



# Module for Master Trainers on **ONE STOP CENTRE**



***(For Medical, Legal and Psychosocial Services to Women/Girls Affected by Violence)***

National Institute of Public Cooperation and Child Development  
5, Siri Institutional Area, Hauz Khas, New Delhi-110016

**Ministry of Women and Child Development  
Government of India**





# MODULE FOR MASTER TRAINERS on ONE STOP CENTRE



*(For Medical, Legal and Psychosocial Services to Women/Girls  
Affected by Violence)*

*National Institute of Public Cooperation and Child Development  
5, Siri Institutional Area, Hauz Khas, New Delhi-110016*

Ministry of Women and Child Development  
Government of India



## Table of Contents

	Page No.
List of Abbreviations.....	iv
List of Figures .....	v
List of Annexures .....	vi
Programme Schedule .....	vii
About the Programme-An Introduction .....	1
Instructions for Trainers .....	10
<b>DAY 1</b>	
Registration of Trainees	
<b>Session 1: Introductory Session .....</b>	<b>12</b>
I. About the Programme	
II. Ice Breaking Games.....	13
<b>Session 2: Violence Against Women in India-An Overview .....</b>	<b>14</b>
<b>Session 3: Constitutional Provisions and Legal Safeguards for Women Affected by Violence.....</b>	<b>22</b>
I. Constitutional Provisions.....	24
II. Immoral Traffic (Prevention) Act, 1956 (ITPA) .....	25
III. Dowry Prohibition Act,1961(Amendment Act, 1986) .....	28
IV. Protection of Women from Domestic Violence Act, (PWDVA) 2005.....	29
V. The Prohibition of Child Marriage Act, 2006.....	35
VI. The Protection of Children from Sexual Offences Act, 2012 .....	36
VII. The Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013.....	39
VIII. The Criminal Law (Amendment) Act 2013 .....	41
IX. Provisions Under Indian Penal Code (IPC).....	41
X. Women's Property Rights.....	43
<b>DAY 2</b>	
<b>Session 1: Medico-Legal Care and Support of Law Enforcement Agencies.....</b>	<b>46</b>
to Women Affected by Violence	
<b>Session 2: Counselling Women Affected by Violence: Psychosocial Support .....</b>	<b>53</b>
<b>Session 3: Roles and Responsibilities of Functionaries/Stakeholders in Dealing With .....</b>	<b>61</b>
Women Affected by Violence	
<b>Session 4: Programme Evaluation.....</b>	<b>66</b>
Annexures .....	69

## Abbreviations

ANM	Auxiliary Nurse Midwife	MOU	Memorandum of Understanding
ASHA	Accredited Social Health Activist	MTP	Medical Termination of Pregnancy
AWTC	Anganwadi Training Centre	MWCD	Ministry of Women and Child Development
AWW	Anganwadi Worker	NALSA	National Legal Service Authority
BP	Blood Pressure	NBCC	National Building Construction Corporation Ltd.
CBO	Community Based Organisation	NCR	Non-Cognizable Report
CCTV	Close Circuit Television	NGO	Non-Government Organisation
CDPO	Child Development Project Officer	NHM	National Health Mission
CMO	Chief Medical Officer	OSC	One Stop Centre
CrPC	Criminal Procedure Code	PAB	Programme Approval Board
CSWB	Central Social Welfare Board	PTSD	Post Traumatic Stress Disorder
DBC	District Bar Council	PMU	Project Management Unit
DC	District Commissioner	PO	Protection Officer
DIR	Domestic Incident Report	PoC	Products of Conception
DLSA	District Legal Service Authority	PRI	Panchayati Raj Institutions
DM	District Magistrate	PEP	Post-Exposure Prophylaxis
DNA	Deoxyribo Nucleic Acid	PTS	Rape Trauma Syndrome
DPO	District Panchayat Officer	PLV	Para Legal Volunteer
DPO	District Programme Officer	SHG	Self Help Group
DYSP	Deputy Superintendent of Police	SLSA	State Legal Service Authority
EDTA	Ethylenediaminetetra Acetic Acid	SLL	Special and Local Laws
FIR	First Information Report	SP	Superintendent of Police
FSL	Forensic Science Laboratory	SMPO	Special Mahila Police Officer
HBV	Hepatitis B virus	STD	Sexually Transmitted Disease
HIV	Human Immunodeficiency Virus	STIS	Sexually Transmitted Infections
IA	Implementing Agency	STS	Secondary Traumatic Stress
ICDS	Integrated Child Development Services	UC	Utilisation Certificate
ICPS	Integrated Child Protection Scheme	UID	Unique Identity Number
IPC	Indian Penal Code	USG	Ultrasonography
IPV	Intimate Partner Violence	UPT	Urinary Pregnancy Test
ITDA	Integrated Tribal Development Area	UT	Union Territory
ITDP	Integrated Tribal Development Programme	VAW	Violence Against Women
MC	Management Committee	VDRL	Venereal Disease Research Laboratory
MoHFW	Ministry of Health & Family Welfare		
MLC	Medico Legal Case		

## List of Figures

Figure No.	Topic	Page No.
1.1	Diagrammatic Overview of One Stop Centre .....	4
1.2	One Stop Centre .....	5
1.3	Accessing One Stop Centre .....	6
1.4:	Capacity Building of OSC Functionaries .....	7
2.1	Gender Based Violence at Different Stages Throughout the Life Cycle .....	17
2.2.	Crime Against Women in India .....	19
2.3	Crime Head-wise Details Against Women.....	19
2.4	Age Group Wise Rape Victims .....	20
2.5.	Missing Children in India.....	20
2.6.	Trends in Declining Child Sex Ratio .....	20
3.1.	Purpose of Trafficking .....	26
3.2.	Causes of Trafficking .....	27
3.3.	Networking and Convergence for Prevention of Trafficking .....	27
3.4.	Abuse Faced by Women Due to Dowry .....	28
3.5.	Types of Domestic Violence .....	29
3.6.	Cycle of Violence.....	32
3.7.	Who Benefits from PWDVA .....	33
3.8.	Forms of Sexual Harassment.....	40
3.9.	Consequences of Sexual Harassment .....	40

## List of Annexures

Annexure	Content	Page No
1.	FAQs on Child Marriage and The Prohibition of Child Marriage Act, 2006.....	71
2.	Questions and Answers on PWDVA, 2005 .....	76
3.	Questions and Answers on POCSO Act, 2012 .....	83
4.	Know Your on Fundamental Rights .....	86
5.	Rights Against Dowry .....	98
6.	Ethical Guidelines for Counselling Women Facing/Affected By Violence .....	102
7.	One Stop Centre Scheme-Implementation Guidelines .....	107
8.	Medical Examination and Reporting for Sexual Violence-MoHFW, GOI .....	146
9.	Confidential Medico-Legal Examination Report of Sexual Violence .....	160



## Training of Master Trainers On One Stop Centre Programme Schedule

<b>DAY 1</b>	
09:00 a.m. – 09:30 a.m.	Registration of Trainees
09:30 a.m. – 10:30 a.m.	Introductory Session: <ul style="list-style-type: none"> <li>- About the Programme</li> <li>- Ice Breaking Games</li> </ul>
10:30 a.m. – 01:00 p.m.	Violence Against Women in India-An Overview
01:00 p.m. – 02:00 p.m.	Lunch
02:00 p.m. – 03:30 p.m.	Constitutional Provisions and Legal Safeguards for Women Affected by Violence: <ul style="list-style-type: none"> <li>- Constitutional Safeguards</li> <li>- The Immoral Traffic (Prevention) Act, 1956</li> <li>- The Dowry Prohibition Act, 1961 (Amendment Act, 1986)</li> <li>- The Protection of Women from Domestic Violence Act, 2005</li> </ul>
03:30 p.m. – 05:00 p.m.	Constitutional Provisions and Legal Safeguards for Women Affected by Violence: ( Session continued) <ul style="list-style-type: none"> <li>- The Prohibition of Child Marriage Act, 2006</li> <li>- Protection of Children from Sexual Offences- Act and Rules (2012)</li> <li>- Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013</li> <li>- The Criminal Law Amendment Act, 2013</li> <li>- Women's Property Rights</li> </ul>
<b>DAY 2</b>	
09:30 a.m. – 11:30 a.m.	Medico-Legal Care and Support of Law Enforcement Agencies to Women Affected by Violence
11:30 a.m. – 01:00 p.m.	Counselling the Women Affected by Violence: Psychosocial Support
01:00 p.m. – 02:00 p.m.	Lunch
02:00p.m. – 03:00 p.m.	Counselling the Women Affected by Violence: Psychosocial Support (Session continued)
03:00 p.m. – 04:30 p.m.	Roles and Responsibilities of Functionaries/Stakeholders in Dealing With Women Affected by Violence
04:30 p.m. – 05:00 p.m.	Programme Evaluation



## ABOUT THE PROGRAMME - AN INTRODUCTION

The Principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women.

Within a framework of a democratic polity, our laws, development policies, Plans and Programmes have aimed at women's advancement in different spheres. From the Fifth Five Year Plan (1974-78) onwards, there has been marked shift in the approach to women's issues from welfare to development. The empowerment of women has been recognized as the central issue in determining the status of women. The Government's resolve to achieve women's empowerment by appealing the attention of its various agencies has resulted in declaration of the year 2001 as "Women Empowerment Year" and formulation of the "National Policy for the Empowerment of Women 2001" with its goal of bringing about advancement, development and empowerment of women in all spheres of life through creation of a more responsive judicial and legal system sensitive to women and mainstreaming a gender perspective in the development process.

Apart from the Constitutional Provisions, Development Policies, Plans and Programmes, Indian Penal Code, 1860, The Code of Criminal Procedures (CrPC), 1973, The Indian Evidence Act, 1872, there exist a large number of legislations which have a direct bearing on women. Despite the various initiatives, there still exists a wide gap between the goals enunciated in the Constitution, legislations, policies, plans, programmes and related mechanisms on the one hand and the situational reality of the status of women in India, on the other. The underlying cause of unequal status of women and gender inequality is the social stereotyping and violence against women. Women are subjected everyday to various forms of violence, physical or mental, whether at domestic or societal levels, including those arising from customs, traditions or accepted practices.

"Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men"

Declaration on Elimination of Violence Against Women 1993.

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

(d) Develop penal, civil, labour and administrative sanctions in domestic legislations to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms"

- Article 4, Declaration on Elimination of Violence Against Women, 1993

One Stop Centre for Women/Girls is the manifestation of the roles that State takes up in addressing penal, civil, labour and administrative sanctions vis a vis the injustice meted out to the women affected by violence at the family, society and nation and the role the state plays in providing a single window access to these women to access effective remedies and support mechanism.

Violence against women (VAW) is a global problem that exterminates, tortures and hurts them physically, psychologically, sexually and economically. It is one of the most pervasive forms of human rights violation, denying women and girls' equality, security, dignity, self-worth, and their right to enjoy fundamental rights. VAW violates several recognized human rights such as the right to life, freedom from torture, equal protection before the law, liberty and security of person, the highest attainable standards of physical and mental health, and the right to be heard. It negatively affects women's general well-being and prevents them from fully participating as equal partners in national development. Violence not only has negative consequences for women but also their families, community and the country at large.

It is the reflection of deep rooted gender inequality and gender ideology that discriminates and suppresses them. The Beijing Declaration and Platform for Action defines violence against women as "any act of gender-based violence that results in or is likely to result in, physical, sexual or psychological harm or suffering to women [and girls], including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life."

Decades of mobilizing by civil society and women's movements have put 'ending gender-based violence' high on National and International agendas. An unprecedented number of countries have laws against domestic violence, sexual assault and other forms of violence. There have been numerous governmental and non-governmental interventions in India too to effectively deal with the problem of violence against women and girls. The government works towards strengthening of existing legislations, enacting new legislations, developing Institutional mechanisms, running projects that provide support to vulnerable women through schemes like Swadhar, Short Stay Homes, Ujjawala, setting up of women help lines for women in distress etc.

Despite the changes in the legal framework following the outcry in the aftermath of Nirbhaya case, the Shakti Mills case in Mumbai and the Badaun gang rape case, the need for a holistic and coordinated approach, focusing on swift and sensitive response of the justice system is reaffirmed. The low rate of conviction in cases of VAW, as reflected in the annual National Crime Records Bureau statistics, clearly points out that along with insufficiency of evidence, women dropping out during the trial proceedings acts as a major barrier to successful completion of the process of justice. It is in this context, there was a felt need to work towards strengthening the institutional emergency response and support system, so that it is in a position to more effectively respond to the needs of the aggrieved women of violence and prevent them from dropping out/withdrawing from the justice process. The result has been the setting up of One Stop Centre (OSC) to assist the aggrieved women of violence by providing full range of services and response including police and judicial responses, legal and health care services, psychosocial counselling and other support services.

The Ministry of Women and Child Development (MWCD), is setting up OSCs in every state / UTs initially and later on in every districts to support women/girls affected by violence in private and public spaces, within the family, community and at the work place. One Stop Centre will provide an integrated range of services including medical, legal and psychological support under one roof to the women and girls who face violence. The initiative has also been on a convergent mode with adequate support from the Ministry of Health and Family Welfare (MoHFW), Ministry of Home Affairs and Ministry of Law and Justice. Women facing physical, sexual, emotional, psychological and economic abuse, irrespective of age, class, caste, race, culture, education status and marital status will be facilitated with support and redressal at the One Stop Centre. Aggrieved women facing any kind of violence due to attempted sexual harassment, sexual assault, domestic violence, trafficking, honour related crimes, acid attacks, witch-hunting etc. who have reached out or been referred to OSC will be provided with specialized services as cited above.

## Objectives

The major objectives of setting up of One Stop Centre will be to:

- (i) provide integrated support and assistance to women affected by violence, both in private and public spaces under one roof; and
- (ii) facilitate immediate, emergency and non-emergency access to a range of services including medical, legal, psychological and counselling support under one roof to fight against any forms of violence against women.

## Target Group

One Stop Centre will support all women including girls below 18 years of age affected by violence, irrespective of caste, class, religion, region, sexual orientation or marital status. For girls below 18 years of age, institutions and authorities established under Juvenile Justice (Care and Protection of Children) Act 2000 and Protection of Children from Sexual Offences Act, 2012 will be linked with the OSC.

## Location

The Ministry of Women and Child Development (MWCD) will provide support to the state Governments / UT Administration for the establishment of OSC. One OSC shall be established in every State/UT on a pilot basis.

For establishing a OSC, the first preference would be to obtain suitable and adequate accommodation with carpet area of at least 132 sq.m. Within a hospital/medical facility. If it is not possible to locate accommodation within a hospital or medical facility, than an existing Government/Semi Government institution located within 2 km radius of the hospital/medical facility in the district headquarter with adequate accommodation will be used for the purpose.

If it is not possible, to locate the OSC in existing Government/Semi Government accommodation, the OSC could be constructed on adequate land either within hospital/medical facility or within 2 km radius of the hospital/medical facility.

## Services

### One Stop Centre Proposed in Every State will Facilitate Access to:

#### 1. Emergency Response and Rescue Services

One Stop Centre will provide rescue and referral services to the women affected by violence. To achieve this linkages will be developed with existing mechanisms like National Health Mission (NHM), 108 service, Police (PCR Van) so that the women affected by violence can be rescued from the location of violence and referred to the nearest medical centre either private or public or even a shelter home.

#### 2. Women Helpline

The Women Helpline is intended to provide 24 hours immediate and emergency response to women affected by violence through referral (linking with appropriate authority such as police, One Stop Centre, hospital) and information about women related government schemes programs across the country through a single uniform number. Women Helpline will be integrated with One Stop Centre Scheme (OSC) and women affected by violence and in need of redressal services will be referred to OSC through this helpline.

#### 3. Medical Assistance

Women and girls affected by violence will be referred to the nearest Hospital for medical aid/examination which will be undertaken as per the guidelines and protocols developed by the Ministry of Health and Family Welfare.

#### 4. Assistance to Women in Lodging FIR/NCR/DIR

One Stop Centre will also help the victims in lodging of FIR/NCR/DIR at the appropriate places so that the violence does not go unnoticed and thereby the probability of obtaining justice to the victim is made.

#### 5. Psycho-Social Support/ Counselling

One Stop Centre will also have a skilled counsellor for providing psycho-social counselling to the victims who are traumatised or otherwise. Efforts will be made to provide the victim necessary support through professional approach of counselling at the site where the victim may seek it. This counselling process will give women confidence and support to address violence or to seek justice for the violence perpetuated. Counsellors shall follow a prescribed code of professional ethics, guidelines and protocols in providing counselling services. These counsellor will be professionally trained in dealing with the victims of violence.

#### 6. Legal Aid and Counselling

The women and girls who face violence will also be supported by One Stop Centre to avail legal services so as to obtain justice in their favour. The centre will also facilitate access to justice for women affected by violence, and legal aid and counselling will be provided through empanelled lawyers or through support of National/State /District Legal Service Authority.

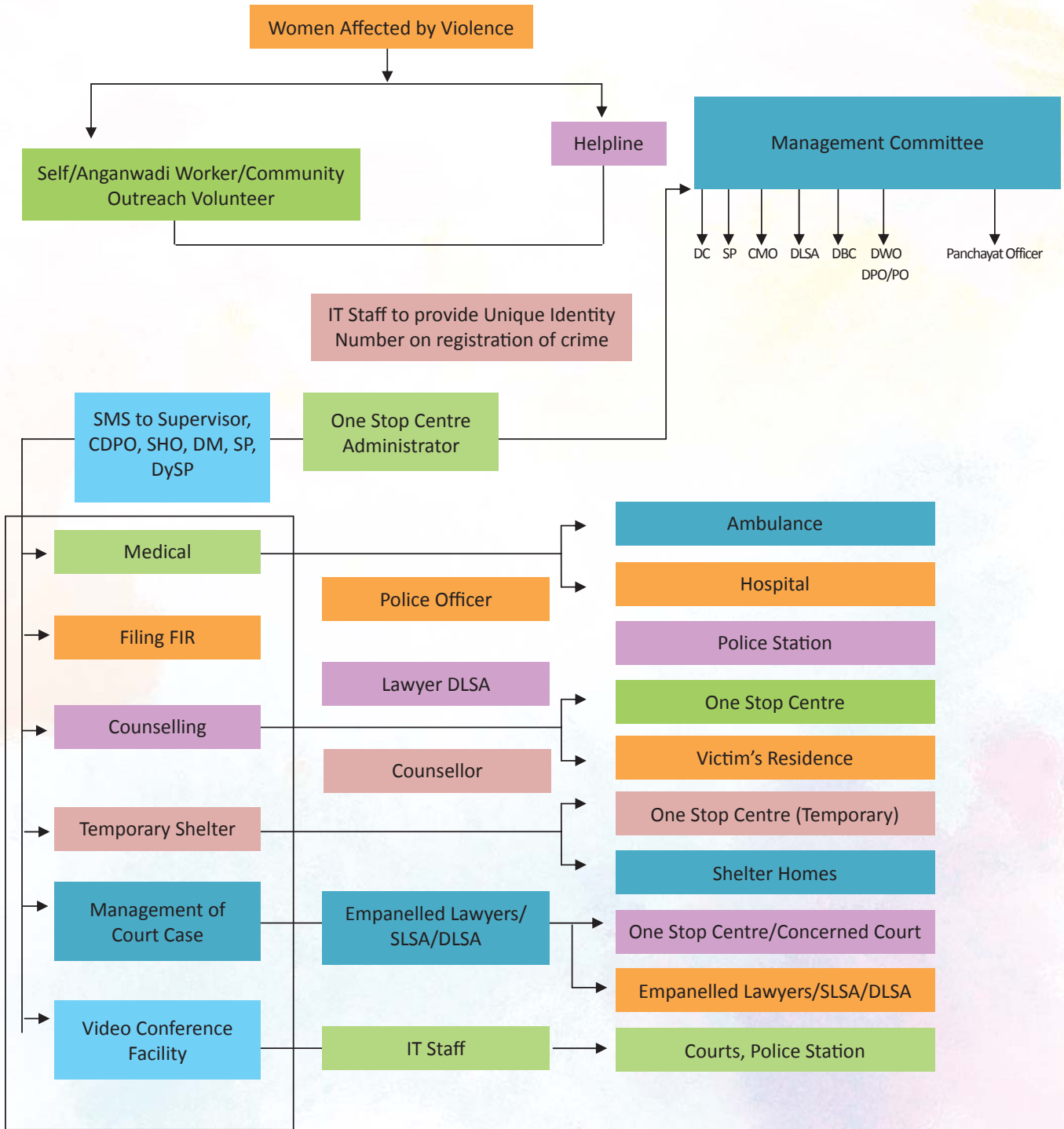
#### 7. Shelter

The OSC will also provide a temporary shelter facility to aggrieved women. For long term shelter requirements, arrangements will be made with Swadhar Greh/Short Stay Homes (managed/affiliated with Government/NGO). Women affected by violence along with their children (girls of all ages and boys up to 8 years of age) will avail temporary shelter at the OSC for a maximum period of 5 days. The admissibility of any woman to the temporary shelter will be at the discretion of Centre Administrator.

