

*Towards Violence free
society.....*

*Orientation Training of
Protection Officers
on
Implementation of Domestic Violence Act-2005*

17-18 May 2007

Ahmedabad

Gender Resource Centre (GRC), Ahmedabad
Department for women and child development (DWCD),
Gujarat

United Nations Population Fund (UNFPA)

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I. Background

Domestic violence against women and girls is a serious violation of their right to safety, dignity and violence free life. It affects women worldwide in all socio-economic and educational classes and has serious and long term mental and physical consequences among women and girls. In India, Government and civil society organizations have gradually begun to recognize violence, especially domestic violence, as a public concern rather than a private family matter. Domestic violence is widespread among all sections of society- from wealthy urban households to poorest households across all religions, class and caste boundaries. It refers to any kind of violence in the house and the perpetrators are close relatives of women.

India has many laws and legal machinery to protect the rights of women. But Domestic violence as a crime was recognized only in 1986 after the advocacy by women's movement. The laws that deal with domestic violence issue are Section 498 - A of IPC, Section 304B, IPC and Dowry Prohibition Act. Since these laws are not the sole answer to the problems faced by women in their homes, women's organizations were demanding for a civil law that helps women in getting solution of their problems within household.

As a result of this movement, The Protection of Women against Domestic Violence Act was enacted in 2005. for effective protection of the rights of the women guaranteed under the Constitution. The central government passed an order to all state governments to ensure the effective implementation of the Act.

The Government of Gujarat initiated the process in ---- and actions were initiated at many front. One of the same was appointing Social Defense Officers as Protection Officer (PO) in each district. About 25 POs were appointed in each district. Since the Act was new, in order to build the capacity of POs so that they are aware of their duties, power and expected outcomes for effective implementation of Act, two days training programme was organized. The idea was that it would help in enhancing their capacity and bring better clarity about their role in DVA implementation.

II. Inaugural Session

Resource Person: Ms. U.D. Patel - GRC, Mr. Rajeev Tewari- UNFPA, Shri J.S. Rana,

Principal Secretary -DWCD, Ms. Shobhnaben Patel-Chair Person-SCW

Chief Guest: Shri N.P.Gupta – NCW, New Delhi

Ms. Urmila Patel, Director GRC welcomed the distinguished guests and participants. She highlighted the issues of women and how this Act can help in addressing the same. She also shared GRC activities especially on implementation of DVA in state of Gujarat. She hoped that the workshop would help POs in helping women who are victims of violence.

The workshop was formally inaugurated with lightening of lamp by Shri N.P. Gupta, Member Secretary, NCW and other dignitaries.

In his opening remarks, Mr. Rajiv Tewari, SPC, UNFPA shared a few concerns regarding the implementation of the Act. He addressed the participants by saying, 'There are more than 30,000 Act prevailing in Indian law, so it is very important to make people, especially women aware about DVA and bigger challenge is to make women empower to register the cases of DVA when domestic violence happens. In DVA implementation POs are in the key role, along with Service Providers and judiciary system and enabling environment should be created through media and civil society partnership for making this act different than other acts which remains only in books. He commented that today is the first step to push the movement in state as well as country towards building capacities of POS. He concluded his speech by congratulating the efforts of WCD department that would result into relief to women in Gujarat.

Shri J. S. Rana, Principal Secretary DWCD in his inaugural speech shared that 'Gujarat state has recently started working on DVA so it is expected that we should learn from whatever is happening in other states for effective implementation of DVA and ensure that the Act does not become burden on existing mechanism of state. This act is a tool through which we can create an impact on society and help those 60-70% women who are suppressed in our society. It's our collective responsibility to motivate them to complain about the domestic violence.' He also declared that state has already invited applications for Service Providers and soon it will be processed and State Governments new initiative 'Mahila Margdarshan Kendra' at district level can also be part of the DVA implementation. He also declared that government would organize capacity building programmes for police and other stake holders to boost the movement. He commented that in two days, POs would be able to concentrate on different aspects of act and how they can implement it in best effective manner.

The Chief Guest, Mr. N. C. Gupta from NCW, in his keynote address, congratulated Government of Gujarat and GRC for organizing such a training programme. He mentioned that no other state in country has initiated this activity and Gujarat is pioneering in that. Apart from this translating the act in vernacular language is also done only by Gujarat.

Regarding DVA he commented that, 'Most of the women in our country are not aware of their rights. The misconception of domestic violence is that it happens only in poor houses, but it has been observed that it is equally common in wealthy families. It's prevails across all classes of society. DVA is mostly a civil act; and there are only one or two clauses which are of criminal nature. POs are the main role players and their responsibility is clearly defined in section 9 of the act. POs role can not be replaced with anyone. Generally at the time of violence victims approach police, so there is need for close coordination with police also. Section 33 has penalty provision for the POs but there is no need to worry as no undue harassment would happen with POs and that is state's commitment.

Ms. Shobhna Patel, Chair person SCW addressed the participants by sharing that domestic violence happens everywhere in world and the reasons for its prevalence are illiteracy, dowry and low status of women in society. Civil society and NGOs can play crucial role in removing domestic violence from our society along with POs. So today let's take an oath to protect the women from domestic violence and make society free from violence.

III. DVA – National and State level scenario, Presentation on DVA study in Gujarat Network

Resource Persons: Ms. Rashi Prasad - Lawyers collective

Ms. Poonam Kathuria - Kutch Saurashtra Network on VAW

Chairperson: Ms. Ila Pathak, AWAG

Ms. Jigna Surkar, GRC shared the objective of workshop. She mentioned that since the Protection Officers have been implementing various laws and are quite aware of women's issues, we have not planned this training as a formal teaching exercise, but merely an exchange of information/ experiences from experts and organizations in the state. She also said that, 'we will try to establish the processes that would help in effective implementation of the Act. There is special session on discussing the questions and issues faced by the implementers in the practical situation. So it is expected that this two days programme will help all of us in performing our task in most effective manner to make the society violence free.'

