



Seeking Rights Seeking Relief

**Mapping users' experience of litigating
under the Protection of Women
from Domestic Violence Act
(PWDVA), 2005**

The International Center for Research on Women (ICRW) is a global research institute, with headquarters in Washington D.C., United States and regional offices in New Delhi, India and Kampala, Uganda. Established in 1976, ICRW conducts research to identify practical, actionable solutions to advance the economic and social status of women and girls around the world. ICRW's Asia Regional Office (ICRW-ARO) works on a range of issues and barriers that prevent women and men as well as girls and boys from being economically stable and impede their participation in society, such as inadequate access to education and livelihoods, adolescent health, gender-based violence (GBV), notions of masculinity and gender inequitable attitudes, HIV, and violence against women and girls (VAWG).

AMAN: Global Voices for Peace in the Home is an international network to end DV. It comprises organizations and individuals across India and abroad, working on the issue of violence against women (VAW), particularly DV. Established on December 7, 2006, the network provides a platform for member organizations and individuals for interaction and knowledge sharing on global strategies and best practices to address VAW. The organization provides support to women facing DV in different states in India and abroad through collaborations with member organizations. It also works with various institutions for policy advocacy at various levels; effective implementation of PWDVA, 2005; and spreading awareness of the same through campaigns. At present, AMAN has over 95 members from 17 states of India and a few from Canada, the US and the UK.

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List of Acronyms and Abbreviations

AP	Aggrieved Party
CDPO	Child Development Protection Officer
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CrPC	Code of Criminal Procedure 1973
DIR	Domestic Incident Report
DV	Domestic Violence
GBV	Gender-based Violence
ICRW	International Center for Research on Women
IO	Interim Order
IPC	Indian Penal Code
MF	Medical Facilities
OP	Opposite Party
PO	Protection Officer
RO	Residence Order
SP	Service Providers
PWDVA	Protection of Women from Domestic Violence Act, 2005
VAW	Violence against Women
VAWG	Violence against Women and Girls

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Study Team

Nandita Bhatla, Tina Khanna and Shubha Bhattacharya

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EXECUTIVE SUMMARY

When the Protection of Women from Domestic Violence Act (PWDVA), 2005 came into force on October 26, 2006, it provided a clear legal definition to the pervasive, widely tolerated and oft dismissed ‘private matter’ of domestic violence (DV) in India. Before the Act, there was no law that provided a comprehensive definition of DV, and made provisions to provide civic relief and protection to women, despite it being a widespread endemic in Indian homes.

National surveys conducted at the time the Act was passed estimated that 40 percent of Indian women experience some form of DV in their married lives¹. Women’s groups across the countries had undertaken nationwide campaigns and intensive advocacy for almost 10 years to demand for the law. The incorporation and implementation of PWDVA 2005, thus, created much excitement and anticipation. It also signified the commitment and accountability of the state in provision of timely relief for women suffering abuse in their own households. There was significant interest in tracking the rollout of the law, and extensive monitoring of the implementation of PWDVA was undertaken by civil society organizations. Annual Monitoring and Evaluation (M&E) reports² laid emphasis on monitoring the infrastructure and preparedness of the system and analysis of orders and judgments. As the law nears a decade of its existence, it is an opportune time to reflect on the experiences of the users of the law, and assess the gains and challenges of litigating under it.

This study was undertaken in collaboration with the AMAN Network to understand the functioning of the Act from the perspective of its users, including the women who have accessed the law; and women’s rights organizations that facilitate. The study captures patterns around litigating under PWDVA, and the experiences of doing so through an analysis of records of select civil society

organizations that facilitate women’s access to the law. The study also captures reflections of the organizations related to the use of the law.

Participating Organizations

The study was undertaken with seven organizations of the AMAN Network: ANANDI and SWATI (Gujarat), AALI (Uttar Pradesh), Sangini (Madhya Pradesh), Anweshi (Kerala), Swayam and Sutanutir Sakhya (West Bengal).

Methods

The study analyzed existing data from organizational records, through a period of January 2007-September 2014, and gathered primary data through interviews with women and Reflective Dialogue sessions with the organizations’ staff. The following tools were used:

1. **Tabular Formats** gathered specific case details of women litigating under PWDVA. For each case, cases records were used to gather such

Final Data Collection		
Organization	Tabular data: Case records	Narrative records
ANANDI	35 cases	11
SWATI	30 cases	19
AALI	20 cases	20
Sangini	39 cases	19
Anweshi	35 cases	21
Swayam	36 cases	19
Sutanutir Sakhya	35 cases	17
TOTAL	230 cases	126

Time period: January 2007 - September 2014

¹ According to National Family Health Survey (NHFS-3) 2005-06, 37 percent of married women in India reported experiencing some form of physical and/ or sexual violence by their husband, and 40 percent reported any form of DV.

² Most comprehensive national reviews were led by the Lawyer’s Collective (Women Rights Initiative), in collaboration with state departments and civil society organizations to gather data on infrastructure, processes and rollout of the law.

as demographic information, the nature of reliefs sought, details regarding the filing of case and litigation process and current stage of disposal.

2. **Narrative Formats:** A few cases were selected to gain in-depth information around their experiences of litigating under PWDVA through conducting semi-structured interviews with women. Primary criteria for selection included availability and interest of women, and inclusion of a range of experiences such as those women who had received final orders (FOs), or whose cases had been in court for a couple of years in order to have a range of experiences reflected.
3. **Reflective Dialogues** were conducted with key staff of participating organizations to gather their staff members' experiences on the process of litigation; gains and challenges, and changes in dealing with DV cases with the introduction of the Act.

A few interviews with lawyers were also conducted, wherever feasible, to gain insights into the processes of the court.

The analysis draws from tabular data of 230 cases filed under PWDVA between 2007 and September 2014, and narrative records of 126 women. The tabular formats provide quantitative information for 230 cases that answers key research questions on the profile of users and their knowledge of the Act, the filing of the case, the processes at the time of litigation, and post litigation scenarios. Data from the narrative formats and Reflective Dialogue sessions were used to substantiate and reflect on emerging patterns.

Currently, there is no systematic and cohesive data recording system for PWDVA. The data collected by the Department of Women and Child Development (DWCD) focuses on infrastructure related information and gathers data on cases provided by the Protection Officer (PO), usually around specific litigation parameters (such as around filing of the domestic incident report [DIR]). The courts do not maintain publically accessible records of

cases filed under PWDVA. Thus, information is available in parts and does not provide an overall picture. This study is an attempt to fill this gap. Through the analysis of the 230 cases across seven organizations, it answers key questions related to the use of PWDVA through pre-litigation, litigation and post litigation phases. In doing so, it also attempts to provide a comprehensive framework of key indicators around which data collection could be undertaken.

The study provides an overall picture from the pooled data across select organizations, while highlighting variations, rather than an organization specific analysis. Since the litigation patterns are drawn from an analysis of these pre-existing records of select organizations, they are not necessarily representative of the state. Given the fact that the implementation of PWDVA can vary substantially across districts and according to particular magistrate/court processes of that area, the data at best is indicative of the experience of the region.

The case recording formats vary across organizations, use different terminologies, and so all details required to map the timeline of cases was often not available for all cases. Information such as details of filing of the DIR, dates for orders, enforcement of orders and the current situation of the case were often not available. The interviews with women did not provide details regarding personal experiences, especially related to the litigation processes. In many cases, women did not have their complete case papers, and their lawyers had to be contacted to fill in the information. This reduced the total available cases for analysis, and impacted time taken to collect sufficient details. Contacting women for interviews presented difficulties in terms of tracing women whose cases were completed and recall of details such as experiences of specific court processes, coping mechanisms and reflections. It is hoped that the formats and indicators used for analysis will be helpful in providing a common framework.

The key findings have been presented in response to important questions:

Key Findings

I. Who are the women using the law and where do they hear about it? What are the pathways of help-seeking?

As per the records of the data available from the seven organizations, married women, between the ages of 25-35 years, are the primary users of PWDVA. There are a few cases of women who were never married and one in which the woman was in a live-in relationship, filing for relief under PWDVA.

Across the states there were a few variations – in Uttar Pradesh, the largest number of users were in the age group of 20-24 years, while in Kerala, there was an almost equal distribution across most of the age categories. There are 11 cases where the woman was not married at the time of filing of the case. Seven of these are in the ‘never-married’ category and the cases were filed against natal family members, while there was one case where a woman filed for relief against her live-in partner of 10 years in Madhya Pradesh. In three instances, widows filed a case under PWDVA against their sons and daughters-in-law.

Only 14 percent of the women know about the existence of PWDVA when they approached organizations for help for their experience of DV.

Knowledge and awareness about the Act among women is extremely low. Data was available for 215 cases, of which 185 had not heard about the Act when they approached the organization. There was little variation in awareness across states and location of the organization (rural/urban), with the exception of cases from Anweshi, Kerala, where in 15 of 35 cases, the woman was aware of the Act before they approached the organization. The organizational strategy of conducting legal literacy classes with self-help groups (SHGs) and women’s collectives resulted in higher awareness. In other

states, women learned about PWDVA from different sources and “by chance” such as from the police, relatives or lawyers. Cross-stakeholder referrals are virtually non-existent.

The PWDVA makes it mandatory for the State to publicize the main provisions of the Act. Clearly, much needs to be done in this regard, and urgently. Apart from the information about the provisions of the Act, information about the various stakeholders under the law – the POs, the service providers (SPs) and facilities related to medical and shelter services need to be publicized as well.

Women reported multiple forms and repeated episodes of violence. A majority of them had already sought help from multiple sources, including family, community structures and, at times, other formal institutions before they approached the organizations.

Across all states, most of the women sought external help when the ongoing violence inflicted on them became extreme or unbearable. Single or sporadic episodes of violence were unlikely to result in decisions to seek help from any formal institution or service provider. A majority of them sought help from family and community members (neighbors and relatives, women’s natal families), undertaken attempts at informal mediation to reach a compromise after discussion with the families, the police, State Women’s Commissions, village panchayats, traditional caste panchayats (traditional justice delivery mechanisms), State Human Rights Commissions, etc., after which they finally reached the respective organizations to seek help and support.

Initiating criminal action or ‘taking the family to jail’ has been a deterrent for women while seeking redress for DV. The underlying intent of PWDVA was also that women would be more willing to seek civic reliefs for violence early on, rather than when in distress. It is critical to publicize the existence of the Act and its provisions, and encourage norms that support tolerance.

Pre-litigation counseling and access to services provided by the organizations is a critical support that enables women to negotiate the litigation process and provides confidence and mental strength.

The nature of counseling support provided by the organizations participating in the study (many of them registered SPs under the Act), includes psychosocial counseling, legal counseling and family counseling/mediation³. While the organizations themselves align to either providing psychosocial or legal support primarily, they have strong referral networks to ensure that women receive comprehensive support. Legal support includes a range of services such as providing information about the law, provision of free legal services, accompanying the woman to court. Some of the organizations also link women to economic support services and provide access to short-stay homes.

Cases under PWDVA are filed in conjunction with other sections of the penal code.

A majority of women had been facing violence for a number of years and had sought help from other stakeholders prior to establishing contact with the organizations. This perhaps is the reason why they had filed cases ongoing under multiple/sections of the IPC. In approximately 60 percent of cases, the case was filed only under PWDVA. In others, the cases were often filed under multiple sections of the IPC. While details are not always clear from all case records, PWDVA is most likely to be filed in conjunction with Section 498A and 125 CrPC.

II. What does PWDVA litigation pathway look like? What are the patterns around timeline and stage of disposal of cases? What is the nature of relief received from courts?

The responsibility of filing the DIR is vested with the PO in all states, with the exception of Kerala. It has largely become a court directed procedure and, in some cases, contributes to delays in court procedure.

From the records examined in this study, it appears that the filing of the DIR does not always follow a uniform pattern across the states. It has been established that the DIR is not regarded as an account of the history of violence, and is largely regarded as a necessary document for the case to progress in court. DIR is seen as a mandatory requirement for any DV case to proceed in the court in Uttar Pradesh, and contributes to delay. It takes anywhere from six months to over a year for the PO to file the DIR (in one exception it is five days). In four of the ongoing cases filed in 2013, the DIR was still awaited at the time of the data collection for the study. In Kerala, DIRs are filed by the legal counselor housed with the SP and is submitted along with the petition in court. In all other states, it is court directed. Only in cases from Sangini, Madhya Pradesh, there is evidence of the case proceeding without the DIR, based on the application filed in court, which is a good practice.

Of the total 230 cases analyzed across the organizational records (with the cases spanning nearly seven years), over a third had received Final Orders (FOs). Over 40 percent of cases were still pending in court, while close to 15 percent had reached some settlement out of court⁴. The patterns of disposal vary considerably across the states.

³ Counseling, as opposed to mediation or settlement, is aimed at restoring the woman's self-belief and confidence, supporting her decisions and helping her deal with the situation. Respondents are counseled to stop violence, and accept responsibility for past acts. It is an essential service to be provided to the woman by trained professionals. Mediation is a legal procedure where parties sit together to explore possibilities of settlement or resolving the dispute facilitated by a trained mediator.

⁴ Settlement can be arrived at with the help of any third person to the parties themselves without external intervention at any stage of legal proceedings. Settlement terms do not usually have legal validity unless recorded and passed as part of order by the courts.

FOs received were highest among cases of Anweshi, Kerala where 24 of the 35 cases the organization filed received a FO. Across other organizations, less than half of the cases filed had been granted a FO from the court, with pendency is the highest in cases from AALI in Uttar Pradesh where not a single FO has been granted. Many cases filed in 2008-2010 were yet to receive FOs. In West Bengal and Madhya Pradesh, over half the cases were pending in court, while in Gujarat the figure was lower because of the high number of out-of-court settlements. Patterns of disposal of cases (pendency and granting of orders) within a state have not changed over time, indicating the strong influence of systemic factors. The overall functionality of the judicial system impacts the possibility and time taken for disposal of cases under PWDVA. In Kerala the regular functioning of the courts ensures that case come up for hearing and orders are granted. On the other hand, in Uttar Pradesh where courts are plagued by frequent strikes, transfers and other systematic issues, granting of orders is abysmal.

The practice of having state recruited paid legal counselors placed within SPs in Kerala appears to be a promising practice that can make process of accessing legal recourse easier for women.

Among the FOs received, six orders were granted within the stipulated time period of two months. The timeline for other cases varies from six months to two years and beyond. The setting up of special courts has not contributed to speedy redress of cases.

Of the 84 cases that received FOs, six received it within the stipulated time period of two months (four of these are from Anweshi and two from Sutanutir Sakhya). A majority of cases did not receive a FO within two months and the time period varied from six months to over two years. The two most common reasons for delay that emerged

include the failure of the respondent to appear in court and delay in the judicial procedures and systems. The latter was pronounced in the state of Uttar Pradesh, as mentioned above, where frequent strikes by lawyers and long periods of absence by judicial officers impacts the regular functioning of courts. Even in Madhya Pradesh, where special courts have been setup for women-related cases, there has been little or no impact on the timeline of case disposal.

Maintenance orders are the most frequently passed order among the FOs, followed by right to residence and compensation orders. Protection orders do not seem to be granted frequently which is a cause for concern.

Of the cases where information was available for the type of FOs received (64), 47 were for maintenance (often the only order granted), while a little over 20 orders were residence orders (RO) and a similar number of were for compensation. The use of PWDVA to grant reliefs related to residence is encouraging as it upholds the right of the woman to reside in the shared household. Similarly, the granting of compensation orders by the court, and in several cases in conjunction with maintenance is also a promising pattern observed in terms of the monetary relief granted to the aggrieved woman.

While the granting of the right to residence and monetary relief in the form of compensation is encouraging, the fact that only eight FOs were for protection, despite the fact that it was requested for in almost all cases is a cause for concern. This reluctance stems from various reasons, including the perspective that a woman in her natal home does not need protection once she steps out of her marital home; or a genuine disbelief that a woman needs protection in her own home, or she deserves the violence.

Nearly one-third of cases filed under PWDVA, which did not receive FOs, had received an Interim Order (IOs). The nature of IOs received is similar

to that of FOs – maintenance orders are the most commonly granted, while protection orders are rarely granted.

IOs assume significance as they can serve as an immediate relief for the woman, even if courts adopt lengthy procedures before giving out FOs. Among the 230 cases filed in court, 74 (32 percent) received IOs, and 10 of these were ex-parte orders. Being an interim and a civic order for relief for the woman, it is discouraging to note that orders for protection or restraining acts of violence are not granted by courts, with the exception of cases from Anweshi. Orders for monthly maintenance remain the most commonly granted orders. Even in cases where relief was sought in terms of protection, residence and compensation, IOs were granted only toward maintenance.

Of the total cases filed under PWDVA, 14 percent were resolved outside of court.

The highest number of out-of-court settlements was in Gujarat (18 of 33 cases). The reasons go beyond lengthy court proceedings, and in many cases mutual settlement was reached either for separation with monetary settlement or restitution of the relationship /living together.

Some promising practices related to litigation under PWDVA have been noted across different states that can be replicated:

- **Enabling easy access for litigants and stakeholder coordination through state investment in a cadre of legal service advocates that are linked to SPs in Kerala –** All SPs (such as Anweshi) are provided legal service advocates from the Social Justice Department (SJD), who are paid a fixed amount from the funds allocated under PWDVA and the Nirbhaya fund, and visit the SPs on designated days to provide legal services to women. They are appointed through the KELSA (Kerala Legal Service Authority).

- **Judicial Initiative related to reimbursement of litigation expense to women applicants in Gujarat:** In five cases from SWATI, Gujarat, the courts ordered reimbursement of expenses ranging from Rs. 500 to Rs. 3,000 toward court application costs.
- **Issuing warrants to make the respondent appear in court:** The non-appearance of the respondent in court has been a major reason for delay of cases. An interesting procedural pattern emerged in narratives in Gujarat (cases from ANANDI), wherein warrants were issued after which the respondent appeared in court.

III. What are the experiences of women's interaction with the judicial system – lawyers and magistrates?

Individual magistrates can positively influence the woman's experience in court, though there is wide variation in the attitude of magistrates. The court environment and interactions remain largely hostile, with organizations providing the necessary support to women to mediate the court system.

The women's interaction with the lawyers is often mediated through the organization (as they have their own lawyers) and caseworkers. Thus, women are familiarized with procedures, prepared for legal processes and often receive financial support. However, the experience with legal aid lawyers is varied and many women are ignorant about the proceedings and do not have access to their court papers.

The experience in court varies on account of the specific magistrate. Where magistrates have provided a patient hearing, respected the woman's experience and not stressed for mediation, women have felt optimistic about the outcome of their cases. In a majority of cases, however, the court experience does little to affirm women's faith in the judicial system. This is on account of the long drawn proceedings, lack of transparency and information, and insensitive attitude of the concerned magistrate. Uncomfortable questions, comments blaming them for the violence and emboldening

the respondent by forcing for mediation leave the women disheartened. Given the significance of the magistrate in influencing the experience women have in the court and in the handling of her case, most of the organizations reiterate the need for knowledge and sensitization of magistrates to enable the law to be implemented in its true spirit.

IV. What is the post litigation scenario? Is breach of order reported in Court and what is the action taken?

Filing of breach remains extremely low and execution of FOs remains a concern. Cognizance of breach of orders is taken in all cases, including protection orders.

Across the organizational records, breach of order was reported for 12 cases, of which eight were from Gujarat. In three cases, police action was taken on report of breach. The narrative records note a sense of frustration as orders received are often not implemented. Organizations file execution petitions, particularly for the execution of ex-parte FOs.

There is no clarity for enforcement of FOs, ensuring implementation of ex-parte orders of filing of appeals.

Women, POs or the organizations are unlikely to have copies of the FO. Nor are final orders systematically sent to the police. There are instances of appeals being filed, but more coherent rationale needs to be applied on whether all orders should be appealable or not. In a few cases reported by ANANDI, the OP filed an appeal against the ordered amount for maintenance, while in cases from Swayam, the women themselves filed appeals for higher maintenance.

V. How is the multi-stakeholder system working to support the women litigating under PWDVA?

The presence and role of multiple stakeholders and coordination between them remains a challenge. Women are largely unaware of the different stakeholders under PWDVA.

The study examines the litigation experiences

of women who accessed the law with support of the organizations, many of which are registered SPs. Hence, these women start with an advantage of available support – psychosocial, legal and financial, and referrals to other stakeholders that are initiated and mediated by the organizations. This is unlikely to be the scenario for women who access the law on their own; and the awareness and functioning of various stakeholders need to be examined from the perspective of all women.

Awareness about various stakeholders is extremely low among women. While many of them do approach the police, cases of referrals made by the police to other stakeholders are unheard of.

The role of the POs remains largely limited to filing the DIR, which is the step for which they interact with the women. However, the involvement of the PO in performing this duty is also extremely varied. In many instances, they are either not available and delegate their duties to support staff such as peons (in cases where POs hold additional charge) and even insist on counseling. There is hardly any mention of POs undertaking home visits. Most women do not recall meeting the PO after filing the DIR during the hearing of their cases, and it is obvious that their role in the litigation process remains limited.

The act provides for **medical and shelter services**. Notified medical facilities (MFs) are empowered to register DIRs and forward a copy to the PO. However, there has been no reference to MFs taking initiative to file DIR or direct women to POs or any other interaction with MFs or shelter homes. Anweshi, which is an SP, has its own short stay homes where they refer the women.

Legal aid remains a weak link for women to litigate under PWDVA. Generally, women who had hired lawyers prior to contacting organizations complained of the formers' high fee and the lack of knowledge about their cases. The provision of a legal aid lawyer that works with the SPs for filing of cases under PWDVA in Kerala emerges as a promising practice.

SPs have not been notified, or updated in several of the states. There is ambiguity on provision of financial resources, or documentation of nature and quality of services provided by various SPs.

Recommendations

The study reaffirms state-specific variations in the implementation of PWDVA and the need for greater state-led efforts toward publicizing the Act, investing in infrastructure to enable adequate response to women's needs for timely justice as embodied in the spirit of the law, and establishing a cohesive data recording system.

Increase awareness through publicity of the Act and its provisions

- There is a need for state initiatives to increase awareness related to the provisions of the Act among general public.
- Systematic efforts toward awareness are also required to be undertaken with various stakeholders under the law for multi-stakeholder coordination and effective implementation.
- Existing state agencies and personnel should be engaged to institutionalize awareness efforts, as demonstrated by the state administration of Kerala through the involvement of Anganwadi workers. Similarly, local governance structures such as Gram Panchayats and social justice committees, the justice delivery system, police stations, women's organizations and self-help groups (SHGs), health system functionaries must themselves have awareness of the Act and be mandated to undertake awareness activities; and provide time-bound services to women.
- Information about the Act, its provisions and its multiple stakeholders should be displayed in public places and in the premises of all stakeholders such as police stations, women's help desks, primary and tertiary health centers, hospitals, and court premises. Magazines and other print media could serve as other means for reaching out to women from different social groups.

Currently, awareness of the Act is largely through non-government organization (NGO)-related outreach and there is a dearth of state-mandated initiatives. Awareness of the law can enable women to access multiple options and sources of help, both formal and informal, and get relief before the violence/abuse they face becomes severe.

Invest in infrastructure: Undertake sensitization and capacity building of all stakeholders, clarify their roles and responsibilities

- All stakeholders, especially the judiciary, should be sensitized to prioritize women's right to justice and violence-free life.
- Provision of counseling by qualified persons must be ensured. There should be clarity on the purpose and scope of pre-litigation counseling and direction on who is qualified to provide such counseling.
- The role of the POs, especially in the litigation processes as mandated by the law must be re-emphasized. Currently, POs play a limited role and do not assist the courts as envisaged under the law. To enable this function, discussions on a centrally-sponsored scheme(s) to set up a 'Protection Office' must be revived.
- All stakeholders (MFs, SPs, legal aid services, shelter and short stay homes, the police, among others) under the law must be notified and this information made public. In addition, capacity building trainings must be undertaken urgently to enable them to perform their role and provide assistance to women on how to file a DIR and/or refer them to a PO.

A multi-stakeholder system-led response has been given legal mandate under PWDVA, and advocacy for its operationalization is a critical need to strengthen implementation of PWDVA.

Ensure basic functioning of the judicial system and issue protocols for common procedures to strengthen implementation of PWDVA

- Advocacy for state investment in the judicial system is important as an overall functional and responsive system aids access and timely disposal of cases.

- Procedural guidelines to be adopted by courts on key aspects of PWDVA must be issued. This has been a long standing demand to ensure uniformity, clarity and reduce state specific variation in interpretation of the law.
- The higher judiciary should issue standard practice directions on orders, time period and granting compensation. In particular, this would include adoption of summary trial procedures for PWDVA cases; vesting the responsibility of delivering summons with the police; ensuring that copies of orders are provided to all stakeholders; laying down a recommended procedure for execution of orders, especially ex-parte orders; and clarifying the scope and nature of appeals.
- Discussion forums, in collaboration with judicial colleges, academies and other judicial forums, must be organized regularly to enhance appreciation of the spirit behind civic reliefs, especially the protection order, in addition to clarification of provisions and rules of PWDVA.
- There is an urgent need to deliberate on judicial alternatives that can improve access and timely justice for women. Over the years, alternatives such as designated days in courts, designated/special courts have been proposed as measure to enhance access and provide speedy judicial remedies. More specific discussions on the advantages and disadvantages of alternatives, supported by specific studies/systematic data collection on the effectiveness of alternative systems on common parameters, are required.
- The promising practices highlighted by this study and several others must be reviewed and plans for their replication charted out. Existing unused funds (such as the Nirbhaya fund) can be focused toward specific investments to be made to replicate these practices to enable more effective implementation of the law.

Setup a system of cohesive data collection of cases of PWDVA

- A set of common indicators and a common recording system for collection of data on cases file under PWDVA must be designed and operationalized such that patterns and gaps regarding usage of the law can be discerned.
- Routine collection and collation of data from each stakeholder, including the courts must be prioritized.
- There is a need to develop common documentation formats for the Service Providers and other organizations enabling women to access courts to record cases.
- Monitoring data must be analyzed and disseminated annually to track the use of PWDVA; and periodic evaluations undertaken to track its effectiveness.

When a woman experiencing DV approaches the courts, she has usually exhausted all options, even while seeking civic relief. Attitudes that privilege male entitlement and family sanctity over brutal violence; and procedures that create roadblocks for women seeking reliefs prevent PWDVA from achieving its objective.

Review budgetary allocation and allocate resources to strengthen implementation

- Discussions regarding a dedicated budget to strengthen infrastructure needs for effective implementation must be renewed. In 2012, a centrally-sponsored scheme for the effective implementation of PWDVA was drafted with a detailed infrastructure and a specific budget. Reviewing these recommendations and revitalizing advocacy both nationally and with state governments are vital importance.