#### 8. Video Conferencing Facility

In order to facilitate speedy and hassle free police and court proceedings the OSC will provide video conferencing facility (through Skype, Google Conferencing etc.) to aggrieved women/girls. She will be able to record her statement for police/courts from OSC itself using audio-video electronic means as prescribed under Sections 161(3), 164(1) and 275(1) of the Code of Criminal Procedure and Section 231(1) in line with Order XVIII Rule 4 of the Code of Civil Procedure. This facility will be provided only after consultation among Superintendent of Police, District and Sessions Judge of the concerned district (place of incident).

**ORGANIZATIONAL SET UP OF ONE STOP CENTRE: HUMAN RESOURCES**



**Figure 1.1: Diagrammatic Overview of One Stop Centre**

## Organisational Setup

One Stop Centre will have the following professionals for its smooth functioning to achieve its mandate:

1. Centre Administrator
2. Case Worker
3. Police Facilitation Officer
4. Para Legal Personnel/Lawyer
5. Para Medical Personnel
6. Counsellor
7. Information Technology Staff
8. Multi-Purpose Helper
9. Security Guard/Night Guard

The State Government will have autonomy in the number of functionaries to be maintained at the One Stop Centre. However, on a regular basis the staff at the OSC will be Centre Administrator, Multi Purpose Helper and Security Guard/Night Guard.



Figure 1.2: One Stop Centre

### Roles and Responsibilities of the Staff Associated with the Implementation of One Stop Centre

The **Centre Administrator** will be a woman, with requisite qualification, always available at OSC to cater to the needs of women affected by violence. She will be residing at the one stop centre to provide all time support to the women/girls affected by violence.

**Case Worker** will work in shifts to provide 24 hours service at OSC. She will provide assistance to the Centre Administrator in facilitating services to women accessing OSC.

**Police Facilitation Officer (PFO)** will help the aggrieved women in initiating appropriate police proceedings against the perpetrators. The PFO would help expedite the process of lodging of FIR/complaint or any other assistance at the police station and in special cases flag the issue to the Superintendent of Police and other relevant authorities.

**Para Legal Personnel/Lawyer** will inform and orient the women about her legal rights and help/guide the woman to initiate legal proceedings against the abuse /violence suffered, if she is willing to do so.

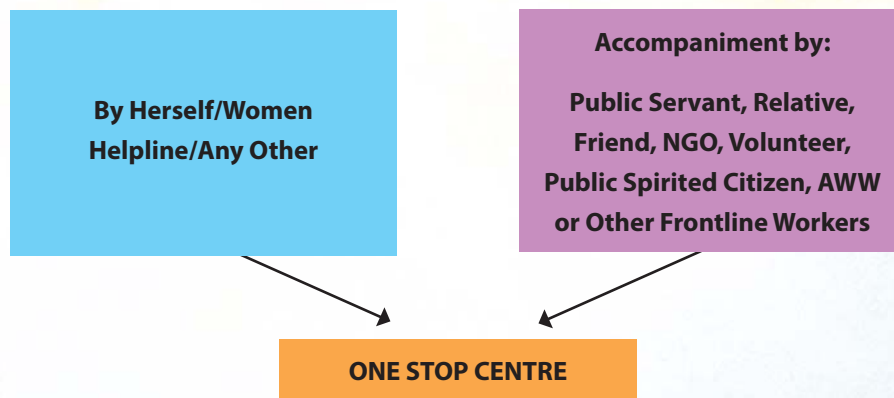
**Para Medical Personnel** will provide first aid and immediate life-saving medical assistance to the aggrieved woman until she reaches the hospital.

**Counsellor** will provide psychological counselling and guidance to the woman affected by violence and support in referral services that may be deemed appropriate for the women affected by violence based on her needs.

The **IT Staff** will generate the Unique ID of the women affected by violence through a web based software.

**Multi-Purpose Helper** will be responsible for maintaining hygiene and sanitation at One Stop Centre.

**Security Guard/Night Guard** will be responsible for the overall security of One Stop Centre.



**Figure 1.3: Accessing One Stop Centre**

## Strategy of Functioning

As soon as the complaint is registered a text message (SMS) will be sent to the CDPO, SHO, DM, SP, DYSP, CMO, PO of the district / the areas concerned. When aggrieved woman approaches the OSC for help either in person or if anybody approaches on her behalf, the case details are fed into a system as per the prescribed format and a Unique ID number will be generated. A web based data management system will also be developed for managing the documentation of cases and generating Unique ID

## Strategy for Training of Functionaries Associated with OSC

Training is essential because technology is developing continuously and at a fast rate. Systems and practices get outdated soon due to new discoveries in technology, including technical, managerial and behavioural aspects. Organisations which do not develop mechanisms to catch up with and use the growing technology soon become stale. Developing individuals placed in One Stop Centre can effectively help in achieving the mandate of OSC.

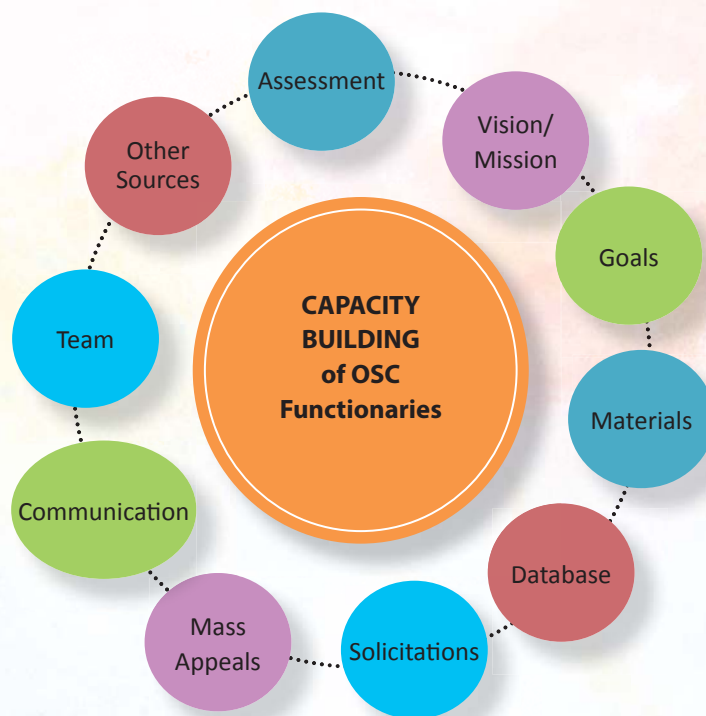
Capacity building of functionaries associated with the implementation of One Stop Centre will become effective by proper imparting of the module designed for them. Community Capacity Building (CCB), also referred to as capacity development, is a conceptual approach to development that focusses on understanding the obstacles that inhibit people, governments, international organizations and non-governmental organizations from realizing their development goals while enhancing the capacity of functionaries. The capacity building of OSC functionaries will thus be benefitted by the community in general.

One Stop Centre will provide handholding support to women affected by all forms of violence by providing a range of services under one roof. The OSC will have functionaries from different backgrounds such as social work, psychology, medical sciences, law, information technology etc. to handle various cases of violence against women and provide all round support with gender



sensitive approach. To discharge their duties effectively, the functionaries of OSC as well as those linked to it need to be equipped with knowledge of procedural and practical aspects of assisting aggrieved women of violence.

National Institute of Public Cooperation and Child Development (NIPCCD), which is an apex body for training of ICDS and ICPS functionaries, has been entrusted with the task of preparing this module for Master Trainers of One Stop Centre as also for various functionaries associated with One Stop Centre. This module is meant for Master Trainers of OSC in each state who once trained will help in conducting training of other functionaries of the OSC.



**Figure 1.4: Capacity Building of OSC Functionaries**

This module will equip the Master Trainers with necessary skills to further train other functionaries by providing step-by-step guidance on assisting the women affected by violence. It will also serve as a comprehensive guide for Master Trainers of OSC who provide frontline services to women affected by violence.

This module was prepared after a brain storming session with officers of MWCD and NIPCCD wherein the following questions were considered at length:

- i. What is the existing knowledge of the OSC functionaries?
- ii. What are the learner's job related needs?
- iii. What is the gap between what they know and what they need to?
- iv. Designing a training module:
  - What content needs to be created?
  - What appropriate activities need to be developed?
  - What formative and evaluative instruments need to be created?
- v. What will be the learning outcome?
- vi. What are the resources available?
- vii. Concept of ADD:
  - A: Assessment: What do learners need to know to accomplish job related tasks?
  - D: Design: What will the training module look like?
  - D: Development: What content, resources, learning methods and resources will be needed?

The brain storming session with the above questions with guidelines of OSC helped us in formulating a two tier training strategy i.e. one for Master Trainers and other for OSC functionaries.

## Rationale for Training of OSC Functionaries

Training strategy thus made to accommodate the training needs of functionaries associated with implementation of One Stop Centre is two tier training as stated above. The Ministry of Women and Child Development plans to implement the One Stop Centre initially one each in every state/UTs. Thus there will be huge number of personnel to be trained in each state in order to achieve the mandate of OSC. The first tier of training initially will focus on those handpicked personnel who may be called the **Master Trainers**.

**Who are the Master Trainers:-** Master Trainers in every state will cover the following personnel:

1. Representatives of State Legal Service Authority/District Legal Service Authority
2. District Programme Officer of ICDS
3. District Women Welfare Officers – wherever available
4. Selected Protection Officers appointed under PWDVA
5. Selected Protection Officer of Integrated Child Protection Scheme
6. Selected District Child Welfare Committee Members
7. Selected Members of Juvenile Justice Board
8. Selected Service Providers Running Various Shelter Homes for Women
9. Representatives of District Magistrate
10. Special Police Officer Appointed for Welfare of Women
11. Special Mahila Police Officer (SMPO)
12. District Medical Officer
13. Other officers deputed by the respective State Governments

The training programme is envisioned in such a way that the module prepared will be imparted to the Master Trainers of each state depending on the total number of expected Master Trainers with 30 members in a unit. The total number of Master Trainers will thus be trained for a duration of two days each. Rationalization for the duration as two days is that the Master Trainers stated above will have adequate qualification up to the level of post graduation and also with adequate knowledge and experience in working on issues related to women. Considering this backdrop a module of two days duration will be sufficient enough to acquaint them with the functioning of OSC, enhancing their knowledge on legal interventions, counselling and accessing existing support mechanism to the women victims facing violence.

At the second level, the Master Trainers who have been trained at National level will further train the OSC functionaries in their respective states. A separate training module will be developed for a duration of five days so as to equip these or other functionaries.

The master trainers will be trained at the National/State level as per the decision of the MWCD and the OSC functionaries will however be trained in their respective states utilizing the infrastructure like NIPCCD etc.

The Training Strategy proposed for the entire project staff associated with OSC will also cover various types of training programmes. The first and foremost among them will be the Induction Training Programme for the functionaries which will be followed by various intermittent training programmes on legal awareness, schemes of Government to combat violence against women, refresher training for up-dation of knowledge etc, and other skill training on counselling tips etc. Thus training will be an ongoing process which will add to proper implementation of One Stop Centre.

## Objectives of the Module for Master Trainers

The major objectives of the training module will be to:

- i. orient Master Trainers on issues related to VAW and Constitutional and Legal Provisions there;
- ii. enhance their knowledge and skills in providing medico-legal and psychosocial support to aggrieved women;
- iii. help the Master Trainers to develop skills in awareness generation at the grass root level so that the aggrieved women get support and redressal of their problems under one roof; and
- iv. provide a tool for capacity building of all stakeholders to perform tasks together through convergence at various levels.

## Major Contents of the Module

The training module is structured around three basic themes as to:

- i) understand the magnitude of the problem of VAW, its forms, causes, consequences and manifestations;
- ii) medico legal Interventions to assist women affected by violence; and
- iii) psychosocial Support to reinstate the women affected by violence

Major focus of the training module will be to create awareness about magnitude of VAW in India; familiarizing the functionaries with legal recourse and medical interventions to deal with VAW; and provide psychosocial support to aggrieved women. This will be accomplished by covering topics like overview of violence against women in India, its causes and consequences including physical, psychological, sexual, legal, social and economic impact. Further, Constitutional Safeguards for women and various Acts including Protection of Women from Domestic Violence Act, 2005; The Prohibition of Child Marriage Act, 2006; The Immoral Traffic (Prevention) Act, 1956; The Protection of Children from Sexual Offences Act (POCSO), 2012; The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013; and property right of women and The Criminal Law Amendment Act, 2013 etc. will also be covered. Information regarding medico-legal care of aggrieved women, psychosocial support-counselling of aggrieved women and roles and responsibilities of functionaries of OSC is also included in the module.

## Implementation of Training

This training module will help in defining the role of various functionaries for effective implementation of the scheme of OSC. This will also provide them with role clarity and help them perform better in their area of work. The training module is designed to provide knowledge on different aspects of violence against women, medico-legal and psychosocial recourse of redressal and ensuring holistic approach to deal with the problem thus help in reinstating the aggrieved women of violence in the mainstream of society.

The Master Trainers will be entrusted with the responsibility of fulfilling the training needs of the functionaries of OSC to ensure speedy redressal. The training will be conducted in a cascade model (three tier training strategy). The States will be encouraged to nominate trainers for the training. The State Level Master Trainers will be selected by the State Government in accordance with the criteria formed by MWCD and NIPCCD.

The resource faculty for implementing the module on OSC will mainly comprise of faculty of NIPCCD Headquarters, its Regional Centres and various subject matter experts from the states who have extensively worked on the issue of women development/empowerment/violence against women etc.

## Methodology

The training methodology will be participatory in nature and will employ interpersonal communication techniques to help make the training more interactive, practical and field oriented. The training programme is scheduled for two days with focused sessions targeting the problems faced by aggrieved women and providing medical, legal and psycho-social support to them.

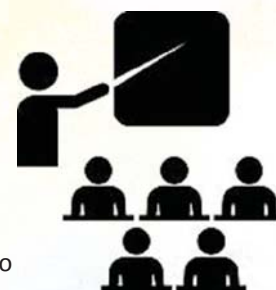
## INSTRUCTIONS FOR TRAINERS

### Dear Trainers

- This training module is developed to facilitate and prepare you for conducting training programme for the “One Stop Centre” Scheme.
- You are expected to go through the entire module and prepare yourself to conduct the training efficiently.
- Each session per day is detailed out. Make sure that you have read the day’s sessions before the start of the programme.
- You will also need to plan and manage the time at your disposal so that all sessions are given the required attention and importance.
- You are expected to keep in mind that the trainees will be adult learners. When training adults or assisting them to learn, it is essential that you understand their motivation for learning and design your teaching to complement the subject area, the audience and any organizational requirements.

### Prepare

- Make sure that all your participants are aware about the training programme.
- There is proper arrangement of food and water for the participants.
- There is sufficient space for the group activities



### Instructions

- Concentrate on the essential facts, skills and attitudes. It is neither possible nor desirable to teach everything.
- Base your training on the need of the programme and on the tasks that your trainees are expected to do.
- Make sure that all the training formalities are taken care of.
- The Facilitators Notes has been designed to guide the Trainers for an effective session
- Key points to be kept in mind while delivering the lecture are as under:
  - Time Management** - A predefined time has been allocated to each session. However, it is to be ensured that the training should be completed within the stipulated duration. The Trainer should take care to assign adequate time for the activities listed during the session.
  - Guided Objectives** - Each session has a distinct objective, which needs to be reviewed before the beginning of each session. The outlined learning outcomes should be achieved by the end of each session.
  - Training Approach** - Trainer should focus on improvising the group activity after doing a need analysis of the group of trainees. The experiences of the trainees can be utilised for the session as well.
  - Feedback and Evaluation** - At the last day of the training, the Trainer should take effective feedback of the trainees, along with their suggestions so that the training can be evaluated and gaps can be addressed for a successful training programme.

## Facilitating Dissemination of Modules

### Participatory Methods

In order to involve the participants and even members of the large community, the facilitator can use some or all the participatory methods mentioned. Though each method is listed separately, the facilitator should use them in combination for maximum impact. For instance, the issues raised in role plays need to be highlighted through a lecture discussion. Then the emerging relevant concerns can be put across through slogans, to generate awareness among other members of the educational institution, the panchayat and the community.

#### 1. Short Lecture and Discussion

The facilitator introduces the issues in short. These issues are then discussed by raising questions or giving opinions. The facilitator then concludes the discussion by summarising the important points.

## 2. Discussion

Specific information can be provided and the issue solved by discussion within the group. Care should be taken to focus the discussion on the related topic and linkages should be built to dovetail the specific issues of the module with other modules.

## 3. Group Discussion

For full involvement of the group, an issue can be discussed in smaller groups. Group conclusions can then be presented by the group leader to the larger gathering, which can then be discussed in the full house.

## 4. Debates

Debating is a method to provide the participants with a detailed and perceptive proficiency in the issues. This will be encouraged not only among the OSC Master Trainers but also among other stakeholders.

## 5. Role Play

Through this medium the participants can be provided with roles to enact in a prescribed setting. Discussion is then held on the issues thrown up by the situation and not on the characterization or the enactment of the roles. The facilitator is only to create the character roles and a situation, which the participants will enact according to their understanding e.g. a case of dowry harassment brought for settlement before the Panchayat. The roles needed may be various panchayat members (landlord sarpanch, an illiterate Harijan woman, an old lady from the land-owning class, a trader and a Scheduled Caste labourer), the victim of dowry harassment, and a couple of family members etc. The dialogue and scenes can be decided by the participants themselves.

## 6. Case Study of an Incident, Personality and Experience

In order to put across a point, case studies can be presented by the facilitator. Attention should be drawn more to the issues such as the strategy adopted for attaining the goal, than to the narration.

The participants can also be encouraged to present case studies which can then be discussed by the group.

## 7. Slide/Film Viewing

The facilitator can also suggest films or show slides to put across a certain concern e.g. documentary film "The Day My God Died" can provide an experience on issues concerning violence against trafficked women.

## 8. Questions and Answers

The trainer can also initiate discussions by raising certain, questions such as "sex determination is a useful method of population control" to evoke a response from the participants.

## 9. Involvement of Eminent Personalities

Certain sections/issues can be highlighted by inviting people well versed in specific fields e.g. information on schemes or laws can be provided by a government official or a lawyer respectively, or dowry law can be discussed by inviting someone who is fighting a dowry case in court.

## 10. Slogan/Exhibitions

Participation and involvement can be improved by giving the participants tasks such as coining creative slogan or exhibitions on issues.