National and State level scenario – DVA

Ms. Ila Pathak of AWAG talked about the state and national level scenario of DVA. She commented that it took long time in appointing POs. She also shared her concerns regarding the general mindset of the officers working with women. Till now they were involved mostly in welfaristic activities for women but now the time is to talk about rights. The government officers need to change their perceptions regarding addressing women's issues. In this law, the duties and time required for perform the same may be a challenge for POs and SPs. But one must understand that unless there is crisis or emergency, no woman would come to them. It must be worse situation than one can imagine, so care must be taken in not taking the problem lightly.

National level progress on implementation of DVA was presented by Ms. Rashi Prasad from Lawyers collective, Delhi. She shared progress from following states:

- In Maharashtra POs are still not appointed and that caused severe problem in dealing with domestic violence cases.
- In Rajasthan where POs are not available, the cases are being filed by lawyers, so situation is better.
- In Delhi, POs are social welfare officers from social welfare department and they are facing many problems in implementing the law.

- In more progressive state like Andhra Pradesh state has appointed POs as well as APOs having very good coordination with police. The DG of police passed the order mentioning police's role in DVA in all police stations. This helped in implementation of law in very effective manner with following deadlines. In Andhra Pradesh when the women reports at police station she is referred to POs where complain is written and after following the process mentioned in act.
- Not much progress has been noted in other states.

She mentioned that after issuing the notice within 60 days or lesser period the complaints are being processed. While summing up her presentation, she reiterated that the act is very important for those who are suffering from Domestic Violence and the important part of the act is that POs are key persons between women and magistrate. Lastly she ended her presentation by putting stress on correctively communicating the motive behind the act and effective utilization of the same.

Violence against women in the Saurashtra – Kutchh region of Gujarat

Ms. Pallavi Sobati from KSNVAW presented the study about prevalence of domestic violence in Gujarat with special reference to Saurashtra and Kutch region. Main objectives of the study were:

- To find out / understand the types and forms of domestic violence perpetrated on women.
- To determine the prevalence of domestic violence against women and the type of environment that encourages this violence.

Area of study

The study was conducted in 31 villages in the four districts Saurashtra and Kachchh.

There were 2 hypotheses formulated for this study. They are.

- The extent of violence against women is high in the Saurashtra-Kachchh region as compared to the rest of Gujarat.
- The feudal and upper castes have a higher rate of violence against women as compared to the other castes.

Major Findings

- 89.8% of the 521 women interviewed had suffered violence in some form or other at some point of time in their married lives at the hands of the husband and /or in-laws.
- 86.7% of the women reported that they had faced violence from their husbands and 3.1% reported facing violence from their sister or mother-in-law.

- 44.1% of the total women who reported violence said that it occurred within the first year of their marriage.
- 49.1% reported the first incident of violence within 1 and 5 years of marriage.
- Only 4% reported the first incident of violence after 5 years of marriage.
- 20% of women reporting violence admitted to facing it daily
- 10.5% reported facing violence fortnightly
- 14.1% said they faced violence at least once a month
- Violence occurs more frequently with women living in nuclear families as compared to those living in joint families.
- 39.5% of the women living in the joint family set-up reported violence occurring daily to rarely as opposed to 60.5% in the nuclear family set-up.

Conclusions

- There is a very high incidence of violence against women in all the four areas where the research was undertaken. Of the total women interviewed, 89.8% have reported undergoing violence.
- Women undergo immense suffering, physical and psychological at the hands of spouses and /or in-laws.
- Violence takes many forms, from mental torture to perverted behavior; from threats to inflicting of physical injury.
- Women victims of violence very seldom retaliate to this violence. A large number feel that it is inevitable and suffer silently.
- Suicide is an option considered by some women as a way out of such violence.
- Medical treatment is often denied to women who are battered in order to avoid public knowledge of this violence.
- The women are most likely to turn to a family member for help.

Ms. Poonam Kathuria, Director SWATI added to this presentation that in our country human right is given by the law. DVA understands the needs of women who suffered from violence – physical, emotional and social. POs are in the main role as they actually serve women in emergencies. Other states have expectations with Gujarat as we are competitively ahead from other states in country. Role of police in Andhra Pradesh can be good experience to adopt in our state. Only Gujarat, Andhra Pradesh and Karnataka states in country has POs, which make us more responsible.

IV. Violence on Women – Types, factors affecting, Various laws pertaining to violence against women

It is very important to understand that home is not the place where women always feel safe. NCERT study says that out of total suicidal incidence amongst women, 33% happens in first 3 years of marriage and every day 12-13 women commits suicide in our country. Police training should be done to make the police official more sensitive towards the issue. POs should deal with this law as a civil law and NGOs/ Government should play main role as it has legal powers for the implementation. Here it is also important to understand that women generally avoid reporting violence incidence to save her marital relationship so understanding of term gender is very important for all stake holders in DVA implantation.

The screening of film 'Bol' was done to make the participants understand the scale of the issue.

V. Open Discussion

Following questions and issues came up in an open discussion forum;

1. Why settlement is not preferred?

What women want should be done. Care should be taken that settlement should not done only because woman doesn't have shelter. It should be justice and her choice not force. Follow up studies of settlement doesn't show good results in most of the cases as women have to suffer violence throughout her life.

2. What are the measures to be taken for awareness generation amongst women?

Generally women in all class think that she has to stay at marital home even if violence happens. Collective efforts should be made by judiciary, NGOs and government to make women aware of her rights.

3. Is there any need to increase the number of POs, at Taluka level?

For few months service trend should be observed and then government will think about aid and creating special posts for DVA.

4. Counseling services are available for whom?

Counseling services are for the offender and aggrieved person, individually or collectively to stop the violence.