The most significant gains of PWDVA are vested in the framework of the right to a life free of violence and the states' accountability in ensuring its realization. This must be enforced through regular monitoring and periodic evaluation. The law can be amended to incorporate M&E as a mandatory obligation and responsibility of the state, which would ensure ongoing review and prioritize the right of women to a violence-free life.



Section 1

INTRODUCTION

1.1 PWDVA, 2005

The PWDVA, 2005 came into force on October 26, 2006, after almost a decade of intensive advocacy by women's groups across the country.

The need for a civil law drew from the Human Rights frameworks and the Convention for Elimination of all Forms of Discrimination against Women (CEDAW). Till its passage, DV had been addressed through different sections of the Indian Penal Code (IPC), including Section 498A, which makes physical or mental cruelty to the wife by the husband or his relatives a cognizable and non-bailable offense; Section 304B and others. While these sections criminalized specific acts and called for prosecution of perpetrators, they did not necessarily provide women, who were facing violence from their families, immediate and much-needed relief in terms of protection against further abuse, shelter and monetary help.

The PWDVA addresses many of these gaps. The law is a first in many ways with respect to the provisions it includes and in laying down procedures and mechanisms for implementation. Along with provision of civic relief, it also provides, for the first time, a comprehensive definition of DV, which includes multiple acts under physical, sexual, emotions and economic violence. It recognizes that women face violence within a range of relationships beyond the marital relationship, and thus introduces the concept of 'domestic relationship' to include all relationships based on consanguinity, marriage, adoption and even relationships 'in the nature of marriage'. The 'right to residence', is a unique civic safeguard in the law, which had been included with the intent of providing protection to women from being pushed out of their 'shared household' (any residence where they are residing). Besides providing civic relief, the law incorporates a criminal element that penalizes a perpetrator through imprisonment and/or fines on the breach of civil order.

The PWDVA has been recognized as a gender-just law as it is framed within the guarantees of the Right to Equality enshrined in the Indian Constitution. It makes DV, which is often accepted and tolerated as a private matter, an issue of state action and accountability. With respect to its implementation, the Act lays out specific responsibilities of various stakeholders who are to be involved in responding to DV: the POs, SPs, Police, shelter and short stay homes, and MFs. It also suggests mechanisms and procedures to facilitate easy and speedy access to justice by specifying timelines within which relief is to be provided. Being a civil remedy, the law argues that provision of reliefs is not initiating criminal proceedings, but merely ensuring relief, and hence it must be subject to a time period for disposal.

Further, PWDVA is considered a user-friendly law as it has been drafted in a manner that is easily understood and is easily accessible with simplified procedures. Like other civil laws, it can be filed for by a civilian directly, thereby aiding the agency of women and their support systems.

In the trajectory of rights-and entitlements-based laws in India, PWDVA is a landmark legislation that explicitly recognizes a woman's right to a violence-free life, and upholds the principals of feminist jurisprudence and state accountability enshrined in CEDAW. Given the extensive mobilization of women's groups preceding the passage of the law, PWDVA, as anticipated, generated much euphoria and expectation. The possibilities of a responsive infrastructure, particularly the PO, and speedy relief were attractive features. There was significant interest in tracking the operationalization and rollout of the law. This is, perhaps, the reason behind the extensive monitoring of PWDVA by civil society organizations.

1.2 Monitoring and Evaluation of PWDVA and the Present Study

The PWDVA is one of the only laws in India to be closely monitored since it was passed. There have been systematic M&E efforts that aimed to serve as tools of accountability, and provide recommendations toward its effective implementation. In the initial years after its passage, there was great emphasis on monitoring the infrastructure and ‘preparedness’ of the system as it geared up to respond to the requirements of the Act. Efforts to collect and collate multi-state data were led by the Lawyer’s Collective (Women Rights Initiative), where they coordinated with departments of Women and Child Development, and multiple civil society organizations to gather data on the implementation infrastructure, processes and rollout of the law. This has been presented in Annual M&E reports disseminated through workshops at the national level. Other women’s groups have also been carrying out similar exercises at the state level to attract attention to the implementation of the Act and press for increased resources. In addition, the M&E reports⁵ for years 2010-12 also gathered empirical data to assess whether the stakeholders responsible for implementation had the required knowledge and sensitive attitudes, and whether they were carrying out their responsibilities as defined under the Act. The annual M&E reports also analyzed judgments of lower and higher courts to understand the nature and intent of various orders. Women’s voices and experiences were incorporated to a limited extent.

The Research Study

It has been almost a decade since PWDVA was implemented. A systematic study to understand the functioning of the Act from the perspective of the users—to reflect on the experience of using

the law, the possibilities of relief it has offered for women and the challenges it continues to pose—was considered essential.

Users of the law include the women who have accessed the law and the women’s rights organizations that facilitate this access for women. Such organizations provide services and support for women facing violence, and have data related to users of the law and their experiences with respect to engaging with the system, which can offer valuable insights.

The primary aim of this study was to capture patterns around the use of PWDVA through an analysis of case records of select civil society organizations that facilitate women’s access to the law, interviews with women litigating under the law and reflections of the organization related to the use of the law. The study was undertaken as a collaborative effort with AMAN, an international network of organizations working on the issue of DV that engages in advocacy around effective implementation of PWDVA. This collaboration created an opportunity to collectively collate and analyze data of different organizations across states, thereby creating a common platform for reflection that could focus on efforts toward advocacy.

Specific criteria were developed and circulated among member organizations of AMAN’s network. Organizations that met the criteria and were interested, self-selected themselves for the study. It was decided that the network’s secretariat would make the final decision based on factors such as geographic distribution and organizational capacity in case there were more than eight participating organizations (as per the limit set for the study).

Selection criteria for participating organizations were:

⁵ Lawyers Collective Women’s Right Initiative and International Center for Research on Women. 2007, 2008, 2009, 2010, 2011 and 2012. Staying Alive: Annual M&E reports on the PWDVA. Retrieved from: <http://www.lawyerscollective.org/publications>

1. Availability of at least 30 complete organizational case records of women litigating under PWDVA (for the purpose of secondary analysis) 2007 onward.
 2. Willingness to reach out and conduct at least 10 in-depth interviews with women litigating under PWDVA.
 3. Ability to designate a point person within the organization to coordinate interviews, undertake analysis and work along with ICRW team members.
 4. Willingness to participate in Reflective Dialogues on the use of PWDVA.
- What is the experience of interacting with POs, SPs and other stakeholders?
 - Are cases under PWDVA being filed in conjunction with other laws? How often is PWDVA the only act used and why?
 - What does PWDVA litigation pathway look like? What are the patterns around timeline of hearing and disposal of cases? What are the kinds of relief orders received? Are interim and ex-parte orders being granted?
 - What are the experiences of women interacting with lawyers and magistrates during the litigation processes?
 - If orders are received, how are they enforced? What are the challenges?
 - From the perspective of the organizations what are the gains, challenges and experiences of litigating under PWDVA?

The final study was undertaken with the following seven organizations of the AMAN Network–ANANDI and SWATI (Gujarat), AALI (Uttar Pradesh), Sangini (Madhya Pradesh), Anweshi (Kerala), Swayam and Sutanutir Sakhya (West Bengal).

Please refer to Section 1.6 for information on the participating organizations.

1.3 Methods

The study used a combination of secondary analysis of existing case records and primary data collected through in-depth interviews with women litigants and reflective dialogues⁶ with organizational staff.

The key research questions answered through the study included:

- At what point do women seek help? Do they seek aid from multiple sources, before they access the organization? Are they already aware of the law when they approach the organization for help?
- How and under what circumstances do women decide to litigate under PWDVA?

To answer these questions, the following tools were used:

1. **Tabular formats** were developed for gathering quantitative data within which to record specific case details of women litigating under PWDVA. For each case, specific demographic information was collected; the nature of relief was sought as were the details regarding the filing of case, litigation process and current stage of disposal. (see format in Appendix 1).
2. **Narrative Records:** A few cases were selected to gain more in-depth information around their experiences of litigating under PWDVA through conducting semi-structured interviews with women. Primary criteria for selection included availability and interest of women, and inclusion of a range of experiences such as those women who had received FOs, or whose cases had been in court for a couple of years in order to have a range of experiences reflected.
3. **Reflective Dialogues** were conducted with

⁶ 'Reflective Dialogue' is a tool of collective reflection, which can be used with program organizations/practitioners to draw out their in-depth knowledge. Through a set of key questions, the tool enables organizational staff to 'pause and reflect' together to delineate crucial strategies, decisions, gains and challenges of everyday processes adopted in the organization's work.

Final Data Collection undertaken		
Organization	Tabular data: Case records	Narrative records
ANANDI	35 cases	11
SWATI	30 cases	19
AALI	20 cases	20
Sangini	39 cases	19
Anweshi	35 cases	21
Swayam	36 cases	19
Sutanutir Sakhya	35 cases	17
TOTAL	230 cases	126

Time period: January 2007 - September 2014

key staff of these organizations to get their reflections on the process of litigation; gains and challenges, and changes in dealing with DV cases with the coming of the Act.

As background, basic state-specific data such as the level and number of stakeholders, details of allocated funds and infrastructure were collected to set a context to the study.

A total of sixteen lawyers, at least two per organization were contacted and spoken to briefly about their experience of litigating under PWDVA.

The study presents analysis of the data from 230 cases across seven organizations and five states, providing an expanse of the experience of litigation under PWDVA– data that has not been presented systematically thus far. The collaborating organizations also came together for two common workshops where they reflected on their experiences as well as learnt about others.

Currently, there is no systematic and cohesive data recording system in existence for PWDVA. The data collected by the Department of Women and Child Development (DWCD) focuses on

infrastructure-related information and gathers data on cases provided by the POs, usually around specific litigation parameters (such as around filing of DIR). Courts do not maintain publically-accessible records of cases filed under PWDVA. Thus, information is available in parts and does not provide an overall picture.

This study is an attempt at filling these gaps; through an analysis of 230 cases across seven organizations, it answers key questions related to the use of PWDVA throughout the pre-litigation, litigation and post litigation phases. It also attempts to provide a comprehensive framework of key indicators around which data collection can be undertaken.

1.4 Limitations of the Study

The study includes analysis of case records pre-existing with the organizations. The litigation patterns hence are drawn from an analysis of these records and are not necessarily representative of the state. Given the fact that the implementation of PWDVA can vary substantially across districts and according to particular magistrate/court processes of that area, the data at best is indicative of the experience of the region.

The case recording formats vary across organizations. Hence the degree of detail required to map the timeline of cases was often not available for all. For example, organizations that focused on providing social support and services, but did not have in-house legal aid, did not have comprehensive records of case proceedings. Thus, the study team spent considerable time and effort in getting information such as number of hearings in a case, details related to filing of DIRs, dates for orders and so on. Details were also unclear regarding enforcement of orders and the current situation of the case. In many cases, women did not have their complete case papers, and their lawyers had to be contacted to fill in the information. Hence, information has been noted as missing for some cases.

Contacting women for interviews, for verifying details of cases had obvious limitations. Although the duration of the cases selected for the study was approximately seven years (cases from 2007-14), litigation proceedings had been completed a few years before the study in certain instances; and the women/litigants were not always in touch with the organization workers. Tracing women was quite difficult in some cases and in others, their recall was poor. Women were not forthcoming about the details around the litigation, such as experiences of specific court processes, coping mechanisms and reflections, in many of the interviews. In addition, women's current situation often influenced their recall of their cases.

Different organizations also used varying terminologies to describe specific court processes. For example, action against non-enforcement of FOs was referred to as 'breach of order' in some cases, where it was in reference to non-enforcement of maintenance, it was termed called 'filing of a recovery suit'. Similarly, it was found that the term 'out-of-court settlement' was used to describe varying settlements—compromises, reconciliations, mutual divorces or settlement under some monetary terms. This could be negotiated through the court, by private lawyers or between parties, but details were not provided in all cases to enable comprehensive analysis about dominant patterns. The variation in quality and clarity of data complicated the data analysis process and made it difficult to present a comprehensive analysis across all themes.

1.5 Structure of the Report

The findings presented are around key research questions relevant to pre-litigation, litigation and post-litigation phases. In doing so, examples are cited from different organizations, but necessary details are not available from all organizations. Nevertheless, by pulling information across different organizations, operating within various implementation scenarios, the study presents the richness and depth of information that is valuable

to understand the pathways implementation of PWDVA has taken. It also presents realities of how legal interpretations and procedures differ.

The following section presents findings on the pre-litigation phase; description of the pathways of help-seeking and the initial interaction of the women with the organization; descriptions of litigation and post-litigation phases that present the overall scenario of orders received under PWDVA and their enforcement; and the experiences of women's interaction with the court. The concluding section of the report provides the reflections of the participant organizations on the use of PWDVA and suggests recommendations for its effective implementation.

As PWDVA enters into its tenth year, this report provides insight into and information on the journey thus far. It provides an opportunity to take stock of the gains, gaps and acknowledge what can be achieved by effective implementation of the Act. The lack of financial resources for PWDVA has resulted in a situation where the operationalization of the machinery has not improved substantially over the years. In addition, the lack of common guidelines for judicial processes has not hastened the relief for women. With the variations in the infrastructure and resources allocated for the implementation of the Act across states, the data enables comparison of how this variation can impact the litigation process and the provision of relief for women, and what can be done to improve the situation. Thus, advocacy for enhanced accountability of the state toward fulfilling its constitutional obligations to women must be renewed, and the findings of the report can contribute toward it.

1.6 Participating Organizations

AALI (Association for Advocacy and Legal Initiatives, Uttar Pradesh)

AALI is a feminist legal advocacy and resource group addressing women's issues through a rights-based perspective. AALI envisions an

egalitarian social system that recognizes women as complete individuals and equal human beings through advocacy for women's human rights. The organization undertakes research, activism, and direct response with a strong focus on VAW and the right to choice in relationship decision-making. Since 1999, AALI has been intervening in cases of right to choice in relationships and VAW. In line with the organization's holistic approach toward addressing issues of particular concern to women, AALI has pursued its casework efforts through a human rights framework. Its mission and objectives include advocating and working for the issues and concerns of women especially those from marginalized and deprived communities; acting as a legal support organization and resource center with a feminist perspective for other women's groups, collectives, institutions and individuals and provide legal and other required assistance to women who have faced violence and abuse, as well as initiate legal action and intervene in legal issues pertaining to the right to choice and VAW.

ANANDI (Area Networking and Development Initiatives, Gujarat)

ANANDI has been working with over 10,000 rural poor women from four districts of Gujarat since 1995. Over the past five years ANANDI has offered technical support and capacity building on gender mainstreaming in large livelihood programs in various states – Bihar, Madhya Pradesh and Rajasthan. The organization works around forming women's collectives to change the nature and direction of systemic forces that marginalize women. ANANDI has always made efforts to undertake action research projects that allow reflection and reading of the current trends in feminist research and draw lessons that emerge from the field interventions to create a bridge between praxis and theory. For ANANDI, feminist research carries messages of empowerment that also challenge the encircling of knowledge claims by those who occupy privileged positions. Their efforts at writing are steps from the 'margins to the center', done with the acknowledgement that

there is a need to learn from feminists around the world, and link women's everyday lives whereby they challenge and change gender relations as an outcome of their mobilization and collective strength. Similarly, feminist advocacy is intimately connected to – and grounded in – the local struggles of real women, and takes its legitimacy and direction from these women, who are experiencing injustice and inequality of different kinds at first hand. It reflects our commitment that realizing rights of women requires building alliances to change policies, institutions, and individuals.

Anweshi Women's Counselling Centre (Kerala)

Anweshi Women's Counselling Centre (henceforth referred to as Anweshi) is a women's organization committed primarily to the cause of women's rights. It is committed to work on delivering a comprehensive range of support services for women, which has given them a fairly good understanding of many precipitating and underlying factors of DV. Anweshi considers GBV as a societal evil that needs to be taken out from the grassroots in order to have a gender-just and violence-free society. Despite the Indian Constitution guaranteeing that women shall not only have equal rights and privileges, but also that the state shall make provisions for the welfare of women; women in India, who constitute nearly half the population, are still subjected to various disadvantages and inequalities in the male-dominated society. Anweshi believes that women have equal rights and hence their efforts are important for the emancipation, integration, participation, and development of women.

Swayam (West Bengal)

Swayam is a feminist organization committed to advancing women's rights and ending discrimination and VAW and their children. Swayam takes a multi-pronged approach to ending VAW and its work is both curative and preventive. Guided by a belief in the inherent potential of every woman to change her own life and make meaningful contributions to society,

Swayam supports women facing violence to take control of their lives, build self-confidence and become economically independent through the provision of a wide range of support services and group interventions. Simultaneously, Swayam confronts norms that entrench GBV and breaks the silence that shrouds VAW. Swayam influences public opinion and action through education and awareness; produces and shares information and expertise; networks and advocates for socio-legal and policy level changes; and builds leadership amongst women, men and youth in rural and urban communities to create a society where VAW is unacceptable. Swayam was actively involved in the advocacy pertaining to the passage of PWDVA in 2005 at the state and national levels and has subsequently been committed to ensuring implementation of the law in its true spirit.

Sutanutir Sakhya (West Bengal)

Sutanutir Sakhya, a voluntary organization situated in Kolkata and with a project office and counseling center in the North 24 Parganas district of West Bengal has been fighting for the rights of women since 2002. They have expertise in compilation and publication of books in vernacular language related to Gender, VAW and laws for Women. They also have legal expertise and provide Para Legal training to our Community Advocates who would carry their mission further. They regularly conduct training for practicing lawyers empanelled in free legal aid services for women at District and State level. Sutanutir Sakhya is actively involved in advocacy of issues and laws related to VAW, and have played an active role in implementation of PWDVA, 2005, in West Bengal since the drafting period of the law. Sutanutir Sakhya is working toward enabling access to justice for women and creating public opinion against dowry and child marriage.

Sangini Gender Resource Center (Madhya Pradesh)

Sangini is a Bhopal-based women's organization which started its journey in the year 2003, with the objective to work on gender equality. The inequalities brought upon women on the basis of gender issues as well as the sensitization of society against gender discrimination are the focus of Sangini's intervention. Regarding DV, Sangini provides counseling to victims, organizes victim support groups at community level. Sangini also provide legal aid to the victim of DV. Most importantly we take follow up of cases of DV.

SWATI (Society for Women's Action and Training Initiatives, Gujarat)

SWATI (Society for Women's Action and Training Initiatives) is a non-profit organization that works for the socio-economic empowerment of women in the state of Gujarat, India since 1994. SWATI works to secure the rights of women and other marginalized citizens in Gujarat. Ending VAW is a primary goal of SWATI whose approach is based on the premise that VAW has several dimensions and requires multi-pronged prevention. SWATI achieves its goals by building women's leadership, engaging men and boys, community outreach, setting up alternative dispute resolution systems, enabling access to counseling, legal aid and survivor support services, and working with the public health system and with *gram panchayats* to enhance their responsiveness to VAW. Through these means it services and reaches out to a population of over two hundred thousand (200 gram panchayats, and three municipalities) in two districts. SWATI has organized over 4,000 women in collectives under Mahila Vikas Sangathan, autonomous, women-led and managed platforms that work on a range of development issues. It carries out research studies, and develops resources and campaign materials that advance women's rights and prevent VAW.



Section 2

FINDINGS: PRE-LITIGATION

2.1 Profile of Women Litigating under PWDVA

This chapter looks at the demographics of women who have litigated under PWDVA across different organizations, so as to present a profile of the users. While there have been instances of widows and unmarried women and girls using PWDVA,

as per previous reports, married women are the primary users of the Act. The data from the case records reiterates this pattern. There were a total of eleven cases (5 percent of the total) where the woman was not married at the time the case was filed (Table 1). In all these cases, the respondent was either a son or the natal family. In one case, the respondent was a live-in partner.

Table 1. Socio-economic profile of women litigating under PWDVA

	UP ⁺ 20	Gujarat ⁺⁺ 65	Kerala 35	MP 40	WB ^{**} 55	TOTAL 215
Age (years)						
Below 20	2	2	1	0	0	5
20-24	7	5	5	7	3	27
25-29	3	16	5	13	11	48
30-34	3	18	5	4	11	41
35-39	3	10	7	6	10	36
40-44	0	11	3	3	9	26
45-49	1	0	3	1	3	8
50 and above	1	3	6	6	8	24
Marital Status						
Never Married	2	0	3 ^{**}	1	1	7
Currently Married	17	65	30	38	54	204
Widowed	1 ^{***}	0	2 ^{***}	0	0	3
Live-In	0	0	0	1	0	1
Number of Years into Marriage						
Less than 5	12	11	6	7	10	46
5-9	2	17	6	8	8	41
10-14	2	16	6	6	18	48
15-19	2	7	7	4	6	26
20-24	0	4	4	4	4	16
25-30	0	1	3	0	4	8
Data Missing	0	9	0	9	4	22

* For one organization in West Bengal, profile data was available for 20 women

** Two women filed a case against their father, one against her brother

*** Two elderly women in Kerala filed cases against their sons. Although their marital status is not provided, it appears from the narrative that they are widowed. In Uttar Pradesh (UP), the case if filed against daughter and son-in-law. [Madhya Pradesh (MP)]

Table 2: Socio-economic profile of women litigating under PWDVA (contd.)

	UP ⁺ 20	Gujarat ⁺⁺ 65	Kerala 35	MP 40	WB ^{*#} 55	TOTAL 215
Level of Education						
Never attended school	3	22	2	18	4	49
Primary (1-5 th)	1	9	2	7	7	26
Middle (6-8 th)	2	13	7	6	11	39
High School (9-10 th)	2	10	3	6	5	26
Senior Secondary (11-12 th)	2	6	17	1	4	30
Graduation	6	4	4	0	14	28
Post-Graduation and above	4	1	0	2	10	17
Place of Residence						
Urban	18	8	3	39	37	105
Semi urban	0	19	13	0	8	40
Rural	2	38	19	1	10	70
Occupation						
Not employed for money/ Homemaker		33	18	17	30	98
Domestic Worker		9	2	10	0	21
Student		0	1	0	1	2
Government salaried		2	4	1	2	9
Private salaried		4	4	6	12	26
Informal Sector / Casual Daily Wage Labor		15	6	6	2	29

* For one of the organizations in West Bengal, the data on socio-economic profile is provided only for 20 women

+ Data on occupation of women from Uttar Pradesh (UP) is not provided

++ No information about status of employment of two women from Gujarat

No information on status of employment of eight women from West Bengal [Madhya Pradesh (MP)]

Age and Marital Status

As per the records available from the seven organizations, the largest number of users of PWDVA is married women between the ages of 25 and 35 years. Across the states there are a few variations – in Uttar Pradesh, the largest number of users are in the age group of 20-24 years, while in Kerala, we see almost an equal distribution of women across most of the age categories.

Among the five cases under PWDVA filed by women aged below 20 years, three were married and two had never been married, and had filed cases against their natal family members. Altogether, there were seven women in the never married category who litigated under PWDVA. In Kerala and West Bengal, there were a few instances, where elderly women filed cases under PWDVA against their sons and daughters-in-law. Also, there were also quite a few cases from these two states wherein the users had been married for more than 25 years. In Madhya Pradesh, there was one case where a woman filed for relief against her live-in partner of 10 years.

The number of years of marriage after which women filed for relief under PWDVA ranged from less than five years to nearly 30 years of marriage. The majority of the women had been married for less than 15 years. In Uttar Pradesh, the largest number of women (12 out of 18) had been married for less than five years at the time of filing the case. In Kerala, and there is a more even distribution of cases across different categories of years of marriage.

There were eight cases across Kerala and West Bengal, wherein the woman had been married for almost 30 years and sought relief under PWDVA years after their marriage. For the women from Kerala, the triggers for litigation seem to be their alienation from shared household, while in West Bengal one of the women has been fighting a case to get maintenance even before PWDVA

was enacted; she filed her case under PWDVA for quicker relief (however, she did not get this respite as the case is still pending in court).

In another case, a woman who had been married for about 30 years received a divorce notice from her husband. When she resisted the same, she was physically abused by him, after which she filed a case under PWDVA.

Locale/Area

In West Bengal, Uttar Pradesh and Madhya Pradesh, the largest number of users of this act were from urban areas, while in Gujarat and Kerala, the largest number of users were from rural areas. In addition to this, Kerala also had an equal number of women from semi-urban areas. Given the urban location of the organizations (Sutanutir Sakhya, Swayam and AALI), more women were likely to approach them for help.

Education

Overall, among all women who used the Act, 23 percent had never attended schools, 42 percent had been educated below the secondary school level, whereas 35 percent had completed senior secondary education or higher. However, there were substantial differences across the states. In Gujarat and Madhya Pradesh, one third of women litigating under PWDVA had never attended school. In Gujarat, this could be because the sample included a large number of women from rural and semi-urban settings, while in Madhya Pradesh, a large number of women sampled were from low-income areas of the city, working as domestic workers or homemakers.

A majority of women in West Bengal had completed their college education, while in Kerala the largest number of women using this Act had completed their higher secondary education. However, in Gujarat and Madhya Pradesh a significant number of the women had not received any formal education. In Gujarat, quite a few women had reached up to the high school level,

but had not been able to complete the same. In Uttar Pradesh, the most number of women using the Act had completed their college graduation.

Employment

In West Bengal, Gujarat and Kerala, the highest number of users of PWDVA were not engaged in any kind of formal or informal employment. In Madhya Pradesh, the largest number of users of the Act was engaged in the informal sector, for instance, as domestic workers. In Uttar Pradesh, a greater number of women were employed; however, the sector of employment was not known. Some of the women who have been covered in the study were engaged in the formal sector as well, but the ratio, as compared to those who are not employed or those engaged in informal sector work, was much lower.

2.2 Nature of Violence

This section provides information about the history of violence faced by women who filed cases under PWDVA. The different forms of violence inflicted on women who utilized PWDVA for seeking relief were largely verbal, mental and physical, inflicted on them by their husbands, in-laws and sons (in the marital home) and parents and brothers (in the natal home).

As reported by some of the users of the Act, the physical violence had also led to sexual violence within marriages. In quite a few cases across all organizations, women had been forcibly thrown out of their marital homes and/or from their natal homes, and this is recognized as an act of violence in violation of the right to residence.