## 11. Exercises

Such as jotting ones views, brain storming i.e. verbalizing immediate thoughts on an issue, etc. help to pinpoint perceptions and to involve all the participants.

## DAY 1 - SESSION 1

REGISTRATION	REGISTRATION OF TRAINEES
SESSION	INTRODUCTORY SESSION
INTRODUCTORY SESSION	<ul style="list-style-type: none"> <li>• Welcoming the trainees</li> <li>• Introductory address by Head of the Institution/Department</li> <li>• Introduction to the training programme - briefing on objectives, programme schedule, working hours, theory and practical sessions</li> <li>• Self-introduction by trainees</li> <li>• Detailing training module</li> </ul>
DEFREEZING GAMES	<ul style="list-style-type: none"> <li>• Ice breaking games</li> <li>• Each trainee shares his/her experiences of the field</li> </ul>
DURATION	1hour – Introductory session (30 minutes) – Ice breaking games (30 minutes)
TRAINING METHODS	Self-information dissemination through games/group activities
LEARNING OUTCOMES	The trainees will be acquainted with each other and understand the objectives of the programme and prepare themselves for the training
RESOURCES REQUIRED	<ul style="list-style-type: none"> <li>• Flip charts and markers</li> <li>• Material for ice breaking games</li> </ul>

## ICE BREAKING GAMES

### Instructions for Trainers

- Conduct at least two or three activities for ice breaking games for rapport building.

#### **Activity –I: My Companion**

- Ask each trainee to write his/her name on masking tape and stick it on his or her shirt or dress.
- Tell them to stand in a circle, with everyone wearing their name tag.
- Give them two minutes to look around the circle and try to pinpoint a companion whose name starts with the same alphabet.

#### **Activity –II: Name Chain**

- Gather the trainees in a circle.
- Now, one trainee will speak up his/her name. The other trainees will speak up their names with the name of previous trainee.

#### **Activity –III: What do I feel?**

- Ask the trainees to sit in a circle; each one of them takes turns acting out certain emotions.
- Others try to guess out what emotion is being acted, the one who guesses right acts out the next emotion.

#### **Activity –IV: Introducing one another**

- Prepare cards of related words like pen-paper, day-night, sun-moon etc.
- Ask the trainees to pick a card each and make efforts to locate the partner having the card with related word.
- The partners sit together and collect information about each other.
- Each pair will introduce his/her partner.

## DAY 1 – SESSION 2

SESSION	VIOLENCE AGAINST WOMEN IN INDIA - AN OVERVIEW
<b>OBJECTIVES</b>	<p>The objectives of the session will be to:</p> <ul style="list-style-type: none"> <li>• orient the participants on magnitude of Violence Against Women (VAW) in India;</li> <li>• sensitize the participants on forms, causes and impact of violence on the lives of girls/women; and</li> <li>• familiarize them on the preventive measures and interventions by various departments to combat violence.</li> </ul>
<b>CONTENTS</b>	<ul style="list-style-type: none"> <li>➤ Concept and definition of violence</li> <li>➤ Forms of violence</li> <li>➤ Causes of violence</li> <li>➤ Violence against women throughout life cycle</li> <li>➤ Magnitude of VAW in India</li> <li>➤ Consequences of violence</li> <li>➤ Prevention of violence</li> </ul>
<b>DURATION</b>	2 hour 30 minutes
<b>TRAINING METHODS</b>	Brain Storming, Lecture-cum-group discussion
<b>LEARNING OUTCOME</b>	<ul style="list-style-type: none"> <li>• The trainees will be able to understand the magnitude of violence against women, consequences and strategies there of to prevent violence.</li> </ul>
<b>RESOURCES REQUIRED</b>	<ul style="list-style-type: none"> <li>• Chart papers</li> <li>• Markers</li> <li>• Posters</li> <li>• Audio Visual equipment</li> <li>• LCD Projector</li> </ul>
<b>REFERENCES</b>	<ul style="list-style-type: none"> <li>• UN Declaration on the Elimination of Violence Against Women, 1993</li> <li>• Census of India-2011, 2001, 1991</li> <li>• NFHS-3</li> <li>• National Policy for the Empowerment of Women, 2001</li> <li>• NCRB 2013</li> </ul>



## FACILITATOR'S NOTES

### Methodology

The session may be initiated by introducing the concept of empowerment of women through personal, collective, economic and social empowerment. The importance of National Policy for Empowerment of Women, 2001 may also be discussed. Discuss with the participants the outcome of Empowerment as various Rights- Right to life, Right to Education and other Rights mentioned in the Constitution. The trainees may be asked to elaborate the reasons for not able to exercise these rights. In the context the facilitator may discuss the key concepts and forms of violence, issues concerning violence against women; gender based violence; magnitude of violence; its causes and consequences throughout the life cycle of women, etc.

### Group Work:-

Divide the participants into two groups. On the whiteboard draw a circle with stages of women's life –from a foetus to old age depicting the life cycle. Ask the first group to list the various forms of violence that a women may encounter at the stages of her life represented in the circle. Ask the second group to list possible causes of violence listed by the first group at each stage let each group share their observation.

### Ask

- Do you know forms or type of violence?
- What are the consequences of violence?
- What are the short term and long term impact of violence on women?
- Does anyone has any personal experience to share?



The trainer may communicate the significance of the issue of violence by referring to statistics/ NCRB data thus providing an overview of the magnitude of violence against women. The facilitator may refer to or rely on local statistics, issues and illustrations to communicate during the session. This makes the information more identifiable and accessible to the participants/trainees.

The trainer may focus on various forms of violence affecting girls/women throughout their life. The trainer may also highlight causes and consequences of violence and conclude the session by discussing the role of different stakeholders in curbing the problem.

## Contents for Trainers

Women Rights are Human Rights which are universal, interdependent, interrelated and indivisible. The Constitution of India guarantees to all the citizens certain basic human rights such as the right to life, health care, education, employment, bodily integrity, personal safety and security etc. Violence against women is an intolerable violation of human rights and in order to safeguard women's rights there is a need to eliminate all forms of violence against them. The last few years have seen a much greater sensitivity to the issue of violence against women, and sustained efforts by the Government and campaigning by women's groups/ organizations has led to stringent legislations to protect women from bodily harm. Yet, violence against women appears to be a "high growth sector".

### 2.1 Definition of Violence Against Women

Violence against women is the most pervasive yet least recognized human rights abuse in the world and it is a problem of pandemic proportions. The term violence against women refers to many types of harmful behaviours directed towards women and girls because of their sex. One of the most accepted definitions of violence against women has been framed by the United Nations Article 1 of the declaration on the Elimination of All Forms of Violence against Women. It defines VAW as "Any act of gender based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life".

Violence against women and girls is rooted in unequal power relations between men and women in society and can be well understood within a gender framework. While sex is a biological category, gender is a social construct and refers to widely shared expectations and norms within the society about appropriate male and female behaviours, characteristics and roles. Thus gender roles prescribe a strict division of labour wherein women are expected to perform largely reproductive functions- maintenance of the household, child care, serving the elderly etc. Gender roles also prescribe characteristics of docility, unending patience and servility for women. Women are judged and condemned by the society if they go against the prescribed behaviour for them. The construction of gender roles and gender stereotypes implies that women have far lesser access to resources and decision making as compared to men, resulting in unequal balance of power. Unequal treatment and discrimination in child rearing, and caring practices in the family, male preference, and denial of rights to health care and education to women and girls are some of the factors that make women vulnerable and susceptible to different forms of violence. Gender based inequalities in all stages of women's life manifest in the form of several acts of violence.

Women experience violence differently depending on their caste, religion, age, societal and economic status, sexual orientation and disability. Cultural norms that lead to stereotyping of gender roles, control over women's sexuality, their economic dependence on men, denial of rights over land and property as well as lack of political and decision making powers are some of the causes of gender based violence. The incidence of VAW gets accentuated manifold when gender intersects with other identities and/or conditions of disadvantage such as low levels of education, lack of legal awareness, disability, poverty and displacement.

The terms 'gender-based violence' and 'violence against women' are frequently used interchangeably, however, the term gender-based violence refers to violence directed against a person because of his or her gender and expectations of his or her role in a society or culture. Gender-based violence highlights the gender dimension of these types of acts; in other words, the relationship between females' subordinate status in society and their increased vulnerability to violence. It is important to note, however, that men and boys may also be victims of gender-based violence, especially sexual violence. Given the disproportionate numbers of women and girls that experience violence, the focus of this issue is on women and girls, and therefore mostly the term violence against women is used in discussions.

### 2.2 Forms of Violence:

**Physical Violence:** Physical abuse includes spitting, slapping, beating, pinching, arm-twisting, scratching, biting, grabbing, shaking, shoving, restraining, kicking, hitting strangling, burning, stabbing, punching, pushing, choking, deliberate exposure to severe weather, murder, pulling hair, throwing objects, or use of weapons etc. and may cause severe injuries.

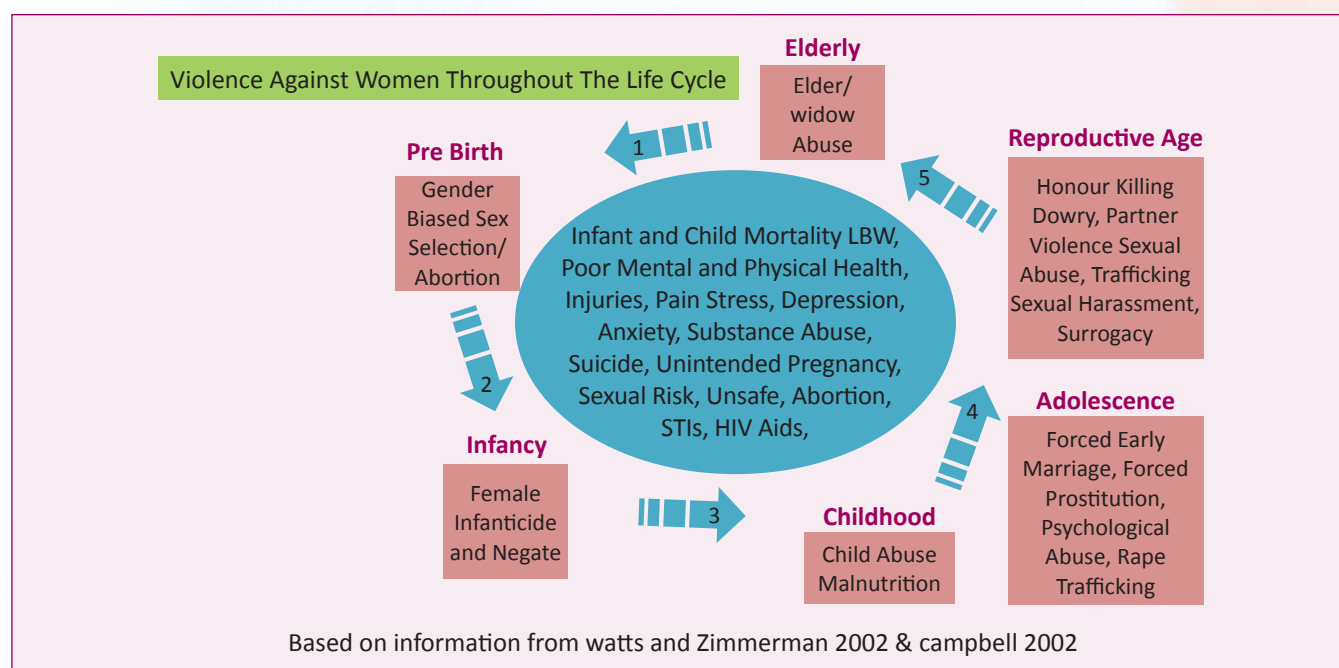
**Psychological Violence:** There are different types of psychological assaults such as threats of violence and harm; emotional violence; isolation; use of children; and economic violence. These may be including insulting, yelling, recalling past mistake, constant criticism, expressing negative expectations, humiliation, and denying opportunities.

**Sexual Violence:** Sexual violence can take many forms and take place under very different circumstances. A person can be sexually violated by one individual or several people (e.g. gang rapes); the incident may be planned or a surprise attack. Although sexual violence occurs most commonly in the aggrieved women's home but it may be in the perpetrator home also. It also takes place in many other settings, such as the work place, at school, in prisons, cars, the street or open space (e.g. parks, farmland). The perpetrator of a sexual assault may be an acquaintance, a friend, a family member, an intimate partner or a complete stranger.

**Economical:** Economic violence include economic deprivation to women by limited access to funds and credit; controlling access to employment, education, including agricultural resources; excluding from financial decision making; and discriminatory traditional laws on inheritance, property rights, and use of communal land. At work women may experience receiving unequal remuneration for work done equal in value to the men's, overworked and underpaid etc. At home, women may be barred from working by partners. Economic violence results in deepening poverty and compromises educational attainment and developmental opportunities for women.

**Honour Related Violence:** Honour Killing is another manifestation of violence against women, which occur within the family or within the community. Noticeable trend in India has been that in marriages that are not in conformity and are deemed dishonorable by the family, the parents of the girls/ boys often resort to honor killing. An honor killing is the homicide of a member of a family by other members, due to the perpetrators' belief that the victim has brought shame or dishonor upon the family, or has violated the principles of a community or a religion, usually for reasons such as refusing to enter an arranged marriage, being in a relationship that is disapproved by their family, having sex outside marriage, becoming the victim of rape, dressing in ways which are deemed inappropriate.

Figure 2.1 illustrates both the distinct forms of violence against women and girls over the life cycle ranging from discrimination at one end to overt physical and sexual violence at the other. Therefore, while some forms of violence are direct and visible, many others are insidious and more hidden, thus making invisible both the nature and degree of the violation.



**Figure 2.1: Gender based violence at different stages throughout the life cycle**

## 2.3 Impact of Violence

Impact of violence ranges from immediate to long-term multiple physical, sexual and mental consequences for women and girls. In extreme cases violence can lead to severe disability or even death, but even in less severe cases it impacts on the everyday lives of women and girls. It negatively affects women's general well-being and prevents women from fully participating in society. Violence not only has negative consequences for women but also their families, the community and the country at large. It has tremendous costs, from greater health care and legal expenses and losses in productivity, to impacting national budgets and overall development. Violence against women and girls constitutes a worldwide human rights and health issue, as by its very nature, it violates a woman's right to physical integrity and in severe cases the right to life. VAW hinders their ability to earn a living, access education, and participate in social and political life thus perpetuating poverty and hindering development.

At the individual level, VAW has negative psychological and physical health implications for women. Among the many consequences of VAW an increase in suicide attempts amongst those women who survive violence, unintended pregnancy, abortion, risk of still birth or miscarriage, pregnancy loss are a matter of grave concern. There is also an association between VAW and increased risk of contracting HIV and other sexually transmitted infections (STIs). Women who survive physical or sexual (or both) types of intimate partner violence are more likely to be at risk of contracting an STI or HIV.

- **Physical:** chronic pain, bruises, scars, cuts, broken bones, injuries, chronic, infection, STDs/HIV, malnourishment, pregnancy, abortion, etc.
- **Behavioural:** numbness, shock, disoriented, confused, violent, abusive, self harm, rebellious, sleeplessness, substance abuse, suspiciousness, lying, stealing
- **Psychological:** anxiety, fear, mistrust of others, inability to concentrate, loneliness, post-traumatic stress disorder, depression, drug use, suicidal thoughts, guilt, shame, low self esteem, lack of confidence, unworthiness, hopeless, hostile, anger, moody, intrusive memories etc.
- **Economic and Social Impact:** rejection, ostracism and social stigma at community level, reduced ability to participate in social and economic activities, acute fear of future violence, which extends beyond the individual aggrieved women to other members in community, damage to women's confidence resulting in fear of venturing into public spaces (this can often curtail women's education, which in turn can limit their income-generating opportunities)
- **The Impact on Women's Family and Dependents:** divorce and broken families, jeopardized family's economic and emotional development, babies born with health disorders, collateral effects on children who witness violence
- **Mental:** depression, anxiety, sexual dysfunction, personality disorders

VAW has a negative intergenerational impact on families, communities, societies and economies as mentioned below. Women who are abused have decreased productivity, thus having greater difficulty in generating income and performing essential household tasks. Moreover, health consequences associated with VAW, from immediate injuries to chronic conditions, burden health systems. In terms of intergenerational effects, children whose mothers experience violence may be at increased risk of emotional and behavioural problems, such as anxiety, depression and violence towards their peers.

## 2.4 Inter-Generational & Socio-Economic Consequences of Violence against Women

Effects on children of women who experience abuse	<ul style="list-style-type: none"> <li>– Higher rates of infant mortality</li> <li>– Behaviour problems</li> <li>– Anxiety, depression, attempted suicide</li> <li>– Poor school performance</li> <li>– Experiencing or perpetrating violence as adults</li> <li>– Physical injury or health complaints</li> <li>– Lost productivity in adulthood</li> </ul>
Effects on families	<ul style="list-style-type: none"> <li>– Inability to work</li> <li>– Lost wages and productivity</li> <li>– Housing instability</li> </ul>
Social and economic effects	<ul style="list-style-type: none"> <li>– Costs of services incurred by victims and families (health, social, justice)</li> <li>– Lost workplace productivity and costs to employers</li> <li>– Perpetuation of violence</li> </ul>

## 2.5 Crimes Against Women

Crimes against women and girls (such as rape, molestation, and physical abuse) are specific, legally recognised acts of violence and hence also form a significant part of the continuum. At a broad level, crimes against women are a legal category whereas violence against women encompasses social and economic violation not captured by legal enactments. National level data on crimes against women as per the National Crime Record Bureau (NCRB) indicates an increase in the levels of crimes against women over the years. The total number of crimes against women increased between 2009 and 2013. A total of 3,09,546 cases of crime against women (both under various sections of IPC and SLL) were reported in the country during the year 2013 as compared to 2,44,270 in the year 2012, thus showing an increase of 26.7% during the year 2013. The crime against women during the year 2013 has increased by 26.7% over the year 2012 and by 51.9% over the year 2009.

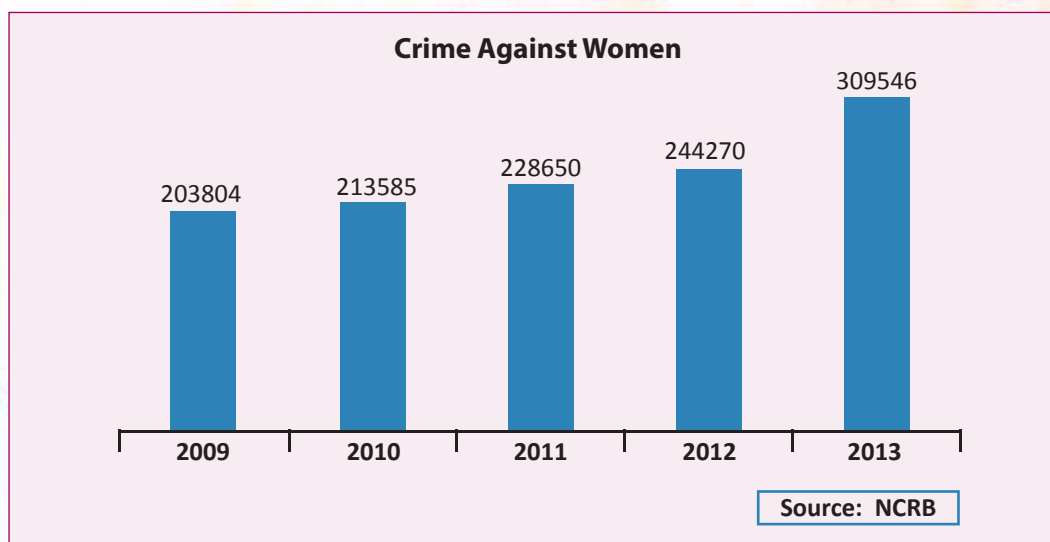


Figure 2.2: Crime Against Women in India

The head-wise details of crime reported during the year 2009 to year 2013 presented as under show that the crime against women during the year 2013 has increased by 26.7% over the year 2012 and by 51.9% over the year 2009.