5. What are the main reasons for domestic violence?

There is no resistance so man does violence.

6. Any person at local level, especially at village level can help in implementing the DVA?

'Gram mitra', SHGs etc. can help in implementation, but the pre-condition is that POs should be willing to work and motivate others as well.

VI. DVA 2005, Act, Stakeholders and Provisions

Resource Person: Dr. Ameer Yajnik, Ms. Nirjanaben Patel – Vanita Shishuvihar

Whenever, the new law is being implemented, number of issues comes out together. Like the same, DVA also has issues and challenges which needs to be resolved collectively. Up till only local organizations and NGOs were dealing with domestic violence cases but now as POs are working for DVA it will definitely improve the situations.

Dr. Ameer Yajnik gave an idea about the provisions of law and practical aspects of the implementation and suggestions to deal with the DVA. She insisted that social aspects should be taken into account along with the legal aspects equally. Family violence is all pervasive; thought types are different, which is accepted as a human right issue as DVA is formed. Approximately 9 out of 10 women in our society suffered with violence is sent back home from police station. In the DVA, POs are so empowered that no one can perform as good as POs. 498(a) can not serve the purpose if woman wants to live in family. Perspectives should be made clear to woman before the proceedings starts. The law of DVA is in 5 chapters. Powers and duties of POs and SPs is in chapter 4. The informant can be aggrieved person and apart from her it can be interested witness like neighbours, relatives, friends and anybody who is having information about the violence. POs needs not expose the name of informant. The main agenda should be awareness where media can play very crucial role. Law comes in the end first woman should know where she can go for assistance in case of violence. It's a full proof technical law, but one has to look in the loopholes of the law for its effective application.

VII. Role and responsibilities of PO, Reporting mechanisms, Presentation of the research study by GRC on roles and responsibilities of PO

Resource Person: Ms. Rashi Prasad-Lawyers collective, Ms. Poonam Kathuria,

Ms. Ila Pathak-AWAG, Dr. Ameer Yajnik, Mr. Mahendra-GRC

Chairperson: Ms. Ila Pathak-AWAG

The act of domestic violence is not for punishment to man but for relief to woman. DVA is of temporary nature and civil law. The objective of the act is to stop the violence, its also known as a stop violence and emergency relief law.

Presentation from Ms. Rashi Prasad of Lawyer's collective was done including key features, duties and functions of POs and procedures to be followed. Following will give an idea about the presentation;

Protection of women from Domestic Act, 2005 by Lawyers Collective

1. Key features

- Recognition of women's right to live free from violence
- Immediate relief to victims in cases of emergency
- Right to reside in a shared household
- Effective access to justice through POs and SPs
- Covers mothers, daughters, sisters, widows, relations through adoption
- Recognizes relationships in the nature of marriage-victims of bigamous/fraudulent marriages, cohabitation
- Civil & criminal-2 stage process-civil orders passed by Magistrate-on breach of the order, imprisonment or fine

2. Duties and Functions of POs

- To assist the Magistrate
- To make a DIR to the Magistrate upon receipt of complaint of DV, forward copies to the PS
- To make an application to the Magistrate if the aggrieved woman so desires claiming reliefs
- To ensure that aggrieved woman is provided legal aid
- To maintain a list of all service providers
- To make available shelter home if required to the woman
- To get her medically examined if she has sustained bodily injuries
- To ensure that the order for monetary relief is complied with and executed in accordance with CrPC
- To assist the aggrieved woman in making a complaint if she desires
- To provide her information on her rights under the Act as given in Form IV
- To prepare a safety plan including measures to prevent further domestic violence in consultation with the aggrieved person after

- Making an assessment of the dangers involved in the situation & on an application being moved u/s 12
- To assist in obtaining transportation to the shelter
- To inform the SPs registered under the Act that their services may be required in the proceedings under the Act
- To invite applications from SPs seeking particulars of their members to be appointed as Counselors or Welfare Experts under the Act
- To scrutinize the applications for appointment as Counselors & forward a list of available Counselors to the Magistrate
- To revise once in 3 years the list of available Counselors by inviting fresh applications & forward a revised list of Counselors to the concerned Magistrate
- To maintain a record & copies of the report and documents forwarded u/s 9, 12, 20, 21, 22, 23 or any other provision
- To provide all possible assistance to the aggrieved person & children to ensure that the woman is not victimized or pressurized as a consequence of reporting the incidence of domestic violence
- To liaise between the woman, police and service provider in the manner provided
- To maintain proper records of the SPs, medical facility & shelter homes in the area of his jurisdiction
- To protect aggrieved women from DV
- To take all reasonable measures to prevent recurrence of DV against aggrieved women in accordance with provisions of the Act & Rules

3. Duties and Function of POs on court's directions

- Conduct home visit of the shared household premises & make preliminary enquiry if the court requires clarification, for granting ex parte interim relief
- After making appropriate inquiry, file a report on the emoluments, assets, bank accounts or any other documents
- Restore the possession of the personal effects including gifts & jewellery of the aggrieved person & the shared household to her
- Assist her to regain custody of children & secure rights to visit them as directed by the Court

- Assist the court in enforcement of orders
- Take police assistance, if required, in confiscating any weapon involved in the alleged domestic violence

4. Other Functions

- Perform such other duties as may be assigned by the State Govt. or the Magistrate in giving effect to the provisions of the Act & Rules
- To carry out directions by Magistrates for better handling of the cases

5. Procedures

Complaints can be filed:

- Directly with the Magistrate-if PO not appointed
- Directly with the Protection Officer-will record the DIR & forward it to Magistrate
- Directly with the police-if cognizable offence under existing law, police will investigate, if not will record the complaint

