within the network consisting of NGOs and activists. They stated that women face societal violence and violence from within the family. They work at grassroots level for women's equality. In 2003 they concentrated on domestic violence running many programmes in 18 out of 23 districts in the state. The Network translated the pending Domestic Violence Bill into Telegu and discussed it with local women. With the change of Government they intend to run another campaign. Following the workshop they conducted a survey about awareness of the Bill and also looked into support structures available in the state such as short stay homes and carried out surveys of 18 districts. In addition they conducted workshops for students.

4.41 The same source suggested that domestic violence is normalised with women having to bear violence at home. As they work with women they have seen more openness and as a result visibility has increased. However for women asserting their rights, domestic violence is on the increase for them.

4.42 In 2001 the Sanchetana Community Health and Research Centre published a report entitled, Angst: Theirs and Ours - Domestic Violence an epidemic on the upsurge, based on information provided to their researchers by married women living in one of the slum areas of Ahmedabad. **[35](p10)** The report is based on information from some 400 respondents of which 268 (67%) reported some kind of abuse indicating they were victims, with the remaining 132 (33%) categorised as non-victims. **[35](p13)** The report states, there is no major difference in the abuse pattern amongst Hindus or Muslims….Hindus reported 68.78% victimisation and Muslims 66.03%. **[35](p 14)** One of the researchers involved in collecting information for the report noted, "While speaking to the battered women I could sense their feelings of being trapped and low self-esteem echoing from their perception for own self. With no backing from their parents and sympathy from the community, they hardly had any options other than enduring their husband's attitude. Including the victims most of the community members thought it is a private matter." **[35] (p31)**

4.43 In 2003 the Sanchetana Community Health and Research Centre published a report entitled, "Why some men beat their wives?" The report is based on interviews with men and: "In simple terms it tries to understand why some men beat their wives. The report profiles men's perceptions and behaviour in relation to spousal violence and the various forms of responses of family and community. It looks at the interplay among personal, socio-cultural, structural and environmental factors that influence this kind of violence." **[34](p5)**

4.44 The report states that the study area, located in one of the slums of Ahmedabad, on the banks of the river Sabarmati offers a heterogeneous mix

of people and lifestyles with a Hindu Muslim ratio of 66:34. **[34](p13)** Out of a total of 875 households in the study area the report surveyed information from 120 households. The study covered only perpetrators of physical abuse. All respondents who had beaten their wives in the previous month were identified as perpetrators and the survey revealed 27 perpetrators and 93 non-perpetrators of domestic violence. **[34](p11)** Field notes for the study state, "We observed that the police preferred to do little enforcing and spent more time mediating. There seemed a general trend to compromise domestic violence cases. As there is ambiguity with the enforcement of law there is not reinforcement that crimes such as domestic violence are indeed crimes and are unacceptable…." **[34](p24)** The study provides detailed statistic and analysis of the answers provided by those surveyed. **[34](p16-30)**

4.45 According to Hyderabad based Senior Correspondent for The Week, Ms Lalita Iyer, women remain very quiet about domestic violence and may just confide in a close friend. It exists in middle class families but again they do not openly discuss it, however, middle class women might discuss domestic violence or incest but only with a friend. Journalists write about it and there may be an outcry but nothing is done about it. The issue gets submerged in the culture but this is seen as good in one way as it maintains family values. She commented that there is no Government policy to deal with domestic violence and there isn't even a policy for dowry despite the Dowry Act. The Government has no stand or focus on it as yet. Suicide occurs more in urban than rural areas and there is a lot of loneliness for women. Because of a lack of short stay homes in Andhra Pradesh, women have to go back to their husbands. It is a public event if a woman is beaten in a village and she may be helped by relatives.

4.46 According to a representative from Anveshi, domestic violence has spread across so many levels of society and culturally too. Domestic violence is not just a women's issue but a class issue too where the police respond very differently to different classes of women and this is not just a question of gender discrimination. Domestic violence is related to economic dependence, societal issues and migration etc and not just to marriage. Many women still find it difficult to register a case against their husbands/marital families. It is a difficult decision to take, considering the repercussions that accompany this act, which have a bearing upon her position not only in the family but in the larger society. As such, it is not unusual to find many cases getting compromised, from among those cases which do get registered.

4.47 A representative from NCW stated that violence against women is a major issue however there is greater awareness amongst people now. The representative said that patriarchal society is responsible for domestic violence where societal influence is to not break up the family. They are lobbying the government about the Domestic Violence Bill and the Representation of Women Bill and have sent recommendations to the government with regard to the Domestic Violence Bill objecting to the term "habitual abuser". The Chairperson of the NCW wrote asking for the Bill to be tabled and the representative reported that she was optimistic the Bill would now be passed.

4.48 A view held by Dr Pramod Kumar, from the IDC in Chandigarh, was that data may indicate that domestic violence numbers are increasing however it may be the case that it is reported more now but that in actual fact figures may be declining. There are rights being violated and reporting is increasing. In 1994 a study was undertaken regarding the ratio of reporting and non-reporting, a future project is planned maybe in 2004 to see if the total figure has increased, then in a further 10 years. Dr Kumar offered a tentative opinion that it may be decreasing.

4.49 As cited in the pamphlet Human Rights and Gender Issues, produced by the Institute of Social Sciences, "A survey in 1998 by the National Family Health Survey shows that at least one in five of all married women above the age of 15 years experienced physical violence. And most of them were beaten up by their husbands."**[3](p15)**…."Violence also tends to become part of marriage and family life….**[3](p18)** The term domestic violence can be given different meanings – but it is most often used to refer to violence against a women, committed by an intimate partner which can be physical, sexual or emotional. **[3](p19)** "Until 1983 there were no specific legal provision in India which pertained to violence within the home. Though women could take recourse to the general laws with respect to crimes such as murder, abetment to suicide, grievous injury which is committed in the privacy of the home by a person on whom a woman is economically and emotionally dependent. In 1983 a new section, 498A, was added to the Indian Penal Code. **[3](p20-21)**

4.50 As noted by the Institute of Social Sciences publication, Human Rights and Gender Issues, section 498A was added to the Indian Penal Code in 1983 and the section was originally seen as a protection against dowry harassment, it now includes domestic violence under the term "cruelty" which is defined as "any wilful conduct which is of such a nature as likely to drive the women to commit suicide or to cause grave injury or danger to life, limb or death, whether mental or physical of the woman."**[3](p20-21)**

4.51 According Dr Hanif Lakdawala, Sanchetana have been working on domestic violence issues since 1983 and he reported that in Gujarat domestic violence is a big problem. He told the delegation that in the areas his organisation works in Gujarat 67% of women are severely abused and that 40% of women in India including the middle classes are abused. The problem was brought to their attention when women would attend clinics with headaches and other ailments then the real reason would be discovered for the ailment so they would start looking at the cause. They moved into the community and questioned women, getting them to question why they were being beaten. As a result, groups of women emerged who would resist violence and question it and these groups exist in all urban areas of Gujarat, which accounts for 40% of the Gujarat population.

4.52 The representatives from the women's network at the Oxfam meeting in Hyderabad told the delegation that visibility has increased with regard to domestic violence and in that respect domestic violence is increasing following awareness campaigns at community level. The delegation were

shown pictures of their campaign against violence in villages and saw pictures of victims of domestic violence whom the Women's Network have been helping. According to them in a random survey 2 out of 5 women in India are facing violence and this figure may be higher as women do not want to admit to it, so there is under-reporting.

4.53 As cited in a publication entitled Human Rights and Gender Issues, produced by the Institute of Social Sciences, domestic violence against women is the most ubiquitous form of abuse yet the most covert. Globalisation is also seen as a factor contributing to the violent environment which in turn triggers male aggression within the home. There is a tendency in Indian society to justify and condone such behaviour and by so doing this mitigates criticism and punishment. Men are often seen as helpless victims of poverty or driven by drugs and alcohol. Advantage is taken of legal loop holes and an example is cited of a well known case of a Pune housewife, the husband was convicted in the lower courts for murdering his wife however the Supreme Court ruled that his guilt could not be proved beyond reasonable doubt as she may have committed suicide out of depression.**[3](p19-20)**

See section 5 for legislative protections.

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Unnatural deaths

4.54 As stated in a 2001 SAHR WARU publication given to members of the delegation entitled, "Snuffed out – An inner eye account of our experiences on unnatural deaths of young girls and women", violence and oppression in the natal homes is often the cause of young girls taking their lives. Case studies are presented showing that in the slum settlements young girls have died by burning in the parental home under suspicious circumstances raising the question of suicide, accidental death or murder. An example was cited where a woman had been set on fire by her husband but on her death bed claimed it was an accident in order to protect her children because by implicating him in her death it would render her children destitute and this appears to be a common fear. It was commented that cases of unnatural deaths appeared to be increasing but not many were being officially recorded. One such response cited was that these sort of incidents are common in their community and the attitude was that nothing could be done about them. Often neighbours were afraid or unwilling to talk about such incidents.**[20](p12,30 & 31)**

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Dowry and related violence

4.55 Traditionally, dowry in the form of gifts and cash given at ceremonies is expected only in the first year of marriage, however this may be expected during the first 7 years of marriage as noted by a representative from Asmita.

4.56 According to the US State Department report 2003, dowry disputes were a serious problem and despite the fact that under the Dowry Prohibition Act, giving or taking of dowry is illegal, dowry was practised widely. ”In the typical dowry dispute, a groom’s family members harassed a new wife whom they believed had not provided a sufficient dowry. This harassment sometimes ended in the woman’s death, which family members often tried to portray as a suicide or accident.”**[40a](p22)**

4.57 The same report notes that, “Women usually at a disadvantage in dowry disputes, began to speak out against dowry demands.”**[40a](p23)**

4.58 According to the Director of Zubaan, dowry is an issue which cuts across classes and is emulated by poorer classes and has also spread into other religious groups. There is a deepening understanding of the issue but the more complex it becomes the more you can only address the symptoms rather than the roots. You can see a spread of the phenomenon of dowry, whereas early on in the 1960s there were 300 cases a year now you are looking at thousands. Anecdotal evidence suggested dowry was confined to Hindu middle classes now it is clear that it cuts across society and is now seen more amongst the poor and different faiths who would not normally sanction it. In terms of reportage, dowry crime is the same as rape in respect of the rise in number of cases being reported rather than an increase in instances.

4.59 These views were echoed by representatives from the Women’s Network and Oxfam, Hyderabad, when they reported that dowry disputes pose a major problem and that is now emerging even in communities where previously it was not prevalent. In Andhra Pradesh the statistics for 2001 reported 400 dowry deaths but there is a difference between reported and unreported. An NGO study revealed 390 deaths in one district alone in AP, despite state claims of 400 state-wide. There are 23 districts in Andhra Pradesh and there are 13,000 dowry cases (including harassment). Dowry is a major crime and even in rural villages parents need to find 50,000 rupees for a marriage, invariably running them into debt but is seen as a necessity. In Andhra Pradesh it has become such a prevailing norm that there is no compromise and is increasing amongst educated people with the higher the education the higher the dowry.

4.60 Lalita Iyer stated that Andhra Pradesh has no policy for dowry victims and families hide the fact it is dowry by calling it a gift.

4.61 As noted by Kamal Singh at the British Council, dowry is an issue that cuts across the country. It is still a problem and may be on the increase. Even in societies where dowry was not prevalent it is coming in all forms as it is seen as a quick route to obtaining material benefit. For example, now marriage adverts specify working women are desired because they are seen as an instalment opportunity.

4.62 Society is responsible for dowry’s prevalence and it is very difficult to stop it via legislation, because how do they know it is happening, according to

a representative from the NCW. The demand or giving of dowry is punishable but the law is proving to be not enough of a deterrent. Women are killed for dowry so the dowry protection law is for protecting women. On the question of whether the dowry protection law is abused she said that so many laws are abused and the dowry law may be abused but no more than any other law.

4.63 According to a human rights lawyer in Gujarat as far as the law is concerned dowry deaths are common with one in three deaths relating to dowry and dowry death is still a phenomenon today. He explained that s498A relates to cruelty to one's spouse with a maximum punishment of 3 years and as a result cruelty drives a spouse to commit suicide. He stated that the 3 year maximum sentence is not effective and if sentences were increased from 3 years to 10 years then possibly the situation would change. He suggested that there is abuse of the dowry laws in so much as everyone is flouting laws for dowry and this is becoming a big menace in India.

4.64 This view that the laws on dowry are abused was also proffered by Mr Rajvinder Singh Bains, a human rights lawyer, when he suggested that most demands for dowry cases are false and it is the most misused section in law. He said that section 498A is a woman's only right so it is open to abuse. The law states that where death of a wife occurs within the first 7 years of marriage there is a presumption of murder. Mr Singh Bains states that this is being abused and is biased in favour of women, sometimes the whole family is arrested. The Husband's Association of India are complaining about abuse of the dowry laws. This is an important issue because arrest under that section is non-bailable.

4.65 However, Dr Ila Pathak of AWAG disagrees with the view that the dowry laws are being abused. She believes that this argument is usually put forward by lawyers and men. She referred members of the delegation to her book, "Aftermath of Domestic Violence Against Women", where it records the results of a study which demonstrated that most of the cases are compromised. She said that the courts do not hear cases until a compromise is arrived at. She said that the woman is pressurised into compromise by society. For example, in one case a man was charged under 4 different provisions of the Indian Penal Code, 323, 498A, 342 and 114. The charges under 114 and 325 were compoundable (which means that a negotiated settlement is possible) When the court is told that there has been agreement on the two compoundable offences then this is a signal to the magistrate that the case can be settled.**[38]**

4.66 Dr Ila Pathak further stated that dowry is not really as prevalent in Gujarat as it is in the north and south of India. So accidental deaths, suicides and other deaths are more of a concern than dowry to AWAG.

4.67 Dr Hanif Lakdawala attributed dowry as one of the major reasons for the decline in the female sex ratio. The Centre for Social Justice in Ahmedabad, cited dowry as the leading cause of death among women – around 6,000-7,000 women die on account of dowry annually in India, (but accidental deaths are not included in that statistic so the figure is much higher).

4.68 The delegation were told that women approach Jagori on dowry related issues where they have been harassed for providing less or no dowry and that many women come forward with these types of cases.

4.69 According to the NCRB records for 2002, cases reported under the Dowry Prohibition Act showed a decline of 12.6% as compared to 2001 (3,222). There were 2,816 recorded incidents. Of these more than one fourth (27.7%) were reported in Bihar (779) followed by Andhra Pradesh at 460.**[51](chapter 5)** According to the same source there were 6,822 incidences of dowry death recorded in 2002 showing a decline of 0.4% over 2001 (6,851). Approximately 27.7 % of the cases were reported from Uttar Pradesh (1,893) followed by Bihar (927) (13.6%) out of the total of such cases reported in the country. Reports of torture defined as cruelty by husband or relatives stood at 49,237 for 2002 showing an increase of 0.1% over 2001 (49,170) of such cases in the country. Andhra Pradesh accounted for 14.2% of these cases (7,018) and Rajasthan showed the highest rate in the country at 9.8 (5,691) sharing 11.6% of cases as compared to the national rate of 4.7.**[51](chapter 5)**

4.70 In response to an unstarred question for response by the Minister of Human Resource Development on 16 August 2004 about implementation of the anti Dowry Act, the Minister replied that, direct responsibility for implementing the Dowry Prohibition Act 1961 lay with the State Governments and the mechanisms under them. The Government has also advised all State Governments to appoint Dowry Prohibition Officers. The NCW is currently reviewing the Act to make its provisions more stringent and effective. The Minister further responded, "Since the menace of dowry is a reflection of women's low status in society, Government has taken a number of steps to raise the status of women and to change the societal attitudes towards girls and women. These include media campaigns, awareness generation camps, spreading legal literacy, counselling, legal aid, support to voluntary agencies and schemes for socio-economic empowerment of women including providing immediate succour to victims such as setting up of short stay homes."**[12l]** In a similar response for 23 August 2004 on the dowry system the Minister elaborated on the steps taken to ensure protection of women from harassment for dowry by advising state governments to take measures for a number of recommendations including the sensitisation of the police and judiciary, setting up of women police cells and exclusive women police stations, wider recruitment of female officers, setting up fast track courts and family courts, grievance redressal through intervention of the NCW and State Commissions for women, setting up of help-lines for women in distress, empowerment programmes and legal literacy and awareness camps.**[12m]**

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Rape

4.71 According to the US Department of State report 2003, "The issue of rape received increased political and social attention during the year. The majority of rapes are never reported to the authorities. The NCRB reported that there were only 16,075 cases of rape from 1998-2001. However, the Home Ministry

reported in February [2003] that, in 2001, there was a 16.5 percent increase in reported rape cases as compared to 2000."**[40a](p22)**

4.72 As noted in an India Today article dated 9 September 2002 (given to the delegation by Jagori), according to a study by the World Health Organisation, every 54 minutes a woman is raped in India and Delhi records the highest number of rape cases among the metros: 447 in 2000, 380 in 2001 and 299 up until July 2002. Eighty-six percent of women in Delhi feel unsafe and every third woman knows at least one rape/molestation victim, according to a survey by Team C voter (a private research group in Delhi). As stated in the India Today article dated 9 September 2002, the same survey by Team C Voter showed 3 out of 10 rapists are family friends or relatives. Another study by the Centre for Development of Women's Studies (CDWS) showed that 42 women are raped daily in India. The article states that 85% are raped by men they know and almost 75% are married men. Out of every 100 accusations, only 5 rapists are convicted. According to the National Crime Records Bureau the number of rape cases in India increased by 6.6% from 15,468 in 1999 to 16,496 in 2002.**[48]**

4.73 The same source notes that a field study conducted in 2000 by the Chandigarh based think tank, Institute of Development and Communication (IDC) on atrocities against women, showed that for every rape case 68 were unreported.**[48]**

4.74 As noted in the same article, s375 of the Indian Penal Code defines rape as "sexual intercourse with a woman against her will, without her consent, by coercion, misrepresentation or fraud or at a time when she has been intoxicated or duped, or is of unsound mental health and in any case if she is under 16 years of age." Section 376 relates to the punishment for rape. If proved then the rapist can be convicted for up to seven years for raping an adult and ten years for raping a minor. "Criminal Procedure Code amendments have made all rape trials compulsorily in-camera (where only those directly connected are allowed) and where it is obligatory to protect the identity of the victim."…**[48]**

4.75 The article states that sexual assault is the outlet for male domination in a patriarchal and male dominated society and it suggests that the attitude of many men is that women invite assault and are "asking for it" because of the way they dress or their behaviour. One such recorded comment was "So what else does she expect if she dresses like that?" and "If she is so bothered about her dignity why doesn't she sit at home?" and it is reported that a Delhi Police Commissioner stated that "Crime against women will drop by 50% if they are careful in the way they dress, if they know their limits and if they do not exercise unsafe behaviour." The 2000 IDC survey showed that fifty-two respondents in their survey blamed the victims for inviting the rape/molestation by "improper" dress, conduct or mobility with 54% attributing rape to the influence of alcohol.**[48]**

4.76 According to Kamal Singh at the British Council, rape and sexual abuse within the family is a major issue and there is no response mechanism in place. Also children in domestic work and other situations were subject to

abuse. The British Council has been involved in the setting up of the first ever child protection unit set up in Punjab. There is also a large amount of unreported rape (members of the delegation were referred to the National Crime Bureau. (NCRB figures shown below.)

4.77 The NCRB snapshot figures for crime against women 2002 record that among 35 mega cities, Delhi city reported 24% (320 out of 1,312) of rape cases. There was a 46% increase in rape cases in Mehgalaya from 26 in 2001 to 38 in 2002 and in Mizoram 52 in 2001 to 76 in 2002.**[51](snapshots)** In 89% of rape cases (14,537 out of 16,373) the victims knew the offender with 32% being neighbours (4,600 out of 13,537) and close relatives (937) were involved in 6.3% cases. **[51](chapter 5)**

4.78 According to the NCRB records for 2002, there has been a mixed trend over the last 5 years with a decrease of 2.5% in the year 2001 over 2000 and an increase of 1.8% in the current year (2002). Madhya Pradesh reported the highest number of cases (2,891) contributing to 17.6% of total cases reported in the country.**[51]** There were 369 incidences of incest rape in 2002 which reported a decline of 16% from 439 cases during 2001. Madhya Pradesh contributed the highest at 19.5% (72 cases) of the total of such cases in the country. **[51](chapter 5)**

4.79 Kamal Singh reported that the legal process for rape is very long and is not very responsive. In camera proceedings should take place. Court room practice was examined from a litigants perspective and the kind of questioning lawyers were doing is not acceptable. The perception being that it was like being raped again so now judges are sensitive to stop that. There are a few landmark judgements from the Supreme Court which are very good but the justice system is slow.

4.80 According to the US State Department report 2003, ”Only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, thus fostering a climate of impunity…The number of reported rape cases and the extent of prosecution varied from state to state.”**[40a](p22)**

4.81 According to the NCRB statistics for 2002, the conviction rate for rape was 26.4% for all India.**[51](table 4.11)**

4.82 Lalita Iyer in Hyderabad said that journalists report and discuss rape. It happens at both lower and upper levels of society but is not spoken about or mentioned at the upper level. Half the time people are not interested in what happened to the victim and there is no fuss made so the rape victim gets on with her life. A lot of immigrant workers have to succumb to harassment and may even be raped. The lack of awareness of rights is phenomenal.

4.83 According to the Director of Zubaan, urban rape is an increasing phenomenon and Delhi is not a safe city for women. When asked to comment on the situation for women and protective legislation, the representative said that it was very difficult to generalise about India, much more is now known where information seems to indicate that there is a worsening of the situation in many respects but this has to be qualified by saying it is worse in parts of

India. She commented that even in Kerala it was not safe for women to be out because it is deeply patriarchal despite the 100% literacy rate. Things have changed in a complex way but that it is important to look at women's needs. There are many new laws drafted to embody the idea of empowerment but the representative commented that the Domestic Violence Bill has a basic flaw in its definition of domestic violence.

4.84 Representatives from Jagori stated that women approach Jagori (a Delhi based organisation) for help. Sexual violence within marriage (such as rape) is not recognised as a crime. Redress may not be in the legal system but women can get other measures. For example if a rural woman contacted Jagori they would put her in touch with a local organisation and if this does not work the network can help.

4.85 According to a booklet entitled "We are half the sky" about International Women's day March 2004, "Rape and sexual assault are forms of violence that survivors, judges and lawyers hesitate to name, because it carries the horror of social ostracism for the victim survivor. It has needed exceptional courage of conviction for women to be able to even register a case of rape. The women's movement has fought for decades to persuade women to break cultural barriers and treat rape as aggravated assault and report it, without very much success."**[11]**

4.86 The delegation were told that the NCW has recommended that anonymity should be granted to rape victims, with neither her name or photo published. Some of the legal and medical issues surrounding rape have been the subject of recommendations made by the NCW. In police stations the woman should not be made the culprit and the NCW has discussed this with both the police and judiciary. Medical treatment, which is one of the most important things, must be carried out within a certain time and the NCW have informed the medical authorities and the police of this requirement. Precedence should be given to these cases because a lot of rapists are going scot-free because without the medical evidence the victim is unable to fight the case in court. In the last 20 years rape has been widely reported in the media and as a result is now reported everywhere. Now there is more awareness of violence as a result of this reporting as compared to 20 years ago. A representative from the Punjab Human Rights Committee commented that rape with murder should be given the death penalty as laws would act as a deterrent. The penalty for rape in India is life imprisonment but this is rarely given with sentences of 7-10 years given instead.

4.87 The representative at the Institute for Development and Communication reported that women are much more vulnerable to rape in Scheduled castes and according to Dr Giri, rape becomes a tool of communal violence and women of the communities are the most vulnerable.

4.88 Dr Lakdawala from Sanchetana stated that there is no special rape court in Gujarat and from the outset women face a problem. If they go to the police station the police refuse to register the case as it is mainly high caste men accused of raping a low caste woman. It was claimed that a proper medical

report is not prepared, then if they get to court they cannot afford a lawyer. Cases only progress if you have enough money and influence with the police. It is claimed that women who have been raped are ostracised by society and thought to be of loose character, so generally women keep the rape to themselves and rarely do you hear of anyone being convicted of rape.

4.89 According to a response to a Parliamentary Question given by the Ministry of Home Affairs on 21 July 2004 on the rise in rape cases in Delhi, the number of cases of rape reported in Delhi was 404 in 2001, 403 in 2002 and 490 in 2003 and 269 during 2004 up to 30 June. The NCW met with the police, Delhi government officials and NGOs to discuss the issue of safety for women in Delhi. According to the statement from the Minister of State in the Ministry of Home Affairs, the Delhi police have been directed to implement the recommendations made, these include such measures as special patrolling from 6pm to 12 p.m. in all vulnerable areas and drives against eve-teasers and pick-pockets. In all there were 7 recommendations made.**[12g]**

4.90 In response to an unstarred question no.223 on the reasons for such large numbers of rape cases in the National Captial Territory of Delhi and the preventative action taken, in the Lok Sabha for 6 July 2004, the Minister of State in the Ministry of Home Affairs response was that "The socio-economic factors constitute an important reason for incidence of rape cases. The steps taken to curb such incidents include constitution of "security review committees" in prominent women colleges; launching of the "New Contact Programme" to provide an interface between the senior officers of Delhi Police and faculty/students of women colleges; deployment of policemen in plain clothes at vulnerable places, constitution of a "Women Mobile Team" to attend to distress calls on round-the-clock basis; and setting up of a "Women Help Line" in the Police Control Room."**[12d]**

4.91 The following chart lists statistics compiled by the National Crime Records Bureau for the number of incidents of rapes and molestation in the country registered during the last 3 years:

Year	Rapes	Molestation
2001	16075	34124
2002	16373	33943
2003	14809	31716
2004 (January – March)	3396	7334

(The figures for 2003 & 2004 are provisional)**[12e]**

4.92 As cited in the India Today article of 9 September 2002 mentioned above, some changes appear to be underway where the Mumbai police are being sensitised to attend distress calls as a priority and they produce posters to raise awareness for women on how to deal with the situation. The Delhi police were also involved in a similar exercise and has a special help-line staffed by women. Police are supposed to call an NGO representative for comfort and counselling whenever a rape is reported. **[48]**

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Sexual Harassment

4.93 Sexual harassment against women can take many forms, some of the most commonly discussed are eve-teasing, molestation and sexual harassment in the work place.

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Eve-Teasing

4.94 Many of the representatives interviewed during the course of the fact finding mission expressed concern at the use of the term “eve-teasing” which they felt trivialised the offence. Eve-teasing most commonly occurs in railway carriages and on buses and ranges from unwelcome attention and comment to actual physical molestation.

4.95 Representatives from Jagori stated that the concept of eve teasing trivialises the nature of the harm and that it is a form of sexual harassment. Jagori has been involved in a campaign since 1998 to prevent women on buses or trains being molested by segregating male and female passengers. This has mushroomed and Jagori are working towards ensuring there is signage on all trains to create awareness and guidance. They advocate that clear law is needed regarding assault on trains to ensure the safety of women travellers. They have also been involved in the training of police officials on trains.

4.96 According to Kamal Singh at the British Council, the safety and security of women in public places for example in Delhi, is an issue. Women are vulnerable to being molested in trains and in order to combat this, trains in Delhi have women only compartments to prevent what is colloquially known as eve teasing, but in buses these segregated compartments do not work in practice.