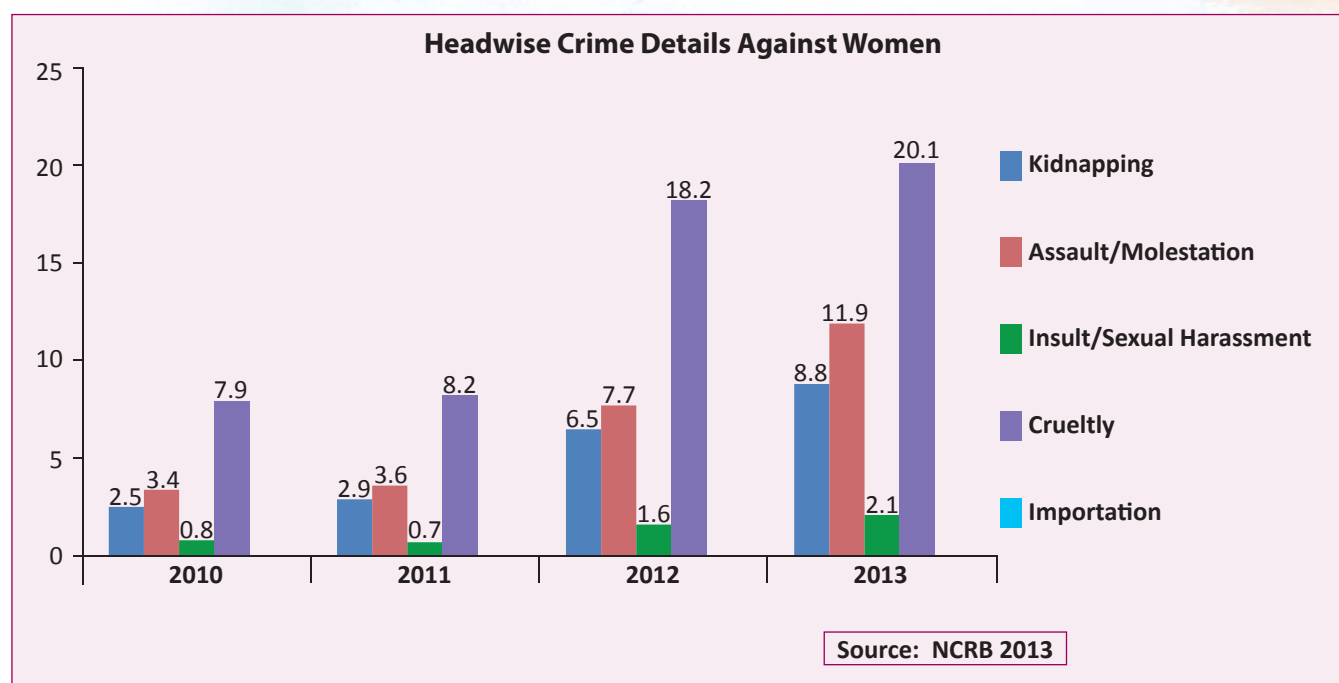
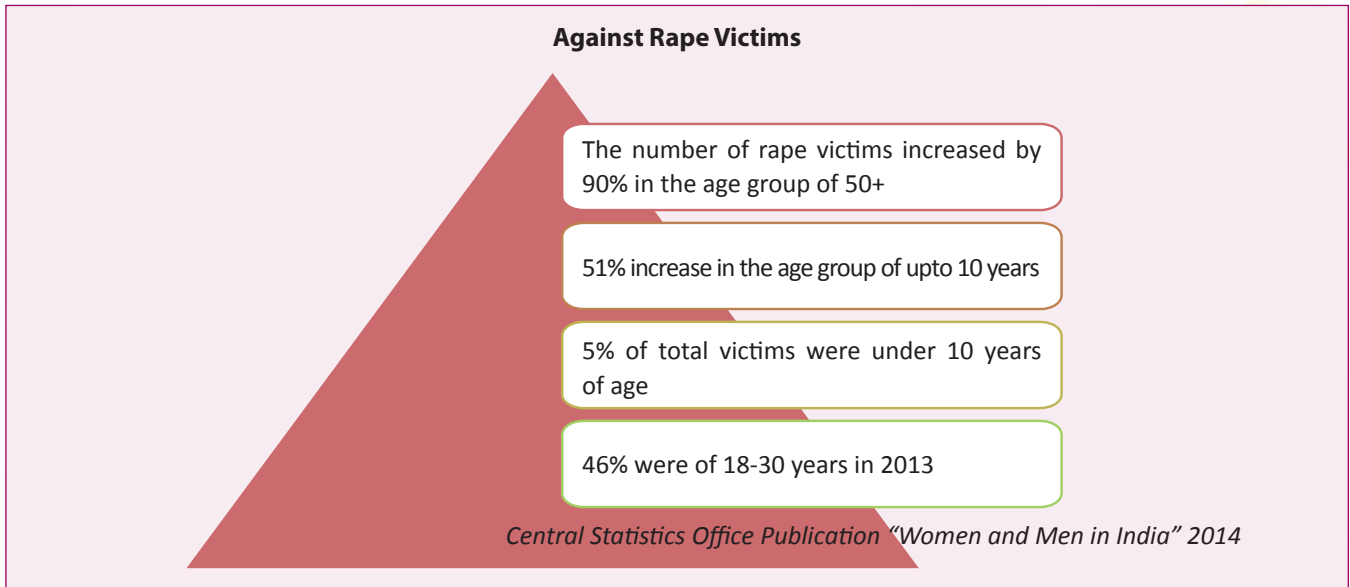


Figure 2.3: Headwise Crime Details Against Women

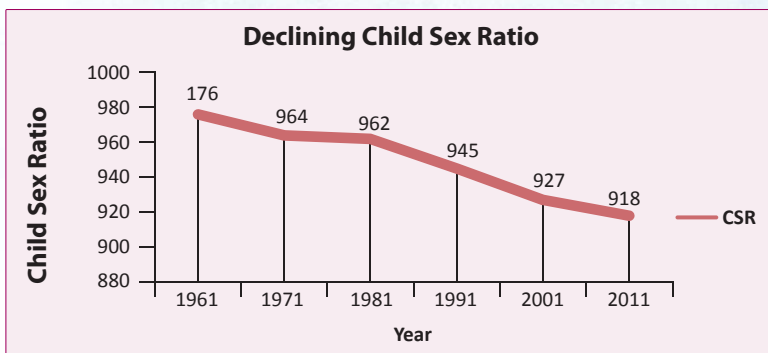
An increasing trend in the incidence of rape has been observed during the periods 2009 - 2013. These cases have reported an increase of 3.6% in 2010 over 2009 and an increase of 9.2% in the year 2011 over the year 2010, an increase of 3.0% in the year 2012 over 2011 and further an increase of 35.2% in the year 2013 over 2012. Delhi reporting 1441 rapes in 2013, making it the city with the highest number of rapes.



**Figure 2.4: Age Group Wise Rape Victims**

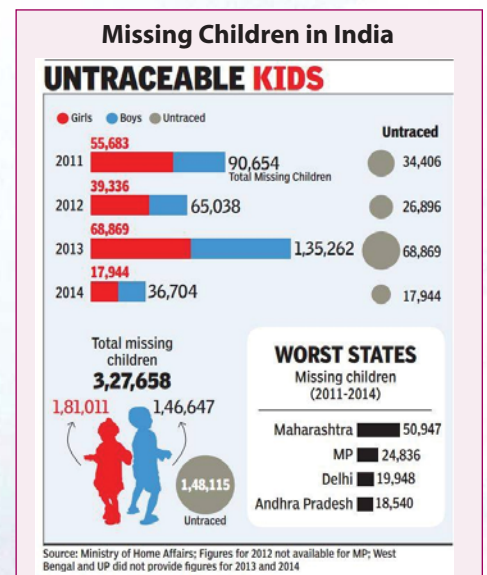
A steady rise in cases of human trafficking during 2009 – 2013, from 2,848 cases relating to human trafficking reported during 2009, it rose to 3,422 cases in 2010. It further rose to 3,517 cases in 2011, 3,554 cases in 2012 and 3,940 cases in 2013.

One of the manifestations of violence against women and girls is Gender Biased Sex Selective Elimination and female foeticide. These are extreme manifestations of discrimination against women. Sex selection is any action taken in order to select the sex of the child by the use of any artificial method at the time of conception or thereafter. The act of Gender Biased Sex Selective Elimination and deliberate killing of new born female children has lead to decline in Child Sex Ratio (CSR) over the years as shown in figure 2.6.



**Figure 2.6: Trends in Declining Child Sex Ratio**

This phenomenon of declining child sex ratio, another consequence of gender discrimination and violence against women in India, has spread across States. The census data has revealed that the worst child sex ratios have been found in States with high per capita incomes, while, States with low per capita incomes like Bihar, Rajasthan and UP continue to suffer from



**Figure 2.5: Missing Children**

adverse sex ratios due to persisting gender discrimination. The declining child sex ratio is a silent demographic disaster in the making which will have adverse implications on women in the form of increased trafficking for sexual exploitation, honour killings, 'bought' brides, rapes, etc. Already, States such as Haryana and Punjab which have acutely adverse child sex ratios are displaying disturbing trends.

## 2.6 Legislations on Violence Against Women

Realizing that women face violence in every sphere of life; the Government of India took initiative and enacted laws to enable women to lead a violence free life. In the process, a number of legislations were put in place. One of the earliest relates to the law banning the practice of dowry. The Dowry Prohibition Act, 1961 defines dowry and penalizes the giving, taking or abetting the giving and taking of dowry. However, when it failed to create the desired impact and women continued to suffer cruelty at the hands of their husband and their relatives the State went ahead and inserted section 498A in Indian Penal Code, 1860 penalising those who indulge in such kind of violent behaviour. In addition, the State also introduced section 304B in the Indian Penal Code, 1860 which made the death of a woman in the matrimonial home within seven years of marriage an offence, if she was subjected to cruelty immediately before death for any demand of dowry.

In the year 1994, State recognized that the patriarchal society of our country which prefers sons over daughters is misusing technology to stop girls from getting born. The pre-natal diagnostic techniques meant to detect genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders in the fetus are used for sex determination and subsequently leading to sex selective abortions/termination of pregnancies. The misuse was so rampant that Child Sex Ratio (CSR), defined as the number of girls per thousand boys in the 0-6 years age bracket has declined from 945 in 1991 to 927 in 2001 and dropped to an all time low of 918 girls for every 1000 boys in 2011 indicating that girls are getting increasingly excluded from life. To counter this practice, Gol enacted Pre-Natal Diagnostic Techniques (Prohibition of Sex-Selection) Act, 1994 which provided prohibition on sex selection, before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide; and for matters connected therewith or incidental thereto.

In the year 2005 the Gol enacted Protection of Women from Domestic Violence Act (PWDVA). The PWDVA recognizes women's right to live a violence free life within their own home whether natal or marital. The objective of the law is to prevent violence and provide emergency relief in case of such situations irrespective of the status of their relationship with the respondent. This Act has come into effect in October 2006 and has been adopted in compliance with the government's commitment under the Beijing Platform for Action (BPFA) and Convention on Elimination of All Forms of Discrimination Against Women (CEDAW). It provides immediate and emergency relief to women facing domestic violence in the form of protection order, right to residence, temporary custody order, monetary reliefs and compensation for emotional distress resulting from violence. It also provides for a coordinated implementation mechanism consisting of protection officer, service in the form of facilities and shelter homes that are mandated to provide better access to justice and other support services.

On 16th December 2012 at New Delhi, a 23 year old woman was brutally gang raped in a moving bus by 6 men. The incident generated widespread national and international coverage and public protests took place in New Delhi, against the state and central governments for failing to provide adequate security for women, where thousands of protesters clashed with security forces. On 22 December 2012, the Central Government appointed a judicial committee headed by Shri J.S. Verma, a former Chief Justice of India, to suggest amendments to criminal law to sternly deal with sexual assault cases. Consequently, in April 2013, Criminal Law (Amendment) Act, 2013 came into force which broadened the definition of rape to include non-penetrative sex and made the criminal provisions relating to rape and sexual violence more stringent. New offences such as acid attack, stalking, sexual harassment, voyeurism and disrobing have also been included in the Act. A duty has also been cast on all hospitals, public or private, whether run by Central or State Government, local bodies to provide free medical treatment to victims of acid attack and rape. Similarly, it is mandatory for all police officers to lodge FIR of all offence punishable under section 326 A-B, 354-B, 370-A, 376, 376A-E, 509 IPC; failure to do the same will attract penal provisions against the officer concerned.

SESSION	CONSTITUTIONAL PROVISIONS AND LEGAL SAFEGUARDS FOR WOMEN AFFECTED BY VIOLENCE
<b>OBJECTIVE</b>	The objective of the session will be to apprise trainees about the Constitutional Provisions and various Acts & Laws related to women affected by violence
<b>CONTENTS</b>	<ul style="list-style-type: none"> <li>• Constitutional Safeguards – Article 14, 15,16,17,19, 21</li> <li>• The Immoral Traffic ( Prevention) Amendment Bill,2006 <ul style="list-style-type: none"> <li>➤ The Immoral Traffic (Prevention) Act,1956</li> <li>➤ Key Features of Immoral Traffic ( Prevention) Amendment Bill,2006</li> </ul> </li> <li>• Dowry <ul style="list-style-type: none"> <li>➤ The Dowry Prohibition Act, 1961 (Amendment Act,1986)</li> </ul> </li> <li>• Protection of Women from Domestic Violence Act,2005 <ul style="list-style-type: none"> <li>➤ Domestic Violence – An Overview</li> <li>➤ PWDVA Act- Main Highlights</li> <li>➤ Legal aid to women affected by domestic violence</li> <li>➤ Role of NGOs and SHGs in preventing domestic violence</li> </ul> </li> <li>• The Prohibition of Child Marriage Act, 2006 <ul style="list-style-type: none"> <li>➤ Child Marriage Act- main highlights</li> <li>➤ Duties of the Child Marriage Prohibition Officer (CMPO)</li> </ul> </li> <li>• Protection of Children from Sexual Offences- Act and Rules ( 2012) <ul style="list-style-type: none"> <li>➤ Tips to teach children about appropriate touch</li> </ul> </li> <li>• The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act,2013</li> <li>• The Criminal Law Amendment Act,2013</li> <li>• Women's Property Rights</li> </ul>
<b>DURATION</b>	<b>3 hours</b>
<b>TRAINING METHODS</b>	Lecture Cum Discussion, Case Study
<b>LEARNING OUTCOME</b>	The trainees will gain knowledge about various Constitutional Provisions and Legislations to combat violence against women
<b>RESOURCES REQUIRED</b>	<ul style="list-style-type: none"> <li>• LCD projector</li> <li>• Power point presentation</li> <li>• White board and marker</li> </ul>
<b>ANNEXURES</b>	<p>Questions Answers on :</p> <ol style="list-style-type: none"> <li>I. Prohibition of Child Marriage Act, 2006</li> <li>II. PWDVA, 2005</li> <li>III. POCSO, 2012</li> <li>IV. Fundamental Rights</li> <li>V. Relevant Section of IPC</li> </ol>
<b>REFERENCES</b>	<ul style="list-style-type: none"> <li>• <a href="http://www.wcd.nic.in">www.wcd.nic.in</a></li> </ul>



## FACILITATOR'S NOTES

### Methodology

The trainer may initiate by recapitulating/ referring to the Constitutional provisions and legal safeguards for women affected by violence with specific regard to domestic violence, trafficking, sexual harassment, child marriage and protection of children from sexual offences. The trainees must be encouraged to answer the questions about their knowledge of the situation in order to carry out a need analysis.

### Ask

- Do you know about Constitutional and Legal Provisions for Women in India?
- Have you ever come across any incident of violence and sexual offences against women?
- If yes, what action was taken?



The trainees must be encouraged to discuss and brain storm with each other on the above. The discussion may progress to apprising the trainees about the Constitutional provisions, various existing Acts and laws for the safety and prevention of gender based violence such as: The Immoral Traffic (Prevention) Act,1956, Amendment Bill,2006, The Dowry Prohibition Act,1961 (Amendment Act,1986), Protection of Women from Domestic Violence Act, 2005, Prohibition of Child Marriage Act, 2006, Protection of Children from Sexual Offences- Act and Rules (2012) Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and The Criminal Law Amendment Act, 2013. The role of various stakeholders and NGO's working towards curbing crimes against women may also be highlighted.

## Contents for Trainers

### 3.1 Constitutional Provisions

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Right to equality is an important right provided for in Articles 14, 15, 16, 17 and 21 of the Constitution. It is the principal foundation of all other rights and liberties, and guarantees the following:

- **Equality Before Law: Article 14** of the Constitution guarantees that all people shall be equally protected by the laws of the country. It means that the State will treat people in the same circumstances alike. This article also means that individuals, whether citizens of India or otherwise shall be treated differently if the circumstances are different.
- **Social Equality and Equal Access to Public Areas: Article 15** of the Constitution states that no person shall be discriminated on the basis of religion, race, caste, sex or place of birth. Every person shall have equal access to public places like public parks, museums, wells, bathing ghats and temples etc. However, the State may make any special provision for women and children. Special provisions may be made for the advancements of any socially or educationally backward class or scheduled castes or scheduled tribes.
- **Equality in Matters of Public Employment: Article 16** of the Constitution lays down that the State cannot discriminate against anyone in the matters of employment. All citizens can apply for government jobs. There are some exceptions. The Parliament may enact a law stating that certain jobs can only be filled by applicants who are domiciled in the area. This may be meant for posts that require knowledge of the locality and language of the area. The State may also reserve posts for members of backward classes, scheduled castes or scheduled tribes which are not adequately represented in the services under the State to bring up the weaker sections of the society. Also, there a law may be passed which requires that the holder of an office of any religious institution shall also be a person professing that particular religion.
- **Abolition of Untouchability: Article 17** of the Constitution abolishes the practice of untouchability. Practice of untouchability is an offence and anyone doing so is punishable by law.
- **Article 19 (1)(a):** guarantees right to freedom of speech and expression; assemble peacefully and without arms; form associations or unions; move freely throughout the territory of India; reside and settle in any part of India; practice any profession, or to carry on any occupation, trade or business.
- **Protection of Life and Personal Liberty (deprivation only as per law): Article 21** spells that no person shall be deprived of his life or personal liberty except according to "procedure established by law". The "procedure established by law" in Article has been judicially constructed as meaning a procedure which is reasonable, fair and just.

### Constitutional Provisions to Protect and Safeguard Welfare and Interest of Women & Children

Article 15 (3) of the Constitution provides that nothing in Article 15 shall prevent the State from making any special provision for women and children. Article 39 (2) and (f) of the Constitution provides that the State shall, in particular, direct its policy towards securing that the health and strength of workers, men and women, and the tender age children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength and that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

## **Sexual Violence-Intrusion on the Right of Privacy to be dealt with Sternly and Severely**

Sexual violence apart from being a dehumanizing act is an unlawful intrusion of the right of privacy and sanctity of a female. It is a serious blow to her supreme honour and offends her self-esteem and dignity-it degrades and humiliates the victim and where the victim is a helpless innocent child or a minor, it leaves behind a traumatic experience, a rapist not only causes physical injuries but more indelibly leaves a scar on the most cherished possession of a woman i.e. her dignity, honour, reputation and not the least her chastity. Rape is not only a crime against the person of woman, it is a crime against the entire society. It destroys the entire psychology of a woman and pushes her into deep emotional crisis. It is crime against basic human rights, and is also violative of the victim's most cherished of the Fundamental Rights, namely, the Right to Life contained in Article 21 of the Constitution of India, 1950 (in short the 'Constitution'). The Courts are, therefore, expected to deal with cases of sexual crime against women with utmost sensitivity. Such cases need to be dealt with sternly and severely. A socially sensitized Judge is better statutory armour in cases of crimes against women than long clauses of penal provisions, containing complex exceptions and provisions.