On receiving the complaint the PO will

- record the DIR & forward the same to the Magistrate
- Assist the aggrieved person if she requires to file an application
- Assist in filling the application along with the affidavit & file the same before the Magistrate
- After the application is filed & the notice is issued, on directions of Court the notice is required to be served on the Respondent in the manner prescribed under the Act
- To make available the list of service providers to the Magistrate
- To get the order enforced on the direction of the Magistrate
- To report breach to the Magistrate in case the aggrieved person complains of the same

At the end of the session Ms. Ila Pathak of AWAG derived 10 major duties of POs which are;

- Getting protection order for aggrieved person

- Providing shelter facility to aggrieved person
- Economic relief to aggrieved person
- Custody of child
- Compensation to aggrieved person
- Ex-party order
- Medical services to aggrieved person
- Counseling services to aggrieved person
- SP services to aggrieved person
- Fojdari appeal

VIII. Summing up

Resource Person: Ms. Shailendra Zala - GRC

Quick recap was done at the end of the first day of workshop by Ms. Shailendra Zala and participants were informed about resource material provided in training kit to make the second day sessions more interactive.

Day – 2

I. DVA- Experience Sharing by Civil Society

Resource Person: Dr. Ameet Yajnik, Ms. Asha Dalal – Jagrut Mahila Sangathan,

Ms. Rita Choksi – SAHIYAR, Ms. Bharat Joshi - KMVS

Chairperson: Mr. P. H. Sarvakar- Joint Secretary, DWCD

Dr. Ameet Yajnik, an eminent lawyer gave information about provisions of DVA chapter wise in this session for establishing better understanding of legal aspects amongst POs. She also discussed about real life cases and incidences happen in practical life and what legal remedies should be used to provide justice to women who suffered domestic violence. Chapter wise information has been provided in Annexure – 1

Presentation on the cases of violence in Kutch was done by KMVS representative focusing violence cases types, reasons, role of police and ESH along with KMVS activities for women. Following are the details covered in the presentation;

1. Cases of violence against women in last 5 years

rape	49
kidnapping	167
murder	70
try of murder	12
child marriage	6
dowry death	5
causing hurt	12
abetment of suicide	126
crimes against modesty	169
cruelty by husband or his relative	1007
other crime	5
TOTAL	1628

2. Possible reasons for unnatural deaths of women

- dowry issues
- alcoholism of men
- backward economic conditions of the family
- problems and misunderstandings which have roots in arranged exchange of brides in villages, when two families have male and female child and exchange daughters through marriage

3. Role of the community in events of unnatural deaths and violence against women

- community leaders often discourage the victim and her family from announcing the incident to police
- social support aimed rather to the alleged than to the victim and her maternal family
- tolerating and accepting the bribes

- the violence against women, especially domestic violence, is treated as private issue, "family business"

4. Role of police in events of unnatural death

- investigation statement is not prepared at the place of the case
- witnesses and evidences are often biased, not collected and interviewed responsibly
- late registration of complain, delays in investigation
- complains and statements are in poorly readable handwritings; therefore they are not sufficient evidence
- the copy of statement is not given to the witnesses

Ms. Asha Dalal from Jagrut Mahila Sangthan and Ms. Rita from Sahiyar presented the survey done by their organization of domestic violence. They also shared their experiences and issues faced while addressing the domestic violence cases as both the organizations are working on the subject from couple of years.

II. FAQs by POs

Chairperson: Mr. P. H. Sarvakar, Joint Secretary, DWCD

Ms. Ila Pathak, AWAG

This session was open for POs for FAQs. Following are the questions asked by POs for better clarity in work;

For any civil law implementation, isn't it necessary to know the law in detail?

All documents are translated in vernacular language to make POs clear about the procedures and role-responsibility.

SPs and counselors should be notified, whats the status?

Advertisement has been given in the newspaper for SPs and within a timeframe of one month they will be selected.

The Child who is sufferer in DV incident can not file application, so what can be done?

POs will provide a legal aid as per legal service authority, it's a free aid.

Lawyers works for own interest and DVA can be misused by women?

Women who stay in shared house can only complain under DVA. Domestic violence, domestic relationship and shared house is the precondition for

accepting application. The decision then is taken by magistrate.

Application can be taken if the property case is already in court?

POs can just take an application; processes will be done by magistrate.

III. DVA – Perspective from Police Department

Resource Person: Shri V.J. Gautam, IPS, Deputy Inspector General of Police

Deputy Inspector General of Police Mr. V. J. Gautam said that domestic violence is barrier to development of any society and it is a breach of human right. The prevalence of domestic violence is very high but not enough care has been taken to impede it. The theory of DVA is equity before law, prohibition of discrimination on the ground of law and protects the fundamental right. The objective of DVA is violence free and secure matrimonial home.

While talking about police perspective for DVA he said, All offence under DVA is cognizable and non bailable. Warrant can be issued if required. Once PO has taken application and DIR, it is given to the magistrate who issues notice. The procedure is more like summons if the person is avoiding taking the notice, it can be given to any adult member of his house. If it is not possible, it can be stick to the main door of his house and should be documented as a photograph to prove that notice has been given. It can be done by registered post as well. Whether it is POs of police tendency to help others can play crucial role than law and humanity approach is very important while dealing with the women.

IV. Scope for linkages among DWCD, Social Defense department, Health Department

Resource Person: Ms. Arunaben Dave-Social Defense Department,

Dr. Ranavat - Health & Family Welfare Department, GOG

Chairperson: Mr. P. H. Sarvakar - Joint Secretary, DWCD

Dr. Ranavat from HFWD drew the attention on serious concern on sex ratio imbalance in state. He said that POs can refer the aggrieved person to the local health body for immediate treatment. And Doctors should also be immediately approached for injury certificate to have strong evidence in court in case of domestic violence.

V. Implementing and reporting mechanism – District level

Resource Person: Ms. Sophia Khan,-SAFAR, Ms. Arunaben Dave -Social Defense Department.