4.97 As cited in the NHRC Annual Report for 2001-2002, Jagori submitted a petition on 15 January 1998 in addition to a news item appearing in “Outlook” magazine on 2 April 2001. Jagori drew the Commission’s attention to the fact that women are frequently attacked, molested and sexually harassed on railway trains, platforms and in waiting rooms. It was claimed that cases of harassment are under reported because women are reluctant to file complaints and they have to file a complaint with the local Government Railway Police in the State where the incident occurred. The report notes that the authorities at the beginning or end of the journey are usually of little help and there has been a tendency on the part of the police to be insensitive or to trivialise the crime. The Commission took the complaint seriously and held meetings with Jagori, the Government Railway Police, the Railway Protection Force and Railway Board Senior Officials. They made several recommendations that FIR’s (first information reports) should be made readily available in all languages, information about harassment to be made available to passengers and also displayed in graphics to convey a clear message. The Commission recommended that the Railway Board should fix notices at

strategic points stating that sexual assault, obscene remarks, stares, gestures, songs and unwanted attention are all forms of sexual harassment offences, punishable by law under the Indian Penal Code and the Railways Act 1989, in addition to other recommendations. The Commission intends to monitor and review whether the relevant action with regard to the recommendations has been taken.**[14](p69-70)**

4.98 According to a leaflet entitled "Stop sexual violence against woman [sic] on trains" given to the delegates and produced by Jagori, "Sexual assault, obscene remarks, stares, gestures, songs and unwanted attention are all forms of sexual violence punishable by law under the Indian Penal code and the Railways Act." Sections 354 of the IPC (using assault or force to outrage a woman's modesty, s509 (word, gesture or act intended to insult the modesty of a woman, s 294 (obscene acts and songs), s145 of the Railways Act (drunkenness or nuisance) and s 162 of the Railways Act (entering a carriage or other place reserved for females). The leaflet sets out practical advice and helpline numbers for victims of sexual harassment whilst travelling.**[58]**

4.99 According to Rajvinder Singh Bains, human rights lawyer, because of eve-teasing in Punjab girls are not allowed out in the evening and women do not feel safe after 8.30pm. He commented that northern India is very different, it is a violent part of India, which in that respect makes women a hindrance.

4.100 In response to a Parliamentary Question for 21 July 2004, regarding the rise in rape cases in Delhi, the Minister of State in the Ministry of Home Affairs stated that "Drives against eve-teasers and pick pockets had been stepped up by the District police."**[12g]**

4.101 According to the NCRB figures for 2002 the incidence of eve-teasing stood at 10,155 and the number of cases showed an increase of 4.2% over 2001 (9,746). Andhra Pradesh reported 19.9% of cases (2,024) followed by Uttar Pradesh at 18.6% (1,887).**[51](chapter 5)**

4.102 According to the same source incidents of molestation in the country showed a decline of 0.5% over 2001. There were 33,943 reports compared to 34,124 from the previous year. Twenty one percent were reported from Madhya Pradesh (7,118).**[51](chapter 5)**

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Sexual harassment in the work place

4.103 In response to the problem of sexual harassment in the workplace, according to a Ministry of Law and Justice press release dated 28 April 2003, the Supreme Court laid down guidelines and norms to prevent sexual harassment for women at the workplace, in the "Vishaka" case. The guidelines stipulate the setting up of complaint committees as part of the complaint mechanism to redress complaints received by the victim. The guidelines have to be followed by all employers in both the private and public sector. The Government also amended the Central Civil Services (Conduct) Rules, 1964 by inserting Rule 3C, a new rule to include sexual harassment as

a misconduct.[45] The National Commission of Women later developed the Supreme Court Guidelines into a Code of Conduct.

4.104 As cited in a UN sponsored publication given to the delegates by the Foreign Office, a survey conducted by the NCW in July 1998 involving over 1,200 women from both the organised and unorganised sectors, found that almost 50% had suffered gender discrimination or physical and mental harassment at work, but 85% were not aware of the Supreme Court ruling and only 11% were aware of their rights to seek redressal and that sexual harassment was a punishable offence. The same survey held that women in the unorganised sector were more vulnerable to sexual harassment as compared to the organised sector. In addition 32% of the women complained of discrimination in terms of salary, leave entitlement, promotion, work loads and hours worked.[28](p59)

4.105 The National Human Rights Commission has studied the prevalence of sexual harassment in the workplace. It was reported in the Department of Women and Child Development annual report 2002-2003 that the NCW held meetings with various organisations such as banks, hospitals and schools at various places nation-wide to discuss the implementation of the Supreme Court guidelines on sexual harassment of women in the workplace. Twenty-six meetings have been held with over 600 organisations in order to create awareness regarding the menace and to assess the guidelines. [1a](p179)

4.106 The Minister of State in the Ministry of Human Resource Development said, "The Government does not receive complaints directly. Under the guidelines laid down by the Supreme Court in its judgement of 1997 for prevention of sexual harassment of women at workplace, the Complaints are to be dealt with by Complaints Committees constituted by the employers in the respective workplaces." Stated in reply to an unstarred question for 20 July 2004 on the subject of discrimination against women at the workplace and the Government's awareness of growing numbers of complaints.[12j]

4.107 With regard to sexual harassment in the work place, according to Kamal Singh at the British Council, Delhi University set up a huge complaints system but there were no or only a few complaints reported. However this cannot mean that such harassment is not taking place but is really indicative of women's reluctance to complain. There is a social angle with regard to the attitude in the slum community and in the lower economic situation but the urban woman is not prepared to accept it. When asked if this had changed over the last 10 years she was unable to say as public understanding of discrimination, harassment, abuse and violence was low.

4.108 According to Ms Visa Ravindran, a Chennai based journalist, Grievance Cells operate in only a few offices and universities, in fact Chennai was the first to establish one, but they do not receive many complaints of sexual harassment. They were specifically established to tackle sexual harassment in the work place, in line with the Supreme Court Guidelines following the Vishaka case. However these cells are not functioning effectively because complainants bringing charges against their bosses or professors are fearful

of jeopardising their jobs or degrees. Another reason given for their ineffective functioning was that some organisations establish a Grievance Cell but fail to take its function seriously with some committees never having met let alone produce the mandatory annual report as proposed in the guidelines.

4.109 In response to a question of whether the NCW had complained that a number of women, specifically journalists have experienced discrimination at work, the Minister stated, …"The Press Institute of India has carried out a study for the National Commission for Women on the subject "Status of Women Journalists in India." The Study notes the increasing opportunities available to women in the print media in recent years, and also mentions the handicap they suffer in their career progression, the sexual harassment and discrimination that adversely affect women journalists in their work and the non-availability of certain facilities required by women employees at the work place."… "The Government has taken a number of initiatives to give effect to the guidelines laid down by the Supreme Court relating to prevention of sexual harassment at workplace."… "The National Commission for women is in the process of drafting a Bill on prevention of sexual harassment at workplace."[sic]**[12j]**

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Societal and communal violence

4.110 According to the US Department of State report 2003, "Societal violence against women was a serious problem." **[40a](p23)**

4.111 As stated in a BBC news article of 4 October 2004, the Gujarat riots in 2002 were instigated after 58 people were killed when a train carrying Hindu activists was set on fire near the town of Godhra. It was alleged that a Muslim mob was responsible for the blaze, sparking a backlash of anti-Muslim riots all over Gujarat in which over a 1,000 people were killed in the violence. **[56]**

4.112 An Asmita representative stated that Dalit women suffer abuse in terms of societal violence against women and caste violence but they have responded and now Dalits have organised themselves within Andhra Pradesh. The National Commission for Women recently held a meeting in Andhra Pradesh regarding women being labelled as witches.

4.113 According to Rajvinder Singh Bains, a human rights lawyer in Punjab, women are the first victims from all sides in conflict.

4.114 According to the Action Aid representative interviewed by the delegation in Gujarat, during the communal riots in Gujarat of 2002 many women also participated in the violence and there was a lot of prejudice against Muslim women. This view was echoed by Ms Sheba George from SAHR WARU when she shared that after meeting survivors and witnesses in Camp, they said that while men are perpetrators of sexual violence; there were instances when women participated in violence too.

4.115 According Dr Hanif Lakdawala there was mass sexual violence in Gujarat during the communal riots. During the violence in 2002, 300-500 women were raped and burnt alive and there was no accountability. It has not been very successful to get redress with 2,000 out of 4,000 criminal cases summarily rejected by the police for lack of evidence. Human Rights organisations can only help in major cases and there is no state Human Rights Commission in Gujarat. Sanchetana is working with Gujarat representatives of NHRC in Ahmedabad and commented that the NHRC reacted to the communal riots after persausion. The NHRC put pressure on the State Government but because of the delays in the legal system not much could be done. Some cases were taken to Maharashtra with efforts to get other cases seen but there are logistical problems for witnesses of getting there and safety issues on their return.

4.116 Previously communal violence had been more of an urban issue but in 2002 it was also rural, according to Dr Lakdawala. Hindu women are taught that Muslim women suffer more so this creates a mindset. Society is communalised and historically Gujarat is anti-Muslim. Folk songs and stories are anti-Muslim and human rights organisations are looking to change school books but Dr Lakdawala questioned how can you change anti-Muslim folk songs taught at home. He commented that after 2 years there has not been much remorse and recognition that what happened was wrong. In the communal violence Muslim women suffered more than Muslim men, now they feel unsafe and there is a deep-seated fear. After the violence Muslim girls stopped going to school thus reversing the previous trend of increased education amongst this group. He also commented that Gujarat is the State with the most inter-faith problems.

4.117 Dr Mohini Giri at the Guild of Service commented that it is a great tragedy that communal society vests its honour in women and that rape is the tool of community violence with women of these communities being the most vulnerable. However the current NHRC held the Gujarat State Government to account over the communal riots of 2002.

4.118 As reported by a representative at the Centre for Social Justice, Ahmedabad, when asked if riot victims have been able to seek redress, following the 2002 societal violence in Gujarat the representative reported that there are still 6,000 -7,000 families internally displaced amounting to 30 to 40 thousand persons. The view expressed was that the Government of Gujarat's post riot rehabilitation has been abysmal and what was offered in terms of support to individuals was not 20% of what the victims of an earlier earthquake received. The average amount paid was 5,500 rupees and there was a lack of sensitivity in order to suppress the story. Two or three cases were filed in the High Court for damages where homes were damaged and of 4,200 criminal cases more than 50% have been closed without further investigation. Out of the balance of 2,100 cases, 50% went to trial resulting in 2 convictions with 25% still pending. The NHRC is the only institution that has taken a stand, going to the Supreme Court and the rate of conviction given above was only as a result of the Supreme Court taking a robust view. The NCW reports that of more than 100 reported cases of rape only 5 cases have

been registered and none have yet reached trial. The Bilkis Banu case was closed by the police and the Supreme Court ordered a re-investigation. As reported by the Press Trust of India on 15 September 2004, the Bilkis Banu case refers to the gang-rape and massacre trial which was transferred on 6 August 2004 from Gujarat to Maharashtra on Supreme Court orders. On 1 March 2002 Bilkis Banu who was 6 months pregnant was allegedly gang-raped and her relatives were killed by a mob in Dahod district during the riots sparked by the burning of a train in Godhra. The case was moved due to fears for her safety in Gujarat. A doctor is amongst one of the accused. **[54]**

4.119 A representative from the Centre for Social Justice in Gujarat stated that, twelve to fourteen of the accused in this case have now been arrested including police and a doctor, showing the scale of those involved. The NHRC has given legal assistance to the woman victim and she has been moved out of the state because of threats, including from the police.

4.120 One of the other cases in which the NHRC intervened was the Best Bakery case which came about following the burning to death of 14 people in the building of the Best Bakery in Vadodara, Gujarat on 1-2 March 2002. The trial court acquitted all 21 accused because the key witnesses failed to give evidence for fear of reprisals. The NHRC intervened and requested that the Supreme Court set aside the acquittal order, as noted in an article by The International Environmental Law Research Centre.**[55]** The retrial of the 17 Hindus charged with murdering 14 people, 12 of them Muslims is underway in Mumbai. The Supreme Court ordered that the re-trial be moved out of Gujarat following accusations of judicial failures on the part of the state government. A key witness said she had been threatened by senior figures in the local ruling Hindu Bharatiya Janata Party and other witness also withdrew their evidence, according to a BBC article of 4 October 2004.**[56]**

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5. LEGISLATIVE PROTECTIONS

Equality laws

5.1 In India many laws exist for the protection of women's rights but implementation and enforcement appear to pose the biggest barrier as noted by various representatives. For example a representative from the Department of Women and Children, Delhi stated that there are many laws but implementation is the problem and one of the reasons for this is cultural.

5.2 As noted in the US State Department report 2003, (published 2004) "The legal system accommodated minority religions' personal status laws; there were different personal laws for different religious communities. Religion-specific laws pertain in matters of marriage, divorce, adoption, and inheritance. For example Muslim personal status law governed many non criminal matters involving Muslims, including family law, inheritance, and divorce. The personal status laws of the religious communities sometimes discriminated against women." **[40a](p17)** "The Government does not interfere in

the personal status laws of the minority communities, including those that discriminate against women."**[40a](p11)**

5.3 According to the Indian Constitution fundamental rights are guaranteed to women and India is a signatory to the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW).

5.4 The US Department of State report 2003, (published 2004) notes, "Numerous laws exist to protect women's rights, including the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (widow Burning) Prevention Act and the Dowry Prohibition Act. However the Government often was unable to enforce these laws, especially in rural areas in which traditions were deeply rooted."**[40a](p23)** According to the NCRB there were no reported incidents of sati in the country in 2002. **[51](chapter 5)**

5.5 As cited in a 19 July 2002 Ministry of Law press release regarding amendment in the Hindu Marriage Act, "The Hindu Marriage Act, 1955, the Special Marriage Act 1954, the Parsi Marriage and Divorce Act, 1936 and the Code of Criminal Procedure 1973 have been amended recently to make it mandatory for the courts to grant interim relief to women in distress within 60 days from the serving of notices to the parties in divorce suits for maintenance to self, child(ren) and aged parents."…The Marriage Laws (Amendment) Act 2001 which brought into effect those changes, has been acclaimed widely by women's organisations as a milestone in personal law reforms in so far as it provides social security to women in distress. **[24e]**

5.6 As noted in the UN Commissioned report, Women in India: How Free How Equal? 2001, "In response to years of sustained legal activism by the women's movement, the Supreme Court has begun to apply equality principles to address issues of violence against women. Apart from the landmark ruling on sexual harassment in the workplace in 1997, judgements have also begun to apply international conventions like CEDAW and the Convention on Human Rights. Following the declaration of 2001 as the "Year of Women's Empowerment", the Government of India has announced that more stringent civil legislation will be enacted to combat violence against women. The proposed bill will give women victims the rights to protection, relief and custody of their children.**[28](p76-77)**

5.7 The Centre for Social Justice in Ahmedabad were the consulting resource organisation for Gujarat State Gender Policy initiated by the Department of Women and Child Development, Ahmedabad, entitled "Recommendations of the Working Committee on Legislative Actions For Gender Equity". (Recommendations for improving laws pertaining to women). It states that, "A bird's eye view of the legislative attempts in the last decade and a half would indicate positive State action in response to the lobbying by various women's groups in the form of multiple legislations dealing with various issues concerning women." The Sati (Prevention) Act, amendment to rape laws, additions to the Indian Evidence Act to the benefit of women, the Indecent Representation of Women Act, Prenatal Diagnostic Techniques Act are all mentioned as major legislative contributions to women's issues. **[26]**

5.8 A similar view is expressed in the Guild of Service publication, Ma-Dham in Vrindavan when it states that certain legislation (mentioned below) brought about an upward trend in the status of women in India and as a result of this legislation women are enjoying and gaining a better status, recognition and respect. …"As far as legislation is concerned today Indian women are marching towards liberty and equality." Some of the significant enactments relating to women are cited in the publication as: The Hindu Widow Re-marriage Act of 1856, The Child Marriage Restraint Act 1929, The Hindu Women Right to Property Act 1937, The Hindu Marriage Act 1955, The Hindu Succession Act 1956, The Suppression of Immoral Traffic in the Women and Girls Act of 1956-57, The Dowry Prohibition Act 1961.**[18]**

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Statutes

5.9 The Dowry Prohibition Act 1961 is an act to prohibit the giving or taking of dowry. "Dowry" means any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to the other or by the parents of either party to a marriage or by any other person. It does not include dower or Mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies. The penalty for giving or abetting dowry is punishable with imprisonment for a term not less than 5 years and with a fine not less than 15,000 rupees or the amount of the value of such dowry, whichever is more. The demanding of dowry directly or indirectly is punishable with imprisonment for a term not less than 6 months but which may extend to 2 years and a fine of 10,000 rupees.**[24]**

5.10 The Commission of Sati (Prevention) Act 1987 provides for the more effective prevention of the commission of sati and its glorification and for matters connected therewith or incidental thereto.**[24d]** According to the NCRB figures for 2002 there were no incidences reported during 2002 across the country. The practice is declining in modern times but occasionally cases under this act are reported. **[51](chapter 5)**

5.11 The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1994
The Act provides for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex linked disorders and for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide; and, for matters connected therewith or incidental thereto.**[24c]**

5.12 Indecent Representation of Women (Prohibition) Act, 1986
Prohibits indecent representation of women through advertisements, publications, writings, paintings, figures or any other manner.**[42](p24)**

5.13 Immoral Traffic (Prevention) Act 1956
Article 23 prohibits traffic in human beings. India has ratified the International Convention on Suppression of Immoral Traffic in women and girls.[42](p24)

5.14 Protection of Human Rights Act 1993
This act provides for the national constitution of a National Human Rights Commission, State Human Rights Commission in States and Human Rights Courts for better protection of Human Rights and for matters connected therewith or incidental thereto. [52]

5.15 National Commission for Minorities Act 1992
An Act to constitute a National Commission for Minorities and to provide for matters connected therewith or incidental thereto.[24f]

5.16 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 To prevent atrocities and for the constitution of special courts for trial of such offences and provide relief and rehabilitation to victims.[42](p24) The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offences against disadvantaged persons and provides for stiff penalties for offenders, as stated in the USSD report 2003.[40a](p27)

5.17 Maternity Benefit Act 1961 To regulate employment of women in certain establishments after child birth [42](p24)

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Measures under the Indian Penal Code (IPC)

5.18 Section 498A of the Indian Penal Code makes cruelty towards women by husband or relatives of the husband an offence and was introduced into the Code of Criminal Law (Amendment) Act 1983 to combat the menace of dowry. Section 498A provides that whoever being the husband or the relative of the husband or woman, subjects the woman to cruelty shall be punished for a term which may extend to 3 years and shall also be liable to fine. Cruelty is defined as “Any wilful conduct which is of such a nature as is likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb, health (whether mental or physical) of the women.[29]

5.19 Section 113A lays down that if a married woman commits suicide within 7 years of marriage and that her husband or such relative of her husband subjected her to cruelty, the court may presume having regard to all of the circumstances of the case, that such suicide had been abetted by her husband.[29]

5.20 Section 354 Outraging the modesty of a woman, because a female child is particularly vulnerable to abuse within the home the IPC under s 354 makes assault or uses of criminal force a crime and the term woman includes any female of any age.[44]

5.21 According to information published by the Lawyers Collective (Butterworths, 2000) entitled Domestic Violence and the Law: A Report of

colloquium on justice for women – empowerment through Law, "In order to combat the increasing incidents of torture of women by their husbands and his relatives, the legislature enacted s 498A of the IPC and s 113A of the Indian Evidence Act." To convict a person under s 498A IPC, the prosecution has to prove that the accused committed acts of harassment or cruelty and that was the cause of the suicide. The term cruelty includes both mental and physical under this section and cruelty means any wilful conduct that is of such a nature likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb, health (mental or physical) or to harass or coerce her or any person related to her to meet such a demand. The cruelty has to be of such gravity as to drive an ordinary woman to take her life eg depriving her of her child and beating can amount to cruelty under this section. The onus still lies with the prosecution to show that she was subjected to cruelty.**[44]**

5.22 Furthermore offences against a married woman are normally committed within the home so direct evidence will not be available so the courts will take into consideration the "dying declaration" of the woman, statement of the deceased and of her relatives. If there is an offence under s 306 IPC then abetment has to be proved independently under s 107 IPC…. "Abetment does not involve the actual commission of the crime."…**[44]**

5.23 According to the same article the concept of marital rape exists to a limited degree where S 375 IPC provides if a husband has sexual intercourse with his wife if she is below fifteen years of age then this constitutes rape. Also if the woman is separated from her husband under a decree of judicial separation and the husband has sex with her without her consent then this amounts to rape.**[44]**

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Marriage and Divorce law

5.24 The Hindu Marriage Act 1955 recognised the equal rights of men and women in matters of marriage and divorce. Either party can present a petition in a court of law for divorce and gave women the equal right to divorce her husband.**[18]** According to an article by the Lawyers Collective, the Hindu Marriage Act deals with issues of domestic violence but only in the context of judicial separation and divorce. It also deals with maintenance and alimony. Section 10 enables any party to file a petition for judicial separation (which will not put an end to the marriage) on the same grounds as available for a decree of divorce under s 13.**[44]**

Maintenance

5.25 As stated in the Lawyers Collective article, Section 24 of the Hindu Marriage Act provides for maintenance for either party seeking a decree of divorce or judicial separation. However it is a summary remedy only available whilst proceedings are pending. Under section 9 the court can make interim orders directing the husband to pay litigation costs of the wife and also to pay

maintenance during the pendency of the petition for restitution of conjugal rights….”The court is bound to decide the application of the wife for interim maintenance and litigation expenses before deciding the merits of the case.”…The court can also halt proceedings under s 9 of the Hindu Marriage Act to enforce obedience to maintenance order but this is only an interim measure. **[44]**

5.26 The same source states that the Indian Divorce Act 1869 is applicable to Christians of all denominations and s 10 allows for both parties to a marriage to petition for dissolution of the marriage. A ground available to the woman is adultery coupled with cruelty on the part of the husband. Therefore “cruelty” has been recognised in a very limited manner under this Act. Section 36 of this Act provides for alimony and a deserted wife may also apply for protection orders to her property under s 27. Section 40 provides for granting of permanent alimony.**[44]**

5.27 Dissolution of Muslim Marriages Act 1939
A Muslim woman can obtain a decree of dissolution under s 2 of the Act on the ground of cruelty amongst others and this is the only statute to define cruelty.**[44]**

5.28 Muslim Women (Protection on Divorce) Act 1986
Allows a divorced wife to claim maintenance but her right to claim is limited to 3 months after the divorce, the children are also entitled to maintenance.**[44]**

5.29 Special Marriage Act 1954
Persons belonging to any community can opt to be married under this Act. Section 30 provides for divorce and cruelty recognised as a ground for divorce. Maintenance and permanent alimony can be applied for under separate sections.**[44]**

5.30 The Hindu Re-marriage Act 1856 allowed widows to remarry.

5.31 The Hindu Women Right to Property Act 1937 recognised a widow as having the same right as her deceased husband in the joint property. Women in Hindu society received property rights to a limited extent.**[18]**

5.32 The Hindu Succession Act 1956 is a law to amend and codify the law relating to intestate succession among Hindus. According to a Guild of Service publication this Act recognised an equal right for women in inheriting property. For the first time absolute ownership was conferred to a woman, enabling her to inherit the property of her father along with brothers and enabling her to sell or mortgage the inherited property or use it.**[18][24a]**

5.33 The Child Marriage Restraint Act 1929 made the minimum age for girls to marry 15 and this age limit was later increased to 18 for girls and 21 for boys and made offences under this Act cognisable.**[18][1a](page39)**

5.34 The Indian Divorce (Amendment Bill) 2000 to further amend the Indian Divorce Act 1869.

5.35 Hindu Minority and Guardianship Act 1956
According to a Lawyers Collective article, "The provision giving the father precedence over the mother in matters of guardianship, has been whittled down by the Supreme Court. Under s13 the welfare of the child is paramount. Thus, when the domestic situation is not conducive to the physical or mental health of the child, an appropriate order may be sought from the court in this regard."**[44]**

5.36 Domestic violence is not recognised as a separate issue in the Indian Civil Law and the concept of cruelty as a ground for divorce and judicial separation is the only recognition granted and even this ground applies to restricted circumstances, not covering all aspects of domestic violence. Domestic violence is not recognised outside marriage and general civil law has to be relied upon. Civil remedies against domestic violence have to be sought in the Specific Relief Act and the Civil Procedure Code. The basic principle in civil law being that a threat of or actual invasion of a right entitles a person to a mandatory or prohibitive injunction. Maintenance and custody and guardianship of children are also covered by civil law under the Hindu Adoption and Maintenance Act 1956, the Muslim Women Protection on Divorce Act, the Indian Divorce Act 1869, the Parsi Marriages and Divorce Act 1936 which have widely varying maintenance and alimony provisions, according to information published by the Lawyers Collective (Butterworths, 2000) entitled Domestic Violence and the Law: A Report of colloquium on justice for women – empowerment through Law. **[44]**

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6. Enforcement of legislative protection (civil and criminal)

6.1 The fact finding mission requested a meeting with the Ministry of Home Affairs as the department responsible for the police but unfortunately this request was not met.

6.2 According to the representative at the Department of Women and Children, Delhi, there are many laws to protect women but implementation is the problem and one of the reasons is cultural.

6.3 As stated in the US Department of State Report 2003, "Numerous laws exist to protect women's rights, including the Equal Remuneration Act, the Prevention of Immoral Act, the Sati (Widow Burning) Prevention Act, and the Dowry Prohibition Act. However, the Government was often unable to enforce these laws, especially in rural areas in which traditions were deeply rooted. According to press reports, the rate of acquittal in dowry death cases was high, and due to court backlogs, it took an average of six to seven years to conclude such cases."**[40a](p23)**

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Police

Attitudes

6.4 The view given by various interviewees during the course of the mission was that the police is a male dominated profession with a strong patriarchal mindset and as a result of this there was a need to train police officers in gender sensitisation to raise awareness of the needs of women and to make them more gender sensitive when dealing with their complaints. It was also widely thought that many officers were reluctant to register women's complaints often adopting a dismissive and judgmental attitude, particularly in cases of rape and molestation mainly due to their perception of women which is influenced by patriarchal society. It was reported that even where some women went to the police to register a complaint there was reluctance on the officer's part to complete a First Information Report (FIRs) which is an essential and necessary first step in the legal process.

6.5 The introduction of gender sensitisation training across the police force sought to address the problem by training officers to be more gender sensitive when dealing with women complainants. Gender sensitisation is happening across India, this was the view given by several representatives.

6.6 An article in India Today dated 9 September 2002, entitled Sexual Crimes, suggests that while lodging the FIR in cases of rape the police are often judgmental in their appraisal of a woman's character. However it is further stated in the article that, "Admittedly, there have been some revisions in the procedure, unlike earlier, no questions can be asked at the time of lodging an FIR if a woman says she is raped." Soon after women should be examined by a female doctor and escorted by a female constable. However it was suggested by an advocate, that these procedures are seldom followed with many police officers ignorant to the requisites of the law also that attitudes seldom change. But Vimla Mehra – Joint Commissioner of Police of the Crime Against women Cell in Delhi dismisses the cases referred to in the article as "freak cases." The article acknowledges that some changes appear to be underway, for example the Mumbai police are being sensitised to attend distress calls as a priority as are the Delhi police which has a special help-line number staffed by women. The police are also supposed to call an NGO representative to provide immediate counselling and comfort. In camera-trials for rape are now obligatory and only people and officers directly concerned are allowed in.**[48](p54)**

6.7 However because of the length of time taken in legal proceedings most women have had enough and according to Flavia Agnes a prominent lawyer in Mumbai, in her 20 year career she has seen very few middle and upper class women brave enough to report rape given the legal procedures involved, particularly so if raped by a family member or influential person capable of manipulating the system, as stated in the same article. **[48](p54)**

6.8 The 2001, UN sponsored publication Women in India, how free, how equal?, states that…"The last ten years have seen a much greater sensitivity

within the police and justice systems to the issue of violence against women, and sustained campaigning by women's groups has led to stringent legislation to protect women from bodily harm. Yet, violence against women appears to be a "high growth sector".**[28](p71)**

6.9 Jagori commented that the majority of the people working for the police have a patriarchal mindset making it is difficult to get justice. The first approach for a woman is always compromise with the belief that women should be more tolerant. A representative from Anveshi informed the delegation that with regard to domestic violence and women, the police respond very differently to women and this is not just a question of gender discrimination. Institutions work on connections so it depends on whether she is accompanied by a lawyer, women's group or a local strong man.