## **Gender Equality Including Prevention of Sexual Harassment or Abuse-Covenants**

The meaning and context of the Fundamental Rights guaranteed in the Constitution of India are of sufficient amplitude to encompass all the facets of gender equality including prevention of sexual harassment or abuse. The international conventions and norms are to be read into them in absence of the enacted domestic law occupying the field when there is no inconsistency between them. It is not an accepted rule of judicial construction that the regard must be had to the international conventions and norms for constructing domestic law when there is no inconsistency between them and there is a void in the domestic law.

## **Special Provision for Maintenance of Women and Children – Whether Discriminatory?**

Article 15 of the Constitution in general prohibits discrimination on the ground of religion, race, caste, sex and place of birth. Clause (3) of the said Article provides that nothing in this Article shall prevent the State from making any special provision for women and children. Section 125 of the Code of Criminal Procedure, 1973 is a substantive provision providing for maintenance of the wife and legitimate child by the father who neglected to maintain them having sufficient means. Article 15(3) of the Constitution which states that the prohibition contained in the Article shall not prevent the state from making any special provision for women and children. The provision is a measure of social justice and special/enacted to protect the women and children and the brooding presence of constitutional empathy for the weaker section like the women and children must inform interpretation if it has to have social relevance.

## **Marriage Dissolution – Different Grounds for Husband and Wife**

Under Section 10 of the Divorce Act, 1869 the husband is entitled to dissolution of marriage on the ground of wife's adultery but the wife is not so entitled unless she proves that husband's adultery is coupled with cruelty, bigamy and desertion. The Court reasoned that it is not the object or purpose or form, but it is the effect, the impact, and the result of law that would determine the question of infringement of fundamental right. The Court expressed the view that such discrimination only on the ground of sex is violative of Article 15 of the Constitution. Any discrimination on the ground of any liability, inability, disability or incapacity of women resulting from the peculiarities of their sex would amount to discrimination on the ground of sex alone.

## **3.2 The Immoral Traffic (Prevention) Act, 1956**

Deals exclusively with trafficking with the objective to inhibit/ abolish trafficking among women and girls for the purpose of prostitution as an organized means of living; offences specified are

- Procuring, inducing or taking persons for prostitution
- Detaining a person in premises where prostitution is carried on
- Prostitution in or visibility of public places
- Seducing or soliciting for prostitution
- Living on the earnings of Prostitution
- Seduction of a person in custody
- Keeping a brothel or allowing premises to be used as a brothel

## The Immoral Traffic (Prevention) Amendment Bill, 2006

The Bill was introduced in the Lok Sabha on May 22, 2006. The Bill has been referred to the Parliamentary Standing Committee on Human Resource Development.

### Highlights of the Bill

- The Immoral Traffic (Prevention) Amendment Bill, 2006 amends the Immoral Traffic (Prevention) Act, 1956 to combat trafficking and sexual exploitation for commercial purposes.
- The Bill deletes provisions that penalized for soliciting clients. It penalizes any person visiting a brothel for the purpose of sexual exploitation of trafficked victims.
- All offences listed in the Bill would be tried in camera i.e. the public would be excluded from attending the trial.
- The term "trafficking in persons" has been defined with a provision for punishing any person who is guilty of the offence of trafficking in persons for the purpose of prostitution.
- The Bill constitutes authorities at the Centre and the State level to combat trafficking.

### Trafficking

- Trafficking means all acts involving transportation, moving, selling and buying of women and children within and/or across borders through coercion and/or deception.
- They are forced into prostitution and slavery-like practices such as bonded labour and cruel treatment from employers for whom they work as domestic help for the purpose of profit or both.
- The vast majority of the victims detected globally are females, either adult women or underage girls.

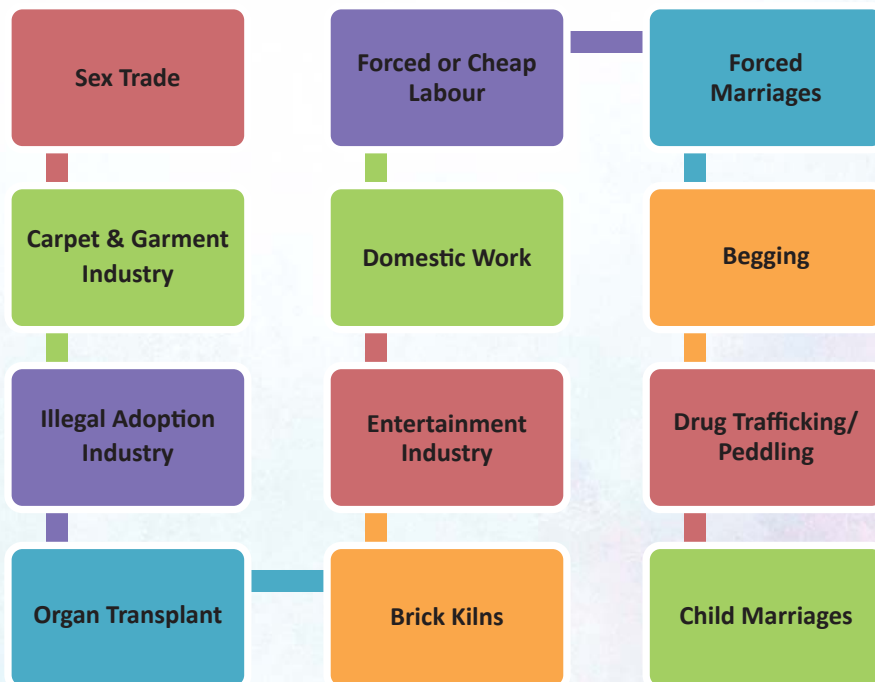


Figure 3.1: Purpose of Trafficking

#### Risks for Victims of Trafficking

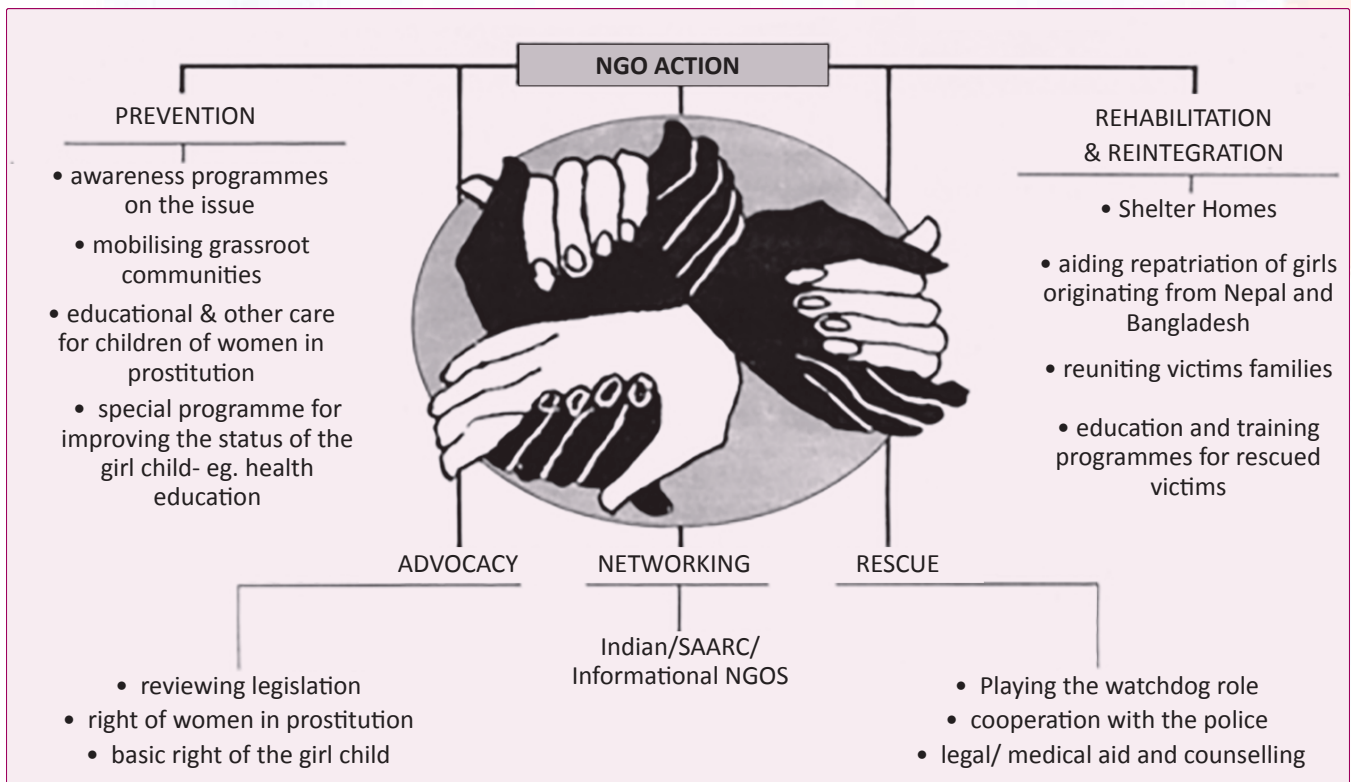
Low, withheld or no wages; hazardous work environment; violent physical abuse; drug abuse and other addictions; lack of medical attention; psychological trauma; emotional trauma; community exclusion etc.

## Causes of Trafficking



**Figure 3.2: Causes of Trafficking**

Various stakeholders such as Government, police, judiciary, NGOs and community play a significant role in combatting trafficking.



**Figure 3.3: Networking and Convergence for Prevention of Trafficking**

### 3.3 The Dowry Prohibition Act, 1961 (Amendment Act, 1986)

- Dowry Prohibition Act 1961 prohibits the giving or taking of dowry.
- Presents which are given at the time of marriage to the bride or the groom without any demand are not included in the term dowry, provided that such presents are entered in list maintained as per rules under this Act.
- Penalty for giving or taking dowry is imprisonment for a term not less than 5 years and a fine not less than Rs. 15000/-



#### Dowry Death

According to Section 304 B, IPC a dowry death is the death of the woman because of burns, injuries or by any other unnatural reason within seven years of her marriage. Before the death she should have been treated with cruelty in connection with dowry by her husband and his relatives. The provisions of Sections 113 A and 113 B of the Indian Evidence Act, 1872 regarding the presumption as to abetment of suicide by a married woman or dowry death, puts the burden on the husband and in-laws to prove that the death was not attributed to their acts.

The provisions for dowry death are very strict under the Law. If circumstances of cruelty are proved, the husband and his relatives shall be punished with seven years of imprisonment and sometimes even with life imprisonment. According to Section 498 A, if a woman is subjected to cruelty by her husband or husband's relatives for dowry, then they shall be punished with imprisonment which may extend to three years and shall also be liable to fine.

#### Dowry

- Dowry means any property or valuable security given or agreed to be given by:-
  - The bride to the groom or by the groom to the bride or
  - By the parents of either the bride or the groom or by any other person
  - At or before or any time after marriage.
- Giving, taking, demanding or even advertising for dowry is an offence.
- Any person who takes or gives dowry at his or her son's or daughter's or relatives wedding, is liable to be punished under Dowry Prohibition Act (Amendment Act, 1986).

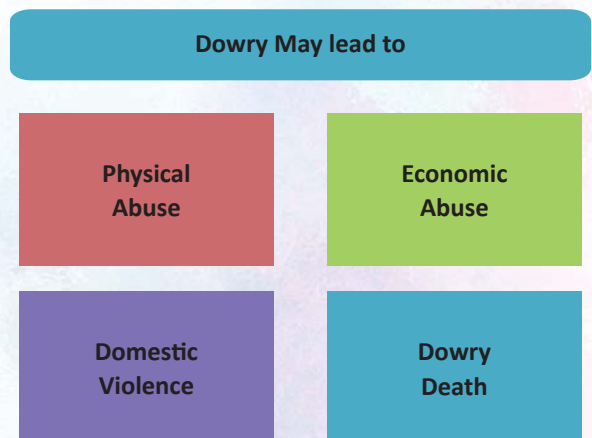


Figure 3.4: Abuse Faced by Women Due to Dowry

### 3.4 Protection of Women from Domestic Violence Act, 2005

#### Domestic Violence – An Overview

**Domestic Violence** refers to any act, omission or conduct which

- Can cause harm or injury or has the potential of harming or injuring the health, safety or well-being of woman or any child in a domestic relationship (arising out of living together with or without marriage).
- Is violent or aggressive behavior within the home, typically involving the violent abuse of a woman or a child.



#### Domestic Violence Includes:

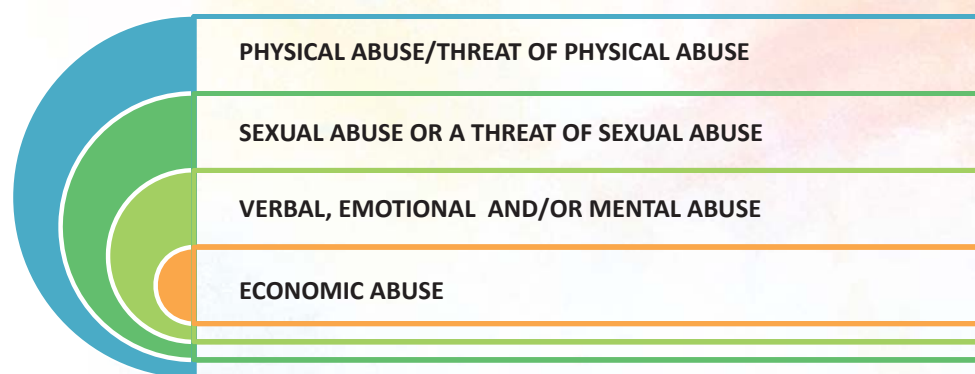


Figure 3.5: Types of Domestic Violence

#### Indicators of Domestic Violence Include:

**Physical Abuse:** Slapping, Punching, Pulling hair, Shoving or threats to hit, harm, use any weapon.

**Psychological Abuse:** Demeaning enough to destroy the self-confidence of woman, attempt to control or limit another person's behaviour, repeated insults or questioning the woman. Following or stalking a person, appearing at a person's house or workplace, making repeated phone calls or leaving written, text or voice messages.

**Sexual Violence:** Forced sexual intercourse, unwanted fondling, sexual jokes, insults, forced to watch pornography or other obscene material, forcing a woman (without her consent/against her wishes) to entertain others sexually, any other act of sexual nature, sexual abuse, humiliating, degrading or otherwise violating victim's dignity.

**Economic Abuse:** Encompasses various tactics for total or partial control of a couple's finances, inheritance employment or income.



### Types of Abuses

VERBAL AND EMOTIONAL ABUSE	ECONOMIC VIOLENCE
Accusation/adversely commenting on character or conduct, of the victim to cause hurt to her or her children.	Not providing money for maintenance.
Insulting for not bringing dowry, etc.	Not providing food, clothes, medicine, etc. for a woman and her children.
Insulting a woman for not having a male child.	Forcing a woman out of the home she live in.
Insulting a woman for not having a child.	Preventing a woman from accessing or using any part of the house.
Demanding, humiliating or undermining & ridiculing.	Preventing or obstructing a woman from carrying on her employment.
Name calling.	Not allowing a woman to take up an employment.
Forcing the victim to not attend school, college or any other educational institution.	Non-payment of rent in case of a rented accommodation.
Preventing a woman from going out of the house.	Not allowing a woman to use clothes or articles of general household.
Preventing a woman from meeting any particular person.	Selling or pawning or disposing of a woman's Streedhan or other valuables without informing her and without her consent.
Forcing a woman to get married against her will.	Forcibly taking away a woman's salary, income or wages, etc.
Preventing a woman from marrying a person of her choice.	Disposing of a woman's Streedhan.
Forcing a woman to marry a person against her wishes.	Non Payment of other bills such as electricity, etc.
Any other verbal or emotional abuse.	Any other form of economic violence.

### Facts and Figures

- India's National Family Health Survey - 3, carried out in 29 States during 2005-06, has found that a substantial proportion of married women who have been physically or sexually abused by their husbands at some time in their lives. The survey indicated that, nationwide, 37.2 percent of women "experienced violence" after marriage. Bihar was found to be the most violent, with the abuse rate against married women being as high as 59 percent.
- 635 of these incidents were reported from urban families rather than the state's most backward villages. It was followed by Madhya Pradesh (45.8%), Rajasthan (46.3%), Manipur (43.9%), Uttar Pradesh (42.4%), Tamil Nadu (41.9%) and West Bengal (40.3%).
- The trend of violence against women was highlighted by India's National Crime Records Bureau (NCRB), that while in 2000, an average of 125 women faced domestic violence every day, as the figure stood at 160 in 2005.



## Identify an Abusive Relationship

**Table 2: How to Identify an Abusive Relationship**

Signs you are in an Abusive Relationship	
Your Inner Thoughts and Feelings	Your Partner's belittling behaviour
<i>You Do:</i>	<i>Does your Partner:</i>
<b>DENIAL</b>	
Refuses to admit--even to yourself--that you have been beaten or that there is a "problem" in your marriage. You may call each incident an "accident". You find excuses for your husband's violence and each time firmly believes it will never happen again.	Acts jealous or possessive or constantly accuses you of being unfaithful, hits, kicks, shoves, slaps, chokes or otherwise hurts you, your children or your pets.
<b>GUILT</b>	
You acknowledge there is a problem, but consider yourself responsible for it. You feel that you "deserve" to be beaten because you have defects in your character and you are not living up to husband's expectations.	Blaming you for all the problems in the relationship and for the times they are out of control or violent.
<b>ENLIGHTENMENT</b>	
You no longer assume responsibility for husband's/partner's abusive treatment, recognizing that no one "deserves" to be beaten, still committed to your marriage and stay with your husband hoping you can work things out.	Tries to control how you spend money, where you go, what medicines you take or what you wear. Blames you for his or her violent behaviour or tells you that you deserve it.
<b>RESPONSIBILITY</b>	
Accepting the fact that your husband will not, or cannot stop his violent behaviour, you decide you will no longer submit to it and starts a new life.	Usually begins an intense effort to win forgiveness and ensure that the relationship will not break up.

## Cycle of Violence

Domestic violence tends to follow a specific pattern over time called the "**cycle of violence.**" The cycle of violence has three stages:

### Phase I: Tension Phase:

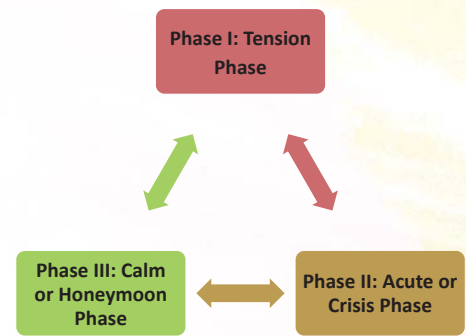
The abuser begins to assert his power over the victim in an attempt to control the victim's actions. Batterers will set rules for the victim that is impossible to follow. Rules often may include no contact with family members, money spending rules and/or needing to obtain permission for everything the victim does. They will tell the victim that there will be consequences if they break the rules. Sadly, the consequences usually result in physical/sexual/mental abuse against the victim. The victim may internalize the appropriate anger at the abuser's unfairness and experience physical effects such as depression, tension, anxiety and headaches. As the tension in the relationship increases, minor episodes of violence increase, such as pinching, slapping or shoving. The rules are nearly impossible to follow, but victims try to follow them in an attempt to preventing the inevitable assaults. The violation of the rules leads the couple into the next phase, Acute or Crisis Phase.