Initiating criminal action or 'taking the family to jail', as it is often referred to, has been a deterrent for women seeking redress for DV. The underlying intent of PWDVA was also that women would be more willing to seek civic relief for violence early on rather than when in distress after the situation worsens. Over time, it was hoped that the Act would lower the threshold for help-seeking. While it may

be too early to note the impact of the law on the timing of help-seeking, it is unlikely that change will happen soon given the immense number of social norms supporting tolerance of VAW, the shame and stigma of broken marriages, and the onus on women to 'keep the family together'.

In fact, across the time period of the cases included in this study (2007-14), we observed little change in the narratives of violence in terms of severity, and time of help-seeking. Women sought relief under PWDVA for ending violence that had been ongoing for several years (Section 2.6 provides data on cases where PWDVA was filed in conjunction with other laws). It is important to note that those who litigated under the law were a small proportion of the women who approached these organizations for help. Several cases were resolved through the organizations' intervention and mediation, rest went on to litigation.

The narrative records and interviews with women reveal that the 'triggers' for the violence unleashed on women are many and multiple – harassment for more dowry, giving birth to girl children, resistance/protest on learning about the extra marital affairs or even second marriages of their husbands, wanting to work outside of home, alcoholism of the husband, not being able to meet unreasonable demands to do tedious amounts of household chores, resisting to forced sexual intercourse, incessant and unreasonable suspicion on women's characters, resistance to being forced to get their parental property transferred to their marital homes, being harassed by sons and daughters-in-law and being forced to transfer the shared property to them, and refusing to marry as per the wishes of women's parents.

Table 3 encapsulates the details of the various kinds of violence that the women experienced and the points at which the survivors approached the various organizations for help.

In more than half the cases, women faced severe and aggravated forms of physical and emotional

Table 3: Forms of violence experienced by women litigating under PWDVA

Forms of Violence Experienced	ANANDI N=35	SWATI N =30	AALI N=20	Sutanutir Sakhya N=35	Swayam N=36	Sangini N=39	Anweshi N=35	Total N=230
Severe Violence by Husband/In-laws	9	10	17	22	14	17	19	108
Severe Violence by Live-in Partner	0	0	0	0	0	1	0	1
Forcibly driven out of Marital Home	0	0	0	8	3	0	8	19
Extra-marital Affairs of Husband/Bigamy	5	0	1	2	2	4	5	19
Severe Violence by Parents/Brothers	0	0	1	1	1	1	1	5
Severe Violence by Son(s)	0	0	0	0	0	0	2	2
Data Missing	21	20	1	2	16	16	0	76

abuse by their husbands, in-laws or live-in partners (the latter being only one case from Madhya Pradesh). Severe and aggravated violence has been understood through instances of cases where women experienced extreme physical torture in the form of hitting, pushing, kicking, slapping, and in some cases, sexual assault by their partners. Many of these also filed cases under other laws.

Given below is an instance of severe violence as narrated by a survivor and user of PWDVA from West Bengal:

"In 2000, when I was 15 years old, I was working in a local beauty parlor as a beautician. I fell in love and I got married to him later. Soon after my marriage, I started facing problems with my matrimonial family members. I was facing physical, mental and sexual assault by my husband and all sorts of torture from my mother-in-law and sister-in-law. I never spoke about my problem to anyone. During this period, I got pregnant and delivered a female baby. The torture increased every day and the demands for dowry also increased. After some years, when the torture was still going on, I got pregnant the second time and my husband and in-

laws demanded a son from me, but I delivered twin daughters. After that torture again increased for me and for my daughters. They also tried to sell my babies to somebody; I was somehow able to save them. After that both of my twin daughters were thrown in front of dogs. In another incident, my in-laws lit some fire and left my daughters near the fire place, their intention was to kill my daughters as they only wanted a son. I could not bear and tolerate such extreme forms of violence on me and my daughters. The final straw was when after bearing so much torture, I was thrown out of my marital home, and my three daughters and I had to stay with my parents. After six-seven months, I came to know that my husband was going to marry another woman."

(Women, 28 years; married for 13 years; Swayam, West Bengal. She filed cases under Sections 498A, 125 CrPC and PWDVA seeking alternate accommodation, protection, maintenance, compensation and custody.)

Another case from Gujarat illustrates the extreme forms of violence faced by women:

“Immediately after a week of my marriage, the harassment began. My husband doubted me. He beat me without a reason. I was not allowed to speak to my mother on the phone. Hence, I told him that I don’t want to stay here and want to go to my mother’s place. For that he had beat me brutally. Following that, I spoke to my mother secretly. Once he came to know, he beat me again and I kept quiet. Everyone from the family sided with him. My mother-in-law and sister-in-law were harassing me, abusing me and taunting me that I am not doing household work properly. He would not allow me to speak with anyone and not even move out of home. He always doubted me. On the occasion of Rakshabandhan, I asked him to visit my mother’s place. He replied that if I visit my mother, I need not come back to his home. On same day, the family went to other village for some work after locking me in the house. I was locked for the whole day. On the second day, I broke the window and called my neighbor. She helped me and called the Sarpanch / Pradhan of the village. He broke the lock of the house and brought me out. He phoned my mother. Next day, my father came and took me back with him. For all these days I was alone at home. The villagers had not even given me anything to eat nor they helped me, and I did not have money. Only thing villagers did was they broke me out of the locked house. Besides that nobody helped me with anything. After coming back from there with my father, I never went back.”

(Woman, 35 years; married for eight years; SWATI, Gujarat. She filed her case under PWDVA seeking medical expenses and return of Streedhan)⁷

Another form of violence is being forcibly driven out of their marital homes. Twelve percent of the women in our sample sought relief under PWDVA due to this form of violence. An example from the narrative of a survivor having faced this form of violence is given below:

“I had an arranged marriage in the year 2003, and ever since my marriage I was never given my due space and importance in the household. My in-laws demanded dowry from me and I was not allowed to go anywhere out of the home, even to my natal house, to meet my friends and relatives. I did not get any money to spend for my daily needs. The mental pressure increased day by day and sometimes they used to torture me physically as well. During pregnancy also I had to face extreme physical violence and I was burdened with household work. My in-laws threw me out of the house on February 18, 2007. I left the house with my daughter and thereafter I came to my natal home. In May 2007 my husband filed a case against me under restitution of conjugal rights. My in-laws did not want to take me back so I came to Swayam on February 24, 2010 to get the support for a peaceful life.”

(Details of woman not available; West Bengal, Swayam)

Twelve percent women also filed a case under PWDVA as their husbands had extra-marital affairs or had married a second time despite being married to the survivor:

“I am 34 years, and do tailoring in my own house. We were married in 1999. After three years, we moved to another house on rent. He is a mason and he began having an illicit relationship with another woman. His colleagues told this to me and when I enquired about the relationship of him with that woman, he started beating me up and calling me names. Several times, I stayed at my house and returned due to our children’s education. The relationship continued. In 2008, he told me that he wants to marry that woman and live with her. I resisted this and he pushed me down and my left shoulder was fractured. I underwent treatment for four months. My parents helped me during that time. He started to live with his mother and I filed a petition at the police station on November 4, 2008. Police officials warned him that he would

⁷ *Streedhan* refers to assets within a marital household over which only the wife has ownership. This includes everything bought by her or given to her before marriage, at marriage or during the period she is married. Also, it can come from anyone-parents, husband, in-laws, relatives and friends, or husband’s relatives and friends.

face dire consequences. He created problems for my mother and she also filed petition against him at the same police station. Then he started to live with that lady. After that, he wanted to alienate the property which is on his name.”

(Woman, 34 years; married for 12 years; Anweshi, Kerala)

(She filed a case under PWDVA seeking alternate residence and protection)

There are a few cases among the records where violence was not perpetrated by the husband or the marital family. The nature of violence perpetrated has been described in the boxes below:

Case Study

Seeking Relief under the PWDVA by a Survivor in a Live-in Relationship

A 28-year-old woman from Madhya Pradesh filed a case under the PWDVA against her live-in partner of 10 years. Married off at the age of 14 years, she suffered violence and abuse from her husband, and not being able to bear with it anymore, she left his home while she was pregnant and returned to her natal home where she gave birth to a baby girl. After that, she decided not to return to her marital home. Although there is no information on whether she was divorced or not, it seems like she did not file for divorce from her husband. Meanwhile, she started to work in a PCO booth, where she met another man and they started to live together without getting married and they also had a child during this period. However, after 10 years of living together, her partner began abusing her physically and verbally, and she decided to leave their home and returned to her natal home. She then got in touch directly with a lawyer at Sangini with the help of a neighbor, and filed a case under the PWDVA on July 28, 2011. Her FO came through on February 25, 2012, nine months after filing the case. The order comprised maintenance of Rs. 3,000 per month and a one-time compensation of Rs. 50,000 to be paid by her live-in partner. However, her partner neither came for any of the court hearings rendering the order to be an ex-parte FO, nor did he comply with the final court orders. She reported breach to the magistrate soon after as he did not pay any maintenance to her, and the court filed a recovery case and an arrest warrant was issued against the respondent.

This was the only case in the current study where a woman had used the PWDVA against a live-in partner and though the relief granted by the court was not followed by the respondent, it is important to document the fact that the law has in fact been working in favor of women in live-in relationships as well.

Case Study

Relief Sought under the PWDVA by Elderly Woman from Son

A 72-year-old woman from Kerala had filed a case under the PWDVA against her son, who harassed her mentally and physically. After repeatedly abusing her, the son threw her out of the house which was in her name, and when she resisted, he pulled her hair, pushed her around, due to which she fell down and fractured her right hand. The survivor's daughter had participated in legal literacy classes conducted by Anweshi in the Anganwadi center of the community and came to seek help and support from the organization, which took up her case, suggested a lawyer to her. She then filed a case under the PWDVA. Protection and maintenance orders were passed, both of which are being followed by the son. This is one of the few instances wherein a mother filed a case under the PWDVA and also got relief under the same.

Case Study

Case under the PWDVA against Natal Family

An 18-year-old survivor from Uttar Pradesh used the PWDVA to seek relief from severe physical, mental and sexual violence from her natal family members (father, brother and sister-in-law). The survivor's father would enter her bedroom when she would be changing clothes and bathroom while she would be bathing. Her brother would beat her up regularly and not let her go outside home, even to school. Her sister-in-law would forcibly try to send the survivor with unknown men several times with instructions to 'entertain' them, thereby forcing her into prostitution. When the survivor was unable to take the violence anymore, she decided to leave her parents' home and started living in a girl's hostel. In retaliation to her actions, her father lodged a false FIR under Section 363/366 of IPC against the hostel owner who was also the survivor's friend. She then filed a case under the PWDVA with the help of AALI demanding protection, residence and compensation; however, the case is still pending in court and no orders have been passed till date, and the girl continues to live in the hostel, with a persistent threat to her life.

2.3 Help-seeking and Establishing Contact with Organizations

This section deals with the different pathways that the women looked at before finally approaching the various organizations that are part of the study. Across the states, we observed that women reached out to several people, including their own natal families, relatives, friends or neighbors in order to get immediate relief from the violence being inflicted on them before they reached out to formal institutions such as the police. At times, survivors also approached the nearest police station and filed a First Information Report (FIR) against the perpetrators of aggravated violence. In some cases, women went to other government and non-government organizations (NGOs) for help before finally coming to participant organizations that are part of this study.

For example, a survivor from Uttar Pradesh decided to seek external help only after first seeking family mediations twice (which did not help her at all), and talking to her husband about their situation before and after the mediations.

When the mediations and her approach toward the husband did not work, she decided to seek external help on her own. She went to the State Women's Commission but nothing worked out. She also approached police station and there her husband, his sister and the survivor were called for mediation, but the accusations of the survivor were declared void by the station personnel.

Another survivor from Uttar Pradesh went first to the police station to lodge an FIR, but they did not help her. On facing aggravated violence, the survivor made a complaint to the State Women's Commission. There, she got to know about AALI and approached them for support.

"I approached the police in the beginning, but they didn't register my FIR; then I went to the SP to register my complaint, and I also submitted applications to various departments, after which the police informed me about counseling held at the police station, and my second counseling was held at the women's police cell. They asked me to agree to a compromise. I was ready to compromise, but my husband wasn't, hence after this I went ahead and filed a case under PWDVA."

(Woman, 23 years, Sangini, Madhya Pradesh)

One of the significant ways in which the women came to know about organizations like Anweshi, Sangini and SWATI is through the organizations' community outreach programs. As one woman recalls, *"I got to know about the organization when Sangini was doing their community intervention and I decided to take external help for justice. My husband inflicted mental and physical violence on me on a daily basis. I approached the Sangini worker who would come into the community to help me with my case."*

Some of the women knew about the Lok Adhikar Kendras of ANANDI, and approached these centers directly on facing extreme violence and abuse:

"When my husband was beating me after my return from the civil hospital, I decided to file a case against him and I went to the Lok Adhikar Kendra at Baria all alone and told what happened. Here I was told that I can file a case under a kayda (law) and in this, the judgment would be given within 60 days. I was also told that under this kayda I can ask for children's custody, protection from the in-laws, maintenance and a house to stay. The Lok Adhikar Kendra people listened to me, shared information about the kayda, helped me in filing a DIR, and samjaviyu (counseling) as I was not aware."

(Women, 42 years; married for eight years; ANANDI, Gujarat)

The data shows that most of the women in Kerala who sought help from and approached Anweshi, came to know about the organization through the legal literacy classes organized by Anweshi in the Anganwadi and Neighborhood Group meetings.

An elderly woman who used the law to get relief from her son said:

"My son and his wife harassed me mentally and physically; they tried to throw me out of the shared household. At the stage of becoming homeless, I sought external help. My daughter

had participated in legal literacy classes held by Anweshi in the nearby Anganwadi center and that is how she informed me about the organization that helps women to seek legal support in such cases of violence in the household."

(Woman, 63 years, widow; Anweshi, Kerala. She filed a case under PWDVA against her son)

In one of the cases from SWATI, Gujarat, the woman's family tried to approach the caste panchayat, but they failed to get any support or solution from the same. Then her father heard about SWATI from someone in the village. Thereafter, they went to meet social workers of this organization and she was able to file a case under PWDVA after having faced a lot of violence in her marital home. In many cases, particularly from Gujarat, women have tried to approach their Gram Panchayat and other alternative community level traditional institutions such as caste panchayats to seek relief and support from DV.

In another case from SWATI, Gujarat, a woman had sought help from one of her relatives, who gave the woman shelter when she was thrown out of her marital home by her husband and in-laws. She lived at her natal home for three to four months, during which nobody from her husband's family bothered to even find out where or how she was doing. Her in-laws had convinced the local caste panchayat that they did not want her back in their house, so she did not approach the caste panchayat for resolving this issue. She then got to know about SWATI from one of the neighbors in her natal village, and approached the organization for relief:

"When caste arbitrators of the jaati panchayat did not hear me out, I went to a lady in my village who was working in the Nyaya Panchayat Samiti of SWATI organization. This is how I got in touch with the organization. When I came to organization, I had left my house since three years. I did not want to go back to my husband's home. The organization issued three notices to opponent, but they never turned up. Hence, the organization advised me to file a case in court."

On the advice of organization, we filed a case in court under PWDVA.”

(Woman, 24 years; married for the second time since two years; SWATI, Gujarat)

Women also received information from their neighbors; in a case from Kerala, the neighbors themselves contacted the organization, who in turn got in touch with the survivor. Her employer helped with drafting of complaint, but she did not end up giving that to the police because Anweshi contacted her in due time. She had also tried to seek help from the Panchayat, but since she was complaining against her own parents, the Panchayat refused to help her as they did not want to spoil their relationship with the family. She sought help from the neighbors, who informed Anweshi about her plight.

In quite a few cases, the survivors contacted organizations directly after having heard about them and the work that they do in the field of VAW. With Sutanutir Sakhya, in particular, many survivors read about them or articles written by them in Bangla magazines. *“I went to Sutanutir Sakhya after I got this information from a Bengali magazine for women, where I came across an article published by the Secretary of Sutanutir Sakhya,”* said a survivor from West Bengal. *“I went to two local clubs and informed them about the torture inflicted on me and my children by my husband and in-laws. The first one could not help me, but I got support from the second one. The Secretary of that club sent me to this organization,”* said another survivor from Swayam, West Bengal.

Although rare, women have also sought out lawyers and directly approached the court to file the application:

“I went to police station, but my complaint was not registered so I decided to file an application in the court. I went along with my brother to court and inquired about the court procedure and the lawyer’s fee. One of the lawyers asked for a fee of

Rs. 20,000 for filing my case, which I found very high and hence, approached another lawyer in the court. He agreed to prepare the application for Rs. 300 and we got the application done. I posted copies of the application to different places such as commissioner – Godhra, at Gandhinagar, but nothing happened.”

(Woman, 28 years; married for one and half years; ANANDI, Gujarat)

Thus, it was noted that women tried to approach different kinds of institutions and people before finally seeking help from participant organizations. This could be because women may first want to reach out to the immediate family and community for help; or also because they do not have knowledge of the SPs or legal provisions they are entitled to. Irrespective of which pathways women choose to adopt in their situation, there needs to be systematic focus and information – communication from the state authorities to make women aware of different services that they can reach out to.

The next section provides more specific data on the awareness regarding the Act.

2.4 Knowledge of PWDVA among Women

The PWDVA makes it mandatory for the state to publicize the main provisions of the Act. However, despite the mandate, what emerges from the data is that only 14 percent of the women were aware of the Act when they first sought help from these organizations and 86 percent were completely unaware of the existence of such a law.

The following table provides information on the status of knowledge of the users about PWDVA.

In the cases specific to Gujarat, almost none of the women were aware of the Act, while in West Bengal about 14 percent of the women knew about the Act when they first sought help. In Uttar Pradesh, only one woman knew about the Act and in

Table 4: Knowledge of PWDVA among women when they approach the organisation

Knowledge about PWDVA when approached	Sutanutir Sakhya Cases: 35	Swayam* Cases: 20	SWATI Cases: 30	ANANDI Cases: 35	AALI Cases: 20	Sangini Cases: 39	Anweshi Cases: 35	Total 215
Yes, knew about the Act	5	5	1	0	1	3	15	30
No, did not know about the Act	30	15	29	35	19	36	20	185

Madhya Pradesh only 3 (out of 39) women knew about the same.

“I didn’t even know about the Acts which are for women. The organization told me everything about Section 125 and PWDVA, 2005. I decided to file case under PWDVA, because this act gave all the relief that I sought.”

(Woman, 41 years; started facing violence after 16 years of marriage and became bedridden after an accident; SWATI, Gujarat)

“Most of the women who approach the organization do not have knowledge of the Act or even about other options that can be used to get out of the situation of violence; they come seeking help from the organization after which they are informed about PWDVA; what is the objective of the Act, what kinds of relief can sought from the same, whether it is compensation for the mental and physical violence that they have faced or it is a monthly maintenance, etc. The process of convincing the woman to file a case under the Act takes some time; to convince her of the fact that she can demand protection and alternate residence from the respondent and nothing adverse will happen to her if she files the case. Slowly, they get convinced about what their rights as survivors of DV are, what their various options are, and what are the pros and cons of filing the case. The biggest challenge that the survivor as well as the organization faces is around relief, where the biggest problem is that relief is not available immediately.”

(A caseworker from Lucknow-based organization, AALI)

Promising Practice: Legal literacy conducted in Anganwadi Centers

Kerala has a history of community work and legal literacy long before the passage of the PWDVA in 2005. Even before KELSA (Kerala State Legal Services Authority), in the year 1999, Anweshi started legal literacy classes, in both rural and urban areas, particularly for women from low socio-economic backgrounds and lower literacy levels. Women from rural and urban areas are given these classes. They work in coordination with Anganwadi workers and community women for this and till date there have been more than 10,000 classes on Constitutional law and women’s rights. After the passage of the PWDVA, the focus of these classes has primarily been on DV, sexual harassment and other forms of VAWG. These classes, which are held in Anganwadi Centers, have been effective in talking about issues that make women aware about and recognize the violence that they might be facing in their personal lives. Cases are usually referred to Anweshi through Anganwadi teachers, women’s cells, community women who may have attended these sessions, et al. This can be looked as a best practice in reaching out to the community with regard to the issue of DV, making it much easier for women to access the law.

Based on information shared during the reflective dialogue with staff of Anweshi

The only state that stands out in this regard is Kerala, where there is a small difference in the number of women who knew about the Act and the ones who did not. While 57 percent of women were not aware of the Act, 43 percent had prior knowledge. This, if seen in conjunction with the data on the pathways which the women took in seeking help from organizations, makes it evident that many women got to know of Anweshi and PWDVA from the legal aid sessions conducted by the organization in the Anganwadi sessions of various Neighborhood Groups (SHGs in Kerala), which a lot of women participate in regularly.

Clearly, there is an urgent need for the state machinery to take up information campaigns to spread awareness about the Act and the various services available under it. It is obvious that apart from the lack of information about the provision of the law, there is also a lack of awareness about the various stakeholders under the law – the POs, the SPs and facilities related to medical and shelter services.

2.5 Counseling and Support Services

Counseling has been defined as providing professional help to individuals, after having understood their problems, through advice, providing support and therapy if required. All

organizations in the study reported that they conducted counseling sessions. However, this exercise was not always undertaken by professionally-trained personnel.

Counseling is also often understood as providing guidance or advice on possible solutions and is undertaken based on the skills and service profiles of the agencies. With respect to organizations that have a strong legal base, counseling often gets limited to providing legal information and advice regarding what kind of legal recourse women can take, whether or not it is a good idea to file a case under the Act, the pros and cons of filing a case, etc. Some organizations that focus on mediation and family counseling consider cases from the perspective of reaching a compromise between the two parties if possible and thereby aim for out-of-court settlements. With respect to some women's groups that provide survivor support services, counseling, in practice, can be defined as providing information, support and conducting confidence building sessions. At times, it also includes a process of convincing (from the women's perspective) the family and the larger community to be in her favor.

In the current study, an attempt has been made to understand what counseling means to each of the organizations that are part of the study. Counseling was articulated and described as therapy in their case handling processes by two organizations,

Table 5: Counseling and support services provided by organizations

Organization	Kind of Counseling/Support Services Provides
ANANDI	Psycho-social, Legal Advice, Family Counseling, Socio-economic Support
SWATI	Legal Advice, Other Counseling Support
AALI	Legal Advice
Swayam	Family Counseling, Legal Aid, Career Counseling, Socio-economic support, and Self Development
Sutanutir Sakhya	Legal Advice and Psycho-social Counseling
Sangini	Legal Advice, Family Counseling
Anweshi	Psycho-social Counseling, Legal Advice

which sought to provide additional referrals for the same. It may or may not have relevance, but it needs to be noted that these organizations function in metropolitan cities, where psychiatric services and trained counselors are easily available as compared to other women's groups that function mainly in small towns and rural pockets.

The different kinds of counseling that the organizations considered in the current study provided can be categorized into psycho-social counseling, legal advice/legal counseling, and family counseling/mediation. Apart from counseling, some of the organizations also offered other kinds of social and economic support services to the survivors to help them carry on with their court cases. Some organizations such as Anweshi also provide services such as short-stay homes, which can be availed of by the survivors who approach the organization.

Psycho-social Counseling

From the narratives of the survivors as well as those with the staff of these organizations, it emerged that all participant organizations provide some form of psycho-social counseling for women. The Kerala-based organization (also registered Service Provider) conducts psycho-social counseling sessions for survivors, wherein caseworkers talk to the women to understand the kind of violence that they have been facing to give them mental strength and support, to help chalk out immediate as well as long-term solutions to the experiences of violence in their domestic lives. This kind of psycho-social counseling is particularly helpful to survivors who do not have anybody to talk to about what they have been experiencing in their lives; they feel that there is someone who would listen to and be with them during their ordeal. Although there is no case-specific data on counseling and support services provided by Anweshi, the available data points to the fact that the counseling is undertaken by expert counselors working with the organization and the same provide relief from trauma and mental agony to the survivors. The organization also recognizes women's immediate needs as well as long-term solutions to their problems:

"When a woman approaches Anweshi, the first thing undertaken is to speak with her in detail about her problem, write down her complaint, and then begin the process of counseling wherein counselors speak with the survivor, their parents, relatives, and other concerned people. In the next stage, a date is fixed first; any woman, not man, can come to Anweshi and file a complaint, a written complaint. After getting a written complaint, the counselors speak to them – the victim, their parents, relatives, etc. A date is fixed for the second stage as well wherein the counselors talk to the survivor a little more, the case is registered with Anweshi, after which the community workers examine the case. The opposite party (OP) is requested to visit Anweshi's office for counseling. If the matter can be settled through basic counseling, then that is done; otherwise free legal aid is provided to the survivor. If they require access to short-stay homes, the same is also provided by the organization. Being a registered SP, we have one short-stay home of their own as well as government lawyers come to their office thrice a week to provide free legal aid to the survivors. Counseling is done from a woman's perspective and we patiently listen. That way at least she has the relief that someone has heard her. If she wants the police involved then we get protection for her as well. After counseling, we categorize – what kind of a case it is, what the problem is, what she wants", reflects an Anweshi staff member.

Kolkata-based Swayam provides psychotherapy, legal advice and some aspects of career counseling to the survivors. *"The first meeting with the caseworkers takes about two hours at least. All the caseworkers are trained in basic counseling. However, then depending on the particular case, other services like that of therapist may be offered. Since Swayam offers other services as well, the cases that eventually got through PWDVA are just a proportion of the overall cases of violence that come to seek other services."*

(Excerpt from a Reflective Dialogue session, Swayam)

Gujarat-based ANANDI also specializes in psycho-social counseling of survivors, which essentially involves talking to women and patiently listening to their problems, giving them the confidence that they will be able to move ahead from here and live a happy life, that there is a law through which they can seek recourse, giving them an understanding of PWDVA, the rights of women under the same, legal implications of filing a case under the same, and the benefits and challenges in doing so.

Legal Counseling/Legal Advice

All the organizations, in addition to providing counseling services, also provide legal advice to the women. For example, Gujarat-based SWATI is essentially involved in pre-litigation counseling for users, where social workers from SWATI inform the women about PWDVA, and guide them on how to proceed with legal processes such as what to say in court and how to do so, to be confident and not be scared of the legal procedures, and reassuring them that the Act will provide them with the necessary relief, though it could take some time for the same. Laying out the pros and cons of going ahead with filing the case and at the same encouraging them to take legal recourse and assuring their support to them are vital components of the counseling provided by SWATI to women. SWATI also engages in the counseling of family members of the survivor to enable them to proactively support the survivor through her journey.

Similarly, AALI is also involved specifically in legal counseling of the survivors, giving them full information about PWDVA, detailed provisions of the Act and how it can be helpful to women, and finally helping them in making an informed decision about filing a case in court and claiming their rights.