6.10 According to the British Council book on the first national Conference for women in the police 2002, women have begun to make an impact into the highly male-dominated profession with significant increases seen in the number of women joining the police service. Concerns about equality of opportunity for women police officers and the need for special development, instigated the "Springboard Women's Development Programme 2000".**[49](p6)**

6.11 Kamal Singh at the British Council said the police's view was that implementation of section 489A is very weak. This section was introduced into the Indian Penal Code concerning mental cruelty as an issue. The police look at the issue in a social context and their perception is that women misuse the section. However she said that Ila Phatak destroys the myth that women are making false claims in her report entitled "Aftermath of Domestic Violence" – A Systematic Exploration of the Criminal Justice System in Gujarat. Kamal Singh reported that internally policing is a highly male dominated profession. When asked if it was a level playing field she said no, as they had tested a Springboard Programme with women in police, which was very successful and threw up many issues of concern. The First National Conference for Women in Police in 2002 in partnership with the Bureau of Police Research and Development discussed these. Policewomen, at all ranks, were keen to be part of a learning network of operational policing and self-development. The then Home Minister, L K Advani had been keen for it to develop so there is hope for future programmes. However in India it can be the case that you take one step forward and one step back and additional training is required to recruit more women police officers and she commented that female police officers are sensitive to women.

6.12 According to a senior correspondent, Lalita Iyer, interviewed by the delegation in Hyderabad, there may be caste discrimination but there is not too much gender discrimination within the police. In the main the Andhra Pradesh police are very fair and responsible in a positive way. She was very pro Andhra Pradesh police in that respect and said the police would definitely try and help a woman and would register a case. The Andhra Pradesh police are friendlier towards women than in other areas although there may be caste discrimination but generally people are afraid of the police however in the main they are friendly.

6.13 A representative from the Institute for Development and Communication in Chandigarh stated that the biggest factor against the police registering cases was cultural and that this was a major factor. Even the judiciary take it for granted and adopt and justify a patriarchal attitude. The delegation were given an example of this invisibility where if a policemen goes to a village to try to educate villagers on women's issues, the whole village may get him transferred.

6.14 An Institute for Development and Communication (IDC) Chandigarh report entitled Combating violence against women in Punjab-2001 given to the delegates notes, " The Punjab police has taken certain initiatives to combat violence against women. Their approach is based on creating partnerships with the people in the community, as also with the support structures." **[36](p 118)**

6.15 According to a group of human rights activists in Punjab, Punjab is still a police state and in rural areas the police remain in control. The rural poor voted for the new Government and there is a slight change towards the rural people. They commented that during the militancy the police were given a free hand and grass root level officers were promoted after committing abuse and that mindset has not changed. However there are a group of officers wanting change. They claim that more than 80% of complaints to the Punjab Human Rights Commission are against the police.

6.16 Dr Hanif Lakdawala at Sanchetana in Gujarat, said there is police bias against women. In the women's cell in Ahmedabad women officers are rough and unsympathetic towards women. He was of the view that women's cells there have not been very effective in helping women and that gender sensitivity hardly makes a difference because the police are from society and they become communalised. Men will not change until society changes. However in Gujarat violence against women by the police was not common, the police may be orally abusive but there is no physical abuse and there have been no reports of it.

6.17 According to a SAHR WARU publication of 2001 entitled "Snuffed Out, an account of the organisations experiences of unnatural deaths of young girls and women in Gujarat", the police are often reluctant to investigate unnatural deaths of women particularly within the slum communities, recording the death as accidental. One such police response regarding the death of a 12 year old girl was "it is an accidental death, how can a girl of 12 living at her parent's house have any problem." A Deputy Commissioner of police reportedly stated, in defence of the police, "Our society has its own system of resolving "social" problems."…Because of families interlinking with one another, if legal action is taken by one person then all the families will be affected. …"In these situations, compromises are set up by middlemen of the society mostly in the form of money, thus closing down the case resulting in inaction for the further inquiry."**[20](p27)**

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Registering of complaints

6.18 As stated in a Commonwealth Human Rights Initiative (CHRI) article a "First Information Report (FIR) is a written document prepared by the police when they receive information about the commission of a cognizable offence." These generally are a complaint lodged with the police by the victim of a cognizable offence or by someone on their behalf. A cognizable offence is one which the police can arrest without warrant and do not require orders from the court in order to start an investigation. Anyone is permitted to report the commission of a cognizable offence either orally or in writing to the police, telephonic messages can also be treated as an FIR. An FIR is an important document as it sets the criminal process in motion. The police take up the investigation once it has been registered at the police station.**[41]**

6.19 Section 154 of the Code of Criminal Procedure 1973 stipulates that with regard to cognizable cases, information relating to the commission of a cognizable offence if given orally, must be written down by a police officer. The conveyer of the information also has a right to have the information recorded by the officer, read over. Once recorded by the police it has to be signed by the person imparting the information and for those unable to read or write they can use their left thumb print. The giver of the information is entitled to a free copy of the FIR. **[41]**

6.20 According to the same source the police may not investigate a complaint despite an FIR being filed when they deem the case is not serious or there is not enough ground to investigate. However the police must record their reasons for not doing so and must inform the complainant as provided for under section 157 of the Criminal Procedure Code 1973. Where a person is not satisfied with this outcome they can meet the Superintendent of Police or similar high ranking officers such as a Deputy Inspector General of police or Inspector General bringing the complaint to their attention. Or they can send their complaint in writing by post to the Superintendent. If satisfied the complaint warrants an investigation this can be carried out by the Superintendent or he can order an investigation. Alternatively a private complaint can be filed before the court having jurisdiction, additionally a complaint can be lodged with the State Human Rights Commission or the National Human Rights Commission if the police fail to enforce the law or demonstrates bias or a corrupt manner. **[41]**

6.21 Various representatives told the delegation that First Information Reports (FIRs) should be completed on registering a complaint at the police station. It was suggested that many women were too illiterate to complete them and that there was sometimes a reluctance on the part of police officers to register cases made by women due to a number of reasons, ranging from patriarchal mindsets and insensitivity to the feeling that it would be a wasted exercise because the victim may be likely to withdraw the complaint at a later stage because of pressure.

6.22 With regard to registering rape cases it was suggested by some representatives that some police officers discourage victims from filing

complaints and that some police officers were not familiar with procedures when dealing with the women. Many women are reluctant to report complaints because of stigma, social pressure and the fear that her character would be judged in addition the fear of ridicule and the feeling she is being raped again every time she has to recount details of the crime. Furthermore many women feel intimidated and may have preconceived ideas about adequacy of assistance and police attitudes.

6.23 As cited in the India Today article of 9 September 2002 about rape, many NGOs disseminate information on the importance of reporting rape immediately because of the need for evidence. A woman constable is required to accompany the victim to a government hospital for medical examination and once the FIR has been lodged the investigation should begin and all evidence must be produced within 3 days. **[48](p56)**

6.24 According to various representatives another common view is that police officers suggest reconciliation or compromise in preference to registering cases and many do not take women's complaints seriously, dismissing instances as "heat of the moment" reactions which would be likely to change once she had "calmed down."

6.25 As cited in an India Today article of 9 September 2002, given to the delegation by Jagori, a study by the Institute of Development and Communication found that for every rape case reported there were as many as 68 unreported and that for every first information report (FIR) filed on molestation there were 374 unreported.**[48]**

6.26 Many NGOs help women register complaints. The Guild of Service put women in touch with the police who will then take them more seriously once the Guild is involved and previously the police were reluctant to register complaints if women came alone. This view was echoed by Dr Basu at the All India Women's Conference who commented that the AIWC offer assistance to women in registering an FIR because a woman may not be listened to or be able to write an FIR if she goes alone to the police station. A representative from Anveshi noted that the reaction a woman receives is dependent on who accompanies her to the police station.

6.27 When asked about the adequacy of legal remedies, the response from one of the NHRC representatives was that the Constitution guarantees equality so technically there are legal rights. However the problem is adequacy of access when it comes to registering complaints because society is backward and literacy is a problem, however NGOs play a prominent role in helping women. A study was undertaken with an NGO as to why FIRs were not being registered by women and the report is pending. However in Kerala where there is 90% literacy the police have to take women's complaints seriously.

6.28 Ms Urvashi Buatalia, Director of Zubaan commented that a lot of women police officers have not been trained to file a rape report. This makes a difference and is an area that police training academies need to concentrate

on and implement. The State relies on NGOs who are coming up with initiatives. She said that women are quite willing to go along with organisations to register complaints. The Guild of Service representative stated that the police take women's complaints more seriously if they are accompanied by one of their representatives.

6.29 Representatives from the Andhra Pradesh Women's Network stated that the police view in Andhra Pradesh is to not register cases under s498A but to compromise. A government supported NGO brings more authority if they accompany the woman to the police station. It was claimed that police are reluctant to register a first complaint and the more insistent a woman is then the more problems she faces. It was suggested that the police had been instructed not to register cases as this would reflect on their job, now with all the sensitisation training they offer counselling instead. A typical attitude would be that there can not be a problem because it is natural for a husband to beat his wife and she should not have made him angry or made such a fuss.

6.30 According to Ila Pathak from AWAG in Ahmedabad in 1987 there were reports of violence against women from the police. In cases of violence towards women, police will try to register a case as soon as activists are involved. The police send women to AWAG to help them get medical attention or counsellor's assistance or they may send them to a Short Stay Home.

6.31 Anveshi, as an institution, does not take up cases of domestic violence, though several members do at an individual level, as stated by a representative. Apart from this, what Anveshi members were saying drew a lot on the research project that Anveshi took up which looked at the way public institutions such as the police stations, courts, hospitals and the family counselling centres respond to women facing domestic violence. During this three-year project, titled Institutional Responses to Domestic Violence in Andhra Pradesh, the processes involved in women approaching these institutions was examined at length. Conviction rates are bad and most domestic violence cases get compromised. It is still very difficult for a woman to get a case registered and most women do not want to get to the stage of registering cases and this also has to do with a woman's perception of her place in society. There is a need to distinguish between the ways in which women want to deal with their issues and the ways in which lawyers seek to deal with their issues. In this context, it becomes important to mention that many women, including those from rural areas and poor settlements, seek to settle the issues in their local contexts – by trying to reform their husbands without resorting to law in the first instance.

6.32 The same source said that with regard to filing cases under section 498A it has now got to the stage that if a woman files a case against her husband she is likely to have burnt all her bridges so that she is unable to return. Too many lawyers are too quick to give the wrong advice and file a complaint under s498A when this should really be used as the last resort. A woman has to cite dowry and physical violence to get her case registered because there is no mechanism for minor offences, thus forcing some women to file cases

under s498A, however if she wants to keep her options open she should not file a criminal case. No-one dares approach the police not even the middle classes however there are individual police officers and judges doing fantastic work in stretching legal boundaries, but there is no infrastructure so it only occurs in individual pockets. For example in Mumbai, there is more accessibility for women, following 20 years of work and where initiatives have been taken up.

6.33 According to a representative from the Centre for Social Justice in Ahmedabad, from a policing point of view they are faced with a dilemma with regard to women and registering cases of violence. Good police officers look beyond policing and on the whole do try to intervene. However the broader view is that domestic violence is an internal affair within the family and not really a crime and instead a problem needing to be settled. There are proactive police but the mindset that it is not a crime still remains and as a result everyone is investing in gender sensitisation of the police force. Despite gender sensitisation programmes taking place the general view prevails within the police to see that fewer cases are registered and pressure is exerted from above, from the Government and State authorities not to register. A woman would be able to access higher mechanisms to complain or seek protection but this takes time and money and is not easy for the illiterate. Therefore rural women are not able to do this but if women approached higher officers then they would take much more interest.

6.34 As cited in a SAHR WARU brochure about the organisation, “There are quite a few number [sic] of unnatural deaths occurring within the Dalit Communities which go unrecorded in police stations or discussed in communities.”**[21]**

6.35 In another publication by the same source, “Snuffed Out” about unnatural deaths in women and young girls they report meeting with a Deputy and Assistant Police Commissioner of an area in Gujarat who said that even if circumstantial evidence is present the police cannot act on it without an FIR having been filed. According to the report police invariably arrive late to the scene often once the body has been dispatched to the hospital invoking speculation as to their motives. It was also commented by the Assistant Commissioner that 60% of crimes are happening because the tolerance level of women has gone down.**[20](p27)**

6.36 When asked what the biggest barrier was in terms of the enforcement of laws to protect women at a meeting with Institute for Development and Communication the Director, Dr Pramod Kumar cited the biggest factor as a macro factor, which is cultural and that is the invisibility factor. The judiciary and society take this for granted. At the micro level there are individual factors such as biases and discrimination. There is also a lack of sensitivity by women of their own rights. A representative from the same organisation reported that a police station is a place of stigma for women where she may be blamed, so no woman is ready to go.

6.37 A Human Rights lawyer in Punjab, Rajvinder Singh Bains told the delegation that it is ten times worse for women than for men as it takes so much effort for a woman to report a crime committed against her and requires a lot of community effort. An example was cited of a case he represented where, in 1989 a rural woman was raped by a SHO (Station House Officer) police officer. Her FIR was not registered and no examination was carried out. She was unable to get the police to register a first complaint so she filed a private complaint. The officer was eventually charged in 1997, convicted and sentenced to10 years in 1999. He served 4 years and his appeal is pending in the High Court. Three of those who were convicted were serving police officers but even after conviction they were not dismissed and received a salary and pension. This was an exceptional case where the woman was brave. She had the courage to fight the system and now the police leave her alone. He commented that in a certain way the system does work, her whole family supported her and she had to stay in a Gudwara for months. Now because of the media, both press and television, people are more supportive and the media has helped in sensitising people. Things are changing however it takes a brave woman to do this and she was exceptionally brave.

6.38 A prominent Human Rights activist in Punjab stated that if a woman is raped in custody, she is unlikely to report it. The police are in total control of the villages in Punjab and no-one will make a complaint against the police although some do approach them but it is a very slow process.

6.39 Whilst in India members of the delegation saw a prominent colour advert from the Delhi police in The Hindustan Times, dated 15 July 2004, publicising a help line for students at Delhi University with regard to eve-teasing and sexual harassment. The advert states that plain-clothes policemen and PCR vans were deployed at colleges and strategic points to combat anti-social behaviour. Complaint boxes have been strategically placed in colleges and Girls' Hostels and with surprise checks carried out on buses travelling to the university. The advert offers preventative guidance to students and prominently displays an emergency number and the Women's help-line number.**[15]**

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Crime Against Women Cells and All Women Police Stations

6.40 The fact finding team felt that it would be beneficial to visit a Crime Against Women Cell but unfortunately this request was declined.

6.41 In a publication by Dr Rainuka Dagar, given to the delegates, "The need to provide women with an avenue for police contact resulted in the creation of women's cells in every police district." The first one was set up in July 1989 and continued to be set up for a decade resulting in every police district having a separate women's cell headed by a DSP. The main purpose of the cells is to ensure women have access to the police and to give assistance in crimes relating to women from indecent exposures, trafficking, abetment of suicide to dowry harassment etc. …"Largely, they function as grievance

redress agencies parallel to the panchayats but are perceived to be more effective due to the outreach and authority of the police."… **[25](p35-36)**

6.42 The British Council representative, Kamal Singh, stated that all women police stations have been set up but they are not really active and were working more like post offices, although in principle the idea was a good one. The Crime Against Women Cell in Delhi is run by a very senior female police officer, Vimla Mehra. The NCW representative told the delegation that they interact with the Crime Against Women Cell, meeting with them and giving them guidance.

6.43 Senior correspondent Ms Visa Ravindran told members of the delegation that the Government is trying to increase the number of All Women Police Stations. The All Women Police Stations have a help-line where they refer women to a shelter. They refer victims not only to shelters but to NGOs who may be able to give victims other kinds of support too, like free legal and other kinds of counselling, skill training to help them to eventually be able to stand on their own feet, to help illiterate women to fill in forms and applications and to help them deal with State authorities. There are two schools of thought, one that it is effective and on the other hand that there is insufficient infrastructure.

6.44 Jagori reported that there has been a certain development in the infrastructure in terms of the introduction of the Crime Against Women Cells and the Mahila Thanas (women's police stations) in smaller places. The representative said that women can get a certain amount of help but the effectiveness of Women's Cells was dependent on the individuals working in each cell. Its effectiveness needs personal commitment and they reported that there is a lot of indifference. Effectiveness also depends on how active women's groups are in the area because it is they who demand accountability.

6.45 Dr Basu at the AIWC in Delhi reported that the Crime Against Women Cell works quite well and is very helpful and that the police are sympathetic. Another view in support of this came from the Director of Zubaan who said that Women's Crime Cells have been reasonably effective in the South. They have possibilities for making a difference but this is dependent on individuals and a sensitised system. There are efforts to recruit more women which is a good thing. However it is thought that some women take on male attitudes in the Women's Crime Cell. An example was cited where in Kerala a women joined the police and wanted to wear trousers rather than a sari but her superior officer got angry with her saying it was not feminine, so you have to battle against these sort of attitudes.

6.46 In Punjab Dr Pramod Kumar, the Director at the Institute for Development and Communication informed the delegation that Women's Crime Cells in Punjab work well and the Institute has tried to measure their effect. There are some women police officers, with less than 1% of women in the police at the top but there are 17% at junior levels. There is no active recruitment and no conscious recruitment policy. However they are visible and active and the protocols in respect of not detaining or searching a woman without a female officer present are generally followed.

6.47 According to a Senior Correspondent Lalita Iyer, there is a women's police cell in Hyderabad and one or two in other areas and she commented that by and large Andhra Pradesh police are fairly responsible.

6.48 According to a representative at Asmita, in Andhra Pradesh sometimes the police and women's cells are happy for them to help and will refer cases to them. She said that it is difficult for women to go to police stations and even Women's Crime Cells and often they are asked to go to a women's organisation. People in women's cells are not trained or equipped and are not sure of what they should do and are therefore grateful for Asmita's guidance.

6.49 As stated by a representative from Anveshi in Andhra Pradesh, in some towns and districts there are women's police cells. Some women police officers tried something very innovative in getting women lawyers together. She said that they are not a universal phenomena and you need connections to access them and it was also commented that you cannot access help-lines.

6.50 Ms Visa Ravindran a freelance journalist, informed the delegation that there are all women police stations in Andhra Pradesh and that the Government is trying to increase the number. The Women's Cell has a help-line and they either send a vehicle out or go out to collect the woman, they then refer the woman to a shelter. There are two schools of thought as to their effectiveness. One that it is effective and on the other hand, ineffective because of a shortage of infrastructure. In Andhra Pradesh the State Government has different departments concerned with social welfare and development but they are not doing any gender sensitisation in a meaningful way and it is mostly being done by NGO's.

6.51 According to the representative at AWAG, in Ahmedabad, Women's Cells are not regarded as successful and on the contrary are deemed to be worse than normal police stations and AWAG are trying to lodge complaints. The women are trained more as police than women and some go power mad exerting more pressure than a man would. However AWAG have given all policewomen gender sensitisation training in Gujarat. This view was reiterated by the representative from Sanchetana in Ahmedabad when he informed the delegation that Women's Cells are not effective and gender sensitivity hardly makes any difference. In women's cells in Ahmedabad the women officers are rough and unsympathetic towards women.

6.52 Mr Rajvinder Singh Bains, a human rights lawyer in Punjab stated that there are very few women police officers but Crime Against Women Cells are more effective and this is especially so in Chandigarh where it has been both effective and sensitive and are quite protective in rural areas. He further commented that they are very effective for women so much so that husband's have complained of harassment.

6.53 As cited in the Department of Women and Child Development Annual Report 2002-2003, the NCW convened a consultative meeting with police officials in charge of Crimes Against Women Cells and other prominent

stakeholders to discuss the "Increasing Trend of Crime Against Women in Metro Cities in New Delhi.[1a](p179) According to Kamal Singh at the British Council, the Crime Against Women Cell was involved in giving martial arts training to women in colleges.

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Rape Crisis Intervention Centres

6.54 As cited in the Department of Women and Child Development annual report 2002-2003, there are three Rape Crisis Intervention Centres functioning in Delhi and one in Mumbai. Rape crisis help lines are available 24 hours a day at these centres [1a](p166) According to a representative from Asmita, in Hyderabad there are violence integration centre groups who take in girls and teach them skills.

Disciplinary issues/police complaint mechanisms

6.55 The British Council representative stated that there is no police Complaints Authority but that the National Human Rights Commission exists and 70% of complaints received are allegations of police violations. Human Rights Cells have been established in police cells and sometimes monetary compensation is offered.

6.56 According to a human rights lawyer in Punjab a public trial cannot be held against the police. The NHRC set up in 1997 has no power to give a binding judgement. He reported that 99.9% of claims are against the police for high handedness and where prosecution is recommended, after 6 years the process starts. His view was that an ordinary person cannot fight with a police officer.

6.57 A human rights lawyer in Gujarat informed the delegation it can be very difficult to prosecute a police officer for corruption. It can take years and the officer would be suspended throughout the process but would still be in receipt of a proportion of his salary.

6.58 As cited in the World Factbook of Criminal Justice Systems – India, with regard to accountability, complaints regarding police misconduct are handled by the departmental hierarchy in the first instance. "Charges of corruption are investigated by the Director of Vigilance who is usually a police officer of the rank of DGP or Inspector General of Police (IGP) and is stationed outside the department. The Director of Vigilance reports to the Vigilance Commissioner, who is a high ranking civil service officer… Complaints can also be made to a revenue divisional officer who possesses magisterial powers." If the inquiry proves the complaint to be true, a charge sheet under the IPC may be filed in court against the delinquent police officers who may ultimately stand trial as offenders."[43](p11)

6.59 The NHRC and State Commissions may take up complaints, see section on NHRC etc.

6.60 As cited in the 2003-2004 annual report of the Department of Women and Child Development, specific cases of police apathy were taken up with senior police authorities for investigation and progress was monitored periodically.**[1b](chapter 8 – p62)**

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Training including gender sensitisation

6.61 Various representatives reported that it was recognised that there was a need for police officers to be trained in gender sensitisation to enable them to deal with women's complaints more sensitively where hitherto there had been a tendency to be dismissive and judgmental. It had been recognised that there was reluctance by some police officers to intervene in family disputes and register complaints lodged by women and more often than not women were afraid to report crimes to them.

6.62 The representative from the NCW commented that they had brought out a booklet on gender sensitisation for the police in response to a need for sensitisation. A police station can be very frightening for any woman and the police need to be sensitive in their questioning so as not to frighten her.

6.63 The Zubaan representative commented that there is a lot of police gender sensitisation training going on with officers being trained from all over and this is a very important initiative but needs to be very carefully done and needs to include judges and lawyers. She acknowledged that there are possibilities for making a difference but this is dependent on individuals and a sensitised system. There are efforts to recruit more women into the police force which is a good thing because numbers are still very low, however sometimes women in these institutions take on men's attitudes.

6.64 Dr Mohini Giri at the Guild of Service reported that gender sensitisation training has been done in a big way in collaboration with the NHRC. Dr Basu at the AIWC stated that in the last 5-10 years there has been a much greater awareness of women's issues. Everyone talks about gender issues and gender sensitisation and self-defence courses have been run for women.

6.65 According to the Minister of State in the Ministry of Home Affairs, "The gender sensitization forms an important part of the training courses. At present, 114 workshops on gender sensitization are going on at the rate of two every week to sensitise police personnel."**[12g]** (as cited in a Parliamentary Question on 21 July 2004, on the rise in rape cases in Delhi)

6.66 When asked by the delegation about the willingness of the police to register complaints the British Council representative said they had worked closely with the police in several states and that they were hopeful and confident that with change and training there will be change. She said by giving lower ranks the right skills and knowledge you would be amazed at what can be achieved, they need direction and a factual approach. She said that women victims in police stations were linking up with lawyers and that

women's rights were now discussed more openly. The same representative said that they had been looking at police as an employer and the message was to "get your house in order." She said there is a culture of violence where sometimes the community response is to beat someone up. In respect of cultural attitudes to violence, she stated that procedural change was needed and then attitudes would change. In terms of police responses procedural change is needed and in turn this will change attitudes. She felt very strongly that women can play a role in gender sensitisation with men also having a part to play. Additional training is needed to get more women into the police force. The Delhi police are involved in a big drive on the protection of senior citizens because there has been an increasing trend against ageism.

6.67 They also tested a Springboard programme which was very successful. The National Conference for Women in Police took place in 2002 supported and organised by the British Council, in future it will be organised by the Bureau of Police and Research who are currently preparing for their second conference in 2004. The programme involved group exercises on gender as a social construct, sexual harassment in the work place and what is meant by equal opportunities. Prior to the conference status papers were requested from states on their policies regarding recruitment and training of the police and the perception of men and women in the police. The result of the conference was a joint statement. The conference addressed the police as an employer from an internal perspective and other reports from the Council have approached them as an external service. They are keen to be in a learning network of operational policing and they hope to hold future programmes.

6.68 According to Kamal Singh at the British Council with regard to the issue of violence against women and gender sensitisation training, the police felt that judges should also be involved in the training. Therefore the British Council started a project after liasing with the judiciary entitled "Gender and Law for the Judiciary." At the 4th Bejing conference in September 1995 they began implementing with DFID funding, 43 judges were trained and many of them have been involved in judicial colloquia on the theme, and have trained over 1200 judges at the district level. The programme now continues at the National Judicial Academy.

6.69 The British Council were involved in a project called Counselling Skills for Agents of Change, the police participated in this training programme along with trainers from 3 states with the highest crime statistics against women: Uttar Pradesh, Madhya Pradesh and Bihar. The Central Social Welfare Board set up centres where they looked at Protection, Prevention and Provisions of services. None of the 46 participant counsellors had even basic counselling skills. Their approach was reconciliatory and judgmental so a programme was developed to enhance their skills. The British Council circulated the Crime and Violence Bill from the United Kingdom in India as part of this education. The British Council's mandate is to share information with India and are involved in a lot of networking, offering a neutral platform to bring the Government and NGO's together working with grassroots groups.

6.70 According to the representative from AWAG, Ahmadabad, the patriarchal training in the police force is in certain respects so strong that they have to keep reminding them that a woman is a fellow human being therefore it is important to do more training. In the course of training counsellors, AWAG were told that the police would not register cases, so they spent 3 years from 1998-2000 giving police sensitisation training. Now Ila Pathak trains the police regularly. At first their reaction was sceptical because she was a woman so they questioned her knowledge but now they have come to accept her.

6.71 When asked by the delegation if her training had made any difference Ila Pathak said yes. However since 2001 the Gujarat Government has stopped recording s498 A offences and all kinds of statistics so they are not able to monitor the trends. Now there are less complaints and AWAG were concerned deaths could increase. So they published books for the police about how they could help because many police officers had no awareness of human rights.