## Phase II: Acute or Crisis Phase

In this phase, the abuser's behaviour escalates to physical or extreme emotional violence and the individual may feel completely helpless in controlling the escalation. Some individuals experiencing violence may even precipitate the battering incident in order to "get it over with" and regain some sense of control. At this stage, appropriate interventions for the abused individual may include medical attention, arranging for safety and/or shelter and crisis intervention.

## Phase III: Calm Phase

During this last phase of the cycle of violence, the abuser usually begins an intense effort to win forgiveness and ensure that the relationship will not break up. Abuser asks for forgiveness, say it will not happen again and behave in a very loving and kind manner. While abusers apologize, they still blame the victim for the violence stating, "If you had only stayed home like I asked you, I wouldn't have had to hit you..." or "I'll never do it again..." Often abusers use gifts to convince the victim to forgive. The victim wants to believe that the abuse will end. The victim's feelings that the abuse will now stop is supported by abuser's loving behaviour.



**Figure 3.6: Cycle of Violence**

## Impact of Abusive Relationship on Children

It is impossible to prevent children witnessing domestic violence. They may see or hear the abusive episode, be used or even involved in the violence (e.g. the child may be in his mother's arms when she is hit), will experience the outcome, and sense the tension in the build-up to the abuse.

## The Effect of Witnessing Abuse

**Emotional Problems:** Many children who witness the abuse of their mothers demonstrate significant behavioural and/or emotional problems including psychosomatic disorders, stuttering, anxiety and fears, sleep disruption, excessive crying and problems at school.

**Physical Problems:** May include stomach aches and/or headaches, bedwetting, and loss of ability to concentrate. Some children may also experience physical or sexual abuse or neglect. Others may be injured while trying to intervene on behalf of their mother or a sibling.

**Behavioural Problems:** aggression, becoming troublesome at home or at school, withdrawing into or isolating themselves, regressive behaviour (such as baby-talk, wanting bottles or dummies, etc.), lower academic achievements.

## Long-term Effects on Children and Society who witness Domestic Violence

Most experts believe that children who are raised in abusive homes learn that violence is an effective way to resolve conflicts and problems. They may replicate the violence they witnessed as children in their teen and adult relationships and parenting experiences. Boys who witness their mothers abuse are more likely to batter their female partners as adults than boys raised in non-violent homes. For girls, adolescence may result in the belief that threats and violence are the norm in relationships. It is also the number one reason children run away.

## Is it important to raise voice against Domestic Violence?

It is certainly important to raise your voice against the domestic violence; this is required to make positive changes in the society. The Constitution of India guarantees equality and non-discrimination on the basis of gender. Protection of Women from Domestic Violence Act, 2005 is one of major Act ensuring safety of women and family against domestic violence.

## Provisions under Protection of Women from Domestic Violence Act, 2005

- The law is enacted for more effective protection of rights of women who are victims of domestic violence within the family and suffering from related issues.
- The law confers same rights to women in a live-in relationship in case of domestic violence and abuse, as to legally wedded women.
- This law is in addition to and not a substitute of existing laws under the civil and criminal streams that address matrimonial and maintenance related issues.
- The advantage of this law is that an immediate relief is available to women in a domestic relationship as compared to the other existing laws. An application under this law has to be disposed off by the magistrate with 60 days from the date of notice.
- The relief under this law is designed keeping in view, the status of litigation and relief already granted under any other law.
- Provisions of this law enable a victim of domestic violence to seek shelter in a Short-Stay Home, get immediate medical attention and similar support services on being turned out of the household.

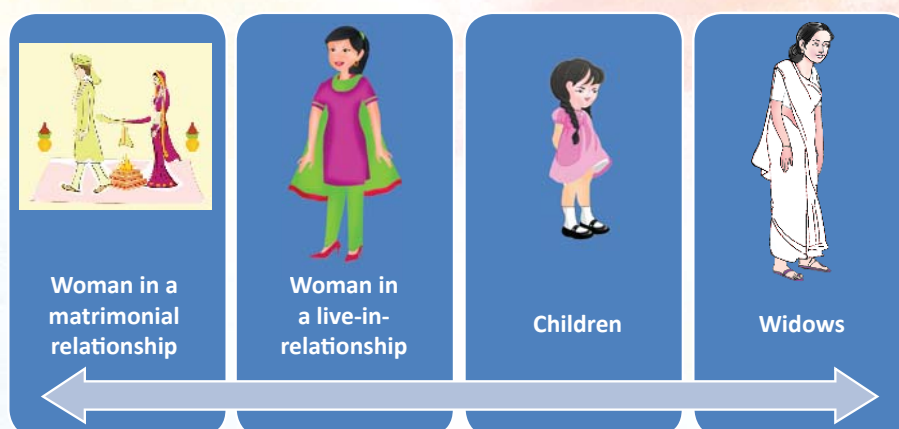


Figure 3.7: Who Benefits From PWDVA

## Legal Aid to Victims of Domestic Violence

- State is duty-bound to provide legal aid to poor, indigent, women and children who do not have sufficient means for legal action for relief under PWDVA, 2005.
- Both women and children can avail legal aid by presenting a complaint to Magistrate and obtaining relief under PWDVA, 2005 in case of domestic violence.
- Poor and/or unemployed women with inadequate means and their children can get free advice and legal services of a lawyer.
- Seeking legal aid is the right of the victim of domestic violence. Legal aid is not a charity.
- If the victim of domestic violence approaches the Magistrate directly for seeking relief under PWDVA 2005, it is the duty of the Magistrate to inform the victim that she may seek legal aid if she does not have the requisite means and support to initiate various or any legal action under PWDVA 2005, and other provisions of law.
- State Legal Aid Boards, District Legal Services Committee and Taluka Legal Aid Committees have been set up throughout the country to provide free legal aid.



- The Supreme Court of India has its own Legal Services Committee and regulations governing it, to represent aid and advice needy women and children in any such appeal related to domestic violence that may be heard by the Supreme Court of India.
- The Protection Officer, the Service Providers, local NGOs with support of local lawyers may spread legal awareness about laws affecting women and children and their rights within and outside the family.
- Legal literacy is an integral part of legal aid. Making legal aid free for aggrieved women.
- Imposing criminal charges in cases where serious injuries have occurred.

## Relief

Protection of women and her children from dangers and /or insecurities arising out of domestic violence through orders passed by Magistrate that result in:

- Restraint against domestic violence at home.
- Enjoying peace and comforts of home.
- Getting back *Streedhan*, jewellery, etc.
- Medical aid, counselling and legal aid.
- Restraint against contact or communication by person committing domestic violence.
- Compensation for physical & mental injury or any other monetary loss
- Right to legal action under various laws direct complaint to court.
- Maintenance for woman & children.
- Compensation for loss.
- Compensation for destruction/damage/removal of property from control & possession of a woman.
- Free copies of all records created under the act as a consequence of domestic violence.

## Domestic Violence can be tackled by

- Opening special cells for women having medical assistance to conduct prompt physical examination and treatment in life-threatening conditions.
- Posting of female police officers in women's cells or hospitals, who will deal with investigation of domestic violence.
- Training staff for emergency services to deal with the medico-legal problems.
- Counselling to reduce emotional trauma.
- Providing assistance in lodging FIR at police station.
- The police department should press criminal charges in cases where serious injuries have occurred.
- Legal advice should be made free for aggrieved women.
- Conducting review meetings at repeat intervals.

## Role of NGOs and SHGs in Preventing Domestic Violence

- Role of NGO should be preventive, supportive and rehabilitative.
- Provide a voice to the victims of domestic violence through various means.
- Providing counselling to the victims of domestic violence.
- Act as a pressure group for galvanising the government and state agencies into action to protect and rehabilitate the victims of domestic violence.
- Sensitise judiciary and the executive to respond appropriately to the challenge posed by domestic violence.
- Arrange or provide legal aid to victims of domestic violence.



## Self Help Groups (SHGs) to Curb Crimes against Women

- SHGs may act as sensitized groups on the need to stop crimes against women.
- SHGs to oppose/stop attack in villages which are known to aggravate domestic violence.
- SHGs to handle cases of dowry, cruelty against women, wife battering and other forms of abuse towards women – as a Social Pressure Group.

## 3.5 The Prohibition of Child Marriage Act, 2006

- It considers girls below 18 years and boys below 21 years as children.
- It defines Child Marriage as the one where one of the parties contracting marriage is a minor.
- A Child Marriage may be dissolved at the instance of the party who was a minor at the time of entering into marriage.
- A petition/application for dissolving the child marriage may be filed at any time, but before the minor completes two years of having attained majority.
- A child born out of child marriage would remain legitimate, even when the marriage has been dissolved.
- Any adult male contracting child marriage may be punished through a fine upto rupees one lakh and rigorous imprisonment up to 2 years.
- A child marriage shall be null and void (not a marriage in the eyes; of the law) if:
  - Minor taken/enticed out of the custody of the lawful guardian/parent.
  - Minor is compelled or deceptively induced to go from any place.
  - Minor is sold for purpose of marriage.
  - Minor is trafficked or used for immoral purposes after being married.
- Judicial orders for relief under the Prohibition of Child Marriage Act, 2006:
  - Decree of nullity (dissolution) of child marriage.
  - Return of money, valuables, ornaments and gifts received by both parties on occasion of marriage or an equivalent amount of money.
  - Payment of maintenance to minor married female and a child born out of child marriage according to need, status and source of income.
  - Order of residence.
  - Custody of the child born from child marriage, in terms of welfare of the child.
- Orders passed by the court may be modified at any point of time, as required.
- Any person or organization in charge of the minor, who promotes and permits performance of child marriage or whose negligence leads to performance of child marriage (it includes attending and participating in such a marriage) is liable to penalty upto rupees 1 lakh and rigorous imprisonment up to 2 years. The responsibility of proving his/her innocence would lie on the person so accused.



- An order of restraint may be issued by a Judicial Magistrate, who on receipt of a complaint from any source, including the Child Marriage Prohibition Officer (CMPO), appointed by the government or non-governmental organisation (NGO) or any other person is satisfied that child marriage is about to be performed.
- A Judicial Magistrate may himself take notice of child marriage on the basis of any reliable report or information and pass necessary orders.
- On special occasions like “Akshaya Teej” the District Magistrate shall be deemed to be the Child Marriage Prohibition Officer (CMPO) with all powers, as conferred on the Child Marriage Prohibition Officer (CMPO), and may stop or prevent child marriage by the virtue of additional powers and use of force.
- Who-so-ever disobeys knowingly, a judicial restraint order regarding performance/ conducts of child marriage, is liable to be penalized by way of penalty up to rupees 1 lakh and rigorous imprisonment up to 2 years.
- Any child marriage performed in violation of a judicial restraint order shall be deemed to have never taken place.
- The following may be requested by the State Government to assist the Child Marriage Prohibition Officer (CMPO):
  - An officer of the Gram Panchayat or Municipality or Public Sector Undertaking.
  - Respectable member of the locality with a record of social service.
  - Representative of a Non-Governmental Organisation (NGO).

### Duties of the Child Marriage Prohibition Officer (CMPO)

- Taking steps to prevent Child Marriage.
- Collecting evidence for effective prosecution of people violating the law for prohibition of Child Marriage.
- Advising individuals and residents of the locality against indulging in promoting/helping/aiding/ allowing performance of Child Marriage.
- Create awareness and sensitisation about the evil consequences of child marriage and discussing related issues.
- Furnish relevant information and statistics to the Government.
- Discharge any, such functions or duties assigned.
- Power and authority to move the court, if required.



Child Marriage Prohibition Officer (CMPO) is a public servant and no action shall be taken against her/him for acts done in good faith.

The Prohibition of Child Marriage Act, 2006 considers the following also to be responsible and may punish them in cases of performance of child marriage:

- Pundit/ Maulvi who performed the marriage ceremony
- Tent house owner/cooks/ caterers/ decorator

### 3.6 The Protection of Children from Sexual Offences Act, 2012

- Under this law, ‘child’ means any person below the age of 18 years.
- It extends to the whole of India, except in the State of Jammu and Kashmir.
- The Protection of Children from Sexual Offences Act (POCSO) protects children from sexual harassment, sexual assault and pornography and also provides for establishment of special courts for trial of such offences.
- It also defines sexual harassment and assault in various degrees and forms and enlists the punishments and penalties accordingly.

## Reporting Sexual Offences

- If a sexual offence has occurred or might occur against a child, any person (including the child) can report this to the Special Juvenile Police Unit or the local police.
- The information must be recorded in a book by the police unit and the complaint investigated.
- If the child requires treatment or special care and protection, the Special Juvenile Police Unit or the local police must take the child to the hospital or shelter home within 24 hours of the report.
- A person, who fails to report an offence or refuses to record the information, is punishable with up to 6 months of imprisonment and a fine or both.
- If a penetrative sexual assault, aggressive penetrative sexual assault or aggressive sexual assault is evident the court will presume that the accused is guilty. The accused will have to prove innocence.
- The person committing the crime shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may extend to imprisonment for life, and shall also be liable to fine.
- Reporting the identity of the child or making comments in media that invades child's privacy are offences and the person responsible can be punished with imprisonment up to one year.



## Trial of Cases

- For speedy justice and to avoid re-victimization of the child, cases are to be tried in special courts with special public prosecutors.
- The trial must be held in camera and without revealing the identity of the child.
- Such cases must be disposed within one year from the date of offence reported.
- Apart from punishment of the perpetrator the Special Court can give directions for payment of compensation to the child.



## Prevention of Sexual Abuse of Children

There are a lot of cases where sexual abuse of children results from the hands of someone the children know and trust and from strangers. Children should be taught the right way to receive and give affection. Parents and caregivers should be provided with some tips which may help prevent sexual abuse of children. Pornography is prevalent in today's society and hence parents and caregivers should be aware regarding the same and make sure that the children are provided with information about precaution against pornography. Parents can visit the C -DAC site for information on Children – Internet Security.

### Tips for Children on Appropriate Touch

- Talk to the children about the concept of personal boundaries, this should include when is it ok for the child to show affection, how to show affection and who to show the affection too.
- The parents or caregivers should talk to their children about private body parts and who are allowed to touch it like the mother or grandmother during bath time or toilet time.
- The children should be taught to communicate freely with the parents and share any incidence that may have happened with them.
- Explain the difference between the good and the bad touch, explaining where on the body of the child it's appropriate to touch and where isn't.
- Teach children that various gestures like tickles, poke etc. are not ok at times and should not be done by strangers.
- Teach children to be careful of strangers and not to go away with anyone even if they provide them with sweets or chocolates.
- Teach children to ask before holding anyone's hand or sitting on someone's lap especially of the opposite sex. Share with the child setting examples of your good personal relationships.
- Make sure that no one is making videos of your child or clicking pictures, the children should be made aware of the same.



### 3.7 The Sexual Harassment of Women at Work Place (Prevention, Protection and Prohibition) Act, 2013

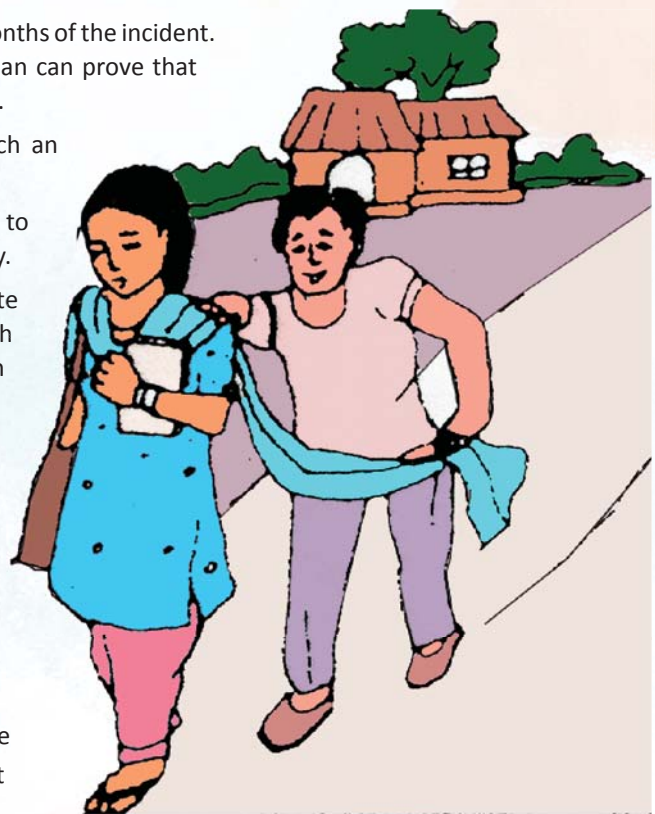
The Sexual Harassment of Women at Work Place (Prevention, Protection and Prohibition) Act states that every woman shall have a Right to be free from Sexual Harassment and the Right to work in an environment free from any form of Sexual Harassment.

#### Provisions Under The Act

- The Act seeks to provide protection to women from sexual harassment in all workplaces both in the organized and unorganized sectors.
- Women working in the capacity of domestic workers are also entitled to complaint under this Act.
- It provides a redressal mechanism in the form of Internal Complaints Committee (ICC) and Local Complaints Committee (LCC).
- All workplaces employing 10 or more than 10 workers are mandated under the Act to constitute an Internal Complaints Committee. Complaints from workplaces employing less than 10 workers or when the complaint is against the employer himself or when the complainant is working in the capacity of domestic worker be looked into by the Local Complaints Committee.
- A complaint of sexual harassment can be filed within 3 months of the incident. This may be extended to another 3 months if the woman can prove that grave circumstances prevented her from doing the same.
- The Act has a provision for conciliation. However such an option will be used only at the request of the woman.
- It provides for interim relief including leave and transfer to the aggrieved woman during the pendency of the inquiry.
- The Act casts a responsibility on every employer to create an environment free from sexual harassment through formulating sexual harassment policy and dissemination about the same through regular awareness programmes.

#### Sexual Harassment

- Sexual Harassment is any unwelcome, unsolicited behaviour of a sexual nature including staring, gesticulating, touching, passing comments, sexual assault.
- It is not only an issue of sexuality, but also power.
- In our patriarchal societies, men are seen to have more power than women. This is why most sexual harassment is done by men against women.





**Figure No. 3.8: Forms of Sexual Harassment**

## Consequences

### Post Traumatic Stress Disorder

Prolonged feelings of anxiety, stress, or fear can be a sign of Post-Traumatic Stress Disorder (PTSD).

### Self-Harm

Some aggrieved women of sexual assault may use self-harm to cope with difficult or painful feelings.

### Sexually Transmitted Infections (STIs)

STIs can occur during any sex act, even if this contact was unwanted or forced.

### Depression

Feelings of sadness and unhappiness that have a negative impact on your life could be a sign of depression.

**Figure 3.9: Consequences of Sexual Harassment**

### If you face harassment, you can:

- Take help from people around you (friends or strangers)
- Complain to the Internal Complaints Committee, or any such statutory body, if the harassment takes place in college or at the University
- Complain immediately to the police, if it happens in a public place
- Register a complaint with a women's organisation

### 3.8 The Criminal Law (Amendment) Act 2013

- The Criminal Law (Amendment) Act, 2013 popularly known as the Anti-Rape Act, is an Indian legislation, which provides for amendment of Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure, 1973 on laws related to sexual offences.
- The Act is a radical expression on the status of Women.

#### The changes made in the Act in comparison with the ordinance are listed as:

- **Acid Attack (Section 326A):**
  - Under this Act imprisonment is not less than ten years but which may extend to imprisonment for life and with fine which shall be just and reasonable to meet the medical expenses and it shall be paid to the victim (gender neutral).
- **Attempt to Acid Attack (Section 326B):**
  - Imprisonment is not less than five years but which may extend to seven years, and shall also be liable to fine; the act is also gender neutral.