“Legal counseling was provided when I approached AALI. It was only through legal counseling that let I came to know about my rights and reliefs provided under the law. After the counseling I became aware of PWDVA. And in absence of legal counseling I would not have been able to recognize what all reliefs could be sought under PWDVA.”

(Woman, 34 years; married for five years; AALI, Lucknow)

Sangini in Madhya Pradesh also prepares women for court processes and what to anticipate in court. *“We inform the women about the time that the case will take. This is not something we used to do earlier. Then, we tell the women that if the magistrate does not appear receptive to your case, they should just go the next time without the lawyer and speak with the magistrate. We even brief them on what to tell the magistrate in court and also that they must always be present during the hearings. We always keep checking up on them.”*

(A caseworker from Sangini).

West Bengal-based Sutanutir Sakhya also specializes in legal aid for women facing violence, particularly DV, through their team of in-house lawyers. They help and support the women in all aspects from whether to file a case to accompanying them to court and supporting them throughout court procedures.

Family Counseling/Mediation

Another form of support service that is provided by the organizations working on the issue of DV is family counseling or mediation services. Madhya Pradesh-based Sangini undertakes family counseling, wherein they ask the other party to visit their office, sit with both parties individually and then together to come to a unanimous decision/agree to a compromise.

For instance, many decide to go back and stay together. If the aggrieved party (AP) decides to file a case in court, the organization helps them determine if it should be a criminal case or under PWDVA. *“We help only if the complainant is female. The discussion depends on the nature of the problem. Usually, there are minor problems and we try to understand the case and iron out the differences. If a newly-wed bride comes and says she does not want to live with her in-laws, we try to understand the case, talk to both husband and wife, and also the in-laws if needed, and try to resolve the same without going to court. We always tell them to call us if they need any help,”* said a caseworker from Sangini.

Sangini also refers women to the Court Mediation Center; however, the experience at the same is not positive, because they look down upon non-governmental organizations, and ask irrelevant questions, making the entire experience extremely arduous and harassing for women.

As mentioned earlier, the Anweshi's case processes usually include a meeting with the OP. For most other organizations, this depends on the case and what the woman feels would help her situation. Caseworkers from Swayam elaborated their organization's position thus, *"No, calling the OP for a meeting is not a common practice here. Only if the woman asks for it and feels that the OP may respond to a counseling session do we call them. The idea is to see if we can negotiate with the OP to get what the woman wants without going to court, since the court processes are long and drawn out. Often, women want such a meeting to negotiate a divorce or maintenance or to return to the marital home on their terms and ask us to negotiate these terms. However, this is not always successful, as often the respondents do not turn up or refuse to agree to the terms. Then, the case is filed under the PWDVA."*

Caseworkers from ANANDI, Gujarat, had similar things to say, "No, it's not an organizational practice to call the OP for a meeting each time when a woman files her case. During the counseling process, various options are presented and discussed with the woman, which include, depending upon the case, filing an FIR, calling for a joint meeting, a visit and interaction with the OP by a counselor or an NGO member, and filing a case in the court. Only if the woman agrees to call for a meeting is the OP called. This may happen before the filing the case or during the case proceedings. Therefore, in some cases the court case and meeting may happen side by side. An agreeable solution not always arrived at during such meetings.

The caseworkers also shared that they do not recommend negotiation with the OP in cases

where the woman has faced severe violence and is in a fragile state of mind.

Safety Planning

All organizations also conducted safety planning with the women who approached them. This usually included planning related to keeping their documents and other important information such as numbers of police, helplines, etc., handy. According to staff members of Sangini, *"Most of the time, we advise women to deposit their legal documents and other evidence at a safe place and we tell them of the police control room, women helplines, medical helplines and other important numbers for emergency. We also talk to the women's natal families to ensure mental, emotional and other required help.*

Safety Planning for Women

- Keeping legal documents and other documents, such as identity cards, bank related documents, handy;
- Keeping money/jewelry handy;
- Knowing numbers of referral organizations, police, helplines and others in case of emergencies;
- Preparing a bag with essential items in case they have to leave home suddenly;
- Identifying ways to protect oneself in case of violence;
- Identify a safe place where they can go in case of emergencies.

In addition, caseworkers from Swayam also helped the women identify ways in which they could protect themselves in case they fear an imminent threat. For example, locking themselves in their rooms and calling the police; walking out of the house before the situation goes out of hand; letting their neighbors know the situation in advance; and setting up a system through which they could signal for help.

Case workers from Swayam and AALI also visited the local police station in specific cases, where they feared for the woman's safety and informed the authorities about her situation. In some cases a General Diary⁸ was filed. For women who had to stay with their natal families, Anweshi staff members followed up with them over the phone one week after settlement or living together. Subsequently, follow-up was undertaken through client meeting conducting by the organization within three-four months. ANANDI also undertook regular home visits for the same, as a staff member explained, "An assessment is done during the first home visit and then during regular follow up visits; through Sangathan women's presence in the village; sharing police, office and personal phone numbers; and options that are presented include staying at the Naari Suraksha Kendra (Women's Safety Center, a shelter home), particularly in cases of extreme violence."

2.6 Filing of PWDVA

It was observed that many of the survivors who approached participant organizations for support for filing cases under PWDVA had already filed cases under other different sections pertaining to the Indian Penal Code (IPC). The PWDVA is a civil law that seeks to provide relief and does not initiate any criminal proceedings (until there is breach of the civil order); hence it can be filed in conjunction with other sections under the IPC.

What emerged from the data provided by all organizations was that around 11 percent of PWDVA cases were filed in conjunction with Section 125 CrPC (maintenance),⁹ while around 9 percent of the cases were filed in conjunction with Section 498A (cruelty by husband and relatives).¹⁰ There were other cases across organizations, such as in the instance of AALI, where around half the

Table 6: PWDVA filed in conjunction with other laws

Organization	Section 498A	Section 125 CrPC	Section 498A and Section 125 CrPC	Section 498A filed with other Sections of IPC	Other sections of Hindu Marriage Act like restitution of conjugal rights	Section 498A and other sections of IPC	Section 125 CrPC and other sections
Sutanutir Sakhya	18	8	0	9	2	0	0
AALI	0	0	0	0	10	0	0
Anweshi	1	0	0	0	0	0	0
Sangini	0	1	0	0	0	0	0
SWATI	1	6	0	0	0	2	0
ANANDI	2	10	7	0	0	0	2
Swayam	0	0	2	0	0	0	0
Total	22	25	9	9	12	2	2

⁸ A General Diary is a document or a file made and maintained by the police for their internal reporting purposes on the issues and happenings in a specific case.

⁹ Section 125 in the Code of Criminal Procedure, 1973, pertains to order for maintenance of wives, children and parents.

¹⁰ Section 498A was added to the Indian Penal Code by way of Amendment Act, 1983, with the aim to protect the women from the demand of dowry and consequent cruelty. Section 498A is considered a criminal offence and states—under 498A the husband or a relative of the husband of a woman subjecting her to cruelty, whoever subjects her to cruelty shall be punished with imprisonment for a term that may extend to three years and shall also be liable for fine.

cases were filed along with other sections of the Hindu Marriage Act, 1955 such as restitution of conjugal rights.

In many of the cases where PWDVA was filed in conjunction with Section 498A, the woman was likely to have approached the police after facing severe violence.

A survivor supported by ANANDI in Gujarat, where a lot of the cases were filed in conjunction with Section 498A and Section 125, shared:

“(After having faced extreme forms of violence from my husband)...I went to the police station to file a complaint against my husband for beating me, to which the police told me that ‘you are a woman and therefore you have to tolerate this.’ However, after much pursuing, my complaint was registered (she did not know under which section, ANANDI records show it was filed under Section 498A, CrPC). I also went to court for khadha-khoraki (maintenance) as he worked at a government school and earned enough but even the judge there told me that ‘you think over as you have three children,’ but finally a case was filed under Section 125. Then, I finally went to the Lok Adhikar Kendra where I was heard properly, I was told about kayda (law) and was also informed that the judgment would come within 60 days if I filed case under this law. So, I decided to file case under this act.”

(Woman, 42 years; married for eight years; ANANDI, Gujarat)

Another survivor from Sutanutir Sakhya, West Bengal recalls:

“I was initially not aware of any such voluntary organization that provides legal assistance and counseling to a victim of DV. After filing a case under Section 498A, I was in a state of agony and confusion. I was not able understand when will the hearing begin, when will I get justice. There was no one to provide me proper guidance and counseling.

Visiting the police station would make the situation worse. I was facing financial problems and had to depend on my retired father. I was discouraged by my relatives to file any case against the OP. Only after meeting the consultant of Sutanutir Sakhya I came to know that it provides counseling and legal advice i.e. proper guidance on how to legally take the case of DV survivor further. After reaching out to the organization, I came to know about PWDVA, 2005 and its provisions, i.e., relief that I may get by filing the case, and thereby decided to file the case because it was said that the judgment is mandated to come within 60 days.”

(Woman, 22 years; Sutanutir Sakhya, West Bengal)

In the case of Anweshi in Kerala, if only maintenance is sought, the organization generally filed the case under Section 125 as maintenance is received quicker in family courts than under PWDVA as per the experience of the organization.

“Under Section 125, if maintenance order is issued by court and the respondent does not pay the amount, then the organization files an execution petition, under which he might even be sent to jail under CrPC in family court. However, under PWDVA, the OP does not get arrested despite breach, but it happens in family court. There may be a warrant in case of breach under PWDVA, but it depends on the mindset of the court in question,” said an Anweshi staff member.

A lawyer (from the SJD) placed at Anweshi added, “If it is a case of a senior citizen, then we file maintenance petition under Section 125 CrPC because it is a simpler procedure and implementation is easier. DV cases get the last preference in courts. We also file petition under Welfare and Protection of Senior Citizen’s Act.”

The convergence of different departments providing different possible reliefs is an encouraging practice and needs to be adopted in other states as well.



Section 3

FINDINGS: LITIGATION AND POST-LITIGATION

3.1 Timeline of Litigation and Orders Received

The process of filing the DIR:

Registering the Domestic Incident Report (DIR) is an important procedure under PWDVA, and is meant to be filled in by the PO to record the details of violence faced by the woman when the aggrieved woman approaches with her complaint. However, the process of filing the DIR varies, as a woman may approach the court and the court directs the PO to file a DIR. The woman may also approach the PO directly, who may then file her application in the court along with the DIR.

A DIR, according to the law, is a record of DV. In practice, a DIR is filed to initiate a case in court and not necessarily only when a woman chooses to litigate under PWDVA.

From the records examined in this study, it appears that the filing of the DIR does not always follow a uniform pattern across the states.

Over the years, since the DIR has largely been regarded as a mandatory requirement for any DV case to proceed in the court, and thus it can also become a reason for delay. This is seen in the cases from Uttar Pradesh (Lucknow), where, for example, for all cases after 2011, the PO (or the POs office) files the DIR upon direction of the court. However, it takes anywhere from six months to over a year for the PO to file the DIR (in one exception

it is five days). In four of the ongoing cases filed in 2013, the DIR was still awaited at the time of the data collection for the study.

Thus, when the case comes up for hearing in court, there is no progress because many courts refuse to let the case proceed without the DIR. On the other hand, in a few instances, (from Sangini in Madhya Pradesh) the case proceeds in the court without filing of DIR, which is a good practice. In Kerala, the responsibility of filing the DIR is not vested with the PO. Anweshi is the SP and the legal counselor fills the DIR and submits it to the court along with the petition. In most other states, the DIR is filled by the PO when the woman approaches them to file a case under PWDVA.

The section below analyzes 230 cases across the seven participant organizations and five states to understand the trajectory and process of litigation as it pans out in practice from the start when a woman or anyone else on her behalf files an application up to the receiving of FOs. The purpose of this chapter is to examine the practices followed and their impact on fulfilling the spirit behind PWDVA, i.e., of providing relief in a time bound manner to an aggrieved person.

1. Current Status of Cases: FOs Received and Pendency

Of the total 230 cases analyzed across the organizational records spanning nearly seven years, more than one third had received FOs from

Table 7: Filing of DIR

	UP	Kerala	MP	West Bengal	Gujarat
By whom is DIR filed	PO's office	Legal counselor at SP	PO	PO	PO
When is DIR filed	On the court's direction	Along with filing petition in court	On the court's direction	On being approached by woman/court's direction	On being approached by woman/court's direction

the courts. A little over 40 percent of cases were still pending in court, while close to 15 percent had reached some settlement out of court. The patterns of disposal varied considerably across the states.

One of the most significant features of PWDVA is the timeline set within the law for disposal of cases. Given that court processes are often viewed as being synonymous with lengthy proceedings, recurrent dates and a lifetime of waiting for judgments, the stipulated time frame under PWDVA makes is quite assuring for women and those seeking justice on their behalf.

The assumptions behind proposing the time frame was simple and logical: PWDVA is a civil law, and orders for provision of immediate relief from DV do not require a lengthy cross-examination of every aspect. In addition, PWDVA also provides the option of IOs; and have the PO at the disposal of the court to gather quick evidence through undertaking home visits so that FOs can be given. However, earlier M&E reports on PWDVA have found that courts have been unable to pass FOs within the stipulated time period of 60 days, or two months. In this context, it becomes important to examine the current status of cases filed: the number of cases in which FOs have been granted, those that remain pending, and others that have reached some settlement/compromise.

As per Section 12 of the PWDVA, 2005:

12. Application to Magistrate:

- (4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.
- (5) The Magistrate shall endeavor to dispose of every application made under Sub-Section (1) within a period of sixty days from the date of its first hearing.

Overall status of cases (as of September 2014)
Total = 230

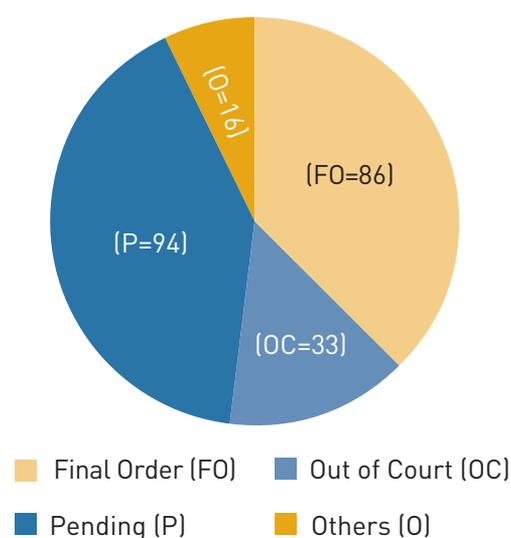


Table 8 provides a summary of the current status of applications filed under PWDVA by different

Table 8: Overall status of cases (as of September 2014)

	Gujarat		UP	West Bengal		MP	Kerala	Total Orders
	ANANDI 35 cases	SWATI 30 cases	AALI 20 cases	Swayam 36 cases	Sutanutir Sakhya 35 cases	Sangini 39 cases	Anweshi 35 cases	Total Cases - 230
FO (F)	14	14	00	12	09	13	24	86
Out of court (OC)	11	07	00	01	05	04	05	33
Pending (P)	09	05	17	21	19	21	02	94
Others	01	04	03	02	02	01	04	16

Promising Practice: State investment to strengthen legal services under PWDVA

In Kerala, there is provision wherein all SPs (such as Anweshi) are provided legal service advocates from the SJD. They are paid from the funds allocated under PWDVA and the Nirbhaya fund, and visit the Service Provider on designated days to provide legal services to women. They are appointed through the KELSA (Kerala Legal Service Authority) but paid a fixed amount (Rs. 5,000 per month and Rs. 300 per DIR) by SJD, through the SP (in this case Anweshi). According to Anweshi staff, in 2008, it was decided that the lawyers would get Rs. 5,000, but in recognition of the length of the cases, and the meager amount, the SJD decided to fix an amount of Rs. 300 to fill the DIR form.

In addition, the lawyer is expected to conduct 12 classes in a year on awareness.

(Reflective Dialogue session; Staff Members, Anweshi)

organizations from 2007 till September 2014. The data shows that out of the total 230 cases from across five states, 86 (37 percent) of the cases received FOs, while 41 percent (94 cases) of the cases remain still remain pending in court and are yet to receive a FO. 33 cases (14 percent) of the total cases filed in court under PWDVA reached some kind of settlement out of court. This is described in detail in the following chapters.

Overall, though pendency is high, the variations across states points to the fact that where the legal system is functional and the government has allocated resources toward implementation of the Act, the pendency drops. The figures from case records of Anweshi Kerala, and AALI in Uttar Pradesh illustrate this as they are located at two ends of the continuum of pendency.

- **Pendency is the highest in cases from AALI in Uttar Pradesh; lowest among Anweshi in**

Kerala and is impacted by the functionality of the judicial system

The most number of FOs, i.e., 69 percent of the total cases filed, are seen in the case of Anweshi, Kerala, while only 14 percent of the cases were settled out of court, 11 percent cases were successfully concluded (3 dismissed and 1 withdrawn). Only 6 percent of the cases were pending in court and are yet to receive a FO. On the other hand, no FOs were granted in cases of AALI in Uttar Pradesh. About 85 percent of the total applications filed were pending in court for FOs, while the remaining 15 percent were withdrawn by the women.

This appears to be the result of a functional judicial system and seriousness accorded to implementation of the Act in Kerala as discerned through measures toward legal aid put forth by the state. In the reflective dialogue with staff members of Anweshi, they share a provision of the state government of providing a paid legal service advocate to the SPs to assist in the filing of cases of PWDVA in court.

- **In West Bengal and Madhya Pradesh, over half the cases are pending in court, while in Gujarat this figure is lower because of the high number of out-of-court settlements**

Case records of the organizations based in Gujarat, West Bengal and Madhya Pradesh show that FOs were granted in less than half of the cases filed – 43 percent of the cases in Gujarat, 29 percent cases in West Bengal and 32 percent cases in Madhya Pradesh received FOs.

The number of pending cases stands at 56 percent and 53 percent in West Bengal and Madhya Pradesh respectively. In Gujarat, 28 percent cases were settled out of court, thus pendency is lower – 22 percent cases are pending in court for a FO. (A detailed discussion of the out-of-court settlements is provided in the following section. The staff members from Sangini (Madhya Pradesh) shared their frustration with the long delays at several points in the litigation process “It takes

time to file the DIR, then more time to send the notices. It takes six months to two years and the husband would not show up in court so you keep waiting and the case remains pending. We just keep explaining that this is the process and hope that she does not give up or stop going to court.”

In Madhya Pradesh, special courts have been set up to prioritize cases related to women; however, this does not seem to have improved the situation:

“Earlier, that was an excuse they would give for the slow process, saying that it is because they had other priority cases. Now that the special court has been set up, the situation has not improved; where we used to get one hearing per month, we now get it once in two months.”

(Excerpt from Reflective Dialogue session, Sangini)

- **Patterns of disposal of cases (pendency and granting of orders) within a state have not changed over time, indicating the strong influence of systemic factors**

An analysis of the status of cases and FOs granted has also been undertaken by year of filing of the cases, to see if patterns show any distinct variation in the years from 2007 till recently. Table 9 presents this data.

As expected, cases filed in 2007-2009 were more likely to have reached some conclusion, either due to receiving a FO in court, or being settled out of court. However, states where pendency is high, the pattern is consistent across the years, indicating that time taken for disposal of cases is more a function of the court system. Thus, for Anweshi, cases were concluded, with pendency showing only for cases of 2013. On the other hand, with respect to applications filed by AALI, cases filed 2010 onward are still pending FOs.

Commenting upon the situation, staff members of AALI noted:

“...particularly in Lucknow, the functioning of courts has a number of issues. There are recurrent strikes by the lawyers and absenteeism of the judges. In addition, all legal processes, from filing of the DIR to serving of notices, take very long. A boycott by lawyers held up court proceedings for almost a year. In this scenario, what is the possibility of women getting a hearing, or even relief for her situation?”

Similarly, cases that were filed in 2008-2010 by Swayam, Sutanutir Sakhya and Sangini are still pending in courts. The reasons for delay are discussed in detail in the following sections.

There are a few examples of cases that are closed or dismissed by the court, but no FO is passed:

Following are the cases that were closed in court, but did not receive a FO, the reasons are varied:

- Withdrawal of cases by women is seen in three cases of AALI and one in Anweshi. As per records of AALI, in all three cases women were unwilling to proceed due to the length of time taken in the court processes. Two of them felt that they were not getting relief through the court processes and would rather try and settle the matter outside. In the case from Anweshi, there was a mutual decision to live separately and the case was withdrawn.
- In three cases for Anweshi a specific pattern has been noted, wherein cases are closed/settled when the respondent agrees to go in for de-addiction or psychiatric treatment.
- There are also case records of dismissal/rejection of cases by court (six cases across organizations) is on the grounds that the AP/petitioner was not present in court for several successive hearings, dismissed by default due to non-appearance of the respondent; and in other instances, the reason is not clarified. In one of the case records of Sutanutir Sakhya, the reason for dismissal was stated as, “The

Table 9: Status of case by year of filing (as of September 2014)*

Code: F- FO; OC- Out of Court Settlement; P-Pending in court								
Year of filing case	ANANDI 35 cases	SWATI 30 cases	AALI 20 cases	Swayam 36 cases	Sutanutir Sakhya 35 cases	Sangini 39 cases	Anweshi 35 cases	Total Orders Received
2007					OC-2 F-4			OC-2 F-4
2008		OC-4 F-4		P-1 F-3	OC-1 F-3	P-1 F-2 OC-1	OC-1 F-6	OC-7 F-18 P-2
2009	F-2	OC-2 F-2		P-2	P-3 OC-1 F-1	F-2	OC-2 F-7	OC-5 F-14 P-5
2010	P-1 OC-2 F-4	P-1 F-2	P-1	P-4 F-3	P-1 OC-1	P-1 F-1	F-5	OC-3 F-15 P-9
2011	OC-5 F-4	P-1 OC-1	P-8	P-5 F-1 F-1 (ex- parte)		P-4 OC-2 F-5	OC-2 F-2	OC-10 F-12 F (Ex- parte)-1 P-18
2012	P-1 OC-1 F-2	P-1 F-4	P-2	P-5 F-1	P-6 F-1	P-1 F-1	F-2	OC-1 F-11 P-16
2013	P-7 OC-1	P-2 F-2	P-6	P-3 OC-1 F-1	P-5	P-13 F-2	F-2 (Ex- parte) P-2	OC-2 F-5 F (Ex- parte)-2 P-38
2014	P-2				P-4	P-1		OC-0 F-0 P-7
Dates not known	FO-2					FO 1		
OTHERS								
Dismissed /Rejected (default or by merit)		2008-2 2013-1			2007-1 2009-1	2008 Rejected by court -1		
Closed (sent for de-addiction / treatment)							2012-1 2013-2	
Withdrawn			3				1	
Information missing	1	2009-1		3				

*year of filing as per cases recorded by organization

case was rejected because the Ld. court did not file anything regarding the type of violence mentioned in the petition. The complainant did not disclose or clarify properly to the PO about the type of violence on her, so the DIR was not distinct in establishing the matter on violence.”

2. Timeline of Cases : Time Taken for Granting FOs

Among the FOs received, six orders were granted within the stipulated time period of two months – four of these were among the cases of Anweshi, Kerala; while two were received in cases of Sutanutir Sakhya in West Bengal.

As seen in the Table 10 (below), 20 percent of orders were received within six months and in 40 percent of cases, the FOs were granted within a period of one year.

Cases from Kerala were most likely to receive orders within a time period of two months and six months (given the two categories of orders), once again pointing to the effectiveness of the courts in processing the cases. In terms of overall numbers, a majority of the cases have taken between one and two years to receive the FO (27 cases).

An examination of the nature of cases that received the FOs within two months reveals there is no consistent pattern of either nature of violence or type of order or even the year of filing. Among the four cases from Anweshi, one is of an elder women filing a case against her son, while in the other three cases, the respondent is the husband. In one case, the FO is an ex-parte order (and pending execution). The nature of the FOs includes protection and maintenance; order for psychiatric counseling for husband, order to provide transfer certificate for the children when the woman wants to live separately. Maintenance orders were granted in both cases supported by Sutanutir Sakhya; however, they were ex-parte in one case.

As far as the organization specific data is concerned, a few significant observations can be made:

- No FO has been granted in less than six months to cases filed by the two organizations in Gujarat, ANANDI and SWATI.
- Almost 60 percent of the total FOs granted to Swayam in West Bengal and Sangini in Madhya Pradesh were after a period of one year, with the highest number having taken more than two years.

Table 10: Time taken for granting of Final Orders

FOs received by organization		Within 2 months	2 -6 months	6 months - 1 year	1-2 year	More than 2 years	Not known/ unclear
AALI	0	0	0	0	0	0	0
ANANDI	14	0	0	2	8	2	2
SWATI	14	0	0	9	4	1	0
Anweshi	24	4	8	4	6	1	1
Sutanutir	09	2	1	1	2	0	3
Swayam	12	0	2	0	3	4	3
Sangini	13	0	1	3	4	4	1
Total	86	6	12	19	27	12	8

Reasons for delay in FOs include the non-appearance of the respondent, notice not being served and no report forthcoming from the judge as well as the arguments and cross arguments of various witnesses. Reasons for delay have been discussed in the later part of this section.

3. Nature of FOs Passed

Maintenance orders are the most frequently passed among the FOs, followed by RO and compensation. Protection orders do not seem to be granted frequently.

Among all the FOs received (86) by all the seven organizations across the five states, information of nature of order is available for 64. Of these, the maximum orders were for monetary relief in the form of monthly maintenance (73 percent); followed by ROs (34 percent) and in one third of the cases, lump sum compensation. The use of PWDVA to grant reliefs related to residence was encouraging as it upholds the right of the woman to reside in the shared household.

Similarly, the granting of compensation orders by the court, and in several cases in conjunction with maintenance was another promising pattern observed in terms of the monetary relief granted to the aggrieved woman.

Nature of Final Orders received (total FOs received – 86)

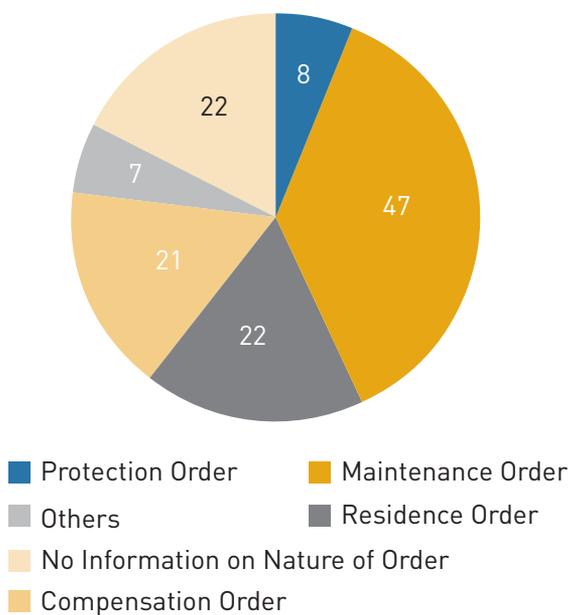


Table 11: Nature of Final Orders received (total FOs received – 86)

1.	Protection Order	8
2.	Maintenance Order	47
3.	Residence Order	22
4.	Compensation Order	21
5.	Others	7
6.	No Information on Nature of Order	22

It is significant to note that protection order was not being granted as a relief in majority of cases. Only eight cases of 64 received a protection order.