6.72 AWAG publish books for the police in simple Gujarati on how the police can help women, the delegation were given a copy of this book. The book contains constitutional extracts and police circulars and is being distributed to police stations. AWAG commented that the average policeman does not know where human rights come from. In addition they also publish police circulars. A senior police officer helped with the book and wrote the foreword. At the upper police level there is a great deal of will to embrace gender issues and they are exposed to the issues in the Indian Police Service. But the Gujarati police are not exposed to it and the only training they receive on gender issues is by AWAG. They have requested that it is included in training of recruits but this has not happened yet. There is a need to repeat the training over and over because the patriarchal attitudes are so strong and it is important for legal aid counsellors to follow up.

6.73 The Punjab State Human Rights Commission conduct courses to sensitise police officers and other Government officers. They promote human rights and teach them how to protect these rights as this is a mandatory right when arrested and they carry out checks on a random basis. The representative from the Punjab State Human Rights Commission commented that there is a big distinction between the lower and higher ranks of the police and the whole set up of the police needs a change of perspective.

6.74 The delegation was told that Jagori are involved in the training of police officials on trains in connection with “eve-teasing”. Jagori have been involved in a campaign since 1998 which is still on going, for women to be segregated on trains for their own safety and they would like to extend this to buses and plan to work with the police, starting in Delhi, so that such harassment is not trivialised into eve-teasing. They said that there is an ongoing campaign with gender sensitisation workshops for the police and described them as notorious players against women for not paying adequate attention to female complaints and there is no serious response to these issues. There was a need to first sensitise the police on the issue of gender sensitisation.

Information about how to complain is needed on trains and they are involved in the training of railway police officials. This demand came from central Government who are keen to continue the campaign, so leaflets and posters are being designed.

6.75 Dr Kumar from the Institute for Development and Communication in Punjab developed a model for the police based on research they were involved in. The model is centred around institutionalisation of police-community partnership within the existing police service delivery mechanisms. This has provided women easy and dignified access to policing services. A policeman may be sensitized to gender issues, but is handicapped to provide a rape victim with psycho-therapy within the existing police structure. Ad hoc aid can be managed, but for a sustained and professional input institutionalisation of the relevant services is necessary. This involves capacity building of the police force and the support structures both in terms of material resources and human capacities. To ensure that this project is not handicapped by ad hoc initiatives and largess, efforts were made to institutionalise community policing activities under the banner of Community Police Resource Centres. Implementation is sluggish, but it will improve. The Institute will monitor, review and evaluate it. The Institute conducted the first training sessions for the police, and this has now been handed over to the Police Academy to continue.

6.76 They have held a number of sessions with the police in Haryana and Punjab on gender sensitisation. Lack of institutionalisation of these activities does lead to certain ad hoc application. More important, the training of police functionaries has to be undertaken in a social and professional environment where it can be implemented. Dr Dagar from the same organisation said that the perspective is yet to be absorbed in its totality by both the community and the police. However, one can notice the guidelines from the Sexual Harassment Supreme Court case displayed in police stations. There are less than 1% of female police officers at Superintendent of Police (SP) level but there are 17% at junior levels. They are visible and active and the protocols in respect of not detaining or searching a woman without a female officer present are generally followed.

6.77 Dr Kumar said faith is being restored in getting justice through various programmes, for example it is more socially acceptable and satisfying to make a complaint to the police for women, but the by-product is that domestic violence figures have gone up threefold. This poses a question whether there is more violence or more reporting.

6.78 The Centre for Social Justice in Ahmedabad provides ongoing gender sensitisation training with the police and health department. They also initiated legal aid offices in a hospital in collaboration with another NGO.

6.79 According to a booklet entitled Human Rights and Gender Issues, produced by the Institute of Social Sciences, “The growing focus on gender sensitisation exposures for different strata of administrative personnel,

including police personnel, is an encouraging development."[3](p28)

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COURT PROCESS

Judges attitudes and training

6.80 Article 14 of the Constitution of India guarantees to all Indian women equality before the law.

6.81 According to a publication produced by the Institute of Social Sciences entitled Human Rights and Gender Issues, the legislators, the judiciary and law enforcers are predominantly male and therefore likely to approach issues with conventional ideas regarding the rights and status of women. It suggests that for this reason it is not surprising that their attitudes and actions are often found to be insensitive to problems facing women.

6.82 According to Mr Cherrian Mathews from Oxfam, Delhi, a study showed that most judges felt that women were inviting assault on themselves and there is a need for an entire change in the mindset of people in order to achieve change. Oxfam began a campaign on how to challenge attitudes and began to look at power structures. Legislation without social acceptance does not work until you have more empowered people. There have been gains in women's rights but these gains have been isolated. The representatives from the AP Women's Network and Oxfam in Hyderabad said the judge's attitude is one of compromise where the family is concerned with the preservation of the family as an institution being kept in mind.

6.83 A senior lecturer in Andhra Pradesh, Ms Fatima Ali Khan commented that even the judges are biased against women because everything is so male dominated. This view was further echoed by a representative from the Institute for Development and Communication in Chandigarh who stated that the biggest factor against the enforcement of laws to protect women was cultural because of an invisibility factor. Even the judiciary take it for granted adopting and justifying a patriarchal attitude.

6.84 The representative from Sanchetana in Gujarat suggested that the judiciary are biased against Muslims and although the NHRC put some pressure on the Government legal cases take a long time.

6.85 As stated in the SAHR WARU publication of 2001, "Snuffed Out" with regard to the reporting and conviction of unnatural deaths amongst women within slum communities in Gujarat, a Deputy Commissioner of Police felt that some fault lay with the judiciary.[20](p27)

6.86 The British Council has been involved in gender training for the judiciary. Kamal Singh stated that court room practice was looked at in terms of litigants and the kind of questioning lawyers undertook, with the conclusion that for rape victims it was like being raped again, so now judges are sensitive to stop

that. When they attended training within the British Council, many of the judges said it was the first time they had heard of CEDAW and the first time they had met judges from outside their State. There are a few landmark judgements from the Supreme Court that are very good but the legal response is slow. The training given to the judges demonstrated that judges had not thought about the issue and were disconnected. There was a view that judges were being isolated from what was going on outside and this was down to more of a lack of understanding of information rather than a lack of sensitivity. Now they definitely feel the judiciary has a role to play but the opportunity of bringing them together is lacking. The National Judicial Academy with DFID funding trained 43 judges with the University of Warwick which was a mutually beneficial exercise. In turn, some of those judges had trained 1200 judges who also attended from District level. Now the National Judicial Academy is running the programme.

6.87 In response to an unstarred question for 19 July 2004 on the reservation of women judges, the Minister of State in the Ministry of Law and Justice stated that "Appointment of judges of the Supreme Court of India and the High Courts is made under articles 124 and 217 of the Constitution of India which do not provide for reservation for any caste or class of persons. There is no proposal at present for reserving one-third posts of judges for women in either Supreme Court of India or the High Courts. There are, however, one Woman Judge in the Supreme Court and 19 Women Judges in the High Courts.[sic] The Central Government, has, however, been writing to the Chief Ministers of the States and the Chief Justices of the High Courts, from time to time, requesting them to locate suitable persons from the Bar belonging to the Scheduled Castes, Scheduled Tribes, Other Backward Classes, Minorities and Women for appointment as High Court Judges."**[12b]**

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Access to legal services

6.88 Kamal Singh from the British Council, stated that access to justice for women takes ages even for rape victims, where there is social pressure to withdraw. The Director at Zubaan commented it is very difficult for women to seek legal assistance and very few lawyers take account of women's needs.

6.89 With regard to Legal Aid Dr Mohini Giri at the Guild of Service reported that there is a very good legal aid board providing free legal aid but it cannot get deep down into the villages and until it does it is meaningless to women as women are not aware it is there. According to a senior correspondent Ms Lalita Iyer in Andhara Pradesh there is no concept of legal help for women facing domestic violence.

6.90 According to a human rights lawyer in Punjab, Mr Rajvinder Singh Bains, when asked about women's access to legal aid under s498A, he responded that there is a lot of NGO help available to women and children and the media is very responsive to women. However in a rural setting a woman would have a problem because villages are very male dominated.

6.91 As noted by the Joint Secretary at the Ministry of Legal Affairs, their department administers the Legal Aid Act and the function of carrying out Legal aid is given to committees headed by judges. He told the delegation that the Lok Adelat is a system of settling disputes outside the court structure by consent and is a much quicker process. The Ministry of Legal Affairs examine Law Commission reports and then forward them to the Home Department who decide whether to implement them, whereupon it is returned to the Ministry of Legal Affairs. It was reported that India has a large number of lawyers because legal education is very easy to undertake. In urban cities there are female lawyers but there are only a few in rural areas. When asked about addressing the balance, he commented that nothing is being done to encourage increased entry of women into the legal profession but it will come in time.

6.92 As stated by a representative from the Centre for Social Justice in Ahmedabad, by law all women are entitled to legal aid irrespective of merit but this is all "hot air." There are very poor quality lawyers and it would largely be maintenance cases heard in family courts and would be unusual for property cases to go there, so merit doesn't come into it. The Centre for Legal Justice lobbied hard about the inaccessibility of legal aid. They questioned why the judiciary were in charge of legal aid and advocate for a separate department to run it. The Government give a very small amount of money for legal aid therefore it is not worth while taking up a case.

6.93 As noted by the same source, by law all women are entitled to legal aid but this is purely theoretical and there is no structure to deal with legal aid. Article 39 of the Constitution grants free legal aid to women but in practice not even 5% of women get legal aid. Lawyers see domestic violence cases as money-spinners. The District Magistrate is in control and inaccessibility is a factor as she cannot get to see the District Judge. The Centre advocates that there has to be identifiable physical space for a legal aid centre. For 2 years they ran their own legal centre out of their own funds but lawyers did not approve because they took away a lot of their business. They initiated a legal aid centre in a hospital in collaboration with another agency to get hospitals to institutionally look at cases, because dowry victims go to burns units.

6.94 As reported by a representative from Sanchetana in Ahmedabad, there is no rape court in Gujarat. It was suggested that where rape occurs between a high caste man and low caste woman, if she gets over the first hurdle of getting the police to register an FIR, the second hurdle is the medical examination and the third hurdle is lack of money to secure a lawyer in court. Therefore only those with money and influence are able to pursue a rape case. Once a woman is raped society looks down on her and questions her character so most women will try to hide it. Cases take a long time with about a 1% conviction rate and conviction is very rare.

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Length of judicial process and access to courts

6.95 Despite constitutional guarantees of equality, women face difficulties in seeking recourse through the courts, according to some representatives. As noted by Kamal Singh at the British Council despite several good laws women's access to justice is very limited and the system is too long-winded.

6.96 According to the NCRB records for 2002 regarding disposal of cases by police and courts, it was observed that although the percentage of cases investigated has decreased from 84.2% during 1961 to 79.5 % during 2002, the percentage of cases charge-sheeted showed an appreciable increase from 53.6% to 80.0% during the same period. At the beginning of 2002 4,66,515 cases were pending investigation by the police and 17,80,330 were added during the year. At the close of the year 4,53,924 cases were pending investigation. "In most of the cases disposal by police relating to Crime against Women was better than those of other offences. The percentage of cases investigated in such cases was 93.3 for sexual harassment followed by Molestation (87.1%), Cruelty by Husband & Relatives (79.3%), Dowry Deaths (75.6%) and Rape (74.0%)." It was also suggested in the report that in 10% of Cruelty by Husband or Relatives cases, the charges were found false or mistakes of law. With regard to the conviction rate of cases these were found to be higher in Sexual Harassment cases (68.4%). Very high percentages of acquittal/discharge of cases in which trials were completed were seen in Cruelty by Husband or Relatives cases (79.1%). **[51](chapter4)**

6.97 The British Council representative stated that the legal process is very long and is not very responsive and that "in-camera" proceedings were needed. This view was reiterated by a representative from the NCW who stated that civil cases take years and criminal cases also take a long time for both male and female litigants equally because the courts are overloaded. She identified implementation as the main barrier to enforcement.

6.98 As echoed by representatives from Jagori the legal court process is very slow and sometimes it can take 11-13 years for rape cases to come to judgement. Women do not get justice and this was blamed on a deliberate perspective of a male dominated institution. Women who bring cases suffer intimidation so do not file cases. In addition there is family pressure to withdraw cases because of issues of family honour, money and the future. However despite this there has been an increase in the number of women bringing cases in the last 10 years.

6.99 Dr Mohini Giri at the Guild of Service also commented on the length of the judicial process saying that it can take up to 10 years to get a rape case heard. Dr Basu at the AIWC reiterated this view when she stated that the legal machinery in India is very slow and rape cases take so long. Women are languishing in jail for petty crimes because no-one brings them to trial. Divorce can take 10 years and the legal system is neither effective nor valuable for women or children.

6.100 As stated in a publication entitled Human Rights and Gender Issues, an Institute of Social Sciences publication, "Legal procedures are too complex and protracted and implementation of protective legal provisions tardy and

inadequate."… The publication also highlights women's weaknesses, blaming lack of education and legal literacy along with a shortage of independent financial resources, which are all impediments to their access to different types of rights and freedoms. However it suggests that these issues can be addressed and that efforts are under way to give women a secure foundation in human rights. Included in these are the many remedial revisions in law brought about by the women's movement, women activists and watchdog institutions such as the NCW and the Law Commission.**[3](p14)**

6.101 According to Rajvinder Singh Bains, a human rights lawyer in Punjab, the court process in Punjab is slow. In civil cases it can take 25 years to reach judgement and between 3-10 years for a criminal case. Successive low priority is given to the court system where it is not considered important. There is a complete lack of technical advancement and an extreme lack of technical equipment, where basic improvements are needed. Funding is granted by the Executive Body and it takes so long just to get a copy of an order and a High Court Judge sees an enormous number of cases.

6.102 A representative from Asmita also commented on the length of time taken for a case to come to court, sometimes between 2-3 years. Asmita will see a case into court and as much as possible will follow up with lawyers. They check lawyers are there and that they turn up to court. In the short term the fact that some action is taking place and that the woman is not alone depending just on family, but can go to an institution, makes a difference.

6.103 According to a representative from Anveshi in Hyderabad, the trial process is lengthy resulting in hardly any convictions and in the first place not many women take cases to court. They have to be examined by a doctor and so have to think on a different level when going to these institutions. There are a few cases which have been pushed by women's organisations, an example being custodial rape in Maharashtra by police officers, not marital rape as this has not been established.

6.104 According to a representative from the Centre for Social Justice in Ahmedabad, matrimonial cases (cases of domestic violence and consensual divorce) take on average between 2-5 years, (non-consensual divorce takes longer). A simple maintenance application can take 2 years. The representative commented that the reason it takes so long is because of the patriarchal system where every step is blocked. Added to that the court system is overcrowded and under-funded and the longer the case is pending the more money the lawyer gets from the client. Fifty cases are listed for hearing in one day but only 10-15 come up, this constant over-listing means cases are never heard and get delayed. The problem for the victim is that she has to attend the hearings so there is huge stress just in physically getting there especially if it is a long bus ride. Consequently these factors lead to a forced compromise.

6.105 The same source stated that it is very difficult even for a man to access a district judge and even for a well-educated man, therefore how can a poor woman be expected to do this, so touts and lawyers take over.

6.106 As reported by a representative at Sanchetana legal cases take a long time. A Human Rights lawyer interviewed in Gujarat said that an increase in the number of judges was needed to speed up the court process.

6.107 Dr Giri commented that it is not law that makes the deterrent but the enforcement of law. There is no distinction in the Indian legal system between the length of time it takes to prosecute crime against men or women.

6.108 The representative from the NCW also made the point that there is no inequality or discrimination in the time it takes to process a criminal case from either sex.

6.109 As stated in the US Department of State report 2003, the court system was extremely overloaded and the judiciary backlogged and understaffed in most parts of the country… ”As of July 2002, there reportedly was a backlog of over 13 million cases in the lower courts, while high courts had a backlog of 3.5 million cases. The Supreme Court had 23,000 pending cases.”… To address this backlog the Government announced in 2000 plans to fund the creation of 1,734 additional courts between 2000-2005. By the end of 2003, 1,205 of these courts were set up. In addition the Government asked the government appointed Malimath Committee to identify possible improvement.**[40a](p11)**

6.110 According to the US Department of State report 2003, … ”According to press reports, the rate of acquittal in dowry death cases was high, and due to court backlogs, it took an average of six to seven years to conclude such cases.”**[40a](p23)**

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Forced compromise

6.111 According to Kamal Singh at the British Council there is social pressure for rape victims to withdraw cases. Research has looked at why there is such a high drop out rate and therefore why convictions are so low.

6.112 Members of the Andhra Pradesh Women’s Network, supported by Oxfam reported that the message to the judge dealing with women’s issues is to get as many to compromise as possible and that the Family Court Act recommends compromise. They said the Andhra Pradesh police view is not to register under s498A but to compromise.

6.113 Anveshi reported that several of the issues of violence in the family do not reach the police stations and the courts, but are negotiated at a different level – the family, the neighbourhood, the local women’s group, the counselling centre. The police stations and the courts need to be placed within the network of these transactions. Even those women who register their complaints with the police or proceed in the court would opt for a

“compromise” when either what she wants is obtained during this process; when she is unable to continue with this process of trial or investigation etc.

6.114 Dr Ila Pathak from AWAG in Gujarat said that because of the length of time taken in getting cases heard the courts do not hear the cases until a compromise is already arrived at. In one day they examine 7 witnesses and a police officer and then dispense judgement the same day where a woman is forced to compromise. The s498A law is not used fully because Magistrates are disposal driven and in a hurry to dispose of cases so often a compromise has already been reached and a woman is pressurised into compromise by society. When the court is told that there has been agreement on compoundable offences then this is a signal to the magistrate that the case is settleable. A husband may pressurise his wife and promise not to beat her after he is taken into custody with no bail. However, recently more cases are being listed under s498A and in Gujarat they have started hearing s498A cases because of pressure building up. Now cases in the last year or two are being listed for hearing.

6.115 According to a representative from the Centre for Social Justice in Gujarat, they have reported on their findings that women are forced to compromise even by the judiciary and the police try to get them to compromise because the Government has targets to meet. Consent has to be real and not coerced consent. With regard to the non-enforceability of maintenance orders, women are forced to compromise. The entire system from judiciary to lawyers, view it as unimportant and not a crime. Contributory factors leading to forced compromise are non-enforceability of maintenance orders; a lack of “in-camera” proceedings; lack of facilities in rape cases; a delay in justice leading to forced compromise; poor investigation; lack of evidence; sensitive matters are subject to the same procedure as criminal matters; inaccessibility of women related crime data, patriarchal mindsets leading to an acceptance of violence. Procedures are not always correctly followed resulting in rape victims being seen in front of everyone. Because of the inaccessibility of women related crime data it is not possible to see the whole picture. Quite often the rape related section would not be invoked and women are often not happy to take it to that level. Sensitive matrimonial matters are subjected to the same process through which criminal matters are handled. There is also a lack of classification for accidental deaths. Experience shows that the availability of women paralegals helps women to negotiate their power in the community more easily.

6.116 The Institute has also come up with a draft Forced Compromise Prohibition Act and they will try to push the bill through as a pro-active step. The bill was drafted because women were identified as not getting justice due to compromise and they have written the first draft of Parone Samadhan Atkayat Adhinigam (Forced Compromise Prohibition Act).

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Family courts – extent and effectiveness

6.117 According to a GOI law feature entitled Marriage Law Reforms, 2001, under section 3 of the Family Courts Act 1984 the State Government in consultation with the relevant High Court may establish a Family court for every area compromising a city or town where the population exceeds one million. When the report was written in 2001, 85 Family Courts had been set up across India. The concept of the Family Court is to "ensure family life through resolution of family disputes amicably without the intervention and help of lawyers in order to maintain personal dignity and privacy of family units."**[46]**

6.118 A representative from the NCW stated that family courts deal with civil issues such as divorce and property issues but do not have high status. Parivarik Mahila Lok Adalat (PMLAs) are a fast-track system whereby the Commission requests the District Legal Authorities to take out cases from the list for the PMLA to hear. As noted in the annual report 2002-2003 for the Department of Women and Child Development, the NCW evolved this concept.**[1a](p182)** The Commission is responsible for the PMLA but the proposal to hold one comes from NGOs who run them along with District Legal Authorities and sometimes the State Commission for women and they are mainly in rural areas but there has to be enough cases because of the cost involved. In addition a letter is needed from the judge and this depends whether the judge is agreeable. PMLAs are seen as a success as it speeds up justice dealing mainly with rural women in rural areas, as stated by the NCW representative.

6.119 An article appearing in The Hindu dated 24 August 2003 stated that "The PMLA is empowered to handle all civil cases, matrimonial disputes, including divorce and maintenance, compoundable criminal cases, disputes related to labour laws, and motor accident claims, involving women and bigamy…The aim of the family courts is to avoid the lengthy process of dispute setttlement in the courts in such matters where formal and elaborate examination of evidence is not necessary." Counsellors will try to bring about compromise between both parties, but not to the cost of the woman's dignity and where there is no alternative, counsellors will aim for a dignified separation. The Commission (NCW) evolved the concept of PMLA because of the high number of pending cases in the courts involving marriage and family matters.**[7]**

6.120 As cited in the 2002-2003 annual report of the Department of Women and Children, the NCW held a national workshop in March 2002 on the functioning of the Family Court in India in order to identify and make suitable recommendations to the Government for effective implementation of the Family Court Act 1984.**[1a](p181)**

6.121 In Gujarat, according to a representative from the Centre for Social Justice, the Family Court Act has been passed by the State but has only been implemented in Ahmedabad. Four family courts have been set up in Gujarat but in Ahmedebad only. The Family Court Act enables more, but it hasn't been implemented beyond that. Existing judges were put in the family courts. There is a need for a separate family court in the Talukas.

6.122 Ms Lalita Iyer, a Senior Correspondent in Hyderabad, stated that over the last 5 years human rights has been the new trend in India. Women judges have been posted to Mahila (family) Courts but Family Court judges are not respected so inevitably a woman judge may wreak vengence on the public for example, in custody issues.

6.123 According to a representative from Anveshi, Hyderabad, there are eight Family Courts in Andhra Pradesh, with three in Hyderabad. They are terribly overburdened and counsellors are not always available in court. There is also a lack of infrastructure and they are so overworked, however this is not the judges fault but the overriding structure. The representative commented that it is seen as a punishment for a judge to be posted there as they are not respected and are not given any special training.

6.124 Representatives from the Andhra Pradesh women's network, and Oxfam in Hyderabad told the delegation that there are Family Courts in 6-7 districts in Andhra Pradesh. However they claim that the attitude of public prosecutors towards victims is poor with victims having to pay bribes to get their cases taken on. They stated that the Family Law Act is violated by structure and that there are no female judges. All civil cases are held in the Family Court except maintenance cases.

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Panchayats and other informal decision making bodies

6.125 As stated in a Hunger Project article entitled Panchayati Raj: Local democracy in action, the 73rd amendment to the constitution established panchayati raj which is a system of local democracy delivered by local councils called Panchayats. Panchayats were traditionally an ancient form of local government consisting of five elders. The amendment provided for resources, responsibility and decision-making power to be devolved from central government to rural grass-roots people with elections being held every 5 years. Another aspect of the amendment allowed for one-third of all panchayat seats to be reserved for women. As a result rural women are now able to take leadership roles in addressing issues such as malnutrition and illiteracy. "In addition, seats are also reserved for members of scheduled tribes and scheduled castes proportional to their population." **[17](p1-2)**

6.126 The same source notes that the 11th schedule of the 73rd amendment specifies 29 areas of responsibility which states can devolve to panchayats. Independent observers reported that women hold primary responsibility in 16 of these areas, for example, family welfare, women and child development, social welfare, including welfare of the handicapped and mentally retarded, poverty alleviation programmes, education, adult and non-formal education including hospitals, primary health centres and dispensaries. **[17](p2-3)**

6.127 As cited in a World Fact book of Criminal Justice Systems – India, an informal justice system operates in rural areas dealing with civil and family matters.**[43](p2)**

6.128 According to the 2001 UN Sponsored publication: Women In India, How free, how equal? several studies have been undertaken on the impact of women's entry into the panchayats showing mixed results. Several factors constrain women's participation such as a lack of political experience, women member's vulnerability to violence, used to restrict their participation, motions of "no confidence" are used to overthrow women chairpersons who assert their control over panchayats, juggling household chores and their dependence on wages impedes their participation. However this aside women have effected important changes for their community in terms of living conditions where they have prioritised issues of health, education and access to basic services. All-women panchayats in Maharashtra, Gujarat and West Bengal have been acknowledged and commended for their exemplary work. "In many areas, elected women have built strong networks with women's groups and have been able to spearhead significant changes in the functioning of panchayati raj institutions."…as noted in the UN publication.**[28](p69-70)**

6.129 The fact finding team were told by a representative from the NHRC in Delhi that women are involved in Panchayats at grass-roots level and this is empowering women. Dr Mohini Giri at the Guild of Service, when asked to comment on improvements to women said that Panchayats in rural areas have had a greater impact.

6.130 The representative from the NHRC stated that a lot of women have come into elections which has empowered many women, for example they play a big role in Bihar.

6.131 Visa Ravindran, a freelance journalist told the delegation during a telephone conference that a study was undertaken in Maharashta on the 33% reservation for women in the Panchayats called "Who will make the Chapatis?" – this was the man's question with regard to the 33% reservation because to a man this is the most important thing a woman can do. She reported that the 33% reservation in local councils is definitely having an important effect. The study indicates that some women have changed but others have not.

6.132 According to Doctor Mohini Giri at the Guild of Service in Delhi, a voluntary organisation, part of their remit is working with elected members of the Panchayats and providing training.

6.133 According to the same source it was noted that there are one million elected women at grassroots level and the demand and efficacy of the local courts will make a great deal of difference by having women at grass roots level.

6.134 As reported in a leaflet produced by the AIWC, Leadership Training Programmes for Panchayati Raj are organised through AIWC branches for capacity building of elected women Panchayat members. **[9]** Other organisations are also involved in the training of women Panchayat members.

6.135 When asked by members of the delegation how well the urban Panchayats were working, a senior lecturer at Osmania University, Fatima Ali Khan stated that in the first phase they were not going to. However women will take opportunities to gain confidence and the more space they are given then the more opportunities they will have.

6.136 When asked if Panchayats were having an effect the representative from Asmita responded both yes and no. It is good to know that women are there but once a woman is elected her husband may run things, however in 1 or 2 years there is a good chance that women will start to assert themselves and exercise authority, then it will come. It is a good thing that women come and listen and deal with issues. There are a lot of NGOs working in the field and when that happens people become assertive.

6.137 As reported by a Senior Correspondent for The Week, Lalita Iyer, in Andhra Pradesh, Andhra Pradesh also has a system of local Panchayats which are supposed to settle an issue but these are not very popular and the issue generally gets settled out of court. In terms of Panchayats and 33% reservation for women, this has only happened in the last 2 years where women have been elected to the Panchayats but husbands tend to run them. She estimates that it will take a further 2-3 years for a difference to be seen because currently women are not aware of the rules and regulations and of their powers. It is hoped that they will work once the women realise their power to effect change.