Chairperson: Mr. P. H. Sarvakar - Joint Secretary, DWCD

POs who were participated in the training are already dealing with the social problems for at least more that 15 years. They are implementing 10 laws already; DVA would not be like a huge burden as POs are supposed to work in coordination with police, SPs etc. though the main important role is of POs.

Protection Officer, the terminology itself explains the role. The only aim of DVA is to stop violence and provide immediate relief to the aggrieved women. It is very important to understand the term emergency here.

Ms. Sophia from SAHAR addressed the participants by saying, 'There is strong resistance for DVA in our society, including the mechanism which is working for the law. Conviction is only 4%. From 1980 Mathura case, number of legal reforms are going on in country for women. But following four aspects of DVA makes it special and comprehensive women law,

- Covers all women irrespective of class, caste etc.
- For all women irrespective of marital status
- Gives right to stay in home for the first time
- Includes accountability – POs

This law is of civil nature but convert itself into criminal law when needed. There is scope of behavior change with reformative approach as it has space to improve the other party to aggrieved party. The concept of shared household is very clear, so women can ask for her right in any domestic relationship.

For effective implementation of DVA Taluka level mechanism should be established along with the district and state level provisions. DV should be seen as a human right issue. Judiciary and police should be sensitized for the spirit of the law. Coordination between POs, SPs, civil society, police and judiciary is essential and they should be sensitized.

There should be some mechanism for monitoring and reporting like core group at district level having members from POs, SPs, civil society, police and judiciary for working towards implementation of DVA. Logical end should be ensured of DIR.

Game on recognizing sex and gender issues was played at the end of this session to brainstorm on the concept of gender and sex which lead to the clarity amongst participants.

VI. Implementing and reporting mechanism –State level

Resource Person: Ms. Poonam Kathuria, Ms.U.D. Patel

Chairperson: Mr. P. H. Sarvakar - Joint Secretary, DWCD

Responsibility of state was discussed for deciding implementation and reporting mechanism. POs are the base of DVA implementation as they are the only available mechanism at district level, while the area is really wide. State should try to establish the linkages between woman and POs. Panchayat, SHGs, Anganwadi worker, Gram mitra etc. can be involved in the mechanism to fill the gap. The state government is also expected to provide facilities to POs for better implementation of law. All POs should be linked with helpline and norms for SPs should be finalised, without it implementation is not possible. State may form a committee for setting up mechanism for DVA implementation. Serious efforts should be made by state to involve police and to train them for DVA. Different reporting formats should be developed by state for better reporting system and 3rd party monitoring mechanism can also be established to have track of the implementation. State level mass awareness efforts should be done through intensive IEC campaign for generating demand for the services of law. And training and follow up of judiciary, doctors and police system should done on regular basis.

VII. Recommendations & Follow up action

Resource Person: Dr. Ameer Yajnik, Ms. Poonam Kathuria

Chairperson: Mr. P. H. Sarvakar - Joint Secretary, DWCD

In two days brainstorming following recommendations came out:

- Panel of lawyers should be created who are sensitive to the women's issues with right perspective of law.
- Magistrate's orientation should be done as they are the authority and plays crucial role in judgments.
- POs are overburdened with work so in future special position should be created for DVA work.
- Mechanism should be established that magistrate clear the appeal in one day to save POs time
- There should be strong recommendations by government while law formation processes are going on to have the view, it should not lead by NGOs.
- IEC campaign should be carried out throughout state for generating demand for the services of law.
- POs should be provided with mobile facilities to perform their duties in better way and the helpline should be linked with all POs.
- Sensitization and coordination between POs, SPs, civil society,

police and judiciary is essential for DVA implementation.

- District level meeting on quarterly basis can be planned for regular sharing between the districts.
- Committee can be formed for setting up state level mechanism for DVA implementation.
- Different reporting formats should be developed by state for better reporting system and 3rd party monitoring mechanism should be established to have track of the activities.

VIII. Valedictory Session

Resource Person: Ms Rita Teotia - Principal Secretary, Health & Family Welfare Department, GOG

Principal Secretary, Health and Family Welfare Department, Ms. Rita Teotia addressed participants in valedictory session. She said, 'before 4 years it was planned to have own act in Gujarat for stopping domestic violence. SDOs are working as POs it really good task but POs have to look at this act differently. Domestic violence is part of culture; we have to fight against it. Almost 30% of young girls below 18 are marrying in our country even today, which has number of other consequences. DVA talks about different form of violence which we were not recognized as a form of violence before. Potential of the act is that it can bring equity in society where any form of violence is absolutely not acceptable. Sensitizing POs is good initiative and now the department will have to work closely with the other department as its joint responsibility. We should also keep in mind that DVA is very difficult to administer but not impossible and POs are extremely critical for the department for DVA implementation.

Annexure – 1

Chapter wise provisions

1. DV Act 2005

- Domestic Violence now recognized as a human rights issue.
- To protect women against violence of any kind especially that occurring within the family.
- Existing laws seemed inadequate. They do not address the issue in its entirety.
- Enacted keeping in view the rights guaranteed under Articles 14, 15 and 21 of the Constitution of India to provide for a remedy under Civil Law –to protect the woman from being victims of domestic violence and to stop domestic violence from society.