The possibility of getting multiple reliefs from a single legal provision has been noted as a valuable feature of PWDVA. However, multiple reliefs were granted in only about half the cases, despite the fact that in most of cases, multiple reliefs were sought.

Reflecting on the reluctance of courts to pass protection orders, the staff members of AALI stated:

“It is the perspective of the magistrates (who do not take the case seriously); they think ‘what is the need for protection? What will happen to her?’ They think the woman is filing the case only to get maintenance, and passing an order on the same is enough. Even though the details of the kind of violence the women are facing are specified in court, there is absolutely no concept of granting a protection order. The police and advocates sometimes personally condone the violence. For example, they feel that if the woman is asked to make tea and she does not, then what other option is there than slapping her?”

(Excerpt from Reflective Dialogue session, AALI, Uttar Pradesh)

This is echoed in the reflections of staff from ANANDI, Gujarat, who stated that both protection and ROs are difficult to get, both for final as well as in interim relief.

“The only orders that are passed are maintenance orders, while protection and ROs are not passed because the judges feel since the woman is living at her natal home, she does not require protection and residence.”

(Excerpt from Reflective Dialogue session, ANANDI, Gujarat)

ROs, though called for in quite a few cases, were granted in only two cases. They were rejected on the grounds that the “they can be granted only if the woman agrees to live in the home of her in-laws.”

With respect to FOs received in cases supported by ANANDI, no protection order was granted, however, in one case there was a RO [see Table 12]. The provision of proof of property is another reason why ROs do not get approved. While describing this, the staff members observed, *“In case the plea is to reside in the marital home, the magistrates ask the woman to submit documents of proof; if the property is in the name of husband or husband’s father. The PO says that my role is only sending notice, while the police take money from OP (around Rs. 500/1,000) and state in their report that the man is not living there. It is not possible for the organization to accompany the woman; the court/magistrate says that the organization cannot interfere in court cases. Thus, it becomes very difficult for the woman to provide the required proof.”*

The difficulty in understanding the spirit behind the provision of the RO was also mentioned by staff members of Anweshi:

“.....the lack of training on gender issues, and looking at the problem from an understanding of the woman’s situation is sorely lacking-among both male and female judges. For example, a woman judicial officer who was resistant in passing a RO asked, ‘How can I order a man not to enter his home and to get out?’

(Excerpt from Reflective Dialogue session; Anweshi, Kerala)

When ROs are granted, in many instances, the order is specific in its instructions. A RO granted in the case of Sutanutir Sakhya, West Bengal, was reported to state that the respondents were directed not to disturb the peaceful possession of the petitioner and further they were directed not to interfere with the petitioner’s ingress and egress in the shared household. In several cases from Kerala, the order mentions, *‘restraining respondent from dispossessing or throwing out AP, renouncing rights to shared household and removing himself from it’*. In other orders too, the courts also specify instructions as per the requirements of the case with respect to protection, need for psychiatric treatment for the respondent, sending the respondents for de-addiction and counseling and so on (as noted in Table 12).

For instance, one protection order restrained the respondent from *‘acts of DV, entering the school, place of employment or alienation of assets’*. In another, where the petitioner and her children were taken back to her natal home by her family due to the violence, the respondent husband had written to the school asking the authorities to not issue the transfer certificates for his children. The court’s FO asked the school authorities to issue the transfer certificates so that the children can continue their studies. In cases where compensation and maintenance are granted, the order specifies the amount as per what it will be used for/compensate for. Thus, one order specified: *provision of separate accommodation or to give rent Rs. 2,000 per month, Rs. 5,000 per month as maintenance, Rs. 1,000 for treatment of children, Rs. 20,000 as compensation*. ROs have also been issued in the form of providing alternative accommodation for the AP with required rent.

Another detail in the maintenance orders across those received from SWATI and Swayam is the mention of separate amounts for the woman and her children. For example, an order can specify things such as: *Maintenance order of total Rs. 6,000, with Rs. 4,500 for woman and Rs. 1,500 for her daughter*.

Table 12: Nature of Final Order received by organization

Nature of FO	ANANDI 14	SWATI 14	AALI 0	Swayam 12	SS 09	Sangini 13	Anweshi 24	Total 86
Only Protection	0	0		0	0	0	2	2
Only Residence	0	2		0	0	0	2	4
Only Maintenance	1	3		5	2	4	1	16
Only Compensation	0	1		0	1	2	0	4
Residence and Maintenance	2	0		3	1	0	3	9
Protection and Residence	0	0		0	1	0	0	1
Residence, Protection, Maintenance	0	2		1	0	0	1	4
Residence, Compensation Maintenance	0	2		0	0	0	1	3
Maintenance, Residence Custody	0	1		0	0	0	0	1
Maintenance, Protection Compensation	0	0		0	0	0	1	1
Maintenance and Compensation	6	2		1	0	4	0	13
No Information on Nature of Order	5	1		2	3	3	7	22
Others (7) *SS: Sutanutir Sakhya	Psychiatric Treatment: 3 (Kerala); De-addiction: 2 (Kerala); Custody of Child: 1 (Sutanutir Sakhya, West Bengal); Transfer Certificate of Child: 1 (Kerala)							

Monetary relief, in terms of maintenance and one-time compensation, was granted in 17 orders altogether, with six cases supported by ANANDI, and four cases by Sangini, where the amounts of the one-time compensation varied from Rs. 10,000 to Rs. 200,000. Details of FOs

granted by the courts in cases from Sangini were not mentioned.

Among the cases of ANANDI, lump sum amount was granted either as a fixed deposit, or one-time maintenance amount. In two cases, where

Concurrent maintenance orders received under PWDVA and Section 125 CrPC: Case from ANANDI

In one case, orders under PWDVA and Section 125CrPC were given on the same day – time taken for both the procedures was the same. The court order under PWDVA fixed monthly maintenance at Rs. 800 to the aggrieved woman and her son; while Rs. 2,000 was granted as maintenance under Section 125 CrPC.

Other reliefs sought under the PWDVA such as RO and protection orders were not provided.

compensation order was granted, it was an ex-parte decision; in one case Rs. 15,000 was granted to the petitioner as ex-parte order since the respondent did not present himself in court; in another case, a compensation of Rs. 20,000 was granted and the order delivered to the workplace of the respondent. However, despite this proactive measure taken by court, the execution of the order is still pending.

The six orders for one-time payments present an interesting scenario: in one of the cases, by the time the FO was received, the woman had filed for divorce as she was irritated with the delays in court. Finally, she settled for a mutual divorce with a one-time payment as alimony. A similar case was recorded by Sutanutir Sakhya, but upon receipt of an interim maintenance order. After the order, the PO came to a point of coming to an out-of-court settlement by paying an amount of Rs. 500,000 as full and final settlement amount by way of alimony to the survivor. An out-of-court settlement was finalized between the two parties.

Promising Practice: Granting litigation expense

In five cases from SWATI, Gujarat, the courts have ordered expenses ranging from Rs. 500 to Rs. 3,000 have been granted toward court application costs.

In the others cases of ANANDI, the court orders referred to fixed deposits of Rs. 100,000, payment amounts of Rs. 51,000, Rs. 52,000 and 24,000 were ordered by the courts. In all but one of these cases, there was reconciliation soon after the order was passed, and currently the woman is living with her husband. Thus, it is not specified whether the amount was indeed transferred to the woman, or the FO had an impact of pressing for a settlement.

In the orders received in the cases of SWATI, Gujarat, the courts also granted expenses toward cost of the court application in five cases. Another specific feature of the court orders is focus on recovery of *Streedhan*, which was granted in two cases, sought but not granted in another two.

4. Interim and Ex-parte Orders

The PWDVA provides for the grant of ex-parte and IOs such that the AP can be granted relief at the earliest. According to the Act, an ex-parte order can be granted by the magistrate if the application prima facie discloses DV. IOs assume significance as FOs are often delayed due to lengthy court proceedings.

Nearly one-third of cases filed under PWDVA have received IOs. Maintenance orders are the most commonly granted IOs, while protection orders are rarely granted.

There is a wide range in the number of IOs received across the organizations (see Table 14 for details of IOs). Among the 230 cases filed in court, 74 (32 percent) received IOs, and 10 of these were ex-parte orders. It is discouraging to note, that even among IOs, order for protection or restraining acts of violence are not granted, with the exception of cases of Anweshi, and only one case each in Swayam and Sangini. Orders for monthly maintenance remain the most commonly granted orders. Even in cases where relief was sought in terms of protection, residence and compensating, IOs were granted only toward maintenance.

Issuing warrants to make the respondent appear in court: Process followed in cases recorded by ANANDI

An interesting procedural pattern emerged in four case narratives, wherein warrants were issued after which the respondent appeared in court. (Case details are unclear, but it appears that in two cases, the warrants were issued after an ex-parte IO was passed). However, in three of the four cases, this resulted in the respondent's appearance in court, specific orders being passed and closure of the case. Following this, there was reconciliation and the woman was reported to be living with the respondent. In the remaining case, the respondent died and the matter was closed.

The details of the cases were as follows:

In one of the cases filed in December 2009, the respondent did not appear in court, there were 15 hearings over a year and a half. Finally, on July 2010, a warrant was issued for his arrest. He appeared subsequently and an FO was passed that included a fixed deposit for Rs. 100,000, maintenance received Rs. 2,000 per month. After a month of releasing the order, she went back to stay with her husband and after six months, when case was closed, she stopped receiving maintenance. She was last reported to be staying with her husband, but not in a joint family.

In a similar case, filed in May 2011, there were a total of 24 hearings over two years. The delays were due to non-appearance of the respondent. The case records stated: "He did not come for hearings and did not give the maintenance (implying an ex-parte order) because of which warrant was issued against him in November 2012, after which he appeared in the court. The case was closed in January 2013, with a maintenance order of Rs. 2,000 per month along with Rs. 24,000 given to her for case expenses. She went to stay with her husband eight days after the case completion and was reported to be living with him.

In a third case, filed in July 2010, there were 20 hearings. A warrant was issued on November 2011. The other party did not appear for the hearing, at times they were not ready to take her back, but it was only when asked for maintenance that they agreed to come. He agreed to take her back, but before that he agreed to one-time payment of Rs. 51,000 and the respondent agreed to take her back. The AP returned to the marital house immediately after the completion of case in court in February 2012 and was last reported to be living with him.

It has been suggested in earlier M&E reports for PWDVA that courts could consider IOs as a ready relief in cases where FOs are not likely to be granted soon. Organization-wise data on IOs presents a somewhat different picture than that of the FOs. While these orders, like FOs, were also more likely to be granted in Kerala, there was a substantial number of orders granted to the organizations based in West Bengal and Madhya Pradesh. Six orders were received by AALI in Uttar Pradesh, where no FO was received. In the case of Swayam and Sutanutir Sakhya (West Bengal), there was an encouraging trend of IOs – 49 percent and 42 percent of the cases filed received IOs respectively.

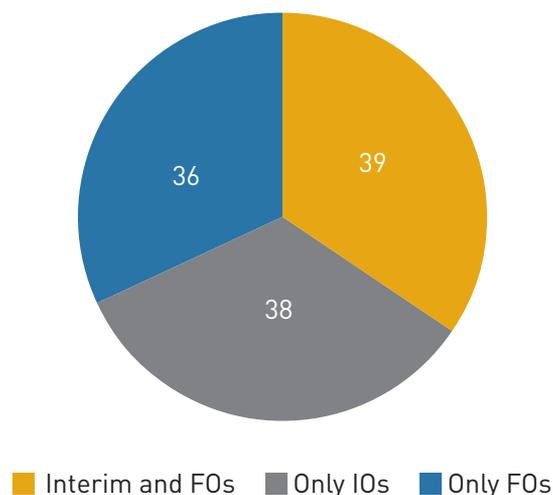
The percentage was significantly lower for AALI (Uttar Pradesh) and Sangini (Madhya Pradesh) at 30 percent and 28 percent respectively. In Gujarat, however, the courts did not seem to be granting IOs easily.

It is also important to see whether cases that received IOs went on to receive FOs. The data suggests no distinct pattern; there are 38 cases in which only an IO has been granted; while almost about half of the FOs received across states were also granted an IO first. Among both organizations in Gujarat, ANANDI and SWATI, the number of IOs received was very low, and the case records

Table 13: Interim and Final Orders received by organization

Organization	Interim and FOs	Only IOs	Only FOs
Anweshi	12	7	12
AALI	0	6	0
Sutanutir Sakhya	6	9	3
Swayam	4	11	8
SWATI	7	0	3
ANANDI	2	1	9
Sangini	8	5	5
Total	39	38	36

Interim and Final Orders received by organization



do not provide clear details. Discussion with staff members revealed that courts do not view IOs as essential. In one of the cases, the AP's plea for a RO was rejected with the argument that she will be granted the order only if she continues to stay at her marital house. The woman now stays in a rented house in another village.

The highest number of ex-parte orders was passed in cases supported by Anweshi – these include final ex-parte orders in five cases. In three of the five cases, execution petitions were pending, while in two cases the parties had reconciled. Final ex-parte orders were given by the court within three

Section 23 of PWDVA, 2005

Power to grant interim and ex-parte orders

- (1) In any proceeding before him under this Act, the Magistrate may pass such IO as he deems just and proper.
- (2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex-parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under Section 18, Section 19, Section 20, Section 21 or, as the case may be, Section 22 against the respondent.

• How long does an IO remain in force for?

IOs shall remain in force till such time either of the parties applies for its alteration, modification or revocation. In order to get such an order, a change in circumstances has to be shown (Section 25 (2)). IOs are also vacated on the granting of the FO by the court.

• Can there be any appeals from an IO?

Section 29 of the PWDVA allows appeals to sessions courts from any orders passed by Magistrate. Appeals against IOs have been limited by courts on numerous occasions while interpreting relevant provisions under the CPC and the CrPC. No appeal should lie from an order which has not affected the rights of the parties or is procedural.

to four months of filing the case. An execution petition was also filed by Swayam in one case of ex-parte FO.

5. Reasons for Delay in Granting Orders

"After six years of fighting the case now I am thinking, I should not have filed it under PWDVA, because it has so far not able to give me any relief. Six years have passed by, my husband has retired

Organization	No. of IO	Types of Relief granted	Remarks
ANANDI	2 ex-parte	<ul style="list-style-type: none"> 2 Maintenance (<i>the case records are not clear, but upon reading the details, it appears that IOs were issued</i>) 	Warrant issued for appearance of respondent.
SWATI	3	<ul style="list-style-type: none"> 1 Residence and custody 2 Details unclear 	It is not clear whether IOs have been applied for.
AALI	6	<ul style="list-style-type: none"> 1 Residence 5 Maintenance 	
Anweshi	20 Including 4 ex-parte	<ul style="list-style-type: none"> Counseling 1 Psychiatric treatment 8 Maintenance 10 Protection/Restraining from preventing the OP to commit any further acts of DV 7 Not to dispossess AP/alienate property from AP (Residence) 2 Compensation Taking back of household items 	In 2 ex-parte IOs, mediation is ongoing. In one case, the case reached an out-of-court settlement, while in the other, the FO was an ex-parte, but it did not benefit the woman as the respondent furnished a fake address.
Sutanutir Sakhya	15 Including 4 ex-parte	<ul style="list-style-type: none"> 11 Maintenance 1 OP restrained from entering premises of the AP 2 Residence 1 Custody of child 	In one order, the terms were not specified.
Sangini	11	<ul style="list-style-type: none"> 10 Maintenance 1 Protection 	
Swayam	17	<ul style="list-style-type: none"> 15 Maintenance 2 Residence 2 Protection 	In one case, the maintenance order was granted by the Lok Adalat, while the IO application in court is still pending.
Total IOs	74		
Total Interim Ex-Parte	10		

from his job, but the court has not yet passed the FO.”

(Married women, 50 years; West Bengal; she was struggling to get regular maintenance for several years under other laws, and filed a case

under PWDVA hoping for speedy relief)

The reasons for delays in granting orders to the APs by the courts are several, but across organizations the two common ones included the failure of

Organization	No. of Ex-Parte Orders	Types of Ex-Parte Orders
AALI	None	N/A
ANANDI	2 Interim ex-parte (unclear)	Information not available
Anweshi	5 Ex-parte Interim 2 Ex-parte Final	Counseling, maintenance, protection and residence
Sutanutir Sakhya	4 Ex-parte Interim	Maintenance, residence, protection, restraining order from entering premises where AP lives
Sangini	0	NA
Swayam	1 FO 1 IO	Interim maintenance
SWATI	1 Ex-parte FO	NA
Total	12 Interim 3 Final	

respondent to appear in court; and delays in court systems/processes due to non-appearance of lawyer or judge. These are the common reasons noted in cases from Sutanutir Sakhya, Swayam, ANANDI and SWATI. The practice of issuing of warrant for ensuring that the respondent appears in court has been noted above in several cases, especially from ANANDI, Anweshi and Sutanutir Sakhya. Other cases mentioned reasons such as failure of summons to be delivered, changes in lawyers/courts, misplacing files, appeal made in another court, etc. Staff members of Swayam said, *“This is a system for summons. So unless summons is served, the case cannot start. Since that takes time, the overall proceedings get delayed.”*

Besides the reasons related to the court processes, staff members mentioned how lawyers often add to the delays in the case, *“It is common to hear that the case file gets lost within a year. After that if the woman approaches us, we go to court and find out the file and dates. This is usually a tactic used by lawyers; there is a tie-up with the other party to delay the case.”*

In the case of AALI, as noted earlier, the boycott by lawyers for almost a year, and the changes in jurisdiction/judges were major reason for delays.

In several cases, the woman lost her patience and had also been erratic in appearing in court. Staff of Sangini too lamented about the court procedures being *“extremely lethargic and casual.”* Absenteeism on part of the respondent /OP and in some cases of the AP/petitioner, lawyers of the OP and the judges as well. There were numerous hearings at which no action was taken. The other two specific reasons noted were – 1) Delay in the filing of DIR by the POs. In fact, cases often progressed even in the absence of the DIR, and 2) the failure of the police to file a report in cases where the court directed them to investigate failure of service of notice to the OP. This, staff noted, discourages the woman.

With respect to cases supported by Anweshi, orders were granted in relatively shorter time periods, but still beyond what was stipulated in the Act. The specific reasons for delays mentioned in certain cases included notice being served several times before the respondent appears in court, respondent requesting for time to file counter, case sent for mediation (multiple times) or psychiatric consultation, court was not working for two months as no judicial officer was appointed, and in one case, the respondents was in Dubai and hence sought time to file counter. Staff of Anweshi

Table 16: Out-of-court Settlements (as of September 2014)

	Gujarat		Uttar Pradesh	West Bengal		Madhya Pradesh	Kerala	Total Out-of-court Settlements
	ANANDI 35 cases	SWATI 30 cases	AALI 20 cases	Swayam 36 cases	Sutanutir Sakhya 35 cases	Sangini 40 cases	Anweshi 35 cases	
Number of settlements	11	07	00	01	05	04	05	33

shared that they had to do a lot to keep the women motivated enough to not get disheartened by the lengthy procedure. They stated that *“She often gets disappointed with the delays; and if she is employed, it is difficult to pursue a case as getting leave is a problem.”* The staff felt that training sessions on gender and violence for magistrates and judicial officers are crucial. They too noted how the lack of seriousness accorded to DV makes the respondent casual about the notices and summons, eventually affecting not only the timeline of the court process, but also the enforcement of orders.

It appears that the willingness of functional courts to grant relief under PWDVA can hasten orders. Even as lengthy procedures are adopted in granting of civil relief, an aware and functional judicial system would have the potential for hastening the litigation process. Thus, issuing practice directions or some standard procedural guidelines, as have been the long standing recommendations for effective implementation of PWDVA, becomes crucial as women can get immediate relief from the violence they face. This needs to be accompanied by an environment where DV is regarded seriously and denounced by the judicial system.

3.2 Out-of-court Settlements and Compromises

Given that speedy justice and quick relief are the hallmarks of PWDVA, it is interesting that quite

a number of cases considered in this study were withdrawn or settled out of court.

Overall, 14 percent of all cases were resolved outside of the court. The highest number of out-of-court settlements was in Gujarat (28 percent) – cases from ANANDI, located in Dahod block and receiving cases primarily from rural areas, and SWATI, which is based in Ahmedabad. In other organizations, the number was comparatively lower.

There were various reasons for out-of-court settlements; generally, it was assumed that lengthy court proceedings pushed women toward them. However, as described in select cases mentioned below, the situation was more nuanced, particularly in Gujarat, where the numbers were high. Overall, reasons for out-of-court settlement ranged from being tired of the long drawn court procedures and entering into a mutual settlement by deciding on a certain amount of money to be paid to the AP.

In cases where data was available on the situation of the women after the out-of-court settlement, the final outcome was varied – some were found to be living with their partners, while in other cases, the violence persisted even after mutual compromise. Quite a few of the cases saw mutual divorce being filed. (See summary Table 17 at end of section).

According to the Monitoring and Evaluation report of 2010,¹¹ which presented an analysis of judgments for DV, Gujarat had emerged as a state with a pattern of high number of out-of-court settlements.

¹¹ Lawyers Collective Women’s Right Initiative and International Center for Research on Women. 2010. *Staying Alive: Fourth Monitoring and Evaluation Report on the Protection of Women from Domestic Violence Act, 2005*. New Delhi, India.

One explanation offered was that of the presence of Alternate Dispute Resolution mechanisms or Lok Adalat. However, an examination of 18 cases supported by ANANDI in the district of Dahod, and SWATI revealed that the reasons were varied. The following three quotes from women highlight the same:

A survivor from Gujarat who entered into an out-of-court settlement with her husband said, *“The lawyer of the OP suggested informally for out-of-court settlement. Time taken is quite long for the order to come through; I have a son and therefore, I will take a share in my husband’s property. How long will I stay at my natal home? It costs me Rs. 100 per trip to and from the court, and it is becoming increasingly difficult for me to manage it.”*

(Woman, 23 years; married for eight years; ANANDI, Gujarat)

In another case from Gujarat, the AP entered into an out-of-court settlement *“within one month of filing the DV case under PWDVA; however, after she returned to her husband, he neither cared for her nor shared any responsibilities as promised in the settlement, so she filed a case again under Section 125 as PWDVA case was already closed.”*

(Woman, 36 years; married for 12 years; ANANDI, Gujarat)

Another reason for the out-of-court settlements that emerged from the narratives was in situations where after the case was filed there was a mutual agreement for divorce petition and some monetary terms were agreed upon by both parties.

In one of the cases filed in the year 2010, multiple processes were ongoing – a case had been filed under PWDVA, but the respondent failed to appear in court on all given dates; thus a case was filed under 498A as well. It was learnt through the counseling sessions that the husband was extremely reluctant to pay any maintenance, and did not even mind going to jail in these circumstances, and an out-of-court settlement for mutual divorce and

lump sum amount were agreed upon (details or dates of the same not known, but the process took more than a year) and given to the woman. (Gujarat)

In a similar instance, cases of maintenance under 125 and 498A were filed in conjunction with PWDVA cases. After a period of over two years, mutual divorce was sought on negotiated terms of ownership of house and Rs. 150,000 as settlement amount. In the third case of the same kind, case was filed under PWDVA and Section 125. In a year there were over 20 hearings; finally, she received a maintenance order from both PWDVA (Rs. 800 per month) and Section 125 (Rs. 2,000 to the AP) on the same day. Meanwhile, she sought a divorce and settlement for a one-time deposit of Rs. 350,000 as bank deposit in her son’s name.

In four out of the six cases of out-of court settlements from West Bengal, there was a mutual divorce. However, in all the six cases, there have been IOs passed in court before the parties decided to settle the case outside of court.

In one case, the court had passed an IO of maintenance in favor of the survivor. It was only after filing for maintenance that the OP came to a point of coming to an out-of-court settlement by paying lump sum amount as alimony to the survivor. An out-of-court settlement was finalized between two parties. Both parties filed for a mutual divorce and the OP agreed to pay alimony of Rs. 500,000 as full and final settlement.

In a second case, the case was withdrawn after a deed of settlement was executed for divorce between the parties. The petitioner got some of her ornaments back, but not all. Alimony, Rs. 1,000,000 was handed over as well. In a third case, an execution petition was also filed, but it did not help the situation of the woman. The case records stated that *“during the pendency of Section 410 CrPC petition, the respondent stopped her giving maintenance. Execution petition was filed, but they did not comply with the order. Subsequently, the parties sought an out-of-court settlement in terms of a divorce.”*

The same pattern is also seen in a few cases from Kerala (Anweshi), where in one of the cases the OP wanted the case to be closed urgently and get a mutual divorce from the AP so as to be able to marry another woman who he was in a relationship with. He was successful in pursuing the AP to enter into a compromise by paying lump sum amount of Rs. 600,000 for the AP and her children.

Another reason for out-of-court settlements that was observed across Gujarat and Madhya Pradesh was that of the judges asking both parties to enter into a compromise outside of the court. In Gujarat particularly, it is interesting to note that in many of the cases, the judges played a role in insisting on both parties getting what has been mentioned as a 'social divorce' through the caste panchayats (jaati panchayats), and if they agreed to the same, the case would then be closed in court. However, the reasons judges would push incessantly for arriving at such a compromise was not clear from the available data, apart from existing knowledge about the strong history of alternative justice delivery mechanisms in Gujarat.

"The judge said that divorce will not be possible in court so you proceed for out of court divorce. Hence, divorce was done out of court by my lawyer. My conditions for social divorce were fulfilled. I got back my streedhan, all my articles and Rs. 2,000, which was with them I received back."