6.138 According to a lawyer from Anveshi, Hyderabad, Panchayats deal with every day affairs, mainly land issues. The working of Panchayats is successful but varies a great deal. They are beginning to work in some ways whereby women go to the Panchayats and lodge a complaint. Most of the issues are related to women's issues where women are sitting or concern land issues. The representative stated that women do not hesitate to go to the Panchayats because it is far easier for them to access.

6.139 According to Dr Rainuka Dagar, Head of the Gender Section at the Institute for Development and Communication in Punjab, a few local bodies such as Panchayats and Mahila Mandals (women's groups) have successfully used the threat of legal redress and collaborated with police to intervene in cases of wife beating, dowry harassment and dowry deaths.

6.140 As noted by Rajvinder Singh Bains, there are not many women's courts in Punjab but there are 1/3 of women representatives in the Panchayats. This is of significance because culturally a woman's contact with strangers is limited, but she can go to the Village Council if women are represented and speak to a woman about sensitive issues; women will not speak to male strangers.

6.141 According to Jagori, in Uttar Pradesh women's courts are run in 20 different areas, conducted by women from rural areas who are trained to be barefoot lawyers and who intervene in violence cases at a basic level. Jagori

plan to begin another 15 courts in the coming months. They are very open courts and have a lot of impact in the village community because they are quick and inexpensive. People began to value this, they are able to call other parties and can have a woman judge hear the case. Most of these women are illiterate but have a strong sense of justice and will pronounce a judgement. They are both civil and criminal courts and there is a sense of community vigilance for example a man must undertake not to beat his wife and it is down to the police to enforce the judgement and sometimes they are able to get compensation for rape victims.

6.142 According to the same source initially there was a lot of suspicion from the police but gradually they were accepted. In most places the police themselves bring cases to them saying it will be faster and free as compared to the normal system. The courts have been operating for 7-8 years and have now become society organisations. We were told that the State does not recognise them but they do serve a purpose. The next step is to make the courts more legitimate to connect with the District Magistrate, Panchayat and local hospitals and also to create better networking and recognition in order to formalise them. Jagori want to develop more skills to document cases and work on advocacy skills and other issues because there are lots of instances where there is no legal recourse, for example there is no clear law on incest.

6.143 According to Doctor Mohini Giri at the Guild of Service in Delhi, a voluntary organisation, the NCW Chair established local family courts in villages with up to 15 courts held each day. NGOs are involved and gather pending cases and orders passed by the Judge are implemented by the NGOs. It is a local justice mechanism which is quick and cost efficient with no extra payment. The case is heard in one day with no time lost because there are no adjournments. These local courts operate across the country but it depends on the ideology of the State Government as to how gender sensitised they are.

6.144 The representative from SAHR WARU stated that in Gujarat they have Women's Watch Counsels where the women are trained in human rights, paralegal law and custom law. They monitor and do not alienate women from the community. The Mahila Nayay Panchayats or Women's Justice Councils have been reorganised into all affected areas and they now have 10 of which 6 are Muslim run. They sit once a week and are really effective and SAHR WARU have been involved in training the women. Issues dealt with include child custody, maintenance and child abuse, violence and divorce and were deemed very successful.

6.145 With regard to women's courts the representative at Zubaan stated that women's courts were important if they worked because if the state is not providing help then something else is needed.

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Enforcement of sexual harassment law

6.146 As cited in the 2002-2003 Annual Report of the Department of Women and Children, the Supreme Court passed an order on 13 August 1997 laying down guidelines for employers in tackling incidents of sexual harassment of women at the workplace and other institutions. These included setting up of complaints redressal forum in all workplaces and amendment of the disciplinary/conduct rules to incorporate the guidelines and norms. The Department formed a Committee to monitor implementation of the guidelines and meetings were held to review progress.**[1a](p89)**

6.147 As stated in the 2002-2003 annual report of the Department of Women and Child Development in 1997 the Supreme Court laid down guidelines on sexual harassment at the work place following a landmark judgement in the "Vishaka Case." It was held that actual molestation or even physical contact is not required to construe sexual harassment provided the background of the entire case establishes the case to be genuine.**[1a](p30)** As noted in the annual report 2002-2003 the National Commission for Women is currently involved in preparing a draft bill on Sexual Harassment at the Workplace (Prevention) Bill.**[1a](p181)** A draft Act prepared by the NCW has been drawn up according to a British Council book entitled Women's Rights and Counselling Skills.**[42](p40)**

6.148 The representative at the Department for Women and Children stated that an inter-ministerial group reviews the implementation of CEDAW. With regard to Sexual harassment in the work place they propose to replace the Supreme Court guidelines with a proper law but at the moment the guidelines are binding and employers are currently responsible for implementation. A Central Committee reviews what is happening and they recommended a statute which should be extended to the private sector. The NCW conducted a study on its implementation. The Department reviews the reports on the Complaints Committees which are not working effectively in many organisations. The proposed statute will be more comprehensive than the Supreme Court Guidelines.

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7. PROTECTION INFRASTRUCTURE

Women's Shelters/ Short stay homes and Help-Lines

7.1 According to the 2002-2003 annual report of the Department of Women and Child Development, Delhi, "The Central Social Welfare Board is implementing the scheme of Short Stay Homes, which provide temporary shelter, counselling or psychiatric treatment to women and girls who are the victims of mental maladjustment, emotional disturbances and social ostracism and have either escaped or been made to leave their homes due to family problems, mental or physical torture or who have been sexually assaulted or have been forced into prostitution." The objective is to rehabilitate and reintegrate women into society. The scheme was launched in 1969.**[1a](p167)**

7.2 According to Dr Mohini Giri at the Guild of Service, there are short stay homes all over the country for women and although not enough, there are none-the-less many. Fatima Ali Khan a lecturer in the Women's Studies

Department at Osmania University also reiterated the view that there were not enough short stay homes in India.

7.3 The representative at Zubaan informed the delegation that there are a few shelters in Delhi and gave a shelter called Shakti Shalini as an example. She thought it was the only place in Delhi to offer this kind of shelter for women and the maximum it can hold is 20-25 women. The original intent was for women to stay for the short term, but it was difficult in practice. So some stay a very long time because women have nowhere to go in terms of shelters and it is difficult to access legal assistance with few lawyers taking account of women's needs.

7.4 Jagori representatives reported that there are 7-8 women's shelters in Delhi and that there are one or two run by women which were good but they are very few and far between in the rest of the country. In rural areas other women's homes provide shelter and this is important because community support is a valuable option and it is a pity that this concept has been lost in the big cities. This kind of help from women only happens in areas where the women are strong. Counselling would be taken care of by a group of community women and is a great way to get them back on their feet and sometimes this can be better than going to a shelter. Jagori are involved in placing women in shelters or safe houses. If a rural woman contacted Jagori they would put her in touch with local organisations and if that failed to work then the network could help her. Shelters are primarily for working class women providing living space for 10 to 12 women in dormitories.

7.5 As stated by one of the representatives from the Department of Women and Child Development, Delhi, with regard to short stay homes, they run two schemes for women experiencing problems with marital discord, whereby they provide literacy training with the target of rehabilitation. Any scheme extends to the whole country and some are run through the State Government corporations and some are implemented by Women's Corporations. There are differences between states but the scheme is applicable to all.

7.6 According to the Acting Country Programme Officer in Delhi, Oxfam have researched and conducted a study on Short Stay homes and hope to have some influence. They highlighted the need for more short stay homes because the general provisions are really inadequate. The quality of some of the homes is questionable and some short stay homes have been in the press for the wrong reasons. It was also suggested that more abuse goes on within some because of the entrenched patriarchal attitudes. In reality where do women go as there are very limited opportunities and facilities for women. In view of the size of India it cannot all be institutional and there needs to be help at the community level.

7.7 Dr Basu at AIWC told the delegation that they run a Crisis Centre at their offices in Delhi which houses 30 women. They give them shelter, legal aid and assistance with divorce. They have family counsellors and involve the women in jobs if they are literate to aid rehabilitation and get them back on their feet. Women can stay at the short stay homes for 3 years whilst their

children are put in boarding schools. Some children go to SOS (an organisation which cares for orphaned children) until the age of 18, where they can stay and be reunited with their mothers. Mothers can visit but the children must stay at school. Up to the age of 7 children can stay in short stay homes with their mother and girls can stay longer, over the age of 7, but boys of 8 must go to SOS. These days women have started thinking about the welfare of their child. They can visit their child once a year and an affidavit is given to the school saying they will visit only once for one year and they will not take the child out of school. AIWC have seen 7-8 mothers in the last 3-4 months who have said they wanted to be educated showing a change in women's attitudes whereby they want to get on with their lives but are also thinking of the future of their children.

7.8 The AIWC run 12 short stay homes spread across India, all of which are small, housing 25-30 women but they are hoping to expand. There are 3 short stay homes in Delhi which are partially funded by the Government. Shakti Shalini is one such home. The Young Women's Christian (YWC) society is another who receive a lot of foreign funding but not Government funding. Their shelters do not have a community kitchen and children cannot stay with their mothers. The YWC shelter them for 3 months then refer them to the AIWC.

7.9 Dr Basu from AIWC said there is no waiting list for the crisis centre because any genuine case would be taken and they are prepared to go beyond that in a critical situation. For example if they receive a call from the police in the middle of the night saying a woman is in a terrible state they will help her. The AIWC work with the police and the head of the Women's Crime Cell in Delhi.

7.10 Women come to the Crisis Centre from all over India and from all socio-economic backgrounds, for example from millionaires, university professors to slum dwellers. Girls go to the crisis centre who have run away from home and an example was given of one girl whose parents wanted her to relinquish her studies to get married, she was eventually allowed to study and in the village there is now a movement of girls who want to study. UNHCR refers cases to them as well as the police. The police sometimes send women at night because a woman is not permitted to stay at the police station if there is no female officer on duty and the police would be unable to admit her at night without permission from the magistrate. Therefore she may stay one day at the shelter until the police set processes in place. Not all cases are referred by the police and some women come on their own. The police help the AIWC a lot and mostly the police are helpful although some can be difficult.

7.11 The hostel is not run for profit and is run on a no profit - no loss basis but sometimes a loss is incurred because of electricity and water usage. There are 500 branches of the AIWC around the country. The AIWC are partially funded by the government and they also raise money from renting out their building to business tenants and from donations.

7.12 According to an AIWC brochure Bapnu Ghar, (a crisis intervention centre) provides shelter for women in distress and helps them to regain their self-esteem. They receive counselling and help in understanding and resolving their problems and every effort is made to make women aware of their legal rights. Women are encouraged to obtain vocational training to make them economically self-sufficient. Women come from all over India from all socio-economic, religious and ethnic backgrounds. Bapnu Ghar works within a network of several voluntary organisations and works closely with law and enforcement agencies.**[2]**

7.13 The delegation visited Shakti Shalini which according to their literature is a Delhi-based women's organisation committed to working with women who have been exploited, victimised, harassed for dowry or any other reasons. It also provides a temporary shelter home for distressed women. The organisation was founded in 1987 by a small informal group of parents of dowry victims. Its initial focus was primarily dowry cases and to help parents of dowry victims access legal aid. Because many dowry victims were homeless and without family support, Shakti Shalini went on to develop a temporary shelter home in Delhi for women. Victims of violence can stay for 3 months to 3 years depending on individual needs. "Women at the temporary shelter home are given support, legal information and counselling." They raise awareness of women's rights and societal status. Women receive vocational training and are given the opportunity to enhance skills in areas such as tailoring, embroidery, typing, painting etc. The home currently has a total capacity for 35 women.

7.14 In addition Shakti Shalini runs 3 more service centres in the slum areas of Delhi at Nangloi, Shakur ki dandi and Jahangipuri. These aim to reach out to thousands of rural migrant women as well as providing counselling at the main office. They also disseminate information on the evils of dowry and organise workshops, street theatre and sustained media campaigns. They hold focussed group discussions with multiple community stakeholders such as lawyers, police personnel, community leaders and members of the public. Shakti Shalini extends its services and offers support to other NGOs and community based organisations working on violence against women. It provides health training, legal aid training and community mobilisation training. In addition shelter facilities are open to other NGOs needing to use these services.

7.15 As noted by a representative at the shelter, initially Shakti Shalini sought international and individual support rather than government funding because their founders had apprehensions that they would lose their autonomy by working with government funding. Another reason was their fight for justice which included the protest against government policies, anti-women behaviour of law enforcement agencies such as the police etc and their fight for reforms. However after a few years the Government approached Shakti Shalini and assured their best cooperation. Shakti Shalini also realised that the government collaboration would make the task more effective, so only then Shakti Shalini accepted government funding with a very clear condition that Shakti Shalini would not compromise with its autonomy.

7.16 The home is supported by the Central Social Welfare Board, Ministry of Human Resource Development. They received a Government grant of 25 rps per day per resident towards maintenance and food expenses. Daily expenses average 70 rps per woman so they are involved in further fund raising through other voluntary organisations and rely on individual donations. In addition they sell some of the items made by the women, as stated by a representative.

7.17 The custody of children is an issue and in some cases they are forced to stay with their mothers in the shelter home.**[6]** As noted by a representative from Shakti Shalini, boys above the age of 10 are not allowed to stay at the home. According to Begum in an article entitled "Faces of India", the children need to be rehabilitated and educated. Due to delays in documentation regarding admissions to schools, months and even years of schooling are lost.**[6]**

7.18 Members of the delegation were shown around the centre. Extensive work was underway refurbishing the Advice and Resource Centre. The Centre has a typing room with 6 typewriters to teach women typing skills. It also has separate counselling and legal advice rooms. Members of the fact finding team were also shown the communal and dormitory area where they met the women and their children. Although small it appeared both clean, tidy and well run. Pregnant women can give birth to their babies whilst in the shelter and the members of the FFM saw a very young baby with its mother at the shelter and there were also older children.

7.19 As reported in another news item (untitled) given to the delegation by representatives at Shakti Shalini, the shelter was opened in1987. …Several women's organisations, neighbourhood police stations and the Delhi Police Crimes Against Women Cell refer cases to Shakti Shalini. Where reconciliation can be reached they try to facilitate this but if the woman wishes to dissolve her marriage, they put her in touch with lawyers.**[8]**

7.20 The representative from the NCW informed the delegation that they send women to short stay homes where they are unable to go home.

7.21 The representative at the Women's Development and Child Welfare department in Hyderabad informed members of the delegation that there were thirty-six rescue homes for women in distress and aged and abandoned women, in Andhra Pradesh. According to their website there are 4 State homes, 5 service homes, 2 homes for the aged, 17 working women's hostels, 18 women welfare branches, 1 women's technical training institute, 1 rescue home, 81 children's homes and 2 Sishuvihars are functioning in the state to take care of destitute and abandoned women and children.**[50]** Service homes of which there are 5 functioning in the state, provide rehabilitation of socially and economically deprived women between the age of 18-25 years. Here they receive training and skills and are given free food, shelter, clothing and medical care. In 2002 their total sanctioned strength was 730 places and the present strength was cited as 216 places. State homes of which there are 4,

provide food, shelter, clothing and training aimed at self employment, intended for women discharged from correctional institutions and women who are unable to protect themselves. Their sanctioned strength at 2002 was 375 with actual strength at 179. The 2 old age homes provide free food, shelter and clothing for the old and destitute over 60 years and are located in Hyderabad and Chittoor. The rescue home is located in Hyderabad only and in 2002 had a sanctioned strength of 30. **[50]**

7.22 Ms Visa Ravindran, a freelance journalist from southern India said there are not enough shelters, the government has a policy and does give grants but they are inadequate in provision. There is a women's help-line. Aashraya is a short stay home where women are allowed to stay for one year. They are rehabilitated and given counselling and training but so often the husband takes the girl back making it very difficult. The Joint Action Council For Women (JACW) has started 4 sister places; the Sahodari Help Centres started by JACW, (Sahodari is Tamil for sister). Legal and other counselling and support services are available at the YWCA centre and they receive a grant every year from the Central Government.

7.23 According to Senior correspondent, Ms Lalita Iyer in Hyderabad who writes for a national publication there is no concept of a half-way home and no concept of legal help for a woman facing domestic violence in Andhra Pradesh. There is no shelter concept in Andhra Pradesh or Tamil Nadu. In Andhra Pradesh the belief is that the family should take responsibility for sheltering the girl. Now that the nuclear rather than extended family is becoming the norm, there is nowhere else for girls to go. Even counselling is a new concept in India where it is believed the family has to take the brunt. For a rural woman she has no options and would have to go back to her husband.

7.24 A representative from the Women's Network in Andhra Pradesh informed the delegation that in AP some of the activists shelter women in their homes and this mainly happens at a very personal level not an institutional one. They commented on the functioning of the State home in Hyderabad not being good with very restricted places. They would not recommend a State home and said that women do not want to be in there long term. After staying in a short stay home there are no working women's homes to go on to in Andhra Pradesh. In the Taluka district of AP which has a population of about 700,000 there is one part time counselling centre operating 2 out of 5 days and one short vocational training centre where women can attend for 6 months, accommodating up to 30 women at a time. However the vocational training only takes women who have passed 7th grade and most rural women are illiterate. They suggested that running short stay homes is a risky business because of problems caused by families turning up and some women walk out after a couple of days. Both Government and police support is needed in running a home. The Government has started initiatives such as a home started for HIV women, whom inherently the whole society is against, so there is a need to work on attitudes and mindsets which are so anti-women.

7.25 Conversely the representative from Asmita (who have sent a lot of women to the Government State run home in Hyderabad) commented that these homes were the best in terms of skills offered. Women can stay from between 1-3 years until she has learnt some skills. However it was thought that most women leave after one month. The police also refer cases to Asmita and in one such case a wife in fear of her husband stayed for 3 months in a short stay home but then went back to her husband but the home would keep her longer if need be. They also take on children and send them to school and help the women learn skills. There are also 2 private short stay homes in Hyderabad where women can stay for 3 months and again they will let them stay longer until they are back on their feet. They even allow women to stay and work in order to be able to pay a little and only specify 3 months to deter freeloaders. There is always a lack of space but they take the women to accommodate Asmita. It is mainly rural women who come but some middle and upper class women have come whereby they sometimes pay for the services or make a small donation.

7.26 Kamal Singh at the British Council stated that in respect of the protection services available there have been studies which suggest that there has been abuse within shelter homes and that women have been trafficked from them. The issues are so many that procedural as well as attitude change is needed.

7.27 Dr Ila Pathak from AWAG in Ahmedabad, said that short stay homes are funded by Central Government, with the concept being that the woman stays for a short time. AWAG advocate the return of women to society and not placing her in a home for a long time. A Government incentive is that a woman cannot stay longer than 3 years but AWAG advocate not more than 3-6 months and not for life. Different women come to short stay homes where they are able to stay with their children. They can expect to have up to 30 women with children at a time. An example was given where one woman who had come to AWAG had a baby whilst in a short stay home. AWAG commented that the husband generally wants his wife to return once she has started earning. Local police stations send women to short stay homes.

7.28 Dr Dagar from the Institute for Development and Communication stated that there are short stay homes in Punjab but these are seen as the last resort in the absence of community support since the family, even if oppressive, is considered the only and rightful abode for respectful women.

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Help-lines

7.29 As cited in literature given to the delegation by Jagori, Delhi police advertise a "Women and Children in distress" help-line. It advertises a free help line for which there are three numbers one of which is free, stating that specially trained women Police Officers are on hand to help women and that a PCR van is at their disposal to rescue them.**[4]**

7.30 Members of the Fact Finding Mission saw an advert in a national newspaper dated 15 July 2004 advertising the Delhi police help line number for students experiencing sexual harassment at university. The advert was prominent in size, graphics, colour and location.**[15]**

7.31 Dr Basu from the AIWC stated that they recently had a 24 hour help-line set up in Delhi which will become national. There are also help-lines in Jalphur and Bombay. The Government has only given a help-line to 2 organisations and short stay homes and the Department of Women and Child Development through the Social Welfare Board fund the help-line.

7.32 AWAG run a 24 hour help-line from their premises in Ahmedabad, Gujarat and members of the delegation were shown the desk from where the helpline was run and introduced to the operators.

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Working women's hostels – availability and operation

7.33 According to the representative from the Department of Women and Child Development, Delhi, it is becoming very common for women to work away from home in the big cities. Call Centres and the software industry are sectors dominated by women, where they are very visible. However in the higher civil service the proportion is still very low but mobility is visible in the tertiary sector. There are about 100 working women's hostels in Delhi, the demand is very high in metropolitan cities because of literate women.

7.34 The Department of Women and Child Development in Delhi is involved in the construction of hostel schemes for working women wanting to move away from their hometown and were initiated in 1972-73. The representative stated that they are quite easy to access and provide support for training. One thousand hostels have been recommended of which approximately 50% have been built. They ensure that women can stay in safe and cheap accommodation and 889 buildings have been sanctioned India wide.

7.35 As cited in the AIWC pamphlet advertising the organisation, the AIWC central office opened a Working Women's Hostel in Delhi in 1954 and there are now 22 hostels across India, providing board, lodging and recreational facilities to working women.**[9]**

7.36 Dr Basu at AIWC informed the delegation that there is a hostel for 300 single women in Delhi. Once they start earning they go to the hostel where they have to hold a salary certificate and can pay rent. Women come from all over India to the hostel. In addition to the AIWC homes, there are 3 other homes in Delhi run by NGOs with partial funding and there may be more Crisis Centres.

7.37 The AIWC working women's hostel is one of biggest working women's hostels in India. AIWC also have other working women's hostels around India but Delhi's is the biggest and the representative commented that AIWC have a lot of hostels around India. The hostel has been publicised by word of

mouth and the biggest intake is from Kerala where there is a very high literacy rate but very low employment so women come to Delhi for work. Women have to stay in the hostel because private rent is too expensive and also landlords are unwilling to give single women apartments. Women may also stay as paying guests with families. Some women manage to live on their own in apartments but this is an urban phenomenon. It is still difficult for women to live on their own in India although not so much in urban areas.

7.38 The representative at the Women's Development and Child Welfare Department, Hyderabad stated that there were 18 homes and hostels for working women in Andhra Pradesh. These run on a no profit/no loss basis because the women pay for their keep. According to their website "There are 17 hostels functioning in the State. These Hostels provide food, shelter and other facilities including security to the middle class working women on payment of the charges prescribed by the Government. Those who earn monthly income of less than Rs. 2000/- are eligible for admission."[50] The chart below, also from their website indicates that there are 18 hostels as reported by the representative.

S.No	Place	Sanctioned Strength	Present strength
1	Srikakulam	50	47
2	Vizianagaram	60	22
3	Visakhapatnam-I	50	48
4	Visakhapatnam-II	60	35
5	Rajahmundry	60	26
6	Eluru	60	19
7	Vijayawada	50	34
8	Guntur	50	29
9	Nellore	60	39
10	Tirupathi	50	47
11	Ananthapur	60	3
12	Kurnool	60	28
13	Khammam	50	46
14	Warangal	50	23
15	Nizamabad	50	29
16	Mahabubnagar	80	64
17	Hyderabad	50	41
18	Nalgonda	60	34
	Total	1010	614

[50]

7.39 According to a representative from Asmita in Hyderabad, there are two Government working women's hostels and there are privately run ones which are intended for women with good jobs.

7.40 Dr Ila Pathak from AWAG in Ahmedabad, Gujarat stated that some women can go and live independently or can go to working women's hostels

but tend not to because they are mainly for middle class families. A representative from Sanchetana in Ahmedabad was of the opinion that working women's hostels were neither very good nor comfortable.

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Informal infrastructures – self help groups

Self-help groups

7.41 According to the representative from the Department of Women and Child Development in Delhi, women's self-help groups are the standard vehicle for the implementation of Government programmes and the delivery of social services through women's groups in rural areas. There are lots of women's groups and self-help women's groups have taken off in a big way.

7.42 The representative from the Women's Development and Child Welfare Department in Hyderabad stated that they fund and support various self-help groups and Anganwadi centres, working as agents of social change and promoting women's rights.

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Counselling Centres

7.43 The Guild of Service representative Dr Mohini Giri commented that there are family counselling centres all over India and the Guild of Service goes to talk to villagers. They hold camps because women are scared to come to the towns.

7.44 An AIWC leaflet states that they started a Legal Cell in 1998 and set up a counselling centre, giving free legal aid to needy women. Following on from this a counselling centre was set up in Bapnu Ghar in Delhi with a trained counsellor. In addition AIWC branches run approximately 20 other family counselling centres all over India. Complicated cases are sent for legal aid to the Legal Aid Board and to the Lawyers Collective for filing cases in court and cases requiring psychological counselling are dealt with by experts.

7.45 Asmita "Identity " Resource Centre for Women, run a resource centre for women in Hyderabad. The resource centre is open for women to walk in. They have never advertised the help-line but people hear by word of mouth. Saturdays are the busiest when they have lawyers and counsellors in attendance and the counsellors are supervised by a professor. They also have a working team who will go with the woman to her home to collect her belongings or attend a police station with her. Asmita sees a case into court and then will follow up with a lawyer. Women often just need help to get them through a tough time. Poor women turn to Asmita generally because of family violence.

7.46 Nowadays there are counselling centres attached to the local courts which have developed over the last 10 years according to a lawyer from

Anveshi. There are several family counselling centres, some of which receive government funding in big cities and towns which receive women's complaints in hundreds. The fact that women go to these centres instead of going to the police stations and courts speaks something about the state of law. Over the years, these counselling centres have established and developed links with various other service agencies, apart from the links with local police stations too. Some police stations refer women to these counselling centres too. She cited an example of a police officer helping one woman who rang one of the numbers and her case is ongoing. Their effect is dependent on location. Good counselling is needed for reconciliation that needs to be done in a rigorous manner. However there is another level of counselling that is required at the family courts for which support is still lacking in Andhra Pradesh. At present, there are no appointed counsellors at the family courts here, which impairs the functioning of the courts seriously. It needs to be mentioned in this context that Mumbai in contrast has a very developed system of counsellors, which has come about as a result of the work of women's groups there.

7.47 When AWAG was set up as an NGO they also started a counselling centre as well. They now have 4 counselling centres and legal aid centres in Gujarat. From 1934 onwards there have been counselling centres which are family orientated but there was an insistence on sending the woman back where sometimes this would result in her death. So AWAG suggested a woman's counselling centre to find out what women want and with the message that she could say no to violence. The idea is that when the woman returns home her family will have some understanding. They conduct pro-woman counselling to find out what the woman hopes to achieve. The aim is to make women stronger on issues of violence so that she can say no, but no counselling centre alone can do that. AWAG are involved in training counsellors and have published guidelines for counsellors.**[37](p13-16)** As stated by Ila Pathak from AWAG, there are about 52 counselling centres in Gujarat and they have been involved in administering training every 6 months for 3 years. There are 96 legal aid centres in Gujarat and AWAG have taught them about the law, they also provide guidelines for counsellors at family counselling centres.