2. Chapter wise provisions

Chapter 1--Preliminary

- Short Title, Extent and Commencement

Definitions:

Chapter 2—Domestic Violence Defined

- Domestic violence"-- encompasses all forms of physical, sexual, verbal, emotional and economic abuse that can harm, cause injury to, endanger the health, safety, life, limb or well-being, either mental or physical of the aggrieved person-- Section 3 in Chapter 2
- "Aggrieved person"-- covers not just the wife but also a woman who is the sexual partner of the male irrespective of whether she is his legal wife or not. The daughter, mother, sister, male or female child, widowed relative and any woman residing in the household who is related in some way to the respondent—Section 2 (a), Chapter 1 "Respondent"—includes any male, adult person who is, or has been, in a domestic relationship with the aggrieved person but so that his mother, sister and other relatives do not go scot free (therefore the case can also be filed against relatives of the husband or male partner)
- "Who can lodge the case"-- any person who has reason to believe that such an act has been or is being committed (Therefore neighbors, social workers, relatives can take initiative on behalf of the victim)

Chapter 3—Powers and Duties of Protection Officers and Service Providers—sections 4--11

- Information to Protection Officer and exclusion of Liability of Informant
- Duties of police officers, service providers and magistrates
- Duties of shelter homes
- Duties of medical facilities
- Appointment of Protection Officers
- Duties and Functions of Protection Officers
- Service Providers
- Duties of Governments

Chapter 4—Procedure for Obtaining Orders of Reliefs—sections 12-29

- Application to Magistrate
- Service of Notice
- Counseling
- Assistance of Welfare Report
- Proceedings to be held in camera
- Right to reside in a shared household
- Protection Orders
- Residence Orders
- Monetary Reliefs
- Custody Orders

Section 12

- An AP or PO or any other person on behalf of the AP may present application to the Magistrate for relief.
- Before passing any order on such application the Magistrate shall take into consideration any DIR received by him from PO or SP.
- Reliefs asked in (1) may include order for compensation.
- Every application shall be in prescribed form.

- Magistrate shall fix first date of hearing within 3 days of the receipt of the application.
- Magistrate shall endeavor to dispose of the application within 60 days from first date of hearing.

Section 13

- When Magistrate fixes the date of hearing as per above section, he shall give the notice to PO, who will get it served as prescribed or directed by the Magistrate within 2 days
- After service of notice by the PO, he will make a declaration as prescribed to show that he has proof that such notice is served as directed by the Magistrate.

Section 14

- Magistrate may at any time direct the respondent or AP to undergo counseling with SP.
- When a Magistrate has issued such direction as per Section (1), he will fix the next date of hearing within a period not exceeding 2 months.

Section 15

- Magistrate may secure services of social worker for assistance.

Section 16

- Magistrate may conduct the matter in camera.

Section 17

- Every woman in a domestic relationship shall have the right to reside in the shared household.
- AP shall not be evicted or excluded from the shared household without following procedure of law.

Section 18

- After hearing both the parties if Magistrate is prima-facie satisfied that DV has taken place, he will pass a protection order and prohibit the respondent from committing DV, aiding in committing DV, entering the place of employment of AP, attempting to communicate in any form with AP, alienating any assets or operating bank lockers, causing violence to the dependants or relatives of AP or committing any other act as specified in protection order.

Section 19

- This section pertains to the powers of the Magistrate.

Section 20

- While disposing of application under Section 12, Magistrate may direct respondent to pay monetary relief.
- Monetary relief shall be adequate, fair and reasonable.
- Magistrate may direct appropriate maintenance payment.
- Magistrate shall send the copy of the order to the parties to the application and to the in charge of the police station.
- Respondent shall pay the monetary amount as per the order within the period specified in the order.
- Failure on the part of the respondent to make payment, Magistrate may direct the employer of the respondent to directly pay to the aggrieved person or to deposit a portion of the salary with the Court.

Section 21

- The Magistrate may grant temporary custody of child or children to the AP or the person making an application on her behalf. Magistrate may refuse visitation rights.

Section 22

- Magistrate may on application made by AP pass an order for compensation for mental torture and emotional distress.

Section 23

- Magistrate may pass interim order
- Magistrate may grant an ex-parte order on the basis of the affidavit of the AP under Section 18, 19, 20 or 21 or 22.

Section 24

- The Magistrate shall order that copy of order be given free of cost to the parties to the application, police officer and service provider.

Section 25

- Protection order under Section 18 shall be enforced till AP applies for discharge.
- Magistrate may modify his order with reasons in writing, if AP makes an application for change in the circumstances.

Section 26

- Reliefs under Section 18, 19, 20, 21 and 22 can be claimed from a Civil Court, Family Court or a Criminal Court.
- Any relief under the above sections can be sought for in addition to other reliefs before other courts.
- Any relief obtained by AP shall be informed to the Magistrate.

Section 27

- JMFC or Metropolitan Magistrate of the area where AP permanently or temporarily resides or carries on business or employed, respondent resides or carries his business or employed, or where the cause of action has arisen shall be the competent court to grant relief.

Section 28

- All provisions are governed by Cr. P.C.

Section 29

- Appeal shall lie to the Court of Sessions within a period 30 days from the date of order by the Magistrate.

Chapter 5—Miscellaneous sections 30-37

- Protection officers and members of service providers to be public servants
- Penalty of breach of protection order by respondent
- Cognizance and proof
- Penalty for not discharging duty by Protection Officer
- Protection of action in good faith
- Act not in derogation of any other law
- Power of Central Government to make rules

Section 31(1)

- Breach of protection order or interim order by respondent will be punishable for a term, which may extend to one year or with fine, which may extend to Rs.25,000/- or both.
- The above offence will be tried by the Magistrate, who has passed the order

- When the Magistrate frames the charge for disobedience of protection order, he may also frame charge under Section 498 of the IPC or Dowry Act if the facts disclose such offences.

Section 32

- Offence under Section 31 will be cognizable and non-bailable.
- The sole testimony of AP will be sufficient.

Section 33

- If any Protection Officer fails to discharge his duties as directed by the Magistrate in the Protection Order, he shall be punished with imprisonment of term, which may extend to 1 year with fine, which may extend to 25,000/- or with both.

Section 34

- No legal proceedings can lie against the PO unless complaint is filed with the sanction of the State Government.

Section 35

- No legal proceedings can lie against the PO for any damage caused done in good faith.