### 3.9 Provisions Under Indian Penal Code (IPC)

- **Sexual Harassment (Section 354 A):** Only protects women.
  - (1) Provisions are: A man committing any of the following acts-
    - (i) physical contact and advances involving unwelcome and explicit sexual overtures; or
    - (ii) a demand or request for sexual favours; or
    - (iii) making sexually coloured remarks; or
    - (iv) forcibly showing pornography; or
    - (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
  - (2) Punishment for offence of sexual harassment
    - Rigorous imprisonment up to three years, or with fine, or with both in case of offence described in clauses (i), (ii) or (iii)
    - Imprisonment up to one year, or with fine, or with both in other cases.
- **Act with intent to disrobe a woman (Section 354 B)**

Only protects women against anyone who "Assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked."

  - Imprisonment not less than three years but which may extend to seven years and with fine.
- **Voyeurism (Section 354 C)**

Only protects women. By implication, women may prey voyeuristically upon men with impunity. The prohibited action is defines thus: "Watching or capturing a woman in "private act", which includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy, and where the victim's genitals, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public.

In case of first conviction, imprisonment not less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

**Section 361:** Whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship. Whoever kidnaps any person from India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Explanation: - The words "lawful guardian" in this section include any person lawfully entrusted with the care of custody of such minor or other person.

**Section 366:** Whoever kidnaps or abducts any woman with intent or knowledge that she may be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

- **Stalking (354 D)**

Only protects women from being stalked by men. Any man who-

- (i) Follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or
- (ii) Monitors the use by a woman of the internet, email or any other form of electronic communication commits the offence of stalking.
- (iii) Imprisonment not less than one year but which may extend to three years for the first offence, and shall also be liable to fine and for any subsequent conviction would be liable for imprisonment up to five years and with fine.

### Trafficking of Person(370):

- 1 Whoever, for the purpose of exploitation (physical or any form of sexual), (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by using threats, or using force, or any other form of coercion, or by abduction, or by practising fraud, or deception, or by abuse of power, or by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.
  - Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.
  - Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.
  - Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.
  - Where the offence involves the trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.
  - If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.
  - When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

## Rape (Section: 375 – IPC):

A man is said to commit "rape" if he –

- penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or
- inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or
- manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or
- applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,
- under the circumstances falling under any of the following seven descriptions:-
  - First- Against her will.
  - Secondly- Without her consent.
  - Thirdly- With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.
  - Fourthly- With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
  - Fifthly- With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
  - Sixthly- With or without her consent, when she is under eighteen years of age.
  - Seventhly- When she is unable to communicate consent.

## Section 509:

Word, gesture or act intended to insult the modesty of a woman Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, or with fine, or with both.

## 3.10 Women's Property Rights

1. Men and woman both have right to property
2. Every woman has a right to acquire and hold property for herself in her own name
3. If a woman has any property, she can do whatever she wants with it
4. A woman has a right to receive her earnings herself and keep them or spend them as she wants
5. A woman has every right to buy or sell property the same way as men have
6. A male Hindu can make will of his share in ancestral property the women also have this right that cannot will
7. If he doesn't make a will of his share, then upon his death, his share of the property will be divided among his class 1 heirs

Sons : children of a predeceased son

Daughters: children of a predeceased daughter

Widow: widowed children in law

Mother: children of predeceased grandson

8. In case there is no person, as specified as class 1 heirs, then the property will be divided among class 2 heirs
9. A male can will away his self-acquired property too. In that case the property will be given to the persons mentioned in the will
10. But if there is no will the self-acquired property of a Hindu male is also to be divided amongst the same category as above
11. Prior to 1956, female members were entitled only to enjoy the benefits of the property during their life time and now they have a full right over their property
12. They can sell it, gift it or will it away to whomsoever they wish
13. It is the right of the mother, grandmother, unmarried sisters, widowed sisters, widowed daughters in law and deserted sisters to stay in the family house as long as it is there
14. It is the right of the mother, grandmother, unmarried sisters, widowed sisters, widowed daughters in law and deserted sisters to stay in the family house as long as it is there

### Muslim Women's Property Rights

Two boards of schools of Muslim law in India viz. Hanafi and Shia. The difference between Sunni and Shia law of inheritance is that Hanafi rules only count those relatives as heirs whose relation to the deceased person is through a male son's daughters i.e. son's son and father's mother and Shia include even those persons as heirs who are related to the deceased through a female e.g. daughter's son, daughter's daughter.

### General Rules of Succession Inheritance are:

- If all the heirs claiming property are equally near in relation to the deceased they all have an equal right in property
- A male takes double the share of a female
- A son takes twice the share of the daughter
- If one is related to the deceased through another, one does not inherit as long as that person is alive
- A nearer heir excludes the remoter one
- A woman has certain rights to property in inheritance, maintenance and Mehar.
- She is entitled to inherit property as :
  - I. Daughter, Sister
  - II. Widow
  - III. Grandmother
  - IV. Mother
  - V. Grand daughter

Property division: Relationship and number of the Heir

### Widow

- Share in her husband's property will get  $\frac{1}{8}$ th share (when there are children)  
 $\frac{1}{4}$ th share (when there are no children)
- Share of two or more widows together will get  $\frac{1}{8}$ th share (when there are children)
- Together will get  $\frac{1}{4}$ th share (when there are no children)

### Daughter

- Share in her parental property
- Share of half ( when has no brother)
- half of whatever share the brother gets

### Mother

- Share in parents property
- Will get 1/3rd share of her son's property (When there are no children)
- Will get 1/6th share of her son's property ( when there are children)

### Grand Mother

- Share in her grandson's property
- Maternal grandmother will get 1/6th share ( only if there is no mother or grandfather)
- Paternal grandmother gets a share of the total property ( only if there is no mother or grand father)

### Muslim Will

- A Muslim will can be written or oral
- No specific form for it but the intention of making a will must be clear from it
- Better to make a will in writing
- A will can be written on an ordinary paper

### Christian Laws of Succession

Christian Succession Laws were codified by the Indian Succession Act of 1865 and later by the Indian Succession Act 1925

1. Widows and children:
  - a. Widows and widower will receive 1/3rd of the estate
  - b. Sons and daughters will share the rest of the estate equally
  - c. If there is no lineal descendent,  $\frac{1}{2}$  of the property shall go the widow/widower and the other  $\frac{1}{2}$  will go to those who are kindred ( directly related by blood through a lawful marriage) to him /her
  - d. If has no lineal descendants or kindred, the entire property shall revolve upon the widow/widower
  - e. If there is no lineal descendant and the value of the property is less than Rs.5000 the property shall devolve upon the widow/widower
  - f. Regarding the shares of the predeceased, both the boys and girls are entitled to equal share
  - g. If a son /daughter has a predeceased, then his/her children will succeed to the share of the father/mother which would have succeeded to had /he/she been alive

## DAY 2- SESSION 1

SESSION	MEDICO-LEGAL CARE AND SUPPORT OF LAW ENFORCEMENT AGENCIES TO WOMEN AFFECTED BY VIOLENCE
<b>OBJECTIVES</b>	<p>The objectives of the session will be to:</p> <ul style="list-style-type: none"> <li>• help trainees understand needs and rights of aggrieved women;</li> <li>• enable trainees to respond appropriately to the needs of aggrieved women and ensure the essential medico-legal care of aggrieved women.</li> </ul>
<b>CONTENTS</b>	<ul style="list-style-type: none"> <li>• Consequences of violence and role of health professionals</li> <li>• Interface with other agencies such as police and judiciary</li> <li>• Rights of aggrieved women.</li> <li>• Guidelines for case worker to assist during medical examination, during registration of FIR and during court proceedings</li> </ul>
<b>DURATION</b>	2 hours
<b>TRAINING METHODS</b>	Brainstorming, Presentation and Discussion
<b>LEARNING OUTCOMES</b>	The trainees will be able to understand the health needs and rights of aggrieved women, respond appropriately in a sensitive and non-discriminatory manner and provide them necessary medico-legal assistance.
<b>RESOURCES REQUIRED</b>	<ul style="list-style-type: none"> <li>• White board and markers</li> <li>• Chart papers and pens</li> <li>• LCD Projector</li> </ul>
<b>ANNEXURES</b>	Guidelines & Protocols issued by Ministry of Health & Family Welfare, Government of India for Medico-legal care for aggrieved womens/victims of sexual violence



## FACILITATOR'S NOTES

### Methodology

The session may begin with brainstorming on the health consequences of violence. The trainees must be encouraged to answer the question about health impact and health needs of aggrieved women.

### Ask

- What are the health consequences of violence?

The trainer may write their responses on the chart/white board without commenting on whether they are 'correct' or not. When there are no more new ideas, the trainer may go over the list and ask participants to explore the needs of the aggrieved women based on the listed consequences.

Divide participants into three small groups and ask them to work on the type of assistance the aggrieved women may require during:

- Medical examination
- FIR registration, and
- Court proceedings.

### Instruction for Trainers

- Explain the guidelines to be followed during medical examination of aggrieved womens/victims of sexual violence
- Explain the guidelines for dealing with the cases in OSC such as during registration of FIR and during court proceedings.

## Contents for Trainers

The health concerns of women affected by violence and their right to health is an issue of grave importance. This concern extends to ensuring that patients are able to maintain their dignity after an assault that will have caused them to feel humiliated and degraded. Women, Medical and forensic services should be offered in such a way so as to minimize the trauma rather than the process involved in invasive physical examinations and interviews the women is required to undergo. All medico-legal examinations and procedures must respect the privacy and dignity of the aggrieved women. To realize the right to healthcare of aggrieved women/victims, health professionals must be trained to respond appropriately to their needs, in a sensitive and non-discriminatory manner respectful of the privacy, dignity and autonomy of each aggrieved women. Health workers cannot refuse treatment or discriminate on the basis of gender, sexual orientation, disability, caste, religion, tribe, language, marital status, occupation, political belief, or other status. There is a need to ensure that appropriate physical and mental health services are available without discrimination and are accessible, acceptable and are of good quality. This includes medical treatment for physical injuries, prophylaxis and testing for sexually transmitted infections, emergency contraception, and psychosocial support.

In this regard it is pertinent to mention that the Ministry of Health and Family Welfare also recognizes the critical role to be played by the health professionals and health systems in caring for aggrieved women/victims of sexual violence and collecting relevant evidence so that the culprit could be brought to the book. It recognizes the need to create an enabling environment for aggrieved women/victims where they can speak out about abuse without fear of being blamed, where they can receive empathetic support in their struggle for justice and rebuild their lives after the assault.

Thus medico-legal care of aggrieved women becomes an imperative initiative towards overcoming the ordeal and mainstreaming the aggrieved women in the society. Given appropriate knowledge and training any health worker in a health or medical facility should be able to recognize the signs and symptoms of violence and understand the impact of violence on victim, may it be physical, psychological, sexual, social, legal, or behavioural impact.

### 4.1 Impact of Violence

#### Impact of Violence

The major impact of violence on women/girls can be observed as under:

**Health/Physical impact:** Fractures, cuts, bruises, injuries, chronic infection from poor hygiene, T.B./respiratory, S.T.D., HIV, malnourishment, pregnancy, aches and pains, etc.

**Sexual:** Sexual misconceptions, sexual aversion, hypersexual behaviors, sexual disorders/ dysfunctions, sexual manipulation, confuses love and sex, etc.

**Emotional:** Guilt and shame, fear, low self-esteem, lack of confidence / overconfidence, unworthiness/self-disgust, feeling degraded, hopeless, powerless, sad/depressed, lack of trust, betrayal, hostile, anger etc.

**Behavioral:** Numbness, shock, disoriented/confused, low concentration, helplessness, aggressive, violent, abusive, risky behaviour, impulsiveness, self-harm, suicidal attempts, rebellious, sleeplessness, substance abuse, running away, suspiciousness, stealing, lying, etc.

**Social:** Feeling isolated, cut off from the society, feeling unaccepted by society, rejection by family, friends, difficulty in forming relationships, difficulty to conform to societal norms, loss of earlier achievements, etc.

Besides recognizing the signs and symptoms of violence and understanding the impact on aggrieved women, the stakeholders/ case worker should aim to protect their rights.

## 4.2 Rights of Women

- **Right to Health:** Every aggrieved women has the right to quality reproductive healthcare services including prevention and management of sexually transmitted infections (STIs), HIV/AIDS, and pregnancy.
- **Right to Human Dignity:** Victims of sexual violence deserve to be treated with respect and dignity. This means they should be provided equitable access to medical care, privacy, confidentiality, clear information in their native tongue about possible interventions, and a safe clinical environment.
- **Right to Non-Discrimination:** Service Providers should not discriminate against a victim of violence on any grounds (including sex, ethnic group and the like).
- **Right to Self- Determination:** Aggrieved womens of sexual violence should be able to make their own decisions about whether to receive treatment or an examination. It is important that a victim receive clear information about her options in order to make an informed decision.
- **Right to information:** Information about possible options should be provided to each victim.
- **Right to privacy:** Victims of violence should be accorded complete privacy while giving their statements and undergoing a medical or forensic examination.
- **Right to Confidentiality:** All information related to victim's health status should remain completely confidential.

## 4.3 Interventions by various Departments through Convergence are as under:

### Health Department

- Diagnoses injuries sustained by aggrieved women;
- Provides medical/psychological/psychiatric treatment and counselling;
- Maintains a record of cases of violence against women handled;
- Refers aggrieved women to other actors within the integrated system.

### Police Department

- Receives complaints from aggrieved women;
- Provides counselling;
- Conducts diligent investigations and ensures proper handling of evidence and aggrieved women;
- Maintains records of cases of violence against women handled;
- Refers aggrieved women to other actors within the integrated system; and
- Train personnel.

### Social Welfare Department

- Provide counselling;
- Provide temporary shelter to aggrieved women;
- Refer aggrieved women to other actors within the integrated system;
- Train personnel;
- Provide financial and other benefits.

### **Judiciary**

- Interprets and applies law with gender sensitivity;
- Makes protective orders and maintains a record of cases of violence against women handled;
- Ensures victim-friendly proceedings;
- Trains personnel on gender equality, justice and domestic application of international and regional human rights instruments relevant to the human rights of women.

### **Legal Service Institutions**

- Ensures that Panel Lawyers and Para Legal Volunteers are available at OSC as per requirements;
- Interaction by Panel Lawyers and Para Legal Volunteers with the women victim;
- Ensuring the dignity of women and utmost confidentiality of the facts disclosed by women.

In order to minimize the impact of violence/combat violence it is important to recognise that health care personnel are an integral part of a team responsible for providing a coordinated range of services to women affected by violence. A formal or informal liaison network with the team involving representatives of law enforcement, social services, case worker of OSC, non-governmental organizations (NGOs) etc. is of utmost importance to ensure continuity in service provision, and the needs of the aggrieved women are met, and their rights protected. The multi-agency coordination and multi sectoral response is key element of OSC framework.

**The key components of multi-sectoral response of medical, police and case worker etc. are as under:**

### **Medical/Health Department**

- Comprehensive medical examination and treatment
- Laboratory tests
- Pregnancy test and emergency contraception
- HIV diagnostic testing and counselling and Post-Exposure Prophylaxis (PEP)
- High Vaginal Swab
- Urinalysis
- Prophylaxis for sexually transmitted infections
- Evaluation and treatment of injuries, forensic examination and documentation
- Trauma counselling

### **Law Enforcement Agencies**

- Statement taking and documentation; legal counsel
- Collection of forensic evidence and maintaining the chain of evidence
- Ensuring the safety of the aggrieved women

### **Case Workers**

- Crisis Intervention
- Counselling
- Assistance in registering FIR
- Acting as conduit between police, prosecutors, legal aid lawyers and the aggrieved women
- Provision of safe housing, relocation services, if required
- Long-term counselling and follow up
- Assistance in acquiring compensation from DLSA
- Community awareness-raising and stigma reduction
- Referral for services e.g. legal aid service, safe housing

The case worker will be a specially trained person, who handholds a aggrieved women through the entire legal/judicial process involved in reporting and prosecuting the case, thus making it easy for her to navigate the system as there is one person coordinating the entire effort, and acting as the link between the aggrieved women and the legal/judicial process.

#### **4.4 Operational Guidelines for Dealing with Cases in an OSC**

**Operational guidelines for providing support at various levels to aggrieved women at OSC are as under:**

##### **a. Aggrieved woman Reaching the OSC:**

- If the aggrieved woman calls any helpline such as the '100'service or '181'service, a PCR van is sent by the police to escort the aggrieved women to the One Stop Centre (OSC).
- If the aggrieved woman is injured, the ambulance takes her to the OSC located in the hospital.
- If the aggrieved woman goes to the police station, she is escorted to the OSC after being provided the relevant information by the Para Legal worker located within the police station.

##### **b. Recording the Case:**

- The Case Worker will assign the aggrieved women a unique case ID. She will note the basic information in the report including details of the crime as well as the aggrieved women's personal information.
- The Case Worker will escort the aggrieved women for medical examination, medical treatment and recording of FIR. The FIR will be recorded by the woman police officer stationed at the police post attached to the hospital OSC.
- The Case Worker will provide the aggrieved women with any immediate assistance in the form of food, clothing, medicines, etc. She should also mention the compensation and rehabilitation requirements and record communication with DLSA lawyer regarding the same in the online Case Report.
- It will be the responsibility of the Case Worker to ensure that the Case Report is updated by every stakeholder, including police, doctors, DLSA lawyer and presents a complete picture.

##### **c. Guideline for Case Worker to Assist Aggrieved women during Medical Examination**

- Ensure that a female doctor conducts the examination.
- Ensure that the doctor explains what is going to happen during each step of the examination, why it is important.
- Reassure the aggrieved woman that she is in control of the pace, timing and components of the examination.
- Reassure the aggrieved woman that an informed consent/refusal shall be documented by the health care practitioner
- Ask her if she has any questions.
- Ask if she wants to have a specific person present for support.
- Limit the number of people allowed in the room during the examination to the minimum necessary.
- Do not force or pressurize the aggrieved women to do anything against her will. Explain that she can refuse steps of the examination at any time as it progresses.

##### **d. Guidelines for Case Worker to Assist during Registration of FIR**

- The Case Worker should ensure that the police take the aggrieved woman's statement in a separate room.
- The Case Worker should ensure that the aggrieved woman is at ease and is treated sensitively.
- The police register the FIR correctly.
- The Case Worker should ensure that the police mention pertinent details in the FIR.
- The Case Worker, in appropriate cases, will accompany the child survivor to be presented before the Child Welfare Committee (CWC).

**e. Assisting Aggrieved Woman in Recording of Statement under S.161 and S.164 Cr. PC, 1973**

- After the FIR is registered, the Case Worker will intimate the DLSA lawyer of the case. The DLSA lawyer will accompany the aggrieved woman for recording the statement as per Section 161 and S. 164 (5A) of Code of Criminal Procedure, 1973.
- In the event that the aggrieved woman is injured and is unable to go to the Judicial Magistrate or the Police Station, the DLSA lawyer will coordinate with the concerned authorities, who will then come to the hospital, and record her statement.

**f. Coordination between Case Worker and DLSA Lawyer**

- The Case Worker is required to intimate the Lawyer associated with the OSC located in the court about the case and forward all the documents including the medical examination report, FIR, case report prepared by Case Worker, and other relevant documents. All information to be forwarded through the online case management system, except where the documents are required to be forwarded in originals. The Case Worker will fix a meeting and accompany the aggrieved women to the office of the Lawyer, for the initial visit, to introduce the aggrieved women to the Lawyer.
- After the arrest of the accused the Police Officer attached to the OSC will inform the Lawyer about the date and time of production of the accused before the Magistrate for remand.
- The Case Worker/Lawyer is required to inform the aggrieved women about the remand or bail application filed by the accused.
- The Lawyer will keep the online management system updated of the status of the case/proceedings, so as to ensure that the Case Worker is not out of the loop, particularly once the court proceedings begin. The Lawyer must also make a note of any support services/assistance that the aggrieved women may require during this process which will accordingly be facilitated by the Case Worker. Such services may include counselling, shelter, witness protection etc.