7.48 As stated in AWAG's Guidelines for counsellors of Family Counselling Centres, many NGOs run Family Counselling Centres (FCCs) in Gujarat. Grants are awarded by the Central Social Welfare Board (CSWB) and Social Defence department of Women and Child Development department under the Ministry of Human Resource Development of Government of India. In 2000 more than 50 FCCs were operating in Gujarat. When the scheme was launched in 1984 under the CSWB the concept was formulated to prevent families from breaking up and to promote family harmony. Organisations involved in women and children's welfare are funded through grants to set up FCCs with the aim of providing preventative, curative and rehabilitative services to women who are victims of atrocities. One of the main objectives is to save the family whereby assistance should be given to woman in distress. Independent investigations should be carried out in cases of dowry deaths by social workers and the cases should be referred to the police. All cases of

atrocities should be registered by an application at the centre whereby guidance should be given and case files should be kept. In marital dispute cases, efforts should be first made towards reconciliation however the clients wishes should be respected and necessary action taken. Where cases are received from districts with no FCC they should be sent to the nearest FCC or good voluntary organisation to investigate the case. FCCs were set up in response to the CSWBs concern at the increase in violence against women.**[37](p5-6)**

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Other protection mechanisms

National Human Rights Commission (NHRC)

Background

7.49 As cited in an Institute of Social Sciences publication entitled Human Rights and Gender Issues, the National Human Rights Commission (NHRC) was set up in 1993 in pursuance of the Protection of Human Rights Act 1993. Section 2(d) of the Act defines human rights as "rights relating to Life, Liberty, Equality and Dignity of individuals guaranteed by the Constitution or embedded in the International Covenants and enforceable by Courts in India." "Even though the NHRC is not an entirely independent body, it has no powers of punishment and has to deal with a daunting backlog of cases, it does stand forth as the last resort for women facing violation of human rights."**[3](p13)**

7.50 According to the Protection of Human Rights Act 1993 the Commission have a number of functions and powers as detailed in full in Annex 5. These include the power to inquire into complaints of violation or abetment of human rights of individuals or negligence in the prevention of such violations, intervening in allegations of human rights pending before any court with the approval of that court, visits to places of detention, reviewing constitutional provisions and laws covering human rights.**[52]**

7.51 The NHRC has a Chairperson and 4 members and has a semi-legal constitution. There are 14 State Commissions set up by the States. Where the State Commission takes a case, the National Commission will not interfere, as stated by one of the NHRC representatives.

7.52 The delegation met with the General Secretary, the Head of Complaints and the Head of Research at the National Human Rights Commission in Delhi. One of the representatives informed the delegation that complaints received were in proportion in terms of one of the largest populations in the world of over 1 billion. They receive 70,000 -80,000 complaints per year. They dispose of some but have a very limited infrastructure. The Commission is headed by a retired Supreme Court Justice as per the guidelines set out in the Human Rights Act 1993 which parliament enacted. In addition there is a Chair person and 4 members two of which are from the judiciary, one from the Supreme Court, one from the High Court and the other two members are from Public service or the non Governmental (NGO) sector and all are eminent

people. There are several divisions within the NHRC, namely an administration division, law division, investigation wing headed by a police officer, a research division and information and computer divisions. The Commission is totally independent and employs 300-400 staff. Under the Human Rights Act 1993 the Commission receives financial assistance from the Central Government by way of grants-in-aid, as noted in their annual report for 2001-2002.[14](p210) The Commission is funded by tax payers money and comes under the jurisdiction of the Home Ministry. Money is voted by Parliament to the NHRC.

7.53 The law division handles women's complaints and programmes. Women's Cells were set up 3 years ago and an aggrieved party can apply by telephone, fax, verbally or in writing. The types of complaints received range from custodial, domestic violence, dowry deaths and demands, rape, immoral trafficking of women, non investigation by the police, sexual harassment in the work place, complaints from scheduled castes and tribes and investigations into the treatment of Dalits.

7.54 Complaints involving rape are processed under the fast track system and rape or gang rape complaints are placed before the Commission within 24 hours. Other cases dealt with on fast track are victimisation of Scheduled castes and sexual harassment. There are two different processes for dealing with complaints, fast track and ordinary.

7.55 Ordinary claims take about one month and there is also a fast-track system where for example cases of gang rape are place before the Commission within 24 hours. After consideration of the claim the NHRC calls for a report and sends an investigating team who then submit a report. The Commission may issue a notice to the State authority to investigate by their own team or by the state. The file is sent to the fast track team to investigate and if the allegation is unsubstantiated then the case is closed, however if the case is substantiated then a Show Cause Notice will be issued. The Commission can grant compensation, initiate disciplinary action or prosecute. The Commission will follow up and in the case of awards of compensation the commission will pursue the case until it is paid. The Commission also monitors the outcome of proceedings.

7.56 Once a reply is received the Commission makes recommendations. If prosecution is recommended then once the prosecution is filed the case is closed. Only 3-4% of complaints result in prosecution and the delegates were told that 90% of complaints are made out of revenge and 60% of complaints are against the police. The low prosecution rate was attributed to the length of time taken to investigate. In cases of allegations the NHRC immediately issues a notice regarding the woman and often the very intervention of the Commission ensures that the behaviour complained of, stops. The aim of the Commission is for the accused to go before the court and for them to assist in this process. Once it goes to court the NHRC cannot intervene and has to withdraw.

7.57 The NHRC uses the media a great deal because it is a powerful tool and by getting publicity, society gets sensitised to the issue with people becoming more conscious which subsequently enables people to get quick remedies.

7.58 Where the Commission thinks a victim is unable to support themselves financially then they seek the help of an NGO to help with legal assistance. The Commission also uses NGOs for rehabilitation and may request the assistance of NGOs in the course of their investigations.

7.59 The NHRC work is catalytic in nature. They commission research studies by NGOs working at grassroots level and have just commissioned a study on the social status of Dalit women. One of the major works taken up by the Commission was the sensitising of the lower judiciary to the trafficking of women. They are also looking at sexual harassment in the work place and on trains. There have been sensitisation programmes and studies into the prevalence of sexual harassment in the workplace. Following the Supreme Court judgement in the sexual harassment case the Commission convened a meeting to see that their guidelines were implemented and started monitoring States' actions. Complaints Committees were set up and the Commission had a monitoring role. They work in collaboration with other NGOs and again have a monitoring role. They also conducted research into trafficking of women and children. Other such areas of involvement include reproductive rights of women, destitute women and children, child marriage rehabilitation, Juvenile Justice Act and the issue of the Domestic Violence Bill. The Commission has also set up a Training Division and with the help of the British Council they have worked on a number of training issues with the police on gender issues, such as sensitising the police and judiciary with the intention of working further on gender sensitisation.

7.60 The Commission has worked on the rehabilitation of destitute and marginalised women and the Child Marriage Restraint Act. They have commented that the definition of domestic violence in the Domestic Violence Bill needs to be broadened and have emphasised the role of the protection Officer and the Court.

7.61 They believe that every state should have a State Commission with the NHRC as the umbrella for guidance. They advocate that those states without a Commission should have one and they try to help them set one up. State Commissions are also set up under the Protection of Human Rights Act.

7.62 As noted in the 2001-2002 Annual report, the Commission has set up a Women's Human Rights Cells within the Commission's Law Division as a result of the large number of complaints received relating to women including allegations of non-registration or investigation of dowry deaths, sexual harassment at the work place, rape, outraging the modesty of women, abuse of girl children and kidnapping. The cell scrutinises all complaints and cases relating to the death or harassment of women and girl children and rape and dowry demand cases. All fresh complaints received are processed by the cell and other cases already being dealt with by other sections of the Law Division

are being transferred to the Cell. The Cell works in co-ordination with the Research Division. **[14](p74)**

7.63 The NHRC has a monitoring role with regard to State Government complaints. The NHRC has been involved in gender sensitisation training with the Bureau of Police Research and Training and has advised them to include human rights in their training. The Commission has also contacted state authorities and told them to include it in state government training. The NHRC holds training programmes.

7.64 When asked about the adequacy of legal remedies, one of the representatives responded that the Constitution guarantees equality so technically there are legal rights. The problem lies in adequacy of access because society is backward and literacy is a problem when it comes to registering complaints but NGOs play a prominent role in helping women. Women are involved in Panchayats at the grass root level and that is empowering women. There is a core group of NGOs who advise the Commission on certain issues. The NHRC set up core group of NGOs to help women bring issues to the NHRC. In addition District Complaints Authorities have been set up at the behest of the NHRC.

7.65 The representative was asked about the conduct of the NHRC in respect of the communal riots in Gujarat in 2002 the Chairperson of the NHRC identified 5 main incidents but the State government was not in agreement. As stated in the annual report 2001-2002 the Commission took suo moto action on 1 March 2002 on the basis of media reports and an e-mail requesting their intervention. The Commission inter alia observed that news items suggested there was inaction on the part of the police and higher functionaries in the State.**[14](p20)** The representative told the delegation that the NHRC took the matter to the Supreme Court. In one case involving gang rape the NHRC took up the Bilkis Banu case and complained, so the Supreme Court ordered the Central Bureau of Investigation to investigate because previously the case had not been properly investigated so the Commission offered help in taking the case to the Supreme Court. The case is now before trial and all 24 suspects were re-arrested, including police and doctors who had colluded. Following the intervention of the Commission a special petition was filed before the Supreme Court. The outcome was a direct result of the Commission's involvement and much of their work is catalytic in nature. The media also gave a lot of support with regard to the Gujarat issue and the Supreme Court became sensitised to the issue.

7.66 According to the annual report for 2001-2002, at the time of writing the report the Commission concluded that there could be no doubt that there had been a comprehensive failure by the State Government to control the persistent violation of the rights to life, liberty, equality and dignity of the people. They also noted that there had been a decline in violence in recent weeks with positive developments. However there were allegations recorded in the press of charge sheets lacking credibility in so much as they depicted the victims of violence as the provocateurs, FIRs neither promptly or

accurately completed with regard to atrocities against women, insufficient compensation for damage to property and intimidation of victims. **[14](p22-23)**

7.67 According to the NHRC Annual report for 2001-2002, given to members of the fact finding delegation, s12(I) of the Protection of Human Rights Act 1993, requires the commission to encourage the efforts of NGOs and institutions working in the field of human rights. Accordingly the NHRC has conducted a series of structural consultations with NGOs on a regional basis and has been working in close partnership with a number of NGOs. In 2001 the Commission constituted a core group of NGO to serve as a monitoring mechanism and since meeting, areas of concern have been identified by the core group.**[14](p132-133)**

7.68 With regard to police training this remained a high priority for the Commission during 2001-2002, inter-active sessions were organised with NGOs, with eminent personalities being invited to participate. The Commission undertook two training sessions with the British Council on "Human Rights Investigating and Interviewing Skills" and "Improving Custodial Management." The objective of the first course was to develop both analytical and appraisal skills to ensure objective and accurate reporting. Twenty Regional Programmes were developed and 220 police personnel received training. Eight trainers from different State and National Human Rights Commissions were trained at the Andhra Pradesh Police Academy in Hyderabad, enabling them to conduct courses in Chandigarh, Hyderabad, Bhopal, Guwahati, and Kolkata during March-July 2001. The British Council also organised a "Training of Trainers" course in 2001 in Uttar Pradesh. The trainers are running 2 day workshops at the district level on "Police for the Protection of Human Rights".**[14](p122-124)**

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Views of the effectiveness of the NHRC

7.69 With regard to the communal disturbance in Gujarat in 2002, Ms Sheba George from SAHR WARU, Ahmedabad stated that the NHRC and the Supreme Court did a good job in expecting accountability from State Agencies for relief, rehabilitation and justice. The NHRC and the Supreme Court interventions have assisted in efforts for justice.

7.70 According to Dr Hanif Lakdawala at Sanchetana, the NHRC acted after persausion from NGO's with regard to the communal violence in Gujarat and there is no State Human Rights Commission in Gujarat so NGOs have bridged that gap. Sanchetana have been working with Gujarat representatives of NHRC in Ahmedabad. Some cases have been taken to Maharashtra and they are trying to get other cases heard there despite logistical problems concerning transportation of witnesses.

7.71 Rajvinder Singh Bains, human rights lawyer in Punjab, informed the delegation that the NHRC has no power to give a binding judgement. Ninety-nine percent of claims are against the police for high handedness but their findings are not binding. According to Mr Singh Bains the Commission has the

power to summon people and call evidence but they are only a recommendatory body.

7.72 In the view of a human rights activist in Punjab the NHRC has its own moral standpoint, but things are happening in India at a slow pace. They have no powers of prosecution but can recommend cases to the Supreme Court not older than 2 years. They have the power to investigate but only for cases not older than two years so it is more or less just a showpiece and not at all effective in Punjab where not one relief has come from the NHRC. It was also suggested that eighty percent of complaints to the NHRC are against the police but that nothing happens.

7.73 According to the Director of Zubaan in Delhi, the NHRC is more effective than the NCW and takes a braver stand. It has more power because human rights are seen as something more deserving of protection than women's rights. The NHRC has had both good and bad people working for it and has taken a strong stand on Gujarat.

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State Human Rights Commissions/Committees

7.74 As noted in the US Department of State report 2003, it is recommended under the 1993 Protection of Human Rights that each state should set up a human rights commission but not all states have done so. Commissions are established in 14 out of the 25 states.**[40a]**

7.75 As stated in a response to a parliamentary question concerning the setting up of state human rights Commissions by the Minister of State in the Ministry of Home Affairs for 20 July 2004, "State Human Rights commissions (SHRC) have been set up in the States of Assam, Chattisgarh, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Manipur, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. The Government has been pursuing with the concerned State Government from time to time, to set up SHRC.**[12a]**

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State Human Rights Commission – Punjab

7.76 Members of the delegation met with Justice Jain, head of the Punjab State Human Rights Commission and another representative the Director General of Police, Mr S K Verma. The State Commission publishes annual reports, runs projects and is linked closely to the British Council; it also undertakes workshops.

7.77 The Punjab State Commission employs 140 staff and the Head of the Commission has to be a retired Chief Justice. The Chairman of the State Commission has been in post since 2003 and this tenure ends in 2005. The work of the Commission is an ongoing process and people's awareness of the Commission has grown and they are willing to approach them. In 1997 they did not see so many complaints now they see thousands and it was

suggested that was indicative of people having tremendous faith in the Commission.

7.78 The delegates were told that there are a lot of incidents against women and there has been a rise in numbers in India. There are a number of issues which are peculiar to India such as dowry. They receive a lot of complaints from women but many offences go unnoticed and women do not complain because it may reduce their marriage prospects and may go against them. Quite a large number of complaints are received and a high number are from women, 15-20% of the complaints are from women. The Commission receive more than 14,000 complaints annually and out of these almost 45% are not maintainable. Sixty-five percent of complaints are seen by the Investigation wing.

7.79 The Commission's main area of work is investigating and dealing with complaints. According to the representative complaints are screened by the judicial wing to combat false complainants and if found to be genuine then the complainant is entitled to relief. Remedies include legal redress and compensation if they have suffered abuse of their human rights. Cases are not closed until the final direction of the Commission is investigated. Once the Commission have issued a direction to the Government thereafter they will receive a report. Their ultimate aim is to give relief to the victim who is happy if the matter is investigated and their complaint upheld. In cases of serious misdirection by the police the NHRC will intervene. With regard to complaints against the police, if found guilty the outcome could be internal disciplinary proceedings, reprimand, or they can ask for a criminal prosecution. It was reported that the fact there are so many complaints demonstrates people have faith in the work of the Commission. They are in the process of evolving a fast track system for the processing of complaints like the NHRC. This will be for cases where immediate remedies are needed and these mainly involve illegal detention.

7.80 According to the Commission representative they are independent and have no relationship as such with the national body but interact to share information. There is no appeal against their orders.

7.81 The Punjab Human Rights Commission does not take cases more than a year old, 55-60% of rural people are in dispute with rural people and these complaints are mainly from men, for example, such as cases such relating to the sharing of irrigation water.

7.82 They reported that the Commission has not seen an increase in women's claims and this is due mainly to social inhibition. Women prefer to conceal it within the family than to come forward. They receive fewer complaints from rural women because it is very difficult for them to come forward.

7.83 With regard to time scales for dealing with complaints the outer limit is 2 years but if it is urgent it would be dealt with in 2-3 months. They have to hold a hearing.

7.84 According to the representative their powers are just recommendatory and if immediate attention is needed they would fast track the complaint. They have powers to deal informally with requests for couples to live separately and an example of one such case was given where a divorced couple were still cohabiting with the wife in fear of her life. In this type of case the Commission can recommend the building of a wall to segregate them, or recommend they live separately. They have to look at it in perspective because the state is not providing shelter.

7.85 They are involved in police sensitisation and conduct courses for police officers and other Government officers. They work on ways to promote Human Rights which are mandatory rights in cases of arrest and they carry out random checks. They reported a big distinction between the lower and higher ranks of the police force in terms of abuse stating that the whole organisation needs a total change of perspective.

7.86 With regard to optimism for the future the representative said they were optimistic because the younger generation are sharing knowledge through the internet also globalisation and the media will help. As women become more economically self-reliant it is hoped that human rights violations will decrease.

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Andhra Pradesh State Human Rights Committee

7.87 The delegation visited the Andhra Pradesh Human Rights Committee (APHRC) in Hyderabad. The Parliament has enacted the Protection of Human Rights Act, 1993 (No.10 of 1994) which came into force on 28 September 1993 and the National Human Rights Commission was established. Some of the States in India have established State Human Rights Commissions under the said Act. The Protection of Human Rights Act provides mechanism to check the violation of human rights and send recommendation to the Government to ensure remedial measures, including payment of compensation. The Supreme Court of India in D K Basu Vs State of West Bengal has reviewed the situation on human rights in the country and directed the High Courts in the country to constitute State Human Rights Committees in such states where no Human Rights Commissions were constituted by the State Government. In pursuance thereof, the AP State Human Rights Committee was constituted and notified with effect from 18 September 2002. The APSHRC consists of three retired judges with some staff. The tenure of the Committee is for a period of 3 years with effect from 18 September 2002, the date on which it was constituted. The purpose of the State Human Rights Committee being to oversee in that particular State the implementation of the 11 requirements set out in the DK Basu case with regard to the arrest and detention of individuals. (detailed in Annex 3)

7.88 In all petitions and complaints received by the Committee alleging violation of human rights, the Committee initiates action. Also in the absence of any complaint, the Committee initiate suo moto action on the basis of

newspaper reports or a news item in the electronic media, according to the representative.

7.89 The representative described the Committee as the “watch-dog” of the Supreme Court in terms of implementing their guidelines issued by the Supreme Court in D K Basu Vs State of West Bengal, with regard to violation of fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India and violation of human rights. The Committee take up investigations where personal liberty and right to life have been violated. They are not an investigative agency and have no time limit but generally the matter is resolved within a reasonable period of 3-6 months. They collect material and may go out to districts to investigate the matter. They do not have an investigatory wing but have submitted proposals to the Government for funding and staffing for an investigation wing. Although they are hampered by not having an investigation wing their work is still successful and they appoint an independent advocate to help with their enquiries.

7.90 The APHRC representatives explained that they follow principles of natural justice in the matter of conducting enquiries. The representative explained that after concluding the enquiry, a report is prepared and placed before the Committee. As per the directions of the Committee the report will be sent to the Chief Secretary to the Government of Andhra Pradesh to take action as per the said report. The Government are expected to arrange for payment of compensation to the victims of torture / legal representatives of the deceased and also to take action against the officials who are responsible for the violation of human rights.

7.91 The representatives stated that the Committee has so far disposed of 887 petitions / complaints and now have 329 petitions / complaints pending. Apart from the petitions, the Committee completed regular enquiries in about 40 Human Rights cases (HR cases) and out of which the Committee found violation of human rights in 30 HR cases and in those cases recommendations were made to the Government for payment of compensation and for initiating action against the concerned officials. In the remaining 10 HR cases the Committee recorded findings that there were no violations of human rights. No specific guidelines in writing are available but the amount of compensation is determined in the circumstances of the case and the gravity of the human rights violations. As per the directions of the Supreme Court of India, the Committee has to send the “Action Taken Report” in each of the cases registered as HR cases. If no action is taken by the State Government on the report of the Committee, the same will be reported to the Supreme Court, who may initiate action against the State Government for contempt of court. On all reports sent to the State Government, action was initiated by the Government and the recommendations of the Committee were complied with in some HR cases. In the remaining cases, they are under process in the State Government for implementation of the directions of the Committee. So far, there are no occasions for the Committee to report to the Supreme Court of India that the final Orders of the Committee were not complied with by the State Government.

7.92 Awareness of the existence of the Committee and the recommendations / directions given by the Committee in pursuance of its final Orders is publicised on the local television channels and newspapers. The Chairman and members of the Committee will be making surprise visits to the police stations and the prisons in the districts to ascertain whether the guidelines issued by the Supreme Court of India are being followed by the concerned authorities and the conditions prevailing in the prisons. They also collect material to ascertain whether there is prima facie material to register the petitions / complaints as HR cases.

7.93 The Committee provided the delegation with the details of 9 HR cases involving violation of human rights against women. In some of the cases enquiries were completed and final orders were sent to the Government to take consequential action. In one case involving the arrest and abuse of a woman at an excise police station, the Committee sent the woman to hospital for examination and treatment, ordered the registration of a case against the police personnel. An enquiry took place where witnesses were examined in the presence of the respondents. A final order in this case will be sent to the Government shortly. In a second case a woman alleged she had been forcibly taken to a police station abused and illegally detained by the Head Constables and Constables. The intention being to pressurise her to compromise in a civil dispute. The Committee ordered the registration of a HR case and conducted an enquiry. As and when the enquiry is concluded the final Orders are passed, the same will be sent to the Government to take consequential action.

7.94 Some of the representatives interviewed in Hyderabad were not aware of the Committee's existence.

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The National Commission for Women (NCW)

Background and activities

7.95 As cited in the Department of Women and Child Development's annual report, 2002-2003, "The National Commission for Women (NCW) is a statutory body constituted on 31 January 1992 under the National Commission for Women Act 1990, to protect and promote the interests and safeguard the rights of women." They are in the forefront of the national endeavour to improve the status of women in society and work towards their empowerment. They review laws and investigate specific complaints of atrocities, harassment, denial of rights and exploitation of women and take remedial action to restore their legitimate rights. They have expanded their Complaints and Investigation Cell, which is the core unit of the Commission. The cell processes oral and written complaints and takes suo moto notice of cases under section 10 of the NCW Act. Complaints vary from domestic violence, harassment, dowry, torture, desertion, rape and refusal to register FIRs, cruelty by husband, deprivation, gender discrimination and sexual harassment in the work place. During 2002-2003 seven thousand complaints were received.**[1a](p175-176)**

7.96 The NCW deals with the complaints in the following way:

- Investigations by the police are expedited and monitored.
- Family disputes are resolved or compromised through counselling
- With regard to serious crimes, an Inquiry Committee is constituted which carries out spot enquiries, examines witnesses, collects evidence and submits a report with recommendations. The NCW monitors the implementation of the recommendations.**[1a](p176)**

7.97 These complaints are analysed to identify gaps in the functioning of Government agencies in combating violence against women to suggest correctional measures. Case studies are used for gender sensitization programmes for the police, judiciary, prosecutors, forensic scientists, defence lawyers and others. Enquiries may be followed up with meetings with higher officers of the state government and police departments to discuss short and long term recommendations.**[1a](p179)**

7.98 The representative for the NCW described the organisation as a recommendatory body to the Government. They hold public hearings in States and go to districts and towns so that women can come and voice their grievances. Women from the District Assembly come and voice opinions, for example they might complain to the Commission and seek help where police have taken no action. The NCW calls the authorities and tells them to file a first Information report (FIR), whereby authorities react on involvement of the Commission. The NCW only have civil court powers of summoning a person so if witnesses do not attend, the Commission does not have the power to prosecute but there are proposals for expanding their prosecution powers. In short people complain to the Commission and seek help where there has been a lack of action taken.

7.99 In respect of State Commissions for Women the representative at the NCW told the delegation that each state passes its own act. There are not State Commissions for Women in every state, for example 2 years ago the NCW recommended that Gujarat set one up but this still has not happened to date. According to a publication issued by the Institute of Social Sciences, most states have their own state commissions for women.**[3](p14)**

7.100 Information provided by the Foreign and Commonwealth Office (FCO) and obtained from the NCW, states that there are 23 State Commissions for Women, each independent of the Delhi based National Commission for Women (NCW). They are in Andhra Pradesh, Assam, Bihar, Chattisgarh, Delhi, Goa, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Mizoram, Orissa, Punjab, Rajasthan, Tamil Nadu, Tripura, West Bengal, Sikkim, Uttar Pradesh and Pondicherry.**[53]**

7.101 The NCW representative described their role as being that of a watch dog in identifying discriminatory legislation and so far they have identified nearly 40 such laws in which they set recommendations. However it was stressed that this is not a quick process. They submit their recommendation to the Government. If the recommendation is to do with health then it is sent to

the Health Department but ultimately it goes to the Law Department. The main barrier to enforcement of the existing legal machinery was women's lack of awareness of her rights, for example a woman cannot be kept at a police station at night in the absence of a female officer but how would she know that right existed? She highlighted that societal influence was the problem in terms of domestic violence cases where the patriarchal view of not breaking up the family prevails.

7.102 They also have a consultative function for example they highlighted the problem faced by widows once the head of the family has died. Not all recommendations are implemented because it is difficult for the Government in terms of money and infrastructure, however the NCW do follow up recommendations. The NCW interacts closely with the NHRC and the Commission chairperson is also a member of NHRC.

7.103 They monitor their recommendations on the police but not all recommendations are implemented due to financial reasons and they are not always able to follow up all recommendations because there are so many. The Commission have recommended Dowry Prohibition Officers but these are yet to be introduced.

7.104 When asked if there were any inequalities in terms of gender discrimination in the hearing of criminal cases, the joint secretary to the Commission informed the delegation that there is no inequality.

7.105 According to an article on the Social Welfare website, the NCW evolved an innovative concept of PMLA (Parivarik Mahila Lok Adalats) which had its roots in traditional Nyaya Panchayats, for speedy disposal of cases under Legal Service Authority Act 1987 and which can be described as an alternative justice delivery system. The PMLA strive for an amicable mutual settlement and flexibility in terms of functioning. PMLA's are organised by NGOs in association with the District Legal Aid and Advisory Board, activists, advocates and others, with financial assistance from the NCW. The website reports that 133 PMLAs have been held in which about 7500 cases were taken up. In the year 2002-2003, 3 PMLAs were held. Their purpose is to provide timely justice, to encourage the public to settle disputes outside the formal set up and to empower the public in particular women to participate in the justice delivery mechanism. The NCW is responsible for the PMLA but the proposal to hold one comes from NGOs who will run them. The NCW request the District Legal Authorities to take cases out of the list and put them into the PMLA. **[47]**

7.106 The NCW interact with the Crime Against Women Cell, meeting them and issuing guidance and the NCW interacts closely with the NHRC. The NCW is involved in administering awareness programmes in remote areas to make women aware of their rights such as there is no right for a husband to beat his wife and they visit remote areas with a panel made up of 3 ex judges. This is a continuous process. The NCW is in the process of setting up what will be called District Awareness Camps. The intention is to bring health issues to women informing them of their rights, such as the right to attend

district hospitals to have family planning and free examinations because women are not aware these services are available. Their programme for the future is to educate women in these districts.

7.107 The NCW focus on women and girl children, dowry related violence, health matters and economic awareness. The Joint Secretary of the Commission reported that the NCW has been successful, for example they have taken up specific issues such as the situation of tribal women in Kerala and the Government initiated a CBI enquiry. Although it is not possible to generalise the impact is there and the NCW has impacted and been effective in pockets for example rapists have been arrested. The NCW also has a complaints section and has counsellors. Following a complaint the husband and wife will be called for counselling and if they are adamant not to reconcile, this may result in divorce.

7.108 The office receives complaints from all over India. They receive an enormous number of complaints and they take immediate action. An investigative team goes to investigate in bad cases. Between 5,000-7,000 complaints are received per annum.

7.109 They publicise themselves by advertising in newspapers. If the Commissioner is visiting an area they advertise this in newspapers inviting women to attend, so that women and NGO's are aware they are coming. They also advertise on television.