3. Role of the Court

- Magistrate can permit the aggrieved woman to stay in her residence and stop her being evicted by the husband
- Magistrate can order that a part of the house can even be allotted to her for her personal use even if she has no legal claim or share in the property-- Section 17—Chapter 4
- Magistrate can protect the woman from acts of violence or even "acts that are likely to take place" in the future and can prohibit the respondent from dispossessing the aggrieved person or in any other manner disturbing her possessions, entering the aggrieved person's place of work or, if the aggrieved person is a child, the school.
- Magistrate can also restrain the respondent from attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral, written, electronic or telephonic contact and even be prohibited from entering the room/area/house that is allotted to her by the court.
- Magistrate can impose monetary relief and monthly payments of maintenance. (expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of domestic

violence, loss of earnings, medical expenses, loss or damage to property and maintenance of the victim and her children) –Chapter 4—Section 20

- Magistrate can make the respondent pay compensation and damages for injuries including mental torture and emotional distress caused by acts of domestic violence—Section 22

Penalty:

- Imprisonment up to 1 year and/or a fine up to Rs. 20,000/-

Nature of Offence:

- The offence is considered cognizable and non-bailable chapter 5—Section 32 and on the sole testimony of the aggrieved person, the court may conclude that an offence has been committed by the accused

Time frame:

The Act also ensures speedy justice as the court has to start proceedings and have the first hearing within 3 days of the complaint being filed in court and every case must be disposed of within a period of sixty days of the first hearing

4. Role of the State/Government

- Provide for Protection Officers, Facilitate registration of service providers and Establish the necessary machinery to implement the Act
- What is the Specific role of the State
- -To create awareness on the issue of violence
- -Help the civil bodies and women's groups to coordinate better
- What the State should do expeditiously:
- -Establish the infrastructure speedily
- -Implement reforms on many fronts
- Protection Officer:
- Help the victim in claiming relief for issuance of a protection order
- Inform the police and the service provider in whose jurisdiction the offence is committed
- Facilitate the process of getting free legal aid for the victim
- Maintain a list of shelter homes, medical facilities and counseling centers

- Provide access to these facilities
- Ensure compliance for order for monetary relief
- Service Provider:
- Record incident of violence and inform the local magistrate and protection officer
- Get the victim medically examined and forward the papers to the protection officer and the magistrate
- Organize shelter for the victim and forward the report to the police

5. Role of Civil Society: What the Victims should know

- Her right to appropriate relief
- Availability of services of service provider
- Availability of services of protection officer
- Right to free legal aid
- Right to file a complaint u/s 498 A

Annexure – 2

Participant list

No	Name	District	Designation	Contact no and E- mail Address
1	Ms. M.B. Bhavsar	Rajkot	Social Defense Officer	0281-2448590
2	Ms. Smitaben Parmar	Surat	Superintendent Children Home	0261-2768761
3	Ms. Geetaben.K.Vyas	Palanpur (Banaskantha)	Superintendent	02742-252478
4	Ms. Pallaviben Rameshchandra	Bharuch	Superintendent Nari Saurashan Gruh	02642-260962
5	Ms. Alakananda Shashidharan	Vasada Navasari	Superintendent	02630-222368
6	Mr. B.S. Desai	Ahmedabad	Probation Officer	079-25461313
7	Mr. N.K. Parmar	Sabarkantha Himmatnagar	Chief probation Officer	02772-241598
8	Mr. F. M. Shaikh	Bhuj Kutchchh	Probation Officer	9898973293
9	Mr. B. J. Gajera	Gandhinagar	Deputy Director	079-23-256320
10	Ms. S.A. Thakar	Ahmedabad	Superintendent Juvenile Home	079-22871023
11	Ms. U. P. Mekawan	Ahmedabad	Superintendent	079-221534
12	Mr. B. V. Choudhari	Gandhinagar	Deputy Director	079-232 56316

			Social Defense Dept.	079-232-56317
13	Mr. R. M. Parmar	Dang	Social Defense Officer	9422739330
14	Mr. A. S. Vasava	Narmada	Social Defense Officer	9427464681
15	Mr. Manoj . N. Balat	Jamnagar	Social Defense Officer	9925973355
16	Mr. I. B. Choudhari	Baroda	Social Defense Officer	9879146083
17	Mr. C.B. Pandya	Porbandar	Social Defense Officer	
18	Mr. Anil. A. Dave	Nadiad Kheda	Social Defense Officer	0268-2550640
19	Mr. C. H. Bhatt	Amreli	Chief probation Officer	02792-23029
20	Mr. B. V. Bhanderi	Rajkot	Probation Officer	0281-2448590
21	Mr. Vikaram Parmar	Mahesana	Social Defense Officer	02762-51431 9979736168
22	Mr. M. D. Rathod	Gandhinagar	Social Defense Officer	079-232-56266
23	Mr. K. M. Patil	Navasari	Social Defense Officer	232440
24	Mr. C.N. Solanki	Ahmedabad	Social Defense Officer	
25	Mr. R.B. Joshi	Bhavnagar	Social Defense Officer	0278-2425609
26	Ms. B.I. Bhatt	Rajkot	Superintendent	0281-2448590