(Woman, 35 years; married second time for three years; SWATI, Gujarat)

Another woman from Gujarat, whose case was closed within nine months of it being filed, said, "A compromise was tried earlier as the OP wanted reconciliation, but was not successful. Then, PWDVA case was filed, and no orders were passed. I was asked three times for compromise by the judge. When judge asked me for the third time for compromise, we decided to go for it and we settled the matter out of court. I put conditions prior to compromise: a) will live in city in new house b) clear all debt c) my children will be back to me d) will not beat me. My husband agreed to

all these conditions and so we compromised. This compromise was carried out by the lawyer out of court while the case was ongoing. Following it, the judge closed the case. I am not living with my husband and the violence has ceased."

(Woman, 35 years; married for 10 years; SWATI, Gujarat)

A similar pattern was observed in cases from Madhya Pradesh (Sangini), where IOs had been passed by the court in three out-of-court settlement cases. In two of the cases, where details were available, it appears that the magistrate suggested mediation and these were cases with court-directed counseling that resulted in a compromise. The PWDVA provides the magistrate the discretion to suggest mediation at any juncture in the case.

The case record of a woman aged 40, married for the second time states, 'The court released FO for maintenance but after some time a compromise was arrived at and they are living together. There were not any serious issues between the applicant and non-applicant. The magistrate asked the (woman) about the mediation, her condition and what she wants, though he did not stress for mediation. They both were ready for compromise so after the mediation they started to live together.'

In another case, counseling was offered by court. The woman shares, "Yes, I wanted to go with him but on one condition, if he would not subject me to DV. The magistrate said to my husband that, if he will not stop DV, then court will give him punishment. After the counseling session, my husband decided that in future he will not do DV on me. I started to live with him once again."

(Woman, 30 years; Sangini, Madhya Pradesh)

Caseworkers from West Bengal also talked about how court directed mediation was prevalent. Most often these were cases of forced mediation, where the judges want both the parties to reach a compromise. One of the reasons cited for this is that the magistrates are awarded only half a point

for every DV case, while for other cases they are awarded at least four points (for their promotion to higher courts), which essentially makes them lose interest in DV cases.

Another significant reason for the out-of-court settlements that emerged from the data was that after the case was filed, there was an increased pressure on the OP, leading to an out-of-court settlement wherein the issue gets resolved resulting in reconciliation. However, this reconciliation can lead to a better situation and cessation of violence in some cases, while in others the violence may reoccur. Interestingly, these are cases in which filing of the case is done as a deliberate tactic by women to put fear in the mind of the opponents, and in such cases, it does deter the violence.

- a. Violence Resolved:** In seven cases from Gujarat, an out-of-court settlement was reached resulting in reconciliation and the woman was reported to be residing with her husband and/or in-laws.

In the first case of its kind, a woman from a scheduled caste, who lived in the village while her husband worked in another town, faced harassment and abuse at the hands of her in-laws. Her husband remained supportive and they decided to live separately in another house in the same village. Intervention by the caste panchayats and village elders was sought several times over a period of 15 years. Through ANANDI's outreach mechanisms – the Lok Adhikar Kendra, she learnt about PWDVA and in her words, *“I wanted to teach my in-laws a lesson. As I learnt about the Act, I felt that using it would help. I was told that the case would be resolved in 60 days, so I filed a case.”* In about six months, an out-of-court settlement was reached and she was staying with her husband at her in-laws home. She also had the support of her natal family and husband.

In a second case of suspicion by the husband and physical violence, within two months of filing the case, an out-of-court settlement

happened and within six months the case was closed at the court. There was also a case of Section 498A filed against the husband and in-laws. The records state that due to extreme physical violence, the survivor's family filed a case under Section 498A and seven members from her in-laws were put behind bars for three days; all of whom were released on paying Rs. 350,000. Post this, she returned to her in-laws' home

Another survivor feels that it is good to use this act to scare people like her in-laws, who inflict violence on women, *“I wanted them to be afraid of such a law, that's why I filed a case.”*

However, women are cognizant of the fact that the negotiations can be a deliberate tactic to pressure the woman into withdrawing her case. In one instance, the matter was settled out of court; however, the court case was not withdrawn as the survivor was not confident enough that violence would stop. This was the strategy used, but having stayed for about a year, she planned to shut the court case.

- b. Violence Reoccurred:** In three other cases, the violence reoccurred after an out-of-court settlement was reached. The circumstances of these cases need to be examined closely.

In one instance, when the case came up for first hearing a week after it was filed, the respondent agreed for settlement of the matter and the magistrate agreed to give time. After about two months, violence reoccurred. Since the judge suggested mediation, the earlier case be closed and thus had to be refiled. A criminal case was also filed under Section 498A. The pattern was similar in the second case as well, where an out-of-court settlement was reached after a month of filing the case. However, in this case too, the violence reoccurred; the respondent was involved in an extra marital affair and the litigant did not have support from the natal family. It was difficult for her to travel to the court for the case and so when

her husband assured her that he would take her back, she agreed for an out-of-court settlement. She returned to her marital home, but the husband did not show up for the one and half month that she was there. She then filed a case under Section 125 and an order of Rs. 2,500 monthly maintenance was issued. In the third case, an out-of-court settlement was undertaken three months after the case was filed. Violence reoccurred within six months and a complaint was filed in the police station as well as the case under Section 125 was reopened.

Another prominent reason that emerged for out-of-court settlements was the lengthy court proceeding for PWDVA cases, where the AP, after having lost significant amount of time, agreed to enter into a compromise with the respondent outside of court. This can be observed from a few cases in Gujarat, where in one case, *“the woman took back her case and was granted a divorce by the jaat panchayat. She was very tired of the lengthy court proceedings, the woman decided to agree for a divorce – which was given by the jaat panchayat on terms that she would be returned her Streedhan, 12 tola gold and Rs. 650,000.*

In cases from Uttar Pradesh (AALI), there was no final out-of-court settlement reached with specific terms, though the process was initiated in some cases. In one case, there was an attempt to enter into an out-of-court settlement, but due to the terms not being agreeable to both the parties, the attempt was unsuccessful.

“When her criminal trial was about to finish, her husband and other relatives started forcing for settlement. After that, she made up her mind for settlement and to withdraw all her cases. The settlement was proposed by her marital family and the conditions were decided by her and her natal family; however, the marital family did not agree with them, so later, the out-of-court settlement failed.”

(Case narrated by staff of AALI during a Reflective Dialogue session)

As far as a change in trend is concerned, a caseworker from AALI, Uttar Pradesh, said that while earlier fewer cases were filed, the number of cases filed had increased in the last four-five years. However, a lot of them were also withdrawn and were out-of-court settlements. Frequently, in out-of-court settlements, the OPs agree to all conditions and stipulations when the case is filed; once the case is closed, things return to square one.

The following table summarizes the reasons for out-of-court settlements:

3.3 Breach of Court Orders and Execution

Reporting breach of order has been an area of concern within the implementation of PWDVA. The PWDVA is a civil law, but the breach of the protection order is a criminal offence as specified under the Act.

Generally, breach is not reported as the woman rarely approaches the PO or the police in such cases, or even report back to court, unless she has support to guide her otherwise. Even if she does, they do not have copies of her Court Orders (as specified under the Act), and hence are unlikely to take action. In addition, the knowledge that criminal action can be sought upon breach is far from universal.

On the other hand, it has also been observed is that courts that take cognizance of breach do it for all orders, and not just the protection order, which is an encouraging practice. In addition, it has been observed that in specific circumstances, execution petitions have been filed to ensure compliance of orders. From the cases records collected for the study, it is evident that reporting of breach remains low. The largest numbers of breach cases were those of non-payment of maintenance due to the woman after the passage of the final court order. The data shows that

Table 17: Reasons for Out-of-court Settlements (by organization)		
State	No. of Out-of-court Settlements	Overall Reasons for Out-of-Court Settlements
Gujarat	18 ANANDI: 11	<ul style="list-style-type: none"> • Out-of-court settlement by mutually deciding on some lump sum compensation for the woman as the respondent refused to pay up the maintenance money and was ready for imprisonment instead. The petitioner preferred an out-of-court settlement. • Living together with husband • OP promised to stop being violent, there was a mutual compromise and the case was withdrawn. In some instances, violence reoccurred and either a case was filed again or divorce was sought.
	SWATI: 7	<ul style="list-style-type: none"> • Mutual divorce • Out-of-court settlement in <i>jaat panchayat</i> despite the knowledge that the settlement was not in the woman's favor; divorce in <i>jaat panchayat</i> • Living together with husband
Kerala	Anweshi: 5	<ul style="list-style-type: none"> • Mutual compromise by deciding on lump sum compensation to be given by OP to AP for herself and maintenance of her children. • Mutual compromise by signing an agreement and paying lump sum amount to AP. • Statement filed jointly by OP and AP, where OP assured the court that he would not engage in violence of any kind. • Mutual compromise after a number of hearings and delays in court proceedings.
Madhya Pradesh	Sangini: 4	<ul style="list-style-type: none"> • Court directed counseling and mediation resulting in mutual compromise and reconciliation. • Mutual divorce due to long court procedure, delays in hearings because of absence of OP, lack of cooperation of police, etc.
West Bengal	Swayam: 1	<ul style="list-style-type: none"> • Living together after mutual out-of-court settlement.
	Sutanutir Sakhya: 5	<ul style="list-style-type: none"> • Living together after mutual out-of-court settlement. • Mutual divorce between AP and OP, with a settlement of one time alimony in some cases.

execution petitions have been filed post IOs as well as FOs.

Gujarat presented the highest number of reported breach of final court orders (67 percent), while Uttar Pradesh saw no breach of orders at all. While

the largest number of breach of orders was on the non-payment of regular maintenance amount or not having arranged for alternate residence for the AP, there were some cases where the breach was reported due to the continuance of violence by the OP on the AP, though specific details were not available.

There have also been cases reported in West Bengal, where distress warrants have been issued in around three cases on non-payment of maintenance, in two of which the respondent was missing or absconding. We also see at least four cases where there have been enhancement petitions filed in West Bengal, after FOs of maintenance were passed. These petitions were to increase the amount of maintenance granted by court in the FOs.

Women reported the breach to either POs or to their lawyers, who took it up in court. An example of a breach of order was shared by a caseworker from ANANDI, Gujarat:

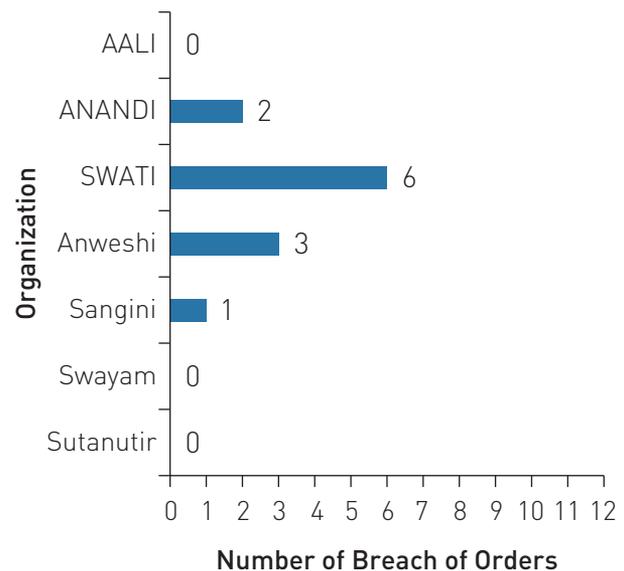
“Having faced immense physical and mental violence, she decided to file a DV case with help from ANANDI. After having passed an order for paying maintenance of Rs. 2,000 per month as well as arranging for alternative accommodation for her, the order was not followed and breach

Section 31: Penalty for breach of protection order by respondent

- (1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.
- (2) The offence under Sub-Section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.
- (3) While framing charges under Sub-Section (1), the Magistrates may also frame charges under Section 498A of the Indian Penal Code [45 of 1860] or any other provision of that Code or the Dowry Prohibition Act, 1961 [28 of 1961], as the case may be, if the facts disclose the commission of an offence under those provisions.

Table 18: Breach and Execution Petitions

Organization	Number of Breach of Orders	Number of Execution Petitions
AALI	0	0
ANANDI	2	0
SWATI	6	1 on FO
Anweshi	3	3 on final ex-parte
Sangini	1	0
Swayam	0	2 (on IO and FO)
Sutanutir	0	2 on FO
Total	12	8



of order was filed. Thereafter the petitioner filed a case under Section 125 CrPC and after several hearings and appearances, and getting arrested by police, the respondent paid up Rs. 10,000 to the petitioner. The woman now wants to file for divorce and claim alimony of Rs. 100,000, the respondent has agreed to Rs. 50,000. The negotiations on the amount of alimony to be claimed after divorce are still ongoing.”

Another instance of breach reported by Sangini, Madhya Pradesh:

“The FO was for the petitioner to receive Rs. 3,000 as maintenance and Rs. 25,000 as compensation for the violence and abuse that she had to suffer. Breach of order was reported to the magistrate and an

arrest warrant was issued against the respondent. Currently, a case of recovery is ongoing.”

(Woman, 28 years; in live-in relationship, Sangini, Madhya Pradesh)

An instance of non-enforcement/breach of order shared by a caseworker from Sutanutir Sakhya, West Bengal:

“The court had passed an IO of maintenance (Rs. 6,000 per month) in favor of the survivor. The OP paid maintenance for the first three to four months and then kept a gap of more than six months in paying the dues. The OP did not appear in the court hearings and refused to pay any maintenance to the survivor. The survivor approached Sutanutir Sakhya and was instructed by the secretary of the organization to file for an execution petition. Even after filing for execution petition, the OP did not appear in the court or pay any maintenance to the survivor till the magistrate instructed the lawyer of the OP to appear in the court and clear all the dues of the complainant or else he would issue a warrant against the OP.”

Action taken on Breach of Orders

In three cases, data was available on specific police action taken on breach of orders. This was reported in two cases from ANANDI and in one from Anweshi; FIRs were lodged and the respondents were arrested as a result of report of breach.

The box provides the details of one such case where the judge took cognizance of breach and action was taken by the police to implement the orders. In all six cases of breach filed by SWATI, no action was reported.

Enforcement of Orders

Mostly, lawyers and POs did not have positive things to say about the proper and timely enforcement of court orders under PWDVA.

“Relief of maintenance is ordered immediately, which is not implemented. Mostly, women do

not receive their rights,” said one of the lawyers associated with SWATI in Gujarat.

A lawyer associated with Sutanutir Sakhya stated, “In West Bengal, the function of the PO is to file a DIR only. Monetary orders are not complied with. There is absence of proper infrastructure and also there is no supervisory committee to take steps if orders are not properly complied with.”

(Lawyer, Sutanutir Sakhya)

As far as obstacles in the effective implementation of the law are concerned, most of the lawyers and POs agreed that non-enforcement of orders or breach of orders is a key impediment that should be addressed. “Generally, monetary relief is not complied with, the OPs do not appear in the courts regularly just because of absence of proper monitoring committees.”

(Lawyer; Sutanutir Sakhya, West Bengal)

The POs from Kerala unanimously agreed that “when a breach of order is reported by the victim, the PO can report it in court and the sole testimony of women is sufficient to take cognizance of breach. The role of court is to issue warrant against breach of order. However, the major challenges are that some magistrates just do not issue warrants. This pattern not changed over the years and remains pretty much the same.”

(PO; Anweshi, Kerala)

3.4 Interaction of Women with Lawyers

The PWDVA has largely become a lawyer-driven act, as over the years, lawyers have taken a key role in facilitating women’s access to justice. This study is, therefore, focused on understanding women’s access to and experiences with lawyers (and organizations’ caseworkers) in guiding them throughout the litigation process. A total of 16 lawyers, at least two per organization, were contacted to capture their experience of litigating under PWDVA.

Action taken on Breach

In a case from Anandi, Gujarat, a 36-year-old woman was facing severe violence from her husband who had left her and was involved in an extra-marital affair. She filed a DV case with the help of the organization and received ex-parte orders for maintenance, protection, and alternate residence. However, the respondent paid maintenance for two months and then stopped. Soon after, he came back to the home where the survivor was staying and despite protection orders, he beat her up. She was badly injured, and had to be rushed to the nearest government hospital. The survivor then contacted staff from ANANDI, who had helped with her case earlier, and on their advice, she filed an FIR and a case under Section 498A. She was also advised by Anandi staff to reopen the DV case as there had been breach of orders.

On reopening the case, the judge noted that it was a breach of court order and not just a case under Section 498A. A notice and an arrest warrant were issued to the respondent. After this, the respondent and his lawyer tried through various means and ways to arrive at an out-of-court compromise; however, the survivor was sure she wanted justice from court, and did not agree to settle the matter out of court. Respondent had some contacts in the police and refused to accept the summons sent by court, despite attempts by the police, service provider and PO to hand over the order to him. So the judge asked the survivor to move to the alternative accommodation and the order was noted as implemented. The Sarpanch (head of elected panchayat) and other leaders from the panchayat were asked to sign the order and the respondent was asked to pay Rs. 1,000 per month. Meanwhile, the other woman with whom the respondent had an affair died, and he showed interest in an out-of-court settlement and wanted to return to the survivor. Finally, the compromise was arrived at outside of the court, and they returned to living together.

Who represents the women in court?

Women across all study sites reported that they were assisted by NGOs and their lawyers during the litigation phase. However, the pattern of legal support varies across states. The organizations primarily fall into two categories – a) they either provide legal aid to the woman or and b) refer the woman to private lawyers or legal service authority (for free legal aid) that would represent the woman in court. Under PWDVA, the aggrieved woman is entitled to free legal aid under the Legal Services Authorities Act, 1987. In the former case, the organizations provide the women with legal aid support (lawyer to represent them in court), where they either take no fees or a minimum of Rs. 250 to Rs. 500 for documentation. In the latter case, the woman is referred either to a) government-free legal aid lawyer or to a network of private lawyers of the organizations that offer either pro-legal assistance or are paid by the organization. Many women have also reported seeking help from their private lawyers.

Table 19 provides the kind of lawyer's services sought by women across states. The highest numbers of cases are filed with the help of government legal aid lawyers. In Kerala however women have only filed their cases through government lawyers followed by few cases in Gujarat and West Bengal. It must also be noted here that Kerala is the only state in India where the government legal aid lawyer is deputed and positioned in the premises of the SP. In the remaining states the government lawyers are approached by the woman independently although the meetings are often facilitated or assisted by the organizations. All the women in Uttar Pradesh have filed their court cases through the help of legal aid provided by NGOs. In Madhya Pradesh, equal numbers of women have filed their cases by legal aid provided by NGOs or through private lawyer. Interestingly, it is only in Madhya Pradesh that the two women have not used any lawyer support and have instead filed their case with the help of PO. Many women have filed their cases through their private lawyers and this trend is especially high in West Bengal and Gujarat. Women reported that

the private lawyers were either referred by the organization or by their relatives, neighbor and family members. In nearly one third of the cases in Gujarat and West Bengal, the expenses of private lawyers are borne by the organizations.

How is the woman prepared for the court case?

The woman is primarily guided by her lawyer and the caseworker from the organization during the litigation phase. They play a leading role in providing legal, social, and psychological support to women to face her court case. Women across states reported that they were familiarized with the long drawn court procedures and structures, legal processes and legal documents by their lawyers and caseworkers. In some cases, women mentioned that they are told exactly what to say in the court and to be specific in telling the judge what they need. Lawyers in their interviews have also stressed the importance of preparing and guiding women to give their testimony in court. As said by one lawyer, *“We tell women the procedures, and also we tell her what to say or not to say. Without that we won’t get any order. We teach her according to her complaint. It has an impact on the outcome.”*

Women in two sites also mentioned that their lawyers prepared them to remain unnerved during the cross examination, and also guided on how to answer the questions put up by the respondents lawyer.

The organizations also play a critical role in supporting the women in building their self-confidence, listening to them patiently. A few women across states also repeatedly spoke about the moral support provided by the caseworkers during the daunting and lengthy trials. In most of the cases, the caseworker accompanies the woman to the court to provide mental and moral support to the women. As shared by a woman, *“I was also a bit afraid as I had never been to ‘court-kacheri’. They assured me that they will accompany me and explain whenever I did not understand anything.”*

What are the experiences of women with their lawyers and caseworkers?

Women largely report their interactions with the caseworkers and organizations as being very positive. Women report that the caseworker accompanies them during the court hearings, and are also actively involved with their case. Barring few exceptions women said that they are quite satisfied with the support provided by the NGOs.

There is a mixed response from women in terms of their experience with lawyers as they report discontentment and satisfaction across states. It is interesting to note that women respondents from Uttar Pradesh and Kerala in their narratives (n=40) did not mention any trouble with their lawyers or any dissatisfaction. This could be perhaps because

Table 19: Legal services availed by women litigating under PWDVA

	UP	Gujarat	Kerala	MP	WB	Total
Free legal aid (by government)	-	23	29	0	12	64
Legal aid by NGO	20	0	04	19	02	45
Women’s private lawyer	0	29	0	19	24	72
NGO referred private lawyer (with fees paid by NGO)	0	13	0	0	12	25
NGO referred lawyer (no fees charged by lawyer)	0	0	0	0	20	20
No legal services taken	0	0	0	02	0	02
Total	20	65	33	40	70	228

*data missing for 2 cases;
Uttar Pradesh (UP); Madhya Pradesh (MP); West Bengal (WB).

in the case of the former the NGO itself provides free legal aid and in the latter the lawyer is housed in the NGO premises itself. This provides an opportunity to the caseworker and the organization to work directly and more closely with the lawyer and also to oversee women's case. This appears as an important area which needs further exploration.

Free legal aid provided by the government emerge as a huge area of concern, as many women (n=10) who availed free legal aid (with the exception of Kerala) reported negative experience with the government lawyers especially in West Bengal and Gujarat. These women report that their legal aid lawyers have not been effective in dealing with their cases. The recount delays, corruption, indifference and irresponsive behavior of the lawyers and a few even reported that they change their lawyers. A repeated grievance from women litigants were that government lawyers regularly charge fees from them on every court date. In this regard, a 28 years old woman from Gujarat explained that lawyers hardly get any money out of these cases and are therefore not incentivized to support the woman or guide her properly. She expressed her anguish and said: *"The lawyer was not really supportive and was hardly present during my court hearings, he did not even receive my phone calls many times, he once told me that he is not going to get money out of my case and hence, he need not to be timely or regular in the court hearings. On my right to information (RTI) over my court proceedings, he told me that as I made an RTI the amount of maintenance in the order would be reduced."*

In one of the interviews a lawyer categorically mentions that the legal aid lawyers are paid a very nominal honorarium, and indulge in corrupt practices. He said, *"The legal aid lawyers accept cases but fail to attend them in the court. One of the reasons being is that the fee paid to legal aid lawyers is unrealistically low (Rs. 350 after all deductions) and due to this there is corruption among them. The fee structure is also not likely to attract competent professionals from the field."*

Legal aid lawyers are also not seen as competent or interested. In one case, a woman was dissatisfied with her lawyer as he was unaware of the provisions of PWDVA. She explained: *"My lawyer does not perform properly sometimes, he takes very long to get hearing dates and sometime I felt that he did not have enough knowledge of PWDVA. Sometimes, magistrate also scolded him for not having proper information about this particular law."*

Another important reason was related to lawyers' indifference. One woman described her anguish over filling the case, she said: *"I used to spent whole day sitting in the court but lawyer never interacted. Sometimes some other lawyer told me to leave the court and also told that nothing is going to happen in the court. At the end you feel that your decision to filing a case in the court is wrong."* A woman said she was fearful of the outcome of her case as her lawyer behaved very badly with her. She stated: *"I am afraid of my lawyer (legal aid) as he does not behave properly with me. He considers me as an illiterate and does not help me understand the court process. He shouts at me whenever I ask a question. I am afraid what will the result of my case."*

Few women also report that their lawyer connive with the respondent's lawyer and took bribe from them to either counsel the women to go back and adjust, and sometimes gave wrong date of hearing to the woman. As a result of such corrupt practices three women said that they lost interest in their case. Four women changed their lawyers and were subsequently assisted by the legal advisors/consultants of the organization/NGOs. In some cases, woman hired a private lawyer and in others she again approached a different legal aid lawyer as referred by the organization.

A few women were also not content with the services provided by private lawyers – either by their own private lawyers or referred and supported by the NGO. This was reported by 10 women respondents and most of them belonged to West Bengal followed by Gujarat. Women report that their lawyers were not supportive and unwilling to

cooperate. In three such cases women changed their lawyers. In these cases private lawyers were no different from the legal aid government lawyers. In one such instance the women's lawyer was bribed by the opponent party to not attend the court hearings, and in other the lawyer forced women to reconcile with her husband. In other cases women reported that their lawyers misbehaved with them, spoke rudely, and did not inform them about the court hearings. As stated by one woman: *"Lawyer's professional behavior was not good. I got all information from the organization but he never informed me anything. I had a doubt that he is from my husband side as he took money from my husband. During hearing he want me settle this case but I refused. He always told me that never speak about extra marital relationship of husband. If you talk about this you will never get the maintenance. He never raised question about that woman. Many times I was unaware about the court hearing and my husband attended all the hearing. Afterwards, my brother found out truth and we changed the lawyer."*

A lawyer in an interview also articulated that the private lawyers fight cases for commercial purposes and do not take interest and prepare their client to represent her case adequately. He said, *"The trend these days among lawyers is to earn the maximum amount with the least number of cases. Even in private cases. Lawyers will take money but will prepare the application without looking at only the relevant details. Also, the woman doesn't know what to say in court because her lawyer hasn't bothered to prepare her. She'll be cross examined and since she hasn't been prepared as to what she needs to say, her case is ruined. There needs to be an understanding between the lawyer and client so that they can communicate. At least 3-4 hours need to be invested in preparing her for her testimony. Lawyers don't want to do so."*

Women also reported positive experience with the private lawyers as referred and supported by the NGOs. In one instance a woman said: *"I am an introvert and many times cannot speak clearly about whatever is in my mind to my lawyer.*

However, my lawyer helped me to open up and told me to speak clearly about all the incidents of torture in the court and also helped me to understand the entire process. He taught me how to face the questions during cross questioning by the lawyer of the OP." A few women recounted supportive role of their lawyers during case proceedings such as informing them about court dates, updating about progress of her case, and preparing her for the case.

The lawyers mentioned several challenges faced in court, and had specific suggestions to make PWDVA more effective.

In addition to the inherent problems of the courts (long leave by judges and lawyers, delays), lawyers associated with organizations also express their frustration at the lack of knowledge and sensitivity among within the judicial system and the coordination among multiple stakeholders. Most of the lawyers across states mention these as the primary challenge faced during litigation.

"When PWDVA was passed, I was of the impression that the said Act is the best legal weapon for women in domestic relationships, but now I am feeling that women are facing much trouble to get appropriate order from the Court due to procedural hazards, lack of infrastructure."