7.110 The NCW sent recommendations to the Government with regard to the Domestic Violence Bill and the Representation of Women Bill. With regard to the Domestic Violence Bill they objected to the term "habitual abuser." The Chairperson of the NCW has written requesting it should be tabled and the representative said she was optimistic the Bill will be heard and passed. A report has yet to be published on the appointment of Dowry Prohibition Officers.

7.111 They have good networks of NGOs and provide funding when NGOs approach them with projects. With regard to recommendations on rape cases they have recommended that when a rape is prosecuted the name of the victim should bot be published. Some of the legal and medical issues surrounding rape have been the subject of recommendations by the NCW.

7.112 According to the 2002-2003 Annual Report of the Department of Women and Child Development, the NCW holds numerous and varied workshops covering all aspects of the empowerment of women and problems faced by them. A list of these workshops can be found on page 180 of the 2002-2003 annual report. **[1a](p180)**

7.113 As stated in a Social Welfare article on the National Commission for Women the NCW regularly extends financial support to NGOs and educational institutions to conduct Legal Awareness Programmes to enable women and girls to know their legal rights and to understand the procedure

and method of access to the legal systems. So far 55 Legal Awareness Programmes have been conducted.[47]

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Other views of the NCWs effectiveness

7.114 According to International Women's March 2004, literature, Dr Mohini Giri, peace activist, writer, scholar and leader in the National Women's Movement stated that the National Commission for Women had not been able to perform its duties because it was structurally flawed. Though much effort and resources had gone into the reports and recommendations made by the Commission, the government had taken no action whatsoever.[11](p9)

7.115 The Director of Zubaan stated that the NCW was set up after lots of lobbying by women's groups. When it came though they were delighted, except it did not have teeth in its statutory powers. It was not set up as an independent body as the Government of the time nominate and appoint the chairperson. She suggested that there have only been 2 periods in its short history where it has been quite open and successful. The rest of the time it has been inactive and obstructive and an arm of the State. For example in Gujarat where there had been a lot of pressure on the NCW to go there. She commented that the NCW's report was appalling as they reported that there had only been 3 rapes when all the other evidence suggested otherwise. The Government had chosen not to give the Commission too much power and did not place a gender member in each Ministry as recommended by women's organisations. The NHRC is more effective and takes a braver stand and has more power.

7.116 A representative from Anveshi told the delegation that the NCW was much better than the Andhra Pradesh State Commission for Women which was not an effective body. However the representative at Sanchetana stated that the NCW was not very effective.

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State Commissions for Women

7.117 According to a publication produced by the Institute of Social Sciences entitled Human Rights and Gender Issues, most of the states in India have their own state-level commissions for women.[3](p14) (see paragraph 7.100 for details)

7.118 During a telephone conference with a freelance journalist Ms Visa Ravindran, the delegation were told that Andhra Pradesh has a State Commission for Women which makes recommendations and sometimes the Joint Council takes up issues.

7.119 It was suggested by a representative from Anveshi that the State Commission for Women in Andhra Pradesh was not an effective body because more cases should be registered because they have the mechanism to do so. She also commented that the Ministry of Women's Development had

a 19th Century understanding of women and had a paternalistic approach to women.

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Non-Governmental Organisations (NGO's) and the Women's Movement

7.120 According to the NHRC, NGOs play a prominent role in helping women. They have set up a core group of NGOs to help women bring issues to the NHRC.

7.121 It is widely acknowledged that numerous NGOs working at grassroots level for women have brought about greater awareness and change for women in India.

7.122 According to the US State Department Report 2003, the Government addressed women's concerns primarily through the National Commission for Women, but NGOs were also influential.**[40a](p24)** And according to the USSD report 2001 "There are thousands of grassroots organisations working for social justice and economic advancement of women, in addition to the National Commission for Women. The Government usually supports these efforts, despite strong resistance from traditionally privileged groups."**[40b](p30)**

7.123 As noted in a UN commissioned report 2001, Women in India, how free, how equal, "Indian women have far greater visibility and voice than they did fifty years ago – they have entered into and created impacts in every sphere of public activity. There are many strong and vibrant movements around issues of importance not only to their own lives, but to the country as a whole. Movements in India – for the right to control and manage natural resources, the right to information, the right to participation in decisions on development – have set the parameters of global debates on these issues. Millions of women are part of these struggles and movements. Tangible proof of the relevance and effectiveness of Indian women's movements, is the fact that the issue of women's rights is today a central tenet of political and development discourse in India. Affirmative actions for women's political participation, the implementation of major poverty alleviation programmes through women's groups, the review of laws and regulations to ensure women's equality - all demonstrate this recognition at the political level and at the level of policy. Nevertheless there is no denying the facts (documented in the UN report) - evidence of the huge gaps between Constitutional guarantees and the daily realities of women's lives."**[28](p79)**

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8. Proposals for legislation and government policy towards women

Protection from Domestic Violence Bill, 2002

8.1 The Protection from Domestic Violence Bill, 2002 is intended to protect the rights of women who are victims of violence of any kind occurring within the

family and to provide for matters connected therewith or incidental thereto. "Aggrieved person means any woman who is or has been a relative of the respondent and who alleges to have been subjected to act of domestic violence by the respondent."**[24b]**

8.2 As cited in the annual report for 2002-2003 of the Department of Women and Children, the Bill was introduced by the Department to the Lok Sabha on 8 March 2002. On 1 May 2002 the Bill was referred to the Standing Committee for examination and report, subsequently the Standing Committee presented its 124th Report containing recommendations to Parliament on 12 December 2002 and their report is being examined by the Department.**[1a](p88-89)**

8.3 Various sources informed the delegation that the Domestic Violence Bill has been included in the new Government's common minimum programme and therefore is likely to be passed. An article appearing in The Hindu on 13 June 2004 entitled, Sonia assurance on Domestic Violence Prevention Bill, states that Sonia Gandhi assured that extra attention will be given to the passage of the Domestic Violence Prevention Bill as and when it is raised in parliament.**[57]**

8.4 According to the Department of Women and Child Development, there is renewed commitment to push through the Domestic Violence Bill and the Representation of Women Bill. It is claimed there were political reasons as to why it was not pushed through previously. As stated in response to a parliamentary question on domestic violence on 16 August 2004 the Bill lapsed on dissolution of the 13th Lok Sabha however the Government has initiated a fresh examination of the bill.**[12h]**

8.5 The NCW sent recommendations to the Government with regard to the Domestic Violence Bill and the Representation of Women Bill. With regard to the Domestic Violence Bill they objected to the term "habitual abuser." The Chairperson of the NCW wrote requesting it should be tabled and the representative was optimistic the Bill will be heard and passed.

8.6 Kamal Singh at the British Council also made reference to the term "habitual" saying that people are not prepared to accept that word. There is a particular concern that the Bill should cover individual instances of abuse and not just habitual abuse. She said the outcome of the Bill will depend on how it is lobbied and taken foreword by the women's groups. The United Kingdom's Crime and Violence Bill has been circulated in India by the British Council as a comparison. She commented that there is more urgency in the common minimum programme so it is likely to be passed.

8.7 As cited in the Department of Women and Children annual report 2002-2003, the NCW organised a consultation meeting on domestic violence wherein it was concluded that the bill needed some amendments in provisions deemed not in the interests of women.**[1a](p181)**

8.8 As noted by the Director of Zubaan in response to a question, whether the situation had changed for women in India, there have been many new laws in keeping with the empowering idea but the drafting is an issue. For example, she commented that the Domestic Violence Bill is a deeply flawed document because it is a document that has a basic flaw in its definition of domestic violence.

8.9 The representative at AIWC reported that they are also involved in advocacy and lobbying, especially on the 33% Reservation Bill and the Domestic Violence Bill. Prominent women's campaigners met with Ghandi and discussed various laws pertaining to women which were to be in the common minimum programme. There are a number of issues pending with the Law Commission such as amendments to rape, property rights, and amendments to dowry law but it was pointed out that the Domestic Violence Bill does not give women the right of residence.

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The Representation of Women Bill

8.10 According to Keesings Record of World Events for May 2003, the Women's Reservation Bill, which sought to reserve one third of seats in the Lok Sabha for women was stalled in the Lok Sabha on 6 May 2003 and the speaker of the house adjourned the discussion of the Bill, which effectively ensured its deferral.**[23]**

8.11 In response to an unstarred question of 23 August 2004 (given to the delegation by the FCO) the Minister for State in the Ministry of Law and Justice stated that "The National Common Minimum Programme provides that the United Progressive Alliance Government will take the lead to introduce legislation for one-third reservation for women in Vidhan Sabhas and in the Lok Sabha.**[12k]**

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National and State policies including Empowerment of Women Policy 2001, micro credit and sex ratio payment policies and monetary incentives

The National Empowerment of Women Policy 2001 and programmes run by the Department of Women and Child Development

8.12 According to a report entitled Recommendations of the Working Committee on Legislative Actions for Gender Equity – a report of the Legal Department of the Gujarat Government - constituted and sponsored by the Department of Women and Child Development, Gujarat, there have been several State policies as well as Central Government policies to uplift the status of women, with schemes for health, maternity benefit for women workers, free education for women and widow pension schemes amongst

others. However there is a need to address the issue of whether women's lives are changing at ground level.**[26]**

8.13 The aim of this policy is to facilitate the advancement, development and empowerment of women as stated in the National Policy for the Empowerment of Women pamphlet 2001 produced by the Department of Women and Child Development, GOI. Part of the action plan is for all Central and State Ministries to draw up time bound action plans for translating the policy into measurable goals to be achieved by 2010.**[27](p7&15)**

8.14 According to a response by the Minister of State in the Ministry of Human Resource Development in answer to an unstarred question on 20 July 2004 in the Lok Sabha, regarding the Women Empowerment Programme, "The Department of Women and Child Development have launched several schemes for empowerment of women such as Swayamsidha, Swa-shakti, Swawlamban, Support to Training-cum-Employment Programme (STEP), Hostels for Working Women, Swadhar, Condensed Courses for Women, Awareness Generation Programme, Short Stay Homes and Rashtriya Mahila Kosh (RMK). Details of these schemes are available in the Annual Reports of the Department which are available in the Library of Lok Sabha." However no agreement has yet been reached between the Union Government and the State Governments in order to implement the women empowerment programme effectively.**[12I]**

8.15 The 2002-2003 annual report for the Department of Women and Child Development states that they are implementing three programmes for the empowerment of women at grassroots level through mobilisation, organisation and awareness generation aimed at enhancing the self-confidence of women within the household and community and to empower them to access existing and new resources. Swayamsidha is a centrally sponsored programme in 650 blocks throughout India for women's empowerment organising women into self-help groups (SHG). The Swa-Shakti Project or the Rural Women's Development and Empowerment Project was sanctioned on 16 October 1998 as a centrally sponsored programme to be implemented in seven states over a period of five years. It is implemented through women's development corporations, other state government undertakings and NGOs in Bihar, Haryana, Gujarat, Karnataka, Madhya Pradesh, Uttar Pradesh, Jharkhand, Chhattisgarh and Uttaranchal, covering 57 districts, 323 blocks and 7,288 villages. It is a rural women's development and empowerment project aimed at enhancing women's access to resources for better quality of life in terms of health, literacy, confidence enhancement and increased control over income through their involvement in skill development and income generating activities. Under the project so far 17,527 women self help groups have been formed with the involvement of 231 partner NGOs. **[1a](p 77-78)**

8.16 The Haryana Integrated Women's Empowerment and Development Project is a pilot project aiming to bring about change in the status of women by generating awareness, mobilising women into groups intervening in health and education issues to ensure survival, dignity and enhanced status in society. The project was begun in 1994 and the concludes in 2005.**[1a](p81-82)**

8.17 Other programmes operate such as the Support to Training and Employment Programme for Women (STEP), Swawlamban, formerly known as the Women's Economic Programme, providing training and skills for poor women to enable them to obtain employment. Also Distance Education for Women's Development and Empowerment, for the empowerment of women through self help groups to provide a certificate course of training to voluntary social workers etc.**[1a](p83-85)**

8.18 According to the same source in the year 2001-2002 29 projects were sanctioned to benefit 87,140 women and during the first three-quarters of the financial year 2002-2003 seven new projects were sanctioned to benefit 32,821 women.**[1a](p83)**

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Department of Women and Child Development schemes

8.19 One of the representatives at the Department of Women and Child Development in Delhi, informed the delegation that they are involved in funding and monitoring of some schemes. Some State Governments may be implementing many more schemes from their own resources. They are working on the Empowerment of Women and are drawing up a plan of action to be achieved within 10 years. They look at economic, social and legal empowerment in all spheres of life.

8.20 According to their annual report of 2002-2003 the Department formulates plans, policies and programmes, enacts and amends legislation affecting women and children and guides and co-ordinates the efforts of both Governmental and non-governmental organisations working in the field of women and child development. In addition they implement certain innovative programmes for women and children, in areas of training and capacity building, employment and income generation, welfare and support services, awareness generation and gender sensitization. The main objective being to make women independent and self-reliant and to ensure the health and safety of children.**[1a](p3)**

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Micro Credit schemes

8.21 The Joint Secretary to the Commission at the NCW informed the delegation that the first requirement is to empower women and to make them economically self-sufficient. Globalisation is affecting small home industries such as sewing and embroidery that are traditionally women's industries. Machinery has replaced hand sewing and this effects women's employment.

8.22 According to the representative interviewed at the Department for Women and Child Development, Delhi, micro credit schemes were set up in 1993 and are small funds for women usually administered by NGO's. Initially they were not effective but are now very effective. The scale of operations is huge nationally and is one of their biggest successes for poor women.

8.23 As cited in the National Policy for the Empowerment of Women pamphlet 2001, to enhance women's access to credit for consumption and production, new micro credit schemes would be established and existing ones strengthened to enhance the outreach of credit along with other supportive measures taken to ensure women below the poverty line have easy access to credit through financial institutions and banks.**[27](p9)**

8.24 As cited in their annual report for 2002-2003 the Rashtriya Mahila Kosh (RMK) was set up as a registered charity on 30 March 1993 and has established itself as the premier micro-credit agency of the country. Its focus is on women and their empowerment by providing credit for livelihood and other related activities. Approximately 1,000 NGOs are involved in the scheme, along with other women's development corporations etc. Up to 31 December 2002 the RMK has sanctioned a credit limit of Rs.118 crore (Crore=10 million rupees) whereby 4,35,535 women have benefited under various schemes, alliance has been made with 1,066 NGOs India wide and Rs.89 crore has been disbursed under the schemes. The above figures were all cited as landmarks and achievements of the RMK scheme.**[1a](185-188)**

8.25 According to Visa Ravindran, a freelance journalist, women have organised themselves into collectives (which are small enterprises, often run jointly by groups of women) and have started bringing in money. Lalita Iyer another journalist said that some women are becoming economically independent.

8.26 As reported by Ms Lalita Iyer, Senior Correspondent of a national publication in Hyderabad, ultimately a woman is the nurturer but it was suggested they could become economically independent. Invariably women save the money and men control it. Now by making them economically independent women have changed and are more confident, now they put girl children in school or enrol them on a course and it is used as a forum for other issues.

8.27 As reported in a Guild of Service publication given to the delegates, entitled Ma-Dham in Vrindavan, "Women in the informal sector benefit from micro credit programs, which provide seed loans for investing in an income-generating enterprise. Repaying those loans at a record rate, women are demonstrating that investment in women's economic power enhances their standing, their families' health and the prosperity of their communities."**[18]**

8.28 According to the USSD report 2003, "State governments supported micro credit programs for women that began to have an impact in many rural districts."**[40a](p24)**

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Sex- ratio payment policies

8.29 According to the 2002-2003 annual report of the Department of Women and Child Development, GOI, the Balika Samriddhi Yojana was launched in

1997 to raise the status of the girl child for families below the poverty line. The scheme administers financial help to families with a girl child born on or after 15 August 1997. The mother of the newborn girl receives a grant of Rs 500. In addition the girl child will be entitled to a scholarship for each class of study she successfully completes, ranging from Rs 300 for Class 1 to Rs. 1,000 for class X. The scholarship amounts will be paid into the same interest bearing account in a bank or post office in the name of the girl child. The accumulated deposit is paid on maturity when she is 18 years and if she remains unmarried until then.**[1a](p86-87)** "The Plan outlay for 2002-2003 under the scheme was Rs 2.00 crore (1 Crore = 10 million rupees) only due to huge amount of unspent balances still lying with the state governments and UTs.(Union Territories)"**[1a](p87)**

8.30 The delegation met with a representative from the Women's Development and Child Welfare Department, Mr Rammi Reddy in Hyderabad where they were told that the Government launched a girl child protection scheme aimed especially at poorer and lower middle class families. The scheme was launched because there is still a preference for male children although he stressed that things were changing fast in Andhra Pradesh and that it was better than in Punjab with the ratio in excess of 900 girls to 1,000 boys. They have a policy for girl children to help reduce gender bias against girls for families in the lower classes. To reduce bias, 500 rupees are placed in a deposit account for the first girl child. This ongoing programme is mainly in the name of the girl child until she attains the age of 18 or gets married, whereupon the family receives the entire amount plus accrued interest. The budget provides 486 rupees for the benefit of 90,000 families. The Programme has been in operation for 6-7 years and the intention is to distribute the scheme to benefit more than 96,000 homes this year. They also run institutions for girl children and have 81 homes for 6,000 children.

8.31 The Women's Development and Child welfare Department in Hyderabad also implements many schemes for women's rights eg concerning marriage related issues. They work through NGOs and provide funding. The Anganwadis centre and self help groups work as agents of social change to try to prevent child marriages taking place and to promote women's rights. The Department's main focus is children and nutrition and health for women working in rural areas. Their focus over the next year will be educating adolescent girls about child marriages, personal health and HIV aids. They would like to train 3,000 girls using them as change agents in the process. The same source commented that even in Caste Departments schemes are run for the girl child to encourage survival and to ensure she does not marry early.

8.32 The representative from the Department of Women and Children stated that they are trying to address the disparity in the sex ratio of girls to boys by raising the status of the girl child and also by trying to change the basic patriarchy where the preference is for sons. They are involved in trying to influence people to act appropriately regarding diagnostic sex determination. There is a particular preference for boys and their prevalence is pronounced in some areas particularly in the northern states. However this preference is

not seen in Kerala which is traditionally matriarchal and has high literacy rates. Raising the status of the girl child will raise education and health levels. Their strategy is to increase the status of the girl child within the primary and upper primary ages of 6-11. The Education Department is working at gender parity for primary level schooling and the Ministry of Social Justice runs specific schemes for the girl child and the caste departments also run schemes, working for social welfare to encourage the survival of the child. In addition schemes are run to ensure that girls are not married too early.

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9. Internal Relocation/ Mobility of women

Societal attitude to single/divorced/widowed women and geographical differences

9.1 The representative at the NCW said that internal relocation is not easy for women all over India. Even if a woman is independent she can still face violence. In small cities it is very difficult for women to set up homes independently if she has a family. It is not easy for single women to survive and the problem of literacy also plays a part.

9.2 According to Dr Basu at AIWC in Delhi, it is still difficult for women to live on their own in India however not so much in urban areas though. Security is not there. Some women manage to live on their own in apartments but this is an urban phenomenon. In addition it would be very difficult for single unmarried women living outside of a hostel because it would be very difficult to rent due to the expense and landlords do not let apartments to women. The situation is changing but the general view is that women should be married and not working, or staying as a paying guest with a family.

9.3 Jagori representatives echoed this view when they said that it is very difficult for women to move and relocate because in northern India they do not have access to information and women's illiteracy rates are still high in rural areas. It is difficult for lone women to move to rural and urban areas. By law the woman is the custodian of her children until the age of 7 but the father remains the guardian, sometimes the children are given the option of where they want to go. The first option for a woman is to return to her parent's home and the parental advice is to return to the husband's home and endure the situation because of the cultural aspect.

9.4 The same source stated that widows or divorced women have secondary status in society and a married woman with a son the highest status.

9.5 According to Dr Mohini Giri at the Guild of Service it would be very difficult for a single woman to relocate as society goes by natural law with everything in pairs and it would be even harder with children. Alimony is not usually paid by the man unless he is forced to pay. She suggested that even the more educated would find it hard so by comparison it may be easier for a single

woman to relocate. A single woman wanting to rent an apartment would be viewed with hesitation so she would have to stay in a hostel without her children. Most women prefer to relocate to natal areas where parents or siblings live. In recent years in urban affluent areas, parents are more protective and the mindset has changed over the last decade or so but this is not the case amongst the urban lower middle classes. Women are educated in the affluent classes so can get work, however violence against women is huge particularly with regard to communal riots.

9.6 Kamal Singh at the British Council stated that mobility is an issue and that the situation was very grim with safe housing being hard to find even for those in the higher income bracket. Women from both high and low income brackets moving on their own in search of a safe home, are viewed with suspicion. She thought it may be easier in urban areas as accommodation for younger women to live alone did exist but along with tight restrictions, in the form of paying guest accommodation. However widows often find it difficult because they are vulnerable and are sometimes subjected to abuse. There is an increasing trend towards ageism, which is a difficult issue with children wanting to make quick money out of their parent's property resulting in making them homeless (as reported in the media these days).

9.7 Lalita Iyer a journalist interviewed by the delegation in Hyderabad said that it was ok for women to live in groups alone and said that Hyderabad was a very safe place for women at night.

9.8 The same source said that divorced women do not normally re-marry except in certain castes. If the husband dies a natural death then it may be possible to remarry. In rural areas divorced or widowed women would not re-marry as proposals simply would not come through. With regard to ownership of her jewellery with regard to dowry, ideally she should keep it, but it is very difficult and sometimes the family take it.

9.9 A representative from Action Aid in Gujarat commented that in Bombay there are examples of mobility amongst some Muslim women but not in Ahmedabad.

9.10 Ms Visa Ravindran, a journalist, during a telephone conference in Hyderabad was asked about the ease at which women in the south could live independently after escaping violence. She responded that it is not easy to be a single woman and that renting a house would be difficult. There are so many illiterate and uneducated women so it is difficult for them to get a job. They have no skills and so are unable to support themselves. Even amongst the wealthy classes there is social stigma from families but education helps. On the subject of re-marriage, a small faction of women remarry and there are some clubs for single people to meet each other now eg for divorcees and it is ok but these are not the norm.

9.11 According to representatives from the AP Women's Network and Oxfam it is not possible for women to live on their own because society clings on to

age old customs. They stated that it would also be a major problem for women to relocate, including middle class women.

9.12 As noted by a senior lecturer from Osmania University in Hyderabad, there are more occurrences of girls living independently where they get jobs in Call Centres where cars are sent for women working at night. In Hyderabad, by and large people have accepted this situation and there are a lot of girls living on their own. Whenever change is necessary people are changing without a fuss. She also stated that there is stigma attached to a married woman returning to her parents so within the constraints she may try to signal to her family that she is under pressure.

9.13 According to a lawyer from Anveshi in Hyderabad, living outside of the family home is not culturally acceptable behaviour and it is not safe for women on their own. While the society still does not accept single women in general, there is a class difference. The reference about safety is with regard to the women who live in slums in urban areas, who often also lack the community and networks that are essential for safety.

9.14 According to Dr Ila Pathak from AWAG, Ahmedabad, some women can live independently or go to working women's hostels although these are mainly for middle class women. Those that cannot afford to, either find a mate or get a room then meet someone and remarry. It is less acceptable for Hindu women to divorce.

9.15 According to a representative from Sanchetana in Ahmedabad, even for educated women it is very difficult for them to live separately. On the subject of inter-faith marriages we were told that this did not happen between Hindus and Muslims so much anymore. Re-marriage for Muslims is possible but not for Hindus. Widows are alienated and isolated in their social life and are forced to live in poverty. For divorced women it is not easy to set up on their own. The delegation were told that there are not many divorced Hindu women but that you do find remarried Muslim women and single women.

9.16 According to a representative at the Institute for Development and Communication in Punjab single unit migration takes place but only from white collar high profile workers, relocation does not take place amongst the working classes. Dr Dagar at the Institute reported that in some areas such as Maharashtra and Gujarat it has changed for the better for women in terms of better access to education. In terms of mobility, globalisation has enabled women to get night jobs in call centres, in Bombay it is always easy to get a job. She commented that the awareness is there but not the sensitivity. She said that social mobility even in the upper income groups is very limited and happens more within the family circle. Social structures are very important and when a girl goes to university she will stay with family. Women see home as a protection and this view will always prevail.

9.17 As stated by Rajvinder Singh Bains, in Punjab in terms of relocation, girls are not free to move around and are kept inside in the evening to prevent them from being subjected to eve-teasing and a woman would not feel safe

out and about after eight-thirty in the evening. In the villages she would be subjected to more repression and ridicule. North India is very different, it is a violent part of India and this makes a woman a hindrance, as she is unable to "wield a sword."

9.18 According to a Guild of Service publication, Ma-Dham in Vrindavan, "In India widow remarriage is not encouraged though it is legal." The institution of widowhood with all its hardships and disadvantages is a result of sex discrimination because girls are married off at a young age whilst boys finish their education causing an age gap at the time of marriage which in turn is a contributing factor to the high incidences of widowhood.**[18]**

9.19 According to this publication widows are marginalised and subjected to social exclusion, economic deprivation and physical and psychological victimisation. The widow faces difficulty in securing new living arrangements and a new social life, either having to live in a joint family as a servant or face the insecurities of living alone. Stringent moral codes are imposed on young widows for example she is not supposed to wear coloured clothes, bangles or a nose ring etc. An orthodox Brahmin widow's situation is dire because often against her will she has to spend her time in constant devotion to God. "Every state has a different identity to mark a widow." For example in north India she must wear a white sari, in western India red saris are worn and red bangles to show her status and in Bengal the eating of fish and combing of her hair is prohibited, with most of these customs continuing today in many regions. Globalisation has also effected widowhood because of the economic burden and also because households are splitting into more nuclear units. Often a widow voluntarily goes away to attain "moksha" by going to Vrindavan, Mathura, Varanasi, Haridwar etc knowing that her family does not want her though cannot throw her out.**[18]** On 3 February 2002 the first South Asian Conference on capacity building for widows was held in Delhi, organised by The Guild of Service and supported by UNICEF.**[18]**

9.20 According to this publication, "Almost all states and Union Territories have Old Age Pension (OAP) and Widow Pension Schemes. All persons above the age of 65 are eligible for the OAP, irrespective of gender…" Elderly destitute widows are generally eligible for the OAP only, but in Kerala younger widows are eligible. Other states have similar schemes with variations in the qualifying age limit. However the success of the scheme falls short of expectations for a number of reasons, with many widows not receiving any pension.**[18]**

9.21 Human Rights activists interviewed by the delegation in Punjab were of the opinion that women are not able to relocate in India.

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Geographical differences

9.22 It would appear from our meetings with various representatives that women in urban areas are in a better position than rural women in terms of awareness of rights and access to facilities etc. However Delhi is regarded

very unsafe for women. In terms of mobility women may have more opportunity in urban areas.

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Widows Hostels

9.23 As cited in a Guild of Service publication of 2004, Ma-Dham in Vrindavan, there are 33 million widows in India (1991 census) and 9% of the total female population are widows with every fourth household having a widow. Fifty percent of the widows are over 50 years old. In the age group over 60 years, 64% are widows and widow's pensions range from Rs 100 to Rs 500. According to a seven state rural widows study, only 28% of widows were eligible for the pension with only 115 in receipt. There are approximately 20,000 war widows in India. **[18]**

9.24 Kamal Singh at the British Council informed the delegation that shelter homes have been set up for widows by some NGOs and gave the example of the one set up by the Guild of Service.