27	Mr.P.J.Trivedi	Amreli	Superintendent Observation Home	02792-23029
28	Mr. Vipin. B. Nayak	Surendranagar	Social Defense Officer	02752-285552
29	Mr. R.B.Choudhari	Valasad	Social Defense Officer	9825359290
30	Mr. N.D.Shukala	Anand	Child Marriage Prevention Officer	02692-263210
31	Ms. S.C. Upadhayay	Ahmedabad	Superintendent Vikas Gruh	65442274
32	Ms. D.B.Shah	Ahmedabad	Sr. Clerk Social Defense	079-232-56320
33	Ms. Sonal.P.Raval	Ahmedabad	Zonal Dowry Prevention Officer	079-25461313
34	Ms. N.P.Pandaya	Gandhinagar	Planning Officer	079-232-56311
35	Ms. K.V.Pandor	Gandhinagar	Director	079-23955538
36	Ms. L.S. Pandaya	Gandhinagar	Bhishukgruh	079-232-56322
37	Mr. C.P.Joshi	Gandhinagar	Social Defense Dept.	079-232-56318
38	Mr. H.P.Modh	Gandhinagar	Inspector Social Defense	079-232-56318
39	Mr. M.N.Shingala	Surat	Social Defense Officer	0265-2463667
40	Ms. D.Y.Raval	Ahmedabad	Women Inspector	079-25890505 079-232 56320

41	Mr. Saldiv. Isarani	Rajkot	Zonal Dowry Prevention Officer	0281-2448590
42	Mr. R.M.Pandya	Surendranagar	Superintendent Observation Home	02752-284703
43	Mr. P.M.Ninama	Dahod	Social Defense Officer	02673-239225
44	Mr. M.J. Patel	Patan	Social Defense Officer	02766-222651
45	Mr. P.R.Patel	Mahesana	Superintendent Observation Home	02762-253298
46	Mr. R.R.Tiwari	Ahmedabad	Superintendent	079-25601298
47	Bina. M. Parmar	Gandhinagar	Chief Officer	07923-25892524
48	H.N. Ghoshara	Banaskantha	Chief Officer	02742-252478
49	Mr. A.B. Pardhi	Baroda	Chief Officer	0265-2428048
50	Mr. Prakash Chandra Christian	Gandhinagar	Deputy Secretary	07923-251716
51	Ms. P.G.Trivedi	Bharuch	Social Defence Officer	98241-34830
52	Ms. Vidhi Bhatt	Gandhinagar	Student (GNLU)	98794-71289
53	Mr. Jeet J. Bhatt	Gandhinagar	Student (GNLU)	99797-70053
54	Ms. Y.B. Mackwan	Surendranagar	Superintendent Nari Saurakshan Gruh	02752-221534 98985-65859
55	Ms. B.P. Jog	Panchmahal	Superintendent Nari Saurakshan Gruh	02672-241409

56	Mr. S.P.Parmar	Junagadh	Chief Officer	0285-2624546
Dignitaries and Panelists				
57	Ms. Rita Tiotia	Gandhinagar	Principal Secretary Health & FW Dept.	
58	Shri N.P.Gupta	Delhi	Principal Secretary Notational Commission for Women	011- 23236271
59	Shri. J.S.Rana	Gandhinagar	Principal Secretary Department of Women and Child Development	079-232-54822
60	Ms. Shobhana Patel	Gandhinagar	Chairperson, State Commission for Women	9427306089
	Shri. P.H.Sarvarkar	Gandhinagar	Jt.Secretary ,Department of Women and Child Development	079-232-54260
62	Shri. F.P.Halani	Gandhinagar	Director -Social Defense Dept.	079-232-56309
63	Shri Rajeev Tewari	Gandhinagar	State Program Co ordinator UNFPA	079-232-31190 079-232-44770
64	Ms. Uramilaben Patel	Ahmedabad	Director - GRC	079-26301043
65	Ms. Arunaben Dave	Gandhinagar	Deputy Director Social Defense	079-232-56314

			Dept.	
66	Ms. Ila Pathak	Ahmedabad	Secretary-AWAG	079-26442466 079-26441214
67	Ms. Ameer Yajnik	Ahmedabad	Sr. Advocate, Gujarat High Court	9825107727
68	Ms. Poonam Kathuria	Ahmedabad	Swati	9825084601
69	Ms. Rashi Prasad	Delhi	Legal Officer, Lawyers Collective	
70	Ms. Pallavi Sabti Rajpal	Ahmedabad	Saurashtra Kutch Network	079-26751023
71	Ms. Sophia Khan	Ahmedabad	Director-SAFAR	98251-75059
72	Mr. Bharat Joshi	Bhuj Kutchchh	Advocate-KMVS	9825084468
73	Ms. Ashaben Dalal	Anand	Mahila Jagrut Sanghathan	9825571805
74	Ms. Nirajanaben Patel	Palanpur Banaskatha	Vanita Shishuvihar	9427650812
75	Ms. Ritaben Choksi	Baroda	Trustee-Sahiyar	0265-2513482
76	Ms. Hetal Gosai	Amreli		9427557323
77	Mr. D.S.Dervaliya	Rajkot	Savaraj-Director	9426986283
78	Ms. Sayara Mirza	Ahmedabad	Safar-General Consaltant	9427557323
79	Ms. Dharmishtha Chauhan	Ahmedabad	GRC	079-26301043
80	Ms. Jigna Surkar	Ahmedabad	GRC	079-26301043
81	Ms. Jigyasa Joshi	Ahmedabad	GRC	079-26301043

82	Ms. Mita Patel	Ahmedabad	GRC	079-26301043
83	Ms. Shailendra Zala	Ahmedabad	GRC	079-26301043
84	Mr. Mahendra Makwana	Ahmedabad	GRC	079-26301043
85	Setellite News	Ahmedabad		
86	Divyabhaskar	Ahmedabad		
87	Doordarshan	Ahmedabad		
88	Gujrat Samachar	Ahmedabad		

Annexure – 3 Abbreviations

POs – Protection Officers

SPs – Service Providers

DVA – Domestic Violence

WCD – Women and Child Development

DWCD –Department of Women and Child Development

NCW – National Commission for Women

SCW - State Commission for Women

FIR –First Incidence Report

DIR – Domestic Incidence Report

AWAG – Ahmedabad Women’s Action Group

KSNVAW - Kutch – Saurashtra Network of Violence Against Women

KMVS – Katch Mahila Vikas Sangathan