(Lawyer associated with Swayam, Bengal)

"Women are ill-treated in the court. Lawyers of the OP try and spread rumors about them by falsely accusing them of various things."

(Lawyer associated with AALI, Uttar Pradesh)

"The court environment is not at all women-friendly. There are no benches or chairs to sit, no feeding rooms, washrooms and the DV cases are called out the last."

(Lawyer associated with Anweshi, Kerala)

"Cases of maintainability and perjury are filed by OPs, which delays the cases further."

(Lawyer associated with SWATI, Gujarat)

Many lawyers mention that the Act has progressive provisions, but are disillusioned with the proceedings in court. As one lawyer from West Bengal stated, "Now, all my hopes are dashed. The PWDVA cases are dealt like any other case in the court. They are proceeding merely as under Section 125 of CrPC."

Lawyers from Kerala feel that the law is not being implemented in letter and spirit. One of them stated, "*The law is in the process of being killed silently. Nobody has any clarity about the implementation.*"

Lawyers feel that it is not possible for most women to negotiate the legal system without lawyers and their presence is critical to convince the magistrates of the fact of their cases. However, lawyers also need orientation to be able to deal sensitively with the women, and also prepare them honestly for court.

A patient hearing of the case details by the woman is to be followed strictly if her problems relate to DV and she wants relief. Her legal rights are explained to her in detail including the limitations in the court proceeding. She is always warned that quick relief is not possible in our legal system. She is provided with information over all possible positive and negative.

(Lawyer associated with Swayam, Bengal)

Despite efforts by judges and lawyers to make the court atmosphere friendly and sensitive for women, women feel nervous and anxious. This can be removed by providing special courts for trial and organizing in-camera trials.

(Lawyer associated with SWATI)

Almost all lawyers suggest trainings on knowledge of the Act and on gender sensitivity. There are several suggestions made by lawyers regarding legal procedures of PWDVA, 2005 (see box).

A lawyer from Kerala felt that the documentation can be simplified. He said, "*Cases other than DV require only petition and description of process on a stamp paper. In addition to these, the DV cases*

Suggestions made by lawyers to strengthen effective implementation of PWDVA, 2005

- Standard guidelines for procedures to be adopted by courts
- Summary trial procedure for PWDVA cases
- Service of summons to be handled by police
- Timeframe and scope for appeals
- Execution procedure should be properly spelled out

require many documents such as DIR, Section 12 petition, Affidavit, vakalat."

Another lawyer from Sangini felt that, "*I think we can do away with the post of POs as they are not necessary.*"

3.5 Interactions with Magistrates

Magistrates play a pivotal role in the effective implementation of PWDVA and in ensuring that justice is rendered to the aggrieved woman. The attitudes, knowledge and perceptions of judges determined the direction a case may take and also the reliefs obtained by women. Women's interaction with the judicial system/court and in particular with the magistrate is thus an important area to explore when looking at women's litigation experience.

Study findings reveal variation in practices followed by magistrates in different courts across states, under PWDVA. In most of the cases, lawyers are at the forefront of legal proceedings and are directly dealing with magistrates in securing relief for the women. In Kerala and Uttar Pradesh, women did not report any kind of direct interaction with the magistrates barring one or two cases.

In a few of the cases, women report direct interaction with the magistrates. This is specifically the case in Gujarat, where magistrates seem to interact with women on a range of issues regarding what women want/her wish, reasons for filing case under PWDVA,

difficulties women experience in her marital home, what she wants to do, what's her decision, and also if she liked to return to her marital home.

As one woman details out her interaction:

"Magistrates asked questions regarding the problems that I faced in my marital life, about what my in-laws did to me, where my child is. I was also asked as to what am I doing, where I stay, if I wanted to go back to my in-laws, how I was harassed at my in-laws, etc."

(Woman, 30 years, married for 9 years, ANANDI, Gujarat)

Few women in West Bengal and Madhya Pradesh also reported they had direct interactions with the magistrates. Interestingly, it is only in the state of West Bengal women reported that during the evidence stage they were asked about their husband's sources of income and earnings and also about the basic household expenditure (for the child and for herself), before granting any monetary reliefs. Most of the women in Uttar Pradesh reported that their case went to two or three different magistrates either because their case was shifted to a different court/jurisdiction or due to change of magistrates in the court. Lawyer during the interviews explained that this has negatively affected the women as her case has prolonged for many years with no final outcome.

There were specific instances of positive experiences with magistrates during the court proceedings that women shared during their interviews. These women said that the magistrates were supportive and their interactions were largely positive. For instance, in Kerala an aged widow felt that the magistrate was very sensitive in her case and instructed her son to take good care of her. She said, *"Magistrate told me Amma you don't worry, your son will come to the court and I will give him warning. He told my son look after your mother, she is a widow and it is your duty to maintain her."*

In another instance since the survivor/women litigant was differently abled and travelled long

The role of the Magistrate as per the PWDVA, 2005 is as under:

- (1) An AP or a PO or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act, provided that before passing any order on such application, the Magistrate shall take into consideration any DIR received by him from the PO or the service provider.
- (2) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.
- (3) The Magistrate shall endeavour to dispose of every application within a period of sixty days from the date of its first hearing.
- (4) A notice of the date of hearing fixed under Section 12 shall be given by the Magistrate to the PO, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt.
- (5) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counselling with any member of a service provider who possess such qualifications and experience in counseling as may be prescribed.
- (6) Where the Magistrate has issued any direction under Sub-Section (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

distance to attend court hearings, the magistrate was responsive enough to take a prompt action as he exempted her from attending court hearings. In one case the magistrate stopped the respondent's lawyer to ask very personal and uncomfortable questions with the woman. In another case the

magistrate was very concerned about the woman litigant and assured her that he will take a stern action if her husband or her in-laws threatened her again. She said: *“Magistrate asked me about my wish, what happened and what the reason was. When I told judge about the incidence where family of my husband came to threaten me at my home, judge told that if such thing happens in future, tell police and me. I will punish them and send them in jail.”* Such experiences, in turn, affirmed women’s faith in the judicial system and they felt more optimistic about their cases.

Another example of a pro-active magistrate was from West Bengal where the caseworker recounted, *“The Magistrate took the case with due seriousness. The magistrate asked the lawyer of the OP to instruct his client to appear in the dates of court hearing as he used to deliberately not appear on those dates. Thus the magistrate had to just listen to the survivor and give another date. He had also passed an IO of maintenance in favor of the survivor. The magistrate had also asked the lawyer of the OP to clear all the dues of the survivor after Execution was filed failing which he would issue a warrant against the OP. The Magistrate also asked the lawyers of the parties to mediate and bring the case to a point where the survivor could get alimony from the OP.”*

(Caseworker; Swayam, West Bengal)

Some other narratives that emerged from the various cases with respect to their experiences with the Magistrates are given below:

“Magistrate’s attitude was positive toward me and my situation, and he never stressed for mediation. During the last hearing, he asked me why I wanted to withdraw the case, whether there was any pressure on me from the opposite side lawyer to do so. In response I told him that I wanted to go back to my husband and that is why I wanted to withdraw the case, which he understood and the case was closed after that.”

(Woman, 32 years, married for 6 years, Swayam, West Bengal)

“Judge was a good person. He made me understand that this case will go under different act (PWDVA). He did not bother me by asking many unnecessary questions. Atmosphere of court was also good. Nobody harassed me in or outside of court. I was not afraid of court. Worker of organization was with me throughout the court proceedings and sometimes my mother was also there for me, all of which made me feel at ease in the court.”

(Woman, 37 years, married for 14 years, SWATI, Gujarat)

However, much of the positive experiences of the women in the courts with respect to their interaction with the magistrates are marred by the huge delays caused. What makes them get through with the same is the presence of the organization staff and advisors who accompany them for the hearings. Women appreciate the fact that they are made to understand the procedure of the case, and have sessions with the caseworkers and legal adviser to clarify their doubts.

Another important court related issue was that some women spoke about is that the court hardly ever specified the role of the PO, which further led to confusion about what the PO should be involved in. In many cases, this led to the PO not undertaking home visits, submitting reports based on the home visits, etc.

“I was satisfied with my overall court experience sine the attitude of magistrate was quite positive me and my case. However, the court had not directed any specific role for the PO in my case and even after repeated requests made by me; the PO did not make a home visit, as a result of which I was extremely dissatisfied.”

(Woman, 28 years, married for 4 years, Swayam, West Bengal)

As far as suggestions are concerned, many of users of PWDVA were of the opinion that the unprecedented delays caused is the biggest drawback of the law, which otherwise can help a lot of women facing domestic abuse and violence.

An interesting positive instance from Kerala is that of a survivor who filed a case under PWDVA against her live-in partner. With the support of the Service Provider (Anweshi), she was able to file a case and also got orders of protection, separate accommodation or payment of rent at the rate of Rs. 2,000 per month, maintenance of Rs. 5,000 per month, Rs. 1,000 for the treatment of her children and Rs. 20,000 as a one-time compensation. She says that the lawyer behaved very well with her and she did not have to face any problem in the court, despite the fact that she fighting the case against her live-in partner.

However, some women also had considerable negative experiences in the court. A user of the Act from Gujarat recounts her harrowing experience at the court in the following words,

“I had opted for a free legal aid lawyer as per the advice of the organization, since I would not have been able to pay for a private lawyer. But my lawyer was not good, he never spoke to me properly and whenever I asked for some clarifications regarding the progress of my case, he did not even bother to respond, most often saying that he doesn’t know anything about what’s going on in the case. He was trying to push me to agree for a compromise. Even the judge told me to settle the case out of court since he thought nothing can be done in my case. Ever since then my lawyer’s behavior has gone from bad to worse. It has been 2 years since my case is ongoing and I have still not received a FO. My court experience with the magistrate as well as the lawyer has been extremely unsatisfactory.”

(Woman, SWATI, Gujarat)

Another user of the Act from Gujarat spoke of her fear before going to the court for the very first time.

“I was scared of the type of questions that the judge or the OP may ask but I faced it all with courage and I feel my decision to file case under PWDVA was correct as I wanted justice. The organization has all time supported me and given courage by being by my side and made me understand the law and its procedures, even now when the case is not

resolved the staff regularly meets me and comes for the hearing dates. This keeps me going despite the huge delay in getting a FO.”

(Woman working as Anganwadi worker, 40 years, ANANDI, Gujarat)

However, the data suggests that more women were dissatisfied with their experiences with the magistrates than the ones who were happy with the same.

Women also spoke about feeling depressed and discontented at the attitudes of the magistrates. In one such instance, a judge in Kolkata ridiculed the woman who filed her PWDVA case as she got married in her early 40s. She said: *“In one of my court hearings, the magistrate directly asked me as to why I got married to this person at this late age (42 years). He also asked me if this was for monetary reasons only. After hearing all this from the magistrate, I was very depressed and thought that I will never get justice from him.”* Such attitudes and behaviors negate women’s faith in judicial systems and discourage them from seeking justice.

In one of the cases from Kerala, the survivor mentions that the interaction with the magistrate was quite unpleasant because she was asked some uncomfortable and difficult questions, which she did not want to answer.

In another case from Uttar Pradesh, the survivor recounts that the *“attitude of the judges is patriarchal. The judges do not take into account the financial status of the OP, and fix the interim on his/her own. There is no procedure as such to calculate amount of interim, it’s completely on the discretion of judge. And invariably the first approach of the judge toward my case was to advise me to go for an out-of-court settlement/mediation.”*

Lawyers and Caseworkers’ Interactions with Magistrates

Lawyers across states and few caseworkers from organizations mentioned the positive shift in the judicial system in terms of increased knowledge

Insensitive Comments by Magistrates in Madhya Pradesh

The behavior of magistrates toward some of the women litigants was appalling as reflected in an incendiary comment passed by a male judge in a case in Madhya Pradesh. The woman explained: *“Yes magistrate interacted directly with me. He said that I should follow my husband’s orders. He said that I should cover my head because that’s what my husband wants.”* This case in particular was further explained by the caseworker who said that magistrates lack gender sensitivity in handling DV cases and women are often met with insensitive gendered attitudes that dissuade them to pursue their case. In this case, the caseworker said: *“Her husband was violent with her in front of the magistrate and said that if you don’t behave I will beat you. And the magistrate told her that what you will lose if you cover your head and go out. So, when she can clearly see whose side the magistrate is on, then why would she want to go ahead with the case?”*

and awareness among magistrates regarding the provisions of PWDVA. They said that magistrates now have clarity with respect to the reliefs provided by PWDVA and its procedures. It was mentioned in only one instance by the lawyer that the magistrate was unaware about the temporary custody provided under PWDVA. However, caseworkers of all organizations clearly stated that the knowledge of the law has not reflected on the impact on reliefs as prolonged delays in orders continue to persist, despite the increase in awareness among magistrates. The only positive impact of this awareness is that they understand DV cases and civic reliefs under the provisions of PWDVA a little better than before.

However, the caseworkers, during their organizations’ reflections with respect to PWDVA, cautioned against patriarchal attitudes and gender bias among magistrates. This view was echoed across states by women in their narratives and by their lawyers as well.

In an interesting session, a caseworker from Uttar Pradesh reflected how patriarchal attitudes are strongly internalized by women magistrates as they also operate within the same unequal patriarchal systems. She empathically explained how gender socialization plays an important role in influencing a magistrate’s decisions more than their professional degrees. She stated: *“I think a woman, and that too a judge, has an even more patriarchal viewpoint. They work with these people day in and day out who think like this. Maybe they can’t show themselves to be as progressive. Maybe they empathize, but they can’t show it. Maybe the lady judges have seen their own mothers in the same way, maybe they had restrictions put on them by their fathers, maybe in their personal lives they never had the courage to exercise their rights, and they were maybe unable to ask questions or know their options. I feel that these factors affect what judgment is passed by the female judges. An exam that you have passed is not the primary determinant.”*

Similarly, caseworkers from Madhya Pradesh also talked about the overarching patriarchal mindset of the magistrates and thereby their approach toward handling DV cases.

“Women have come to believe that nobody can touch the husband and bring him to justice. They know that he won’t show up at court either because the husband knows that he can pay anyone off and nothing will happen to him.”

(A caseworker, Madhya Pradesh)

“The magistrate’s outlook is primarily that the husband is the primary provider and protector of the woman and nobody can take care of her better than her husband, and she should reconcile and go back to stay with him. Most often than not, the magistrates are also very non-cooperative in DV cases and take them very lightly.”

(A caseworker, Madhya Pradesh)

Magistrates across states are keen that the conjugal ties between the couple are not broken and the family remains united. This has been

seen particularly in Gujarat and in a few cases in Madhya Pradesh and West Bengal. Some of the lawyers interviewed also spoke about the patriarchal attitude of the magistrate. One of them said, *“The attitude of the judges is insensitive and patriarchal toward the issue of DV. Mostly judges keep emphasizing on continuance of institution of marriage rather than granting the reliefs provided in the Act as per the facts presented before the magistrate.”*

Attempts at Forced Mediation by Magistrates

AALI staff talk of how there are attempts at forced mediation between the AP and the respondent, and this seems to be a peculiar case when it comes to cases from Lucknow. In an example cited by an AALI staff, the magistrate called both the parties in his chambers and asked the husband, “Don’t you both want to stay together?” to which the husband replied, “no”, after which magistrate again told the respondent, “Talk to her and just finish this off. How many years have you been living apart? Talk to her, if you don’t talk to her how will you know how much you love her? Go into mediation...” When the AP said she doesn’t want any mediation; there was still continuous insistence for them to enter into mediation.

The attitude of the judges shows that they are much more supportive of the husband than the AP, and the excuse that is used most often for the parties to enter into mediation is that of the children. Magistrates most often say, “If nothing else thinks of the children.” Even when the police uses the same rhetoric as an excuse, saying “What will you do with the kids?” or “Where will you get the money to take care of the kids?” or “How will you earn and where will you get the money for your expenses?”

The questions are sometimes so harassing that the women are unable to even go through with filing even the DIR. Judges sometimes also dissuade them from filing by threatening the AP by telling them that the husband will be given the custody of the children if they file the case

In West Bengal, some of them said that this practice is changing albeit slowly, due to intervention sought by lawyers. One of them explained: *‘Whenever we have meetings with the magistrate, we tell them not to do any counseling. The Act also states that if the woman doesn’t want counseling then it shouldn’t be forced. I told them that when a girl comes to us, she is distressed so we ask her to go to court. Now if she’s asked to go to Darjeeling with a man whose face she doesn’t want to see, why will she come to us again for help? The others present there also acknowledged that counseling was not their responsibility and things have changed now’*

In Kerala the common trend is that women are sent for counseling at mediation centers after the case is filed in the court. Lawyers in Kerala explained that all DV cases are referred to mediation and counseling center in court premises irrespective of women’s wish because DV is considered as a family issue. She explained: *‘DV is a family issue so the magistrate will prefer mediation so that it can be sorted out. The emphasis is then to keep the family together. Mediation is suggested whether it is asked or not. The case will go to mediation even if the woman doesn’t want as that’s the procedure. In civil procedure there is a provision for mediation regarding family matters’.*

In Gujarat, according to the lawyers, magistrates feel that compromise and mediation is necessary to avoid separation and breakup of family ties. As stated by one lawyer: *‘Judge tries for not breaking the families. They try first for compromise. Judge wishes for not breaking the family and hence s/he asks both the parties for compromise. If both the parties are ready s/he sends for out of court compromise’.*

In a lot of cases magistrates suggest women for reconciliation, and in a few cases women have also asked for it. However in Gujarat mediation facilities are not available at the block level so it is mostly initiated by magistrates, and lawyers.

Mediations and counseling sessions are also common in Madhya Pradesh. A lawyer from Madhya

Pradesh explained: *'Most of the time women don't ask for mediation, the judges take initiatives and advise women for mediation so that the family does not break'*. In Madhya Pradesh, in a few cases counseling was offered by magistrates in the court room itself so that the women and her husband could stay together and the family is not broken. During the reflective dialogue exercises the caseworkers further explained that the attitude of magistrate shows that they want the couple to live together and sometimes magistrates conduct in their chambers. She said *'the magistrate called both the parties in his chambers and asked: Don't you both stay together? The husband said "No.". The Magistrate replied to her, "Finish this off... how many years have you been living apart? Talk to her, if you don't talk to her how will you know how much you love her?"'*

In Lucknow, caseworkers explained that children are used as a manipulative argument to weaken the woman emotionally, one of them explains: *'What they try to show is that the man is all important. Children are used as a weapon to dissuade the women. The judge sometime say if you separate then the kids will go in the custody of the husband. The judge sees that she is getting emotional this is used in either case. If the woman is economically weak then they say how will you take care of the children? If she is strong and economical independent then they say the husband will get custody of the children'*. In such instances it becomes all the more important for the organization/SP to support the women so as to restore her faith, and to encourage her to fight her case. The caseworkers explained that this is the toughest challenge they face to encourage the women so that she is not dissuaded or influenced to withdraw her case.

It also appears that magistrates are hesitant to pass orders as they send women for mediation and counseling so that their marital ties are restored. Caseworkers from the organizations also complained that magistrate push women for mediation and settlement several times despite her unwillingness. One of them in West Bengal

said: *'In one case the magistrate was very biased. He wanted the husband and wife to go to a nice place together and settle their differences. It is forced mediation. Yes they do. In one of my cases, they made girl go back with her husband. She went and seven days later she was back here'*.

What is of concern is that women are counseled or send for mediation in situations where her husband is married to another woman or has extra marital relationships. In such cases the judge in the court advises women to compromise and to go back to her husband. In Madhya Pradesh in one such instance the woman refused to go back to her husband. She explained: *'The counseling was held by judge, but I was not ready to live with him. Yes the court suggested for compromise, but I denied as M (husband) is living with his second wife and I will never stay with him'*.

Attitude of Magistrates

"Attitudes of the magistrates, both male and female, are fundamentally patriarchal, and it is an extremely challenging task to even make them acknowledge the woman's case in the first place. Most often the male magistrates refuse to understand the case from the point of view of the AP. When a woman appears before them, instead of focusing on the fact that she has faced extreme violence in her life and needs relief from the court of law, they go into a tangent of thinking that she must have done something wrong in order to deserve the violence. They understand the respondent's point of view much more easily than that of the AP. It's very difficult in such an environment / situation to get their focus on the woman and her case, to make your points or to stop the woman from getting discouraged," reflected an AALI staff member.

The significance of the magistrate in the experience the women has in the court and in the handling of her case is paramount. Hence most of the organizations reiterate the need for knowledge and sensitization of the magistrates that will enable the law to be implemented in its true spirit.



Section 4

REFLECTIONS
AND
CONCLUSION

The study has gathered data from seven organizations to present an analysis of patterns of use of PWDVA across specific districts of five states – Swayam and Sutanutir Sakhya (West Bengal), AALI (Uttar Pradesh), Sangini (Madhya Pradesh), Anweshi (Kerala) and SWATI and ANANDI (Gujarat).

The key findings from the study have been presented below:

Knowledge of PWDVA

Overall, across all the states covered in the study, we see that majority of the users were unaware of the existence of PWDVA. In Uttar Pradesh, Gujarat, West Bengal and Madhya Pradesh, few women knew of the law before reaching out to participant organizations for help. However, there is a difference in the trend when it comes to Kerala, where 15 out of 35 users knew about the law through the legal awareness classes conducted by Anweshi in the Anganwadi centers of various villages, which were attended by many women who used the law to their benefit.

Users of the Law

Across all states, the majority of the users of the law were married women using the law against their husbands. However, we also found elderly women, mostly widows filing cases against their sons on grounds of physical and mental violence. Most of these cases came from Kerala and West Bengal. In Uttar Pradesh and Kerala, there are a few instances where women filed cases against their fathers and brothers. In one standalone case from Madhya Pradesh, a woman filed a case against her live-in partner.

History of violence and help-seeking

Across all states, most women decided to seek external help when the violence inflicted on them became extreme or unbearable. Many of them sought help from various external sources such as

neighbors and relatives; women's natal families, where, in many cases, there were attempts to reach a compromise after discussion with the families, police, State Women's Commissions, Village Panchayat, traditional caste panchayats (traditional justice delivery mechanisms), State Human Rights Commissions, etc., after which they finally reached out to the respective participant organization to seek help and support. It was, however, noted that most women did not approach the organizations directly, that is, they did try other means to seek help and support to better the situation of violence and abuse, and only after none of these provided them with adequate relief did they finally rely on the organizations to know about their work related to VAW.

Filing of PWDVA

Given that a majority of women had been facing violence for a number of years and had sought help from other stakeholders prior to establishing contact with participant organizations, it is not surprising that they had ongoing cases under different sections of the IPC. In more than half of the instances, the case was filed only under PWDVA. In others, the case was filed in conjunction with other sections of the IPC. While details are not always available or clear in the case records, cases under PWDVA is most likely to be filed in conjunction with Section 498A and 125 CrPC.

Timeline of Cases under Litigation and Orders Received

Across the organizations, less than half of cases have been granted a FO, with the exception of Anweshi. Cases filed 2007 onward have been included in the analysis, and the pendency is obviously lower among cases filed in 2008-2010 as compared to 2011-2014. However, it is discouraging that cases that were filed in 2008-2010 are yet to receive FOs. Cases have also been settled out of court, with the number of such cases being the highest in Gujarat.

The practice of having state recruited paid legal counselors placed within SPs in Kerala appears to be a promising practice that can make process of accessing legal recourse easier for women.

Among the 84 cases that received FOs, six received it within the stipulated time period of two months (four of these are from Anweshi and two from Sutanutir Sakhya). A majority of cases did not receive a FO within two months and the time period varied from six months to over two years.

In the case of Anweshi, where FOs were more likely to be granted, the courts also gave IOs. Among others, IOs were more likely to be granted in the case of Swayam, Sutanutir Sakhya and Sangini. However, it is discouraging to note, that even among IOs, order for protection or restraining acts of violence were not granted, with the exception of cases from Anweshi. Orders for monthly maintenance remained the most commonly granted orders. Even in cases where relief was sought in terms of protection, residence and compensating, IOs were granted only toward maintenance.

Filing of Breach and Execution

Filing of breach remains extremely low. Execution of FOs remains a concern. Organizations were likely to file execution petitions for the execution of ex-parte FOs. With respect to the narratives from SWATI specifically, there was a sense of frustration as orders received were often not implemented.

Coordination among Stakeholders

The PO remains the most visible stakeholder, but primarily because of their role in the filing of the DIR. Their role in the litigation process remains limited. The Act provides for medical and shelter services as well. Notified MFs are also empowered to register DIRs and forward a copy to the PO. However, MFs

were not visible in the implementation of the Act, and neither were shelter homes. Anweshi which is a SP offered short-stay homes.

Filing a case in court is still considered as a last resort for women facing violence. Lack of knowledge, access and social norms that encourage women to preserve marriages at all costs make it difficult for the vast majority of women to view the law as a reaffirmation of their rights.

Reflections of Organizational Staff on Changes and Challenges in Litigating under PWDVA

Participant organizations also shared their reflections on the changes brought forth for accessing relief and justice for women facing DV since the passage of the law. The fact that there is a civil law that allows for recognition of a wide range of acts under violence, the expansion of applicants beyond married women under the purview of the law and the recognition of women's right to residence are the most significant changes articulated.

“Earlier, we could not do anything because there was only Section 498. It used to be confined to husband-wife. Now, we look at daughter-father or even brother-sister relations. So, we look at other familial relations as well. For women, this is the most important gain. Example, in one of our cases, the husband used to make a lot of noise in the house. It was the woman's house and she wanted him out. So, there was a restraining order that we got passed under PWDVA. We could not even imagine such a thing earlier. There have been successes in some places, but nothing landmark however. Maintenance orders do come through. A lot needs to be done regarding protection orders.

(Staff member, Sutanutir Sakhya)

“The most significant change is in terms of the RO. Most of the women have no place to stay when they get out of a relationship. Through PWDVA, they

get courage that they can stay where they want to. Any woman can file a DV case; mother, sister, wife. Before this, only married women would come under Section 125. After PWDVA, even elderly mothers are coming to us if the son tortures them in their own house. This is a positive change with the coming in of PWDVA. After PWDVA was introduced, interim monetary relief (maintenance) became easier to get, which you could not get under Section 498A."

(Staff member, Swayam)

The use of the RO in securing shelter for the woman, and the fact that this can be secured for women who are mothers, widows, or in relationships in the nature of marriage is noted as a significant achievement of PWDVA by Anweshi Staff.