9.25 The Guild of Service have homes for widows in north India and this is their special focus because there are widows everywhere, be they child widows, earthquake widows or riot widows etc. The status of widows is reflected by the status of man and his mindset, where women are seen as a commodity. Widows are the worst off and this is a global phenomenon. They house 150 women in each of their homes. In Gujarat they rehabilitate the widows then send them away and are now working on the second batch. The widows are taught bookkeeping, embroidery and given skills to support themselves and are taught the economic value of gifts. Their intention is to have a shop on the way to Agra to sell the women's products in order that they can become self-reliant. According to the representative there are 2 organisations in Poona and Rajasthan.

9.26 The Guild of Service works towards the empowerment of marginalized women with a special focus on widows. According to their booklet entitled Ma-Dham in Vrindavan of 2004, the Guild of service launched a capacity building programme in 1998 for the widows in Vrindavan. Amar Bari is a home for widows in Vrindavan and provides a refuge as well as a vocational training centre for more than 100 women aged between 30 to 103. It is stated that the rehabilitation and capacity building programme has been very successful in achieving its objectives. There are twelve to fifteen thousand widows on the streets of Vrindavan. The Guild of Service has bought some land in Vrindavan to build a home for 500 women and it will be called "Ma-Dham a refuge for mothers and of mothers." It is intended for women in difficult circumstances. Aamar Bari (widows home) was begun by the Guild of Service in 1998 where there are one hundred small rooms with each widow having a room to herself with a bed and bedding and allowed to wear coloured saris. The home houses widows between the age group 40-105…."The Guild provides mothers with basic requirements of washing, clothing boarding and lodging." Medical check-ups are conducted twice a week and there are regular eye tests and screening for tuberculosis. The Guild of Service

arranged an “Eye Camp” on 11 August 2003 at Aamar Bari and 72 widows, 5 from adjoining Ashrams were examined. **[18]**

9.27 According to the same source, ”There are approximately 10,000-12,000 widows in Vrindavan and surrounding areas. Some of them are quasi-widows in the sense of abandoned by their men.[sic] Many go to Vrindavan through choice but a large number are abandoned by relatives and sons, brought to embark on their pilgrimage and are left to fend for themselves. They have no access to medical facilities and are often exploited by landlords who charge excessive rents for poor accommodation. A large number are dependent on Bhajanashrams for support where they have to sing in four hour shifts. … Widows are doubly discriminated against as women and as widows.”**[18]**

9.28 As reported in an AIWC brochure, the AIWC launched support services for the elderly in 1998. An Old Age Home and Infirmary for Women was established at Vrindavan in 1994. In some branches, homes are run where senior women citizens are given physical, social, emotional and psychological support. The AIWC also runs “pay and stay Homes” which provide residential facilities for senior citizens for a nominal charge. These homes are run by Alwaye, Calcutta metropolitan, Gudiwada and Chennai branches of the AIWC.

9.29 Dr Basu at the AIWC told the delegates that widows are thrown out of the home and many of them end up in pilgrim centres. If they are young they may be open to exploitation by the police or others. Widows are not considered to be auspicious in the house. Widows from child marriages earn their living by singing Hari Krishna etc and earn food from the temple. Twenty years ago they were housed together in the infirmary holding 80-90 inmates.

9.30 According to Kamal Singh at the British Council, the Delhi police are involved in a big drive on the protection of senior citizens because there has been an increasing trend towards ageism.

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Annex 1 TERMS OF REFERENCE

Terms of reference.

PURPOSE

The purpose of the fact finding mission is to obtain information which will assist the UK with the consideration of asylum and human rights issues.

In particular the purpose is to obtain information on the situation of women in India with specific regard to whether women throughout India are able to access effective protection and whether there exists a willingness and ability to enforce laws designed to protect women. The focus will be on the following areas:

<u>Violence against women</u>

- Is domestic violence an issue throughout India irrespective of class, background or geographical area of the country?
- What legislation exists to protect a victim of domestic violence and how would a victim go about accessing that protection.
- What exactly are the provisions of the Domestic Violence Bill and what is its current status.
- How would a woman suffering ill treatment protect herself using the criminal or civil law.
- What network of support and assistance is provided by NGOs and what accessibility is there to this throughout the country?
- Do women face difficulties in accessing the courts for protection.
- Are there shelters available in India for victims of domestic violence and if there are what is the number of these and are they generally available to all women, and what are the conditions like?
- What is the treatment like of mothers of illegitimate children and women who marry outside their caste/religion?

- Does societal violence against women exist in India?
- What form does it take?
- Does its existence vary between states?
- Does its existence vary between different ethnic or religious communities?
- Can women fearing societal violence obtain assistance from the police or from other bodies?
- What are the statistics
- What arrangements are there to assist women reporting societal violence and to ensure that cases which are reported are investigated and perpetrators brought to trial?
- Do women reporting such matters face ill-treatment or other problems as a result of making such reports?
- Particular information with regard to the treatment of women in Gujarat

during the communal violence in 2002 including any subsequent investigation or prosecution of those responsible for violence against women conducted by the Indian authorities.

Rape

- What are the levels of reported rapes and what are the outcomes for these reports?
- What numbers of rapes are estimated to go unreported and why?
- As suggested by reports has a special rape court been set up in Delhi, if so how is this working, what is its jurisdiction and are there other such courts in existence or plans to establish them.

Dowry

- Further information on the enforcement of the legislation on dowries and associated legislation.
- Are dowries and dowry disputes an issue throughout India irrespective of area, class, or background ?
- What exactly are the barriers to enforcement in rural areas, the extent to which that is within/without the control of the central authorities?
- Is the enforcement of the legislation consistent throughout India ?
- What protection mechanisms are available to a woman if she suffers mistreatment at the hands of her husband or extended family because of a dowry dispute?
- Are there any government/ regional initiatives on the dowry dispute issue?
- In August 2003 the Government announced that Defendants under the Anti-Dowry Act would be able to be released on bail. Further information is needed to establish what the implications of this announcement are. Does it reflect an easing of the enforcement of the dowry legislation or is it a recognition of the length of time it takes for a case to be prosecuted under the Dowry Prohibition Act?
- A November 2003 news report describes a new police unit established in Delhi to protect women. Further information on what new powers it has been given and whether it is a one off or is part of a larger initiative.
- Information on other Crime Against Women Units, what do they do, how effective are they, how many are in existence and what areas do they cover.

Police

- What is the attitude of the police to women who complain about crimes against them? Is there an equality of prosecution in crimes of violence perpetrated on men and women? Are there regional or state differences in police attitude or differences related to the religion/ethnicity or status of the individual woman?
- Are the police reluctant to intervene in family disputes?
- Are women willing to report crimes to the police?
- What influence if any do personal position or religious/social attitudes play in decisions to investigate crimes?

- What state or central government initiatives have there been to deal with these issues?
- Does the state/central government punish or investigate allegations that officers have refused to take a report of a crime or investigate an offence?
- What avenues of complaint against the police are there?
- What are the provisions of gender sensitivity training, what measures, training packages are in place and how effective are these?

Access to Legal Remedies

- Do women have equal access to the court system to pursue the civil or criminal remedies that may be available to them?
- What provisions are there within the legal system for women who may not be literate?
- Are women lawyers available to deal with any particularly sensitive issues?
- What is the availability of legal assistance without payment for women without money?
- Within the court system are cases brought by women pursued and treated equally?
- Outside the court system do NHRC and NGO networks provide support and assistance to women seeking redress?

Relocation

- Could a single woman or the female head of a household relocate in India? What access would she have to resources; housing, food and water, education, health care, social benefits and employment? Differences between cities and rural areas? Differences due to social or financial status?
- If such a woman could relocate would she be able to do so without those persecuting or ill-treating her being able to pursue her?
- Are women without families, or a support network ostracised and would this be even more the case for women with children?
- Are women who have committed adultery or conceived a child out of wedlock ostracised for these reasons?
- In practice can a lone woman live and work in India in the cities and/or in rural areas? To what extent does this depend on her social and financial status?
- Implications of Divorce with regard to the above.

In addition to the specific issues identified in detail above, further information which comes to light in the course of the mission which relates to the purpose of the mission will be followed up as far as possible during the course of the mission.

PRODUCT

A final report of the findings is to be produced as soon as possible after the conclusion of the visit. The report must be:

- disclosable and fully record the sources of the information collected.
- made available to caseworkers, presenting officers and others to inform decision making and policy in Indian cases.
- reflected in the next CIPU India Country Report.

METHOD

1. Collection of information by:

(a) meetings with the individuals, authorities and organisations in India. The following list is indicative and will be subject to FCO advice.

Foreign diplomatic missions:

British High Commission Delhi
UNHCR office
UNDP
UNIFEM
DFID India
British Council

Indian authorities:

Central government authorities responsible for legislation on domestic violence and dowry disputes.
Central and State police authorities
Crime against Women Cells
Central and State Women and Children Departments
National Commission for Women
State Commissions for Women
State Human Rights Commissions
Indian Human Rights Commission
Committee on Reform of the Criminal Justice System
Ministry of Home Affairs
Ministry of Human Resource Development
Ministry of Law, Justice and Company Affairs
Ministry of External Affairs
Bureau of Police Research and Development
Department of Women and Child Development

Non-governmental organisations/ human rights groups

Jagori Organisation
Sawnet
Sakshi, New Delhi
All India Womens' Conference
Joint Women's Programme. New Delhi
Lawyers Collective, Delhi
Crime Against Women Cell
Delhi Brotherhood Society

Shakti Shalini
Lawyers Collective Women's Rights Initiative

These are just suggestions subject to input and guidance from FCO.

(b) observation.

2. Ownership of the report (together with final editorial responsibility) will rest with Country Information and Policy Unit. FCO will be given the opportunity to comment on the draft report.

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Annex 2: List of organisations visited

British Council, Delhi
Ms Kamal Singh Head of Governance & Social Justice
Ms Kalpana Das, Assistant Manager

Jagori, Delhi
Ms Abha Bhaiya – Chairperson, Ms Nandini Rao – Senior Programme Coordinator

Guild of Service, Delhi
Dr Mohini Giri,
Meera Khanna – Honorary Vice President

Zubaan, Delhi
Urvashi Butalia, Director

All India Democratic Women's Conference, Delhi
AIDWA Central Executive Committee
(All India Women's Association)
Dr Aparna Basu, President

Oxfam (India) Trust, Delhi
Cherian Mathews
Deputy Country Programme Manager

National Human Rights Commission
General Secretary
Head of Complaints
Head of Research

Department of Women and Children Development, Delhi
Dhir Jhingran, Director (and 2 colleagues)

Ministry of External Affairs
Mr Ravi, Head of Western Europe

Ministry of Legal Affairs
Mr A Sinha – Joint Secretary

National Commission for Women
Joint Secretary

Human Rights Activists – Punjab

Justice Bains & his son R Singh Bains, Advocate
Punjab

Human Rights Commission, Punjab
Justice N C Jain, Chief Justice (Retired) Chairperson

Institute for Development and Communication, Chandigarh, Punjab
Dr Pramod Kumar, Director,
Dr Rainuka Dagar**,** Head of Gender Section

Sanchetena, Ahmedabad
Dr Hanif Lakdawala

SAHR WARU: Women's Action and Resource Unit, Gujarat
Ms Sheeba George, Executive Director

AWAG (Amdavad Women's Action Group)
Dr Ila Pathak

Centre for Social Justice
Mr Gagan Sethi, Director

Human Rights Advocate
Gujarat

Action Aid
Mr Amar Jyoti Naik,
Project Director

Ms Visa Ravindran (based in Chennai) Telephone Interview
Freelance Journalist, writer on women's issues, Honorary President, Joint Action Council for Women.[2002—2004], Founding Member,Centre for Security Analysis, Honorary Chairperson, Aashraya: a Short-stay Shelter for Women in distress, run by the Andhra Mahila Sabha [2003], NGO Representative in Sexual Harassment Grievances Cell, Dept. of Lighthouses & Surface Transport, Govt. of Tamil Nadu, recently made Member, Media Committee, Tamil Nadu State Commission for Women.

Andhra Pradesh State Human Rights Committee

Ms Lalita Iyer, Senior Correspondent, The Week (Hyderabad)

Oxfam – Andhra Pradesh
Ms Girija Devi, Programme Officer,
& **Andhra Pradesh Women's Network**
Coordinator of the Network is Ms Padmavathi

Anveshi Research Centre for Women's Studies, Hyderabad
Professor Rama Melkote (President)
Dr K Lalita, (Vice-President)
Vasudha Nagaraj (Secretary, practising lawyer)
Dr A Suneetha, Research Fellow at Anveshi

Asmita ("Identity") Resource Centre for Women, Hyderabad.
Ms Vasanth Kannabiran
Raising the consciousness of women on rape, domestic violence, health and reproductive issues.

Ms Fatima Ali Khan
Director, Women Studies Centre, Osmania University, Hyderabad (also runs an NGO for poor women called “Saathi”; has worked with the British Council for several years on a higher education link and on Indo-UK women studies projects).

Department for Women and Child Development, **Government of Andhra Pradesh**
Mr Rami Reddy, Commissioner,

British High Commission

Shakti Shalini, **Delhi**
Women’s counselling centre and short stay Home, Delhi

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Annex 3: D K Basu Guidelines [5]

The Supreme Court in D K Basu v State of West Bengal laid down specific guidelines required to be followed while making arrests.

1 The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle the interrogation of the arrestee must be recorded in a register.

2 That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of the arrest and such memo shall be attested by at least one witness who may be either a member of the family of the arrestee or a respectable person of the locality for where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of the arrest.

3 A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or relative of the arrestee.

4 The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or and through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

5 The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

6 An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

7 The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any, present on his, her body, must be at that time. The "Inspection Memo" must be signed on both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

8 The arrestee should be subjected to a medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State of Union Territory, Director Health Services should prepare such a panel for all Tehsils and Districts as well.

9 Copies of all the documents including the memo of arrest referred to above, should be sent to the (sic) Magistrate for his record.

10 The arrestee may be permitted to meet his lawyer during interrogation, thought not throughout the interrogation.

11 A police control room should be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous police board.[5]

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Annex 4

Extract from the Protection of Human Rights Act 1993 detailing the functions and powers of the National Human Rights Commission

Chapter III

FUNCTIONS AND POWERS OF THE COMMISSION

12. Functions of the Commission

The Commission shall perform all or any of the following functions, namely :

(a) inquire, suo moto or on a petition presented to it by a victim or any person on his behalf, into complaint of

(i) violation of human rights or abetment thereof or
(ii) negligence in the prevention of such violation,

by a public servant;

(b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
(c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;
(d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
(e) review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
(f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
(g) undertake and promote research in the field of human rights;
(h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
(i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;
(j) such other functions as it may consider necessary for the protection of human rights.

13. Powers relating to inquiries

(1) The Commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters, namely :

(a) summoning and enforcing the attendance of witnesses and examine them on oath;
(b) discovery and production of any document;
(c) receiving evidence on affidavits;
(d) requisitioning any public record or copy thereof from any court or office;
(e) issuing commissions for the examination of witnesses or documents;
(f) any other matter which may be prescribed.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.
(3) The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom

subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.
(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.
(5) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code, and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

14. Investigation

(1) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.
(2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-section (1) may, subject to the direction and control of the Commission.

(a) summon and enforce the attendance of any person and examine him;
(b) require the discovery and production of any document; and
(c) requisition any public record or copy thereof from any office.

(3) The provisions of section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.
(4) The officer or agency whose services are utilised under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.
(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report subbed to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

15. Statement made by persons to the Commission

No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement —
(a) is made in reply to the question which he is required by the Commission to answer; or
(b) is relevant to the subject matter of the inquiry.

16. Persons likely to be prejudicially affected to be heard

If, at any stage of the inquiry, the Commission-
(a) considers it necessary to inquire into the conduct of any person; or
(b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry;

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:
Provided that nothing in this section shall apply where the credit of a witness is being impeached.

http://nhrc.nic.in/ accessed 22 October 2004 **[52]**

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Annex 5: Information about the organisations cited in the report

British Council

The Council's mandate is to work on collaborative programmes through awareness raising, capacity building and exchange of professionals between India and UK. British Council Governance team is involved in a lot of networking initiatives and offer a neutral platform to bring the Government, NGOs and academics together. They work on issues such as violence against women, women's empowerment and leadership. The British Council organised in collaboration with others a conference for women police officers in 2002.

Jagori

The organisation was founded in 1984 with the main objective of ensuring knowledge and information on women's issues reaches the rural poor and deprived communities, oppressed classes. Their main focus is on training women activists and documenting women's issues and campaigning. Violence against women is their primary area and they run a violence intervention unit, taking up cases and campaigning also producing back-up material. They have a broad remit and are involved in reforms and legislative lobbying, women's reproduction and bodily rights, globalisation issues, sexuality and adolescent girls. They have run projects on community issues in 30 villages in Uttar Pradesh as from last year. In one such village there is an organic farm and a training centre. They receive a lot of Government funding for publishing their material and also receive funding from other German and Dutch sources. They are also involved in a large Government programme started in 1989 called "Education for Women's equality." Jagori have been involved in a campaign against eve-teasing begun in 1989 and have been involved in training police officials on trains and working with the police to ensure eve-teasing is not trivialised.

The Guild of Service

The Guild of Service is a voluntary national organisation working with marginalised women such as women from Kashmir, riot victims of Gujarat, Dalits and children victims of militancy. They are involved in human rights issues for women, advocating with the government and run training programmes for elected members of the panchayats. In addition they work with women in psychiatric asylums and prisons. They act as a watch-dog and run rehabilitation centres for women victims of violence, there are centres in Kashmir, Gujarat, Madras and Delhi, Madhapur. They have a special focus on widows and run homes for widows in north India.

Zubaan

Zubaan publish books by women on women and violence is part of that, being a key concern of the women's movement. The organisation is 20 years old

and grew out of the women's movement. The Director has worked on issues of rape and dowry.

Oxfam, Delhi

According to the deputy acting country programme manager Oxfam Delhi their primary focus covers 10 states identified as poverty pockets and have been operating for over 50 years in India. They focus on livelihood, disaster preparedness and gender. They run many programmes, are involved in advocacy, care and support in neglected areas with the aim of promoting holistic care and support as a prevention. In Uttar Pradesh their focus is on Dalit girl's education. They have also supported and were involved in pioneering work on many gender programmes. They have also worked on enhancing the quantity and quality of support mechanisms, enhancing women's rights, domestic violence, sexual harassment in the work place, building capacity of the police, shelter homes, lobbying at district level and working closely with the police and judiciary and have been involved in a lot of campaigning to bring dowry issues out into the open. They also support campaigns.

The National Human Rights Commission (NHRC)

The NHRC was set up in 1993 under the Human Rights Act 1993. They are funded by parliament and tax payers money. They investigate complaints and provide legal assistance. The US Department of State report 2003 describes the NHRC as the main human rights organisation operating in the country. The NHRC is government appointed and has powers to investigate and recommend policy changes, punishment and compensation in cases of police abuse. The NHRC was directed to contribute to the establishment and functioning of NGOs. The Commission acts independently of the Government.**[40a]**

All India Women's Conference (AIWC)

The AIWC set up in 1927 by an Irish suffragette, is involved in issues of dowry child marriage and legislative measures for women, working women's issues, prostitution and immoral trafficking. They are partially funded by the government and subsidised by international funding. The organisation is committed to the cause of women and protests against exploitation in the economic, social and political fields. The organisation provides a short stay home for women in distress, family counselling and legal awareness.

The National Commission for Women (NCW)

The National Commission for Women is a statutory body founded in 1992 under the National Commission for Women Act 1990 with the aim of promoting and protecting the interests and safeguards of women. The Commission is a recommendatory body with a Research and Studies Cell, a Monitoring Cell, Public Relations Cell, Administration unit and Legal and

Complaints and Investigation cell. As stated in the annual report of the Department of Women and Children 2002-2003, investigations by the police are expedited and monitored, family disputes are resolved or compromised through counselling and serious crimes are dealt with by an Inquiry Committee who following investigation which involves examining witnesses and collating evidence, a report is submitted with recommendations. The implementation of the recommendation is monitored by the Commission.**[1a]**

Punjab Human Rights Activists

A group of human rights activists interviewed who had done extensive work on human rights, women and farmers rights in Punjab.

Justice Bains and Mr Rajvinder Singh Bains

Both are prominent human rights lawyers from Punjab.

Punjab State Human Rights Commission

The Commission was set up on 17 March 1997 under the Human Rights Act 1993. The Commission started work on 16 July 1997. The Commission is made up of a Chairperson who has been a Chief Justice of a High Court, one member who is, or has been a Judge of the High Court, one member who is or had been a District Judge of the High Court and two members having experience in matters relating to human rights. The current Chairman Justice N C Jain met with the delegation. The Commission has powers to inquire into violations of human rights and negligence in the prevention of such violations. It can intervene in proceedings involving human rights violations, visit detention or similar facilities, review Constitutional safeguards in respect of human rights, study treaties, promote research and education and encourage NGOs in the field of human rights. After an inquiry into an individual case the Commission may recommend the initiation of proceedings or other action against individuals, approach the Supreme Court for directions it may deem necessary, and recommend the grant of immediate relief to the victim or family. The authority/State Government has to indicate its comments/action taken on the report/recommendations of the Commission within a period of one month in respect of general complaints.

Institute for Development and Communication, Punjab

A research institute based in Chandigarh, who receive funding from the Government NGOs and international sources. They have produced a number of reports covering issues related to women in conflict, violence against women and development issues. The Institute aims to influence policy and intervene in the public arena. The Institute aims to increase public knowledge and perception in the area of gender conflict including domestic violence and development areas such as the social implications or peasantry, debt and cultural and political development.

Sanchetana Community Health and Research Centre, Ahmedabad

A Gujarat based NGO registered as a charitable trust receiving funding from the US and in the past the Netherlands. The Centre has been operating for some 22 years. Director, Dr Hanif Lakdawala. Originally the main focus was on the area of health, but the Centre also looks at human rights issues and violence issues and since 1987/8 has been working in the area of communal violence trying to bring the two communities together. They are working with Gujarat representatives of NHRC in Ahmedabad.

SAHR WARU: Women's Action and Resource Unit, Ahmedabad

A Gujarat based NGO working on women's empowerment and equality. The group undertakes advocacy, research, training, action and dissemination and publicity. Mainly focussed on Ahmedabad City and district the group has also worked in other districts in Gujarat and the cities of Nagpur, Yewatmal, Mumbai and Calcutta. The group runs a Legal Aid Programme which provides legal aid to women through casework. Provided specific assistance to women after the Gujarat violence in 2002.

Ahmedabad Women's Action Group (AWAG)

Registered as a society and as a public trust AWAG receives funding from the Government, international organisations and individuals. They do not receive funding from corporations due to their comments on the presentation of women in their commercial advertisements and their support for the formation of a union. The Secretary to the Trust Committee Dr Ila Pathak who met the delegation is also known as the Director. The group is Gujarat based but also takes up issues of advocacy at the state level. They are involved in police gender sensitisation training.

Centre for Social Justice, Ahmedabad

The Centre for Social Justice was set up in 1994. It ensures that the legal and human rights of the vulnerable are protected. It works towards enhancing access to legal remedies by providing qualitative and free legal services to the vulnerable people. It also sees to it that legal awareness is created and it spreads among the vulnerable people. The organization prepares the base and runs campaigns for advocacy and law reform. It tries to instil human rights perspective in the day-to day working of the Judiciary. It works for improving the quality of legal education. Its main thrust area is to provide Social Justice Through Alternate Lawyering. The main target groups of the organizations are women, Dalits, tribal people and prisoners under trial. It works in 8 districts in Gujarat through a network of Law Centres. It is supported by Sir Dorabjee Tata Trust and Swiss Agency for Development Cooperation along with small grants from Local Government Schemes and individual contribution from the public. It has a specialized working group on women’s rights, socio-eco rights and an environ-legal division.

A human rights lawyer working with NGOs and individuals in Gujarat

Action Aid (Gujarat)

A Legal Cell Team of paralegal lawyers. Working at Supreme Court level generated a group of lawyers to take up cases working closely with the Human Rights Commission. Exceptional circumstances brought them to Gujarat. Criticised for being more into social and economic rights and not into civil Human Rights. Provide social support to the women and children who are the first victims of any violence. Provide legal help working with them provide counselling and mental health support. Worked closely with state authorities after earthquake and drafted rules for Juvenile Justice Act.

Visa Ravindran

Freelance journalist and writer on women's issues based in Chennai. Honorary President, Joint Action Council for Women.[2002—2004], Founding Member, Centre for Security Analysis, Honorary Chairperson, Aashraya - a Short-stay Shelter for Women in distress, run by the Andhra Mahila Sabha.[2003], NGO Representative in Sexual Harassment Grievances Cell, Dept. of Lighthouses & Surface Transport, Govt. of Tamil Nadu, recently made Member, Media Committee, Tamil Nadu State Commission for Women.

Andhra Pradesh State Human Rights Committee (APSHRC)

A committee of judges who receive complaints from individuals and can award compensation for victims and recommend prosecution. Set up in 2002 following guidelines issued by the Supreme Court. It has an overseeing role in implementation of guidelines on the arrest and detention of individuals. Chaired by a retired High Court Justice. They investigate and report on cases brought to their attention and provide a report to the State Government, if the State Government fails to comply with their directions the APSHRC sends the report to the Supreme Court.

Lalita Iyer

Senior Correspondent in Hyderabad, The Week, a weekly magazine from the house of the Malayala Manorama Group, owned by a Christian family.

Andhra Pradesh Women's Network

A group supported by Oxfam Andhra Pradesh. The Network started work in October 2002 and its main objective is to create a violence free society and to fight against violence against women. They work mainly in the areas of family and dowry violence. They run awareness campaigns, marches and rallies and plan further awareness campaigns including a bicycle rally aimed at future possible perpetrators of domestic violence.

Anveshi Research Centre for Women's Studies, Hyderabad

Anveshi is a research centre for women's studies, established in 1985, in order to provide a space where feminist activists and scholars from different institutions could interact. It was envisaged as a centre where researchers from different disciplines and backgrounds could find intellectual stimulation and material resources essential from women's studies. Based in Hyderabad, Anveshi has worked on wide-ranging issues from those of health (issues of harmful contraceptives and population targets), caste discrimination, reservations and dalit issues (worked against anti-reservation politics, probed into atrocities against dalits and worked on issues of discrimination against dalits in educational institutions) literature, history, media, law and institutions.)

Asmita, Hyderabad

A women's resource centre based in Hyderabad. Their primary function is to offer legal aid and counselling to women in distress. Campaign on women's rights at a policy level. They produce and distribute literature, pamphlets posters and leaflets. The organisation have produced a ballet on domestic violence which they see as a powerful way of carrying a message against domestic violence and patriarchy.

Department for Women and Child Development, Government of Andhra Pradesh

The Andhra Pradesh state body responsible for women and child development in Andhra Pradesh. Implements the Child Development scheme. Provide food supplements and immunisation programmes through centres for women and children. Also provide educational programmes in the area of women and child development.

Ms Fatima Ali Khan

Director Women Studies Centre, Osmania University, Andhra Pradesh. Also runs an NGO for poor women called Saathi.

Shakti Shalini, Delhi

Shakti Shalini was formed in 1987 by a group of parents of dowry victims. It operates from a main office in New Delhi and field offices in the slums. The organisation works with battered women and children to provide support for long-term rehabilitation, influence policy, and generate a socio-cultural environment against violence inflicted on women. They run a short stay home, which provides shelter and serves as a crisis intervention centre and temporary refuge.

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