"Before the Act was passed, we had to file the cases under Section 498A; criminal cases or due to dowry harassment, etc., the most you could expect was maintenance and a divorce with custody. After the Act, whether the woman is legally married or not, she can get a RO. Also, before the Act, we had a lot of women staying our short-stay home for long periods of time, because they would have no place to stay. However, after DV, they stay for a shorter duration since they get the RO from court, or even the interim RO, through which they can go back within about a week or at the most within a month. That is the main change. Whether you are legally married or not or just living together, you are entitled to a RO. In this order, the man has to go out of the house. If the woman wants to live with the husband then it's fine. But if she fears that he will kill her or poison her, then he has to leave the house," stated a member of Anweshi.

This is echoed by the staff members from AALI, who stated that even though it is extremely difficult to get orders and the litigation process itself is dominated by lengthy and delayed court processes, the fact that there is a right to residence has signaled a positive psychological shift in women. One of them stated: *"Cannot say whether their*

perspective has changed but I do know that with the coming in of the Act women are ready to take different options. That you do need not leave your house. You have the right to stay in that house. This is under the Act and it gives them happiness that yes, it is my right to stay there. It is not a favor that is being done to me by letting me stay in my husband's house. This thought that it is their right to stay in their husband's house makes their moral higher and asking for money for medicine, daily expenses, care of my children and even compensation is not a wrong thing. It is our right which has been given to us by law. This makes them feel psychologically empowered. It also helps reduce the feeling of insecurity that was present in women. During legal counseling when you tell them their rights, all the entitlements that PWDVA provides them – what you get after implementation is a different thing, then they feel that they do have a say. They develop a feeling of security that they have the right to get something. How much we will be able to get for them we don't know but this feeling gives them hope."

Another significant change that is acknowledged across all the organizations is that women are now able to file cases against their natal families as well. *"If this Act was not there, we would never have been able to address acts of DV within the natal families of women,"* said a staff member from AALI.

AALI staff members recounted that among all other challenges, the one to do with magistrates trying to dissuade the women from filing the DIR is the most difficult to deal with. Often the excuse of children is brought into the picture, and various arguments are used to make women reconsider their decision of filing a case.

"Children are used as a manipulative argument to weaken the woman emotionally. What they try to show is that the man is all important. They do not understand how verbal arguments alone can affect women mentally. We have seen this closely. That is why we need to assure them that they are not

doing anything wrong. We need to tell them that this verbal conversation and what these people are saying is less important and what women are doing is more important. They need to write the application despite the dissuasion they face. The attempt is always, at the point of writing an application, to dissuade the woman or to instigate her so she withdraws the application and gets discouraged. They say people will think that these women are home-breakers and not family oriented," stated a staff member from AALI.

Another challenge as recounted by an AALI staff member was related to cases of sexual violence that are reported.

"One of our toughest challenges is getting survivors of sexual violence to open up to us. We have to build elaborate strategies to ease out the details from a victim. We have to ask indirect questions or try to build a personal equation with them. It seems comforting to them when they find out that we too are married because their initial perception is that we would be unable to empathize as we are not married. Maybe it is wrong to mislead but it is also important to get the facts and details of their cases from them. Sometimes when we ask the victims, they refuse to believe that it is sexual violence. We have to counter this disbelief and convince them that these things are construed as sexual violence. But the most disheartening thing is that despite documented violence, especially sexual violence, they still do not get protection," stated the staff member from AALI.

The other change noted was that different forms of relief can be sought under one act. "Women do not have to file different petitions each time and they are just filing one case. Suppose I want to file for maintenance today and an alternative residence tomorrow; I do not have to file separate cases each time. It just becomes part of the same case, so it's much faster. There is also an organizational change. Earlier, if they wanted maintenance, we would file a case under Section 125. Now, we try to file under DV. So, when the women come to us, we

advise them to file their cases under DV so that they can get maintenance and protection if need be."

(Staff member, Swayam)

Anweshi staff members shared that there were several cases filed by women who are not 'legally wed'. Under this law, these women can claim shared household and maintenance. Their status is accepted even if they are just living together. They also considered that the police was more supportive, a change that was not noted by other organizations.

"Things have changed now and the police are supportive. Earlier they used to tell the woman to go back and settle things at home. At least they refer these women to us. They help in implementation of RO. This is because of awareness programs conducted for the police by the State Judicial Academy."

They also reflected that before the Act was passed, cases were filed under 498A, which would be a criminal case for torture, dowry harassment, etc., and the most that the woman could expect as relief would be either some amount of maintenance and a divorce with custody. With the coming of PWDVA, whether the woman is legally married or not, she can get a RO and also protection order. Before the Act, a lot of women would have to stay in the short-stay homes of the organization for long periods of time because they would have no place to stay. However, after DV, they stay for a shorter duration as they get the RO from court, or even the interim RO through which they can go back within about a week or at the most within a month. "Whether you are legally married or not or just living together, you are entitled to a RO. In this order, the man has to go out of the house and the woman is allowed to live there," said an Anweshi caseworker.

Another important change is that court process has become easier for women in terms of there being no need of multiple petitions. Swayam staff share that women get better relief under PWDVA because

they do not have to file different petitions each time and are just filing one case. *“For example, if I want to file for maintenance today and an alternative residence tomorrow, I do not have to file separate cases each time. It just becomes part of the same case, so it is much faster. Also, this Act is flexible in that it can be put in other Acts, so if there is an existing case, one can file a PWDVA petition along with that within the existing case,”* stated a staff member from Swayam.

Staff members from ANANDI also discuss how the knowledge of the Act, particularly in rural areas, has added to the pressure that women can put to negotiate their demands and settlement.

The delays in court processes and the inability to secure orders quickly, and their subsequent enforcement, however, remain huge roadblocks in the effective implementation of PWDVA. The knowledge and attitude of the judiciary, and the other stakeholders are also significant concerns.

“The biggest challenges,” observed a staff member of ANANDI, *“are the huge delays in the cases caused due to various reasons such as notice not being served on time, hearings not taking place on time, lawyers getting bribed by the opposite parties, and even when some orders are passed (after endless delays in the processes), there is no clarity about who will implement the order; the PO refuses to go to a different district just for the sake of ensuring implementation of orders, and the women can do nothing but sit with the orders, because the support structures are dysfunctional. The only orders that are passed are maintenance orders, while protection and ROs are not passed because the judges feel since the woman is living at her natal home, she does not require protection and residence.”*

There is a huge gap in what the law was meant to provide for the women and how it has been construed by the magistrates and other responsible

stakeholders. As per the experiences of ANANDI, users of the law have not received as much relief from the Act as was envisaged, the primary reason for the same being the lack of support structures and procedural hiccups.

Staff members from Sangini, who faced enormous challenges in terms of the apathy and lethargy of the stakeholders at various levels noted, *“We have a controlling agency of which the Collector is in charge, but he knows nothing about the law. We once had a high profile case, which came under him and he just had no idea about what to do with the case. He has no training, had no meetings, nothing at all. There needs to be a committee that exists to check on the progress of the cases, but also knows about the law. So, we asked that it should be run in a mission mode with an outside authority checking the progress of the cases and also ensuring proper implementation of the Act. In one case, the PO filled the form but he did not have all the details. Half of it was filled by him and the other half by his assistant. He had no time. He would not question the women about sexual violence because there is no sensitivity. After filing the case under PWDVA, the fear of violence is always there. Then, in some instances, if the man supports the woman a little, he’ll withdraw it completely after he gets to know there is a complaint against him. He knows she would not get anything from court in any case.”*

The issue of enforcement is most vociferously articulated by staff from SWATI and Sutanutir Sakhya. *“In DV, enforcement is very difficult. That is why we stopped taking DV cases at a point. The PO also does not take responsibility. So it is very discouraging,”* noted staff members from SWATI.

Staff from Sutanutir Sakhya echoed the same belief, *“There was a lot of hope when the Act was enacted, but then we realized the government does not want it to succeed. There is no budgetary allocation, the PO does not get a helper, and there are no MFs for the survivor. The whole thing needs to be reformed. First of all, the PO should*

have a place to work and have some staff; there should be budgetary allocation for SPs, which also need staff for follow-up. There should be an effective committee to check implementation. There is only one PO per district. They lose half a day just filing the DIR and the summon service through the police. There is also lack of awareness regarding the Act. The government needs to have a legal awareness program specifically for PWDVA.”

Anweshi staff also makes another interesting observation with regard to how things have changed over time, from the beginning when the Act was newly passed, to when it is nearing a decade of completion.

“In the beginning when the law was just passed, more orders were being passed and even IOs of maintenance, protection and residence were passed more easily. But as the law became a little older and because a lot of women were using the law to get relief, the magistrates have increasingly started believing that women are misusing the law, and this perspective of the judges becomes a roadblock in the passing of orders. Even female magistrates are cautious about passing IOs now; they would rather issue notices, hear the other parties and then pass the orders. There is not much difference in the sensitivity of female and male magistrates, since they all belong to the same patriarchal judicial structure, and the mind-set, lack of training and gender sensitivity leads to such behavior. Maintenance orders are the most difficult to get, and even after it is granted; there is no surety that it will get implemented. Implementation is the worst part of the Act. Execution petitions are often filed by the organization for the breach of maintenance orders, but it is next to impossible to get the police to issue warrants. There are cases where the respondents are even ready to go to jail than pay the monthly maintenance. Many of these cases are then resolved out of court, or another strategy that is now being resorted to is to file the case under Section 125 CrPC in family court,” noted a caseworker from Anweshi.

In 2012, the AMAN Network and most organizations working on the issue of DV nationally rallied together to frame and advocate for a centrally-sponsored scheme for the effective implementation of PWDVA. This suggested a detailed infrastructure, along with a specific budget. However, even though it was presented for inclusion in the national five year plan, it was not included in the final plan. There is a need to revitalize advocacy both nationally and with state governments to allocate funds and infrastructure toward implementation of the Act.

The other factor that requires urgent attention is the judicial process. More discussions with judicial officers and issue of standard procedural guidelines are imperative to ensure that the processes do not become yet another roadblock for women seeking relief from gruesome experiences of violence.

This report presents the story of implementation from the viewpoint of the users of the law. The promise of quick relief is the major attraction of this law for its users; however, actual practices are more often than not divergent from the written letter of the Act.

As mentioned earlier, the systematic analysis of case records point to the fact that patterns of litigation have not necessarily become better over the years, and the variations remain specific to the districts and states. We hope that the analysis will inform the sharpening of advocacy, for it is not enough for the state machinery to do something; it must also do the correct thing.

Along with demands of sensitization and budget allocation, a focused discourse must define standard and promising practices. The litigation process needs to strengthen legal aid for the women and the practice documented in the case of Anweshi; Kerala provides a promising suggestion with respect to proactive actions on part of the state in provision of legal aid. As long as the magistrates insist on the procedural niceties, speedy relief for the victims of DV is not possible. Even special

courts for women, as in the case cited by Sangini in Madhya Pradesh, have not resolved the issues. The role of other stakeholders requires greater debate. The engagement of police with the law continues to be a complex issue. Enforcement is one key area where police collaboration is essential.

It has been argued that along with advocacy for system strengthening and budgetary allocation, a discussion should start on the supportive changes

to be made in the other laws, such as that on matrimonial property that would ensure a violence-free life for the women. The accountability of the state that was enforced through the undertaking of regular M&E of the law by civil society must be made inherent and systemic. The law can be amended to build in M&E as a mandatory obligation and responsibility of the state, which will ensure ongoing review and prioritize the right of women to a violence-free life.



ANNEXURES

Annexure 1: State Profiles

STATE*	MP	Kerala	UP	Gujarat
Districts	51	14	71	26
Total cases under PWDVA	23,741 (2008-11)	No information	99,250 (2007-12)	7994 (2007-11)
POs				
PO	51	14 (All Female)	81 (64 male, 17 female)	26
Level	District	District	District	District
Independent	Additional Charge to Women Empowerment Officer	Independent	Additional charge to District Probation Officer (DPO)	Independent; Also additional charge as dowry prohibition officer
Office	No separate office	Civil Station (Protection Office)	No separate office	No separate Office; Placed at Social Security Office
Support staff	None	None	None	Data Entry Operator, Home Guard from Social Security Office
Budget	Intimated separate budget	Specific separate budget for SPs	No separate allocation	No information
Training provided by	State	State	National Institute of Public Cooperation and Child Development (NIPCD) and AALI	WCD and GRC
Duration of Reports filed by PO	Monthly (but irregular)	Monthly reporting to Regional Assistant Director and quarterly reporting to Director	Monthly and Yearly reporting to Directorate of Women and Child Development	Quarterly Reporting to Department of Women and Child Development
DIR				
Total Cases under PWDVA (2008-13)	23741	Not available	Not available	Not available

SERVICE OF NOTICE				
Notice served by	PO/By post/ Police	PO with messenger	Police and staff of PO	PO
Home visit	No provision currently	PO alone	None	No information
SERVICE PROVIDERS				
Notified	81 (as in 2011)	102	Notified earlier, but due to no allotment of separate budget and non-renewal of contracts, many have withdrawn	19
Types	The police family counseling center (58); Shelter homes being run by Nari Niketan (30)	No information	No SPs currently	No information
Services provided	Filing DIR, counseling, legal aid, shelter	Filing DIR, counseling, home visits, legal aid, shelter	Not applicable	Filing DIR, home visits
Budget	Specific Budget of 2012-2013: Rs. 219.73 lakhs	Specific budget (information on amount not available)	No specific budget	No information
MEDICAL FACILITIES				
Total notified	All private and government hospitals notified under PWDVA.	43	No information	20 Notified in 2011; All civil hospitals of Gujarat (Reporting to WDC and health and family welfare department)
SHELTER HOMES				
Total notified	30	6	10	20
Cases referred	No information	No information	No information	2

COORDINATION COMMITTEE				
Existence	Yes	No	No	Yes
Functioning	Currently not active	NA	NA	14 SPs of Vividh Laxmi Mahila Kalyan Kendra are members
PROVISION OF SPECIAL COURTS				
Existence	3 special courts in Bhopal for DV	No information	No information	No information
Awareness of the Act	No Information	Print media, banners, brochures	No information made available by State Legal Services Authority or Department of Women and Child Development	TV, radio, print media

*No information was available for West Bengal.

Annexure 2: Format for Narratives of Women

Purpose: The objective is to plot the cases of women along the continuum /process of redress to better understand the situation, support and challenges that women face as they go through or fall through the pipeline of using PWDVA. For this:

- The case record of each of the cases will be studied to fill in this format. It is likely that some factual details (case dates, help sought from your organization etc.) are already with you. However, if you do not have these, please ask these also directly to the woman.
- Woman litigants (and if necessary her lawyer-private/ public) will be contacted to gather her complete case narrative (till date), and also to fill the gaps identified in the formats.
- The questions to be asked to the woman directly are suggested in italics. The information that we will get from the woman's interviews should be filled in the woman's own words with details of her experiences, challenges and support

Section 1: Background:

Name /profile of woman (case number) as in tabular format

1. Past History of violence and Coping mechanisms

- Ask the woman's to describe her situation and the violence faced by her. - *When did the violence start, what were the reasons for it/ who all perpetrated the violence?*
- *Did you ever leave the house? If yes, why did you return?*

2. Help-seeking (external) by woman (prior to reaching your organization):

- *At which point did you decide to seek external help? (describe the incident/circumstance that made you decide to reach out for help)*
- *Whom did you approach? Who helped you decide to approach this person/institution? Who accompanied you? Where were you living at that point?*
- *After this, who all did you go to for help? (ask the woman about the entire process of places/persons/ institutions she has approached before reaching your organization)What is action suggested by each person? (Any police complaint/case filed)?*
- *Did anyone ask you to try for mediation/try and counsel you? What did they say? Did you want this? Then what happened (get the process of who was called, what was said etc., in woman's own words) what was the outcome?*

3. Difficulties women experience in seeking (above) external help? *What are the difficulties that you faced while approaching people for help? Where were you living at that point? How were you managing financially? What was the reactions/support of the family- both marital and natal?)*

(Please ask women about her experience of seeking help – whom did she think was helpful and why, was she accompanied by any friend/family member, was she satisfied)

4. Help-seeking by woman from your organization

- At what stage and why did she approach your organization.
Who told you aboutorganization? Why did you decide to go to them? Who accompanied you there?

- What help did she seek from organization.
- Was monetary help sought for filing PWDVA) why and for what
- What help was given by the organization..... (Counseling, home visit, mediation. financial help, etc.) Why was it thought necessary?
- If counseling is done- please provide details around focus of counseling. What was the outcome?

3. Knowledge of and applying PWDVA:

- History of prior litigation - did she already have ongoing cases in the court when she approaches your organization?

IF YES then skip to SECTION 2. Ask Q1 and then also ask Q2.

IF your organization suggests that she files a DV case, go to next question

- Is she aware of PWDVA when she approaches your organization? If yes, how?
- Why is the decision to file under PWDVA taken?
- Along with filing the case under DV, were there cases filed under any other law?? Which ones and why?
- [From the organizations viewpoint-add the following - is there any different strategy applied in this case to handle any anticipated problems? if yes what?]

Section 2: Pre-Litigation

1. Counseling offered to women/ her family members during pre-litigation: types of 'counseling' by who and for what purpose, what was the outcome

(Please fill in details of her experience – whether she felt it was needed and how it helped her situation)

2. Process of accessing PWDVA -

If she has already filed a case BEFORE approaching your organization ASK-

- a. Decision to file a case: *Why did you decide to file a case under PWDVA Act?, who guided you? Why did you agree?*
- b. *What did you know about the Act?*
- c. *Whom did you approach for filing case under PWDVA and when give date/year*
 - Organization (other than yours).
 - PO
 - Lawyer

From where did you hear about {.....}
- d. *Did you require /any financial support for DV case? if yes for what specific aspect*
- e. *Did you think that filing a case under DV act would lead to any difficulties? What?*
- f. *What all reliefs you sought? Why?*
- g. *Where were you staying when you decided to file the case? Where are you staying now?*

- 3. Describe the steps of the process as followed by the woman in filing her case** (irrespective of who was approached) Note- the sequence of filing the application, DIR could be reversed – please fill information in the sequence that the woman describes)
- a. **Filing Application** (give date/year) who filed the application, what all documents are filed, were there any difficulties faced in the filing of application? (Probe for attitude, number of trips, expenses incurred, etc.)
 - b. **Filing DIR** (give date/year) who filled the DIR? (probe- PO / NGO or PO on courts directions, any other) was your case already filed in court before the DIR was filled?

What is the time gap between application to NGO/PO and the filing of DIR in court?

Details of Process of filling a case DIR and interaction with PO

- How did you meet the PO?
 - How did you come to know about the PO? From whom?
 - For what did you meet the PO?
 - How difficult was it to meet the PO? (is there a particular place where she sits? did you have to go repeatedly or did you meet her the first time)
 - Who accompanied you?
- Can you explain the interaction with the PO?
 - What did you want from her?
 - When you met her for the first time, what was the PO's response when you said you wanted to file a case under PWDVA?
 - What options /information did the PO suggest?
 - Did the PO talk to anyone else from the family? If yes, with whom and what?
 - Did she try and counsel you to go back to your husband? What did she say and why? What was the outcome?
 - How did you feel about her suggestions?
- How did you feel about this interaction? What was helpful and what was not? How satisfied were you with the help that you received?
- What was the procedure adopted to fill the DIR?
- Who decided which relief to seek
- Did PO have any resistance to filling DIR or doubted you
- Did she say that she would have to do any home visit for investigation, etc.?
- What did the PO do with the DIR? Did she give you a copy? Did she attach any other report with the DIR? If yes, what?
- Apart from the DIR, did the PO accompany you for anything else?
- How many times did you meet the PO (apart from filing DIR)? Why? / For what?
- Was she ever present in court during your case hearing? If yes, then why and for what?
- What do you understand as the role of the PO?

h. Filing case in court (give date/year) who does it, what all documents are filed?

- *Were the difficulties faced in filing your case? How did you manage the expenses incurred etc.?)*
- *What was the Date of first hearing (after filing of case): after how much time of filing application in court in did it to come up for hearing ... if there was a delay, then what was the reason?*
- *Did anyone accompany you to file case if yes –who?*

Litigation

1. Services/role provided by other stakeholders – who all stakeholders she contacts through the process –

- Private lawyer
- Service Provider,
- Free legal aid services

2. Court experience:

- *Was free legal aid applied for? If yes why. Whose behest. Was there a cost to organization or to woman? For what all. What was the overall cost? Who bears this?*
 - *Was a (private) lawyer's service hired? If yes why and whose behest. What was the overall cost? For what all... who bears this?*
 - **Details about interaction with lawyer:** *who suggested this lawyer to you? What did they tell you about the case? What all do they inform you about the case? Are you updated about progress of case- at what stage is your case now? For what have you found the lawyer helpful? What are the difficulties you faced? Who pays the fees?*
 - *Have you ever changed your lawyer- why? Who advised you?*
 - *What are the reasons for delay in your case? Have you/ did you take any action to expedite the case? What?*
 - *Method of delivering summons...who delivered the summons? Do you know if any problem was encountered?*
 - **Check again for Role of PO in court proceedings:** *Does the court direct any specific role to PO; are they involved with home visit? Are they make PO report then what is it? Role in enforcement of orders.*
 - **If SP is involved (other than organization) get details of their role and involvement: which was the SP?** *Who suggested them to you? For what particular help did you go to them? Who accompanied you? What was your interaction with them? (details of services provided) Did you find them helpful/ in what ways? Did you face any difficulties? what*
- 3. Interaction with Magistrate:** *During your case proceedings did the magistrate ever ask you- any questions directly? OR Have you ever interacted directly with the magistrate/judge? When? Please describe? What do you feel was/is the attitude of the magistrate toward you and your situation? Did the magistrate ever stress for mediation? IF YES, then what did the magistrate say? Why did s/he feel that you should go in for mediation? What happened at the mediation? was it helpful*
- 4.** *What were the type of questions asked to you in court? Did you ever feel it was unpleasant or insensitive? (in court room or in court premises (examples), other challenges faced during court proceedings*

5. **Check for compromise** (court directed or otherwise) during the litigation phase? If yes, then why and details of process.
6. Whether any new petition etc. is filed when case is going on, why?
7. **Experiences and coping mechanisms while case is ongoing:** : what are the types of difficulties you faced while the case was going on? Who supported you? , (financial, social), How do you cope with repeated visits, did you feel that you made the right decision in deciding to use PWDVA? Why/not?
8. What is the situation of the case now?
9. **Orders received till date:** (LIST all orders applied for and give details of their status - Give dates for each order.)
 - *Have you received any orders (ex-parte, interim relief.) when did you receive them and which ones? Are there any reliefs you wanted that have not been given? Why?*
 - *Have you received any final order? are there any terms and conditions*
 - *Who all are the copies of the orders given – (woman, police, PO)*
10. *Was there any out of court settlement... why? How did it happen what were terms and what is situation now?*
11. **Role of organization** from woman- Describe in detail the role that organization play (during the case pre litigation, during court process and post litigation?)
12. **For organization:** *what are your reflections of this case/ did the organization learn anything new from this case/ had to adopt different or new strategies? Looking back, is there anything you would have changed in the way you handled the case?*

Post Litigation and Current Situation

1. **Enforcement of the orders:** *what happened after the order was passed? How did you know about it?*
2. **Is the order (s) being enforced** (LIST ALL ORDERS received) how was it enforced, who accompanied [police/SP/PO- how did they help], are orders enforced regularly (order enforced regularly, partially or not at all which orders, challenges faced in order enforcement).
3. **What was the role** of organization in enforcing orders
4. **Breach of order:** *whom did you report it to? Who accompanied you there? what action was taken, involvement of PO/police/SP)*
5. **Situation now:** positive outcome of filing under PWDVA? Repercussions?

General Guidance notes for conducting the interview with woman

Questions that need to be asked to women (points already covered can be skipped)

1. **Experience of women in the court:** *(Probe: comfort level of women to the Qs posed during court hearing, anything unpleasant or insensitive asked/said in court room or in court premises (examples), challenges faced during court proceedings).*
2. **Hardships faced by women in using PWDVA** *(probe: Family [if it affected her relationship with family, friends/community] and interaction with other stakeholders [police, NGOs, women cell etc.]. Did the women ever think of withdrawing her case (if yes, why)*
3. **Women's experience with her lawyer:** *(Probe: who interacted mostly with the lawyer, is the women*

satisfied with her lawyer [if not, why, and has she done anything about it, did she ever thought of changing her lawyer- if yes, did she change, who advised her]

4. **Who has been most helpful and supportive to women** during her court case (who all? family and outside support, and how?) including the role and support of the organization
5. **Has there been any positive outcome of filing PWDVA** case for women? *(Please list them with examples)*
6. **Advice that the women would like to share** with others who choose to file cases under PWDVA? *(Probe: What should they do or they should not do, also how and what can be improved in PWDVA to help women better?)*
7. **Problems/ barriers faced in using PWDVA... at every level. Suggestions for improvement**

By woman or organization, to improve implementation of PWDVA.

Suggestions on role of police.

Suggestions regarding counseling, medical help, shelter home coordination

Annexure 3: Socio-Economic Profile of Women Litigating under PWDVA

Socio-economic background		Does the woman know about DV Act when she approaches the NGO?	When does the woman decide to file the case? (at what stage?)	What does the woman approach the NGO for? (legal aid, counseling, Issues faced for which she approached you)	Does she file DV case in conjunction with other acts (which acts?)	Social support (community opposition/ lack of parental support- or support of parents/ family)
No.	Age	Edu	No. of years married	Kids Son/ daughter- no.)	Employment status (women)	Rural/urban/ Semi urban/ semi-rural

Annexure 4: Tabular Format of Cases Filed under PWDVA

DV Cases: Details of Women litigating under PWDVA

Total number of cases (year 2008-June 2013)

Case No.	Case Details		Lawyer Hired	Role of PO	Status of case: (Ongoing/ decision granted and year of completion of case)	Variety of orders Received*		Information on Enforcement of order	Follow- up of cases		Services provided by NGO)**	Any Special men- tion
	Issue faced	Date of filing case				Reliefs sought	Interim order- by date received		Final order- By date received	In touch with woman		

* Please mention all the orders granted to the aggrieved women from 2008- June 2013.

** Please include the nature and kind of services that your organization is providing/ or has provided to the aggrieved women- ranging from providing referrals (to police, POs, medical aid etc.), counseling, assisted in filling DIR, legal aid for pursuing the case etc.

ICRW Asia Regional Office

C-59, South Extension, Part II, New Delhi - 110 049

Tel: 91-11-46643333

Email: info.india@icrw.org

Website: www.icrw.org/asia

ICRW Headquarters

1120 20th St NW, Suite 500 North, Washington, D.C. 20036

Tel: 202.797.0007

E-mail: info@icrw.org

Website: www.icrw.org