## DAY 2 - SESSION 2

<b>SESSION</b>	<b>COUNSELLING WOMEN AFFECTED BY VIOLENCE: PSYCHOSOCIAL SUPPORT</b>
<b>OBJECTIVE</b>	The objective of the session will be to help participants understand the concept and framework of counselling and practice some of the essential elements of counselling.
<b>CONTENTS</b>	<ul style="list-style-type: none"> <li>• Understanding behavioural and emotional impact of violence</li> <li>• Meaning and objectives of counselling</li> <li>• Process and strategies of counselling</li> <li>• Approaches to counselling</li> <li>• Essential elements in counselling</li> <li>• Role of communication in counselling</li> <li>• Ethical guidelines for counselling of women affected by violence</li> </ul>
<b>DURATION</b>	2 hours 30 minutes
<b>TRAINING METHODS</b>	Brainstorming, Lecture, Group Discussion, and Role Play
<b>LEARNING OUTCOMES</b>	<p>The trainees will be able to:</p> <ul style="list-style-type: none"> <li>• understand the concept of counselling and steps involved in counselling; and</li> <li>• apply practical skills during counselling the aggrieved women</li> </ul>
<b>RESOURCES REQUIRED</b>	<ul style="list-style-type: none"> <li>• LCD Projector</li> <li>• White board</li> <li>• Markers</li> <li>• Chart papers</li> </ul>
<b>ANNEXURES</b>	Ethical guidelines for counselling of women affected by violence

## FACILITATOR'S NOTES

### Methodology

The session may begin with brainstorming on what all an aggrieved woman will be facing. List down the characteristics often exhibited by women affected by violence. In case the victim/aggrieved woman is a child, understanding the impact of violence on child is also important. After discussing the symptoms of abuse/violence the trainer will brainstorm about the term counselling. The trainees must be encouraged to answer the question about their perception on counselling.

### Ask

- What do you understand by the term counselling?
- Why counselling is important?
- What are the advantages of counselling?



The trainer may write their responses on the chart/white board. There may be one or more words to describe the concept. Write these words on a flipchart, without commenting on whether they are 'correct' or representative of the concept. When there are no more new ideas, go over the list and ask participants to agree on one word or a combination of words describing best what counselling means to them. This should be followed by presentation on essentials of counselling including rapport formation, self-disclosure, empathy skills, effective communication and counselling process.

### Instruction for Trainers

- Explain the meaning and approaches to counselling.
- Explain that Rapport Formation, Facilitating Self Disclosure and Empathy are the elements that are important and relevant to every Counselling Setting, irrespective of the case/story or a problem.
- Explain that as a counsellor, you are giving aggrieved women the courage to overcome the trauma faced by them when they begin to think that there is no hope left.

After explaining these elements the trainees will perform the role plays on the given elements to practice the skills of counselling. Divide participants in three small groups and ask them to do a role play in the following manner:

**Group 1:** Prepare a role-play demonstrating rapport formation (based on their understanding of rapport formation)

**Group 2:** Prepare a role-play demonstrating self-disclosure (based on their understanding of self-disclosure)

**Group 3:** Prepare a role play demonstrating all three rapport formation, self-disclosure and empathy as a process (based on their understanding of the three components)

Each role-play should be followed by discussion and presentation on Rapport Formation, Facilitating Self Disclosure and Empathy.

1. Ask Group 1 to present their role-play. Based on the presentation initiate a discussion with the participants and ask the other two groups to list out important components that help in rapport formation and factors that hinder the process. After the discussion, present the "Dos and Don'ts" during "Rapport Formation".
2. Ask Group 2 to present their role-play. Based on the presentation, ask the other two groups to identify important components that facilitate self-disclosure and factors that hinder the process. After the discussion, present the "Dos and Don'ts" for facilitating "Self disclosure".
3. Ask Group 3 to make their presentation and emphasize now that they should keep the dos and don'ts presented in mind while doing their role-play, ask the other two groups what the third group followed adequately and which aspects need improvement. Reiterate some of the don'ts, if any of it was observed bring demonstrated in the role-play. Also present the "Dos and Don'ts" for "Empathy Skills."

### Tips for Facilitators:

Let the groups be spontaneous in discussing and presenting their role-plays. Not giving much information on each essential element before the role play will bring up the understanding and perceptions of the trainees about the "essential element" and the process that needs to be followed.



## Contents for Trainers

One of the primary issues while working with aggrieved women is to ensure the safety of aggrieved women by giving attention to their self-destructive behaviours and their basic health needs. The counsellor must be able to identify and understand the symptoms of violence. The first step that one can take in understanding the aggrieved women is to understand her psychological state. The characteristics often exhibited by victims of violence on being abused include fear, anger, anxiety, submissiveness, depression, despair, feelings of inadequacy, powerlessness, worthlessness, humiliation, sobbing, restlessness, smiling, tension, distress, inability to concentrate, sleeping disorders, eating disorders, suicidal, self-injury, withdrawal from activities and friends, crying easily, getting hysterical, low self-esteem etc. The long term chronic symptoms of violence may manifest in nightmares, reliving experience, fears and phobias (i.e. being alone, mistrust of men), loss of confidence etc.

As the OSC services will also cater to girls up to 18 years of age, therefore, while dealing with child victim of violence one must understand the state of mind of the child. With traumatized children, one of the most effective ways of getting them to open up is having them draw what happened, how they were feeling before, during, and after the incident. This allows them to express their feelings without having to put them into words. One can then use the drawings as a basis for discussion. It is important to allow the child to feel comfortable expressing their emotions in front of counsellor. The characteristics often displayed by children affected by violence are: confusion, stress, fear, feeling guilty, feeling responsible for violence- self-blame, headaches, ulcers, bedwetting, sleep disorders, abdominal pain, anxiety, thumb-sucking, excessive clinginess, speech impediments, worry and uncertainty about their future etc. Other characteristics include disinterestedness in their future goals, or having self-control, embarrassment, reluctance to open up to or trust others, suicidal thoughts or attempts, self-injury, depression, nightmares, insomnia, memory repression, denial, low empathy, low self-esteem, hyperactivity, constant attention seeking, withdrawal, truancy, running away from home etc.

### 5.1 Counselling – Concepts and Framework

Counselling is a **helping approach** that highlights the emotional and intellectual experience of a client, how a client is feeling and what they think about the problem they have sought help for. Process in counselling is defined as series of stages gone through by the counsellor to help the client understand and or solve a problem. The process of arriving at a solution may take some time before the desired goal is achieved. Counselling process has different phases or stages. These are:

- Rapport Building Phase-developing a relationship with the client and assessing the problem;
- Working phase-interventions to develop problem solving skills and coping strategies;
- Termination phase-end the counselling process; and
- Follow-up phase-find out problems being experienced after ending the counselling.

#### Rapport Building Phase

Any counselling process, be it individual or group, starts with this stage. This stage could also be referred to as the familiarization, orientation or introductory stage. This stage is very important because for a counsellor to start well determines the success of other stages and the entire counselling relationship. The counsellor and the client meet for the first time. The counsellor makes deliberate effort to get acquainted with the client by establishing rapport. This is done by asking the client to sit down, so that she would be emotionally relaxed. The counsellor enquires about the client's name, family members, friends, etc. This should be done with caution so that the client does not feel as if she is being interrogated. The client may or may not present her problem during this stage. The counsellor should not be in a hurry to make her disclose everything happened to her. This stage may take more than half of the counselling time.

During this stage, the counsellor needs to be effective by being patient to listen carefully, show empathy, show unconditional positive regards that is treating the clients with respect, warmth, irrespective of age, sex, race, colour, religion and socio-economic status. This is very important as counsellors are not expected to be discriminative or biased in their approach.

#### Working Phase

This is the second phase of the counselling process. As the title suggests, it is the stage where the counsellor fully engages the client in discussion about what to do and how it will be done concerning the problem of the client. If the client has not disclosed her problems in the first stage, the counsellor now asks the client by using questioning techniques to make the client open up.

The counsellor uses techniques such as responding, exploring, restatement, interpretation, positive regards, empathy, etc. to diagnose the problem.

### Termination Phase

This is the third phase in the counselling process. Termination means bringing an end to the counselling relationship between the counsellor and client, termination of counselling relationship may be a temporary or permanent one.

### Follow-up Phase

This is the fourth phase in a counselling process that the counsellor will want to know what is happening to the client after termination. The follow-up aims at finding out whether the client is carrying out the decisions arrived at during counselling and what problems are being experienced. However this stage may not be necessary for every client, and may vary as per the individual case.

## 5.2 Counselling Strategy

Counselling Strategy is basically the technique or method used during counselling to understand and find solution to a problem presented by the client. Strategies are tools used by the counsellor to handle problems. These tools are listening, responding, interpretation, probing, exploring, restatements, confrontation, disclosure, unconditional positive regards, empathy and summarization used as techniques or strategies during counselling. The ability of a counsellor to solve a client's problem depends on how the counselor uses the strategies.

The entire counselling process begins with listening to the client. Listening is the ability of the counsellor to pay attention to the verbal and non-verbal expressions of the client. It involves hearing words, receiving the sound made by the client, and gaining insight into whatever is uttered. Attentive listening is a skill that must be developed and used by any counsellor. Some counselors may listen to the client but not hear what he or she has said. When the counsellor listens attentively he/she is conveying to the client that he/she understands her, by nodding and not speaking as the client talks.

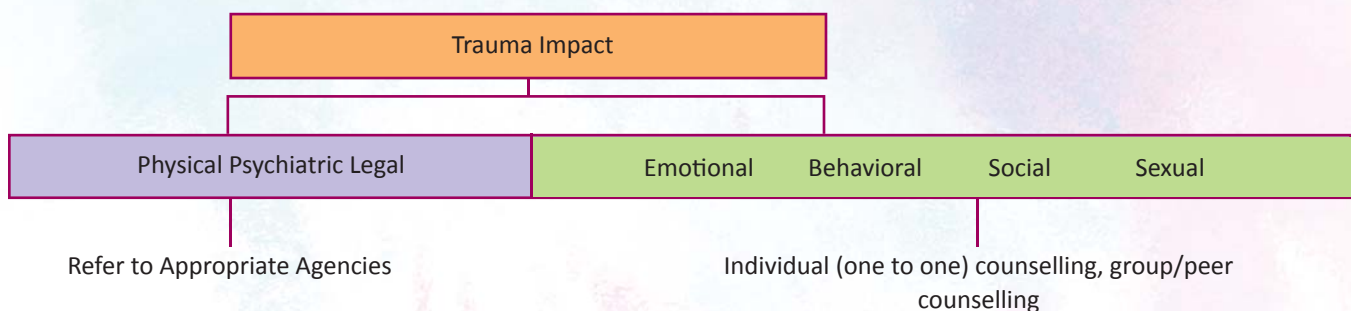
If a counsellor has not listened attentively, he/she may not be able to use techniques such as responding, restatement, questioning, confrontation and self-disclosure.

### 5.3 Some factors may hinder effective listening by the counsellor. These are:

- Inability of the client to hear the counsellor.
- Lack of trust between the client and the counsellor.
- When the client is shy or timid.
- Inner rules that inhibit self-disclosure.
- Tension and anxiety on the part of the client.
- Gender influence, socio-economic status, and religious background.

The counsellor should, as much as possible, find a way of handling these factors so that there will be a free-flow of communication between the counsellor and the client.

### Approach to Counselling Women/Girls Affected by Violence



## 5.4 Essential Skills for Counselling

### a. Rapport Building Skills

#### Do's

- Introduce yourself, who you are and your current role.
- Talk to the aggrieved women in a friendly manner showing genuine interest in her – smile, pat, nod.
- Explain how you can work together to reduce her stress and resolve problems.
- Display attitude of warmth, sympathy and affection to create a congenial atmosphere.
- Give some time for the aggrieved women to feel comfortable in your presence.
- Provide for physical comfort, privacy in the setting.

#### Don'ts

- Don't begin questioning the aggrieved women immediately about her problems or difficulties.
- Don't be intimidating, or too authoritarian in your approach.
- Don't rush into probing into trauma experience.
- Don't pressurize the aggrieved women to talk, respect her hesitation to open up immediately.
- Don't initiate sessions in public, open or spaces with onlookers.
- Don't show impatience if the aggrieved women takes time to relate to you.

### b. Self-Disclosure Skills: Facilitating Self-Disclosure

#### Do's

- Begin with gentle questioning about her current activities, daily routine, friendships etc. (general, neutral).
- Direct the talk towards elicitation of her current feelings-anxieties, fears, worries, problems etc.
- Encourage the aggrieved women to express her feelings without fear of being scolded, judged or rejected.
- Assure confidentiality of information shared with you. (Exceptions can be made if there is a threat of self-harm, substance abuse or planned violence).
- Allow for free flow of talk without too many intrusive questions.
- Listen without passive negative remarks. Convey an attitude of acceptance of aggrieved women's experiences and feelings as genuine.
- Listen actively, indicating by your expressions and verbal affirmations like 'Hmm', 'Is that so', 'I see', etc. Noticing, prompting, pacing, structuring, clarifying-that you are following her talk with interest.
- Show a willingness to understand what she is going through.
- Be sincere and honest in your interaction with the aggrieved women. She has to believe in you to open up.

#### Don'ts

- Don't be critical or pass judgmental remarks.
- Don't laugh, snigger or ridicule the aggrieved women's feelings or experiences.
- Do not reject the aggrieved women or her experiences as untrue or a 'story'.
- Do not show expressions or shock or disbelief at the aggrieved women's disclosures.
- Do not look disinterested or bored.
- Do not make too many interruptions when the aggrieved women is talking.
- Do not attempt to control the conversation – follow the aggrieved women's lead.
- Do not show exaggerative responses yourself – it creates mistrust.
- Do not confront any of the aggrieved women's disclosure.

### c. Empathy Skills

#### Do's

- Show an attitude of accepting and understanding what the aggrieved women is experiencing at the moment, or had in the past.
- Think and feel as if you are the aggrieved women going through her experiences – 'to actually be in her shoes'.
- Convey 'I understand how you feel' in both verbal and non-verbal ways.
- Empathy is not to be confused with sympathy which is a more feeling without really understanding the meaning behind the behaviour. Empathy allows you to 'feel', at the same time maintain a sufficient reserve, a distance so that you do not get caught in the aggrieved women's overpowering emotions yourself.
- Maintain your identity as a counsellor, who is in a helping situation, who 'feels' the emotions of the aggrieved women, without getting emotional yourself.
- Show empathy early in the counselling relationship as it will facilitate better communication process to ask, clarify and interpret the thoughts and feelings of the aggrieved women.
- Reinforce a strong message of support and understanding to help the aggrieved women through the trauma.
- Give access to the feelings, perceptions and behaviours of the troubled aggrieved women.
- Non-verbal behaviours can greatly facilitate empathy.

#### Don'ts

- Don't look sorry or feel pity for the aggrieved women.
- Don't identify yourself with the aggrieved women's problem situation – maintain your own.
- Don't disbelieve or discredit the aggrieved women.
- Don't trivialize the aggrieved women's thoughts and feelings.
- Don't become too emotional yourself and show it.

### d. Communication Skills -Verbal Communication

- A. Summarizing:** Provide brief summary of each part of the conversation as it proceeds. For example:
- "If understood you correctly, you said...";
  - "What you are trying to say is that....."
- B. Paraphrasing:** Restate in your own words the salient features or vital contents of the conversation or what the aggrieved women expressed. For example:
- "You say that you are feeling very awkward and embarrassed to talk about recent experiences and that is why you don't interact with others here".
  - "What I understood is that you think that you cannot stay here for too long as you fear that people will trace you here and forcefully take you away.
- C. Reflecting:** Restating the message conveyed by the aggrieved women with a special focus on the feelings involved. For example:
- You **feel very disheartened** and **rejected** by your family's attitude and **feel unsure** about your future".
  - "**You are angry** with your friend for lying to you".

### e. Affirmative punctuation

This includes both verbal as well as non-verbal cues that affirm to the child you are paying attention to her completely. For example:

- **Verbal punctuations and words** such as 'Hm', 'Haan', 'I see', 'Really'.
- **Non-verbal punctuation** can also be shown through facial expression, eye contact, nodding of head, humming (hm.... hm) or hand gestures.

## f. Questioning:

Asking the right kind of questions can help to clarify information as well as lead to better self-disclosure. There are 3 kinds of questioning styles that are normally used for eliciting information, for example:

## g. Open Questions:

The questions are such that they sound explorative and stimulating

- "Can you tell me something about the way you feel now?"
- "What would you like to do tomorrow?"

## h. Closed Questions:

These questions are of some value in the beginning during the information gathering phase of the interview, when you give a choice situation such as: Yes, No. For example

- Do you like to stay here for some more time?'
- 'Would you like to go out now or later?'

## i. Suggestive Questions:

These are questions that suggest an answer to you directly or indirectly, as a reflection of your ideas and feelings. These questions are not good for the process and should be avoided. For example:

- 'You want to go home, don't you?'
- 'You don't really want to study, do you?'

## j. Communication Skills: Non-Verbal Communication

**Eye contact:** Maintain eye contact with the aggrieved women – don not look down at her. The eye contact should be gentle and should reflect acceptance and understanding, not a straight piercing look. Lack of eye contact gives a feeling of "lack of interest" or "indifference" to the aggrieved women.

## k. Facial Expression:

**Facial Expression:** should be calm and peaceful and should not be in contradiction to what you are saying. For example, you say to the aggrieved women" I am listening and I understand you", however your expressions show shock or confusion at what the aggrieved women is saying.

## l. Gestures

Gestures like nodding of head, humming (hm....hm) or hand gestures give the feeling of acceptance and "getting heard" to the aggrieved women.

## m. Touch or Hugging

**Touch or Hugging** to show affection or understanding: it is extremely important to be careful with touch. Some aggrieved womens like to get touched as it makes them feel accepted and cared for. However some aggrieved womens with experiences of sexual assault and abuse may either not like to be touched at all or may perceive the touch as a "sexual gesture".

Be aware of your own **body language** and also observant of aggrieved women's body language. Aggrieved womens tend to express a lot by non-verbal cues and punctuation. Thus the counsellors should build their ability to read and understand body language of aggrieved womens with different experiences.

## n. Posture

**Posture:** The posture you assume while talking or listening should convey a relaxed manner yet alert and interested. Sitting in awkward or casual manner shows disinterested and sitting too close, leaning too forward can be tense and intimidating.

## To Sum Up

### Counselling is:

- A **psychosocial process** that addresses victim's/aggrieved women's thoughts, feelings and behaviour in the context of her environment that includes her family, peers and the community.
- A **planned intervention** between the aggrieved woman and the caregiver/counsellor to assist her to change, improve and resolve behaviours that are difficult, distressing or maladaptive.
- A **process of identifying** the aggrieved woman's coping strategies and strengthening them further, as well as helping her develop more effective coping methods.
- A **collaborative effort** between the aggrieved woman and the counsellor, keeping her interests and needs in mind.
- A process that takes place with full active participation of the aggrieved woman and involves a mutual responsibility between her and the counsellor.
- Aimed at developing individual's unique self and potentials
- Voluntary in nature, can't be forced on the aggrieved women
- A process that involves a use of specific technologies based on certain theoretical constructs, which should be carried out by trained personnel in an appropriate place and time

### Counselling is not:

Lecturing

Persuading, Coercing

Confronting

Solving

Advising

Moralizing/Preaching

Instructing

Only for people with problems

Ordering

Judging/Criticizing

Deciding

A stand-alone process

## DAY 2 - SESSION 3

SESSION	ROLES AND RESPONSIBILITIES OF FUNCTIONARIES/STAKEHOLDERS IN DEALING WITH WOMEN AFFECTED BY VIOLENCE
<b>OBJECTIVES</b>	<p>The objectives of the session will be to:</p> <ul style="list-style-type: none"> <li>• provide information on role and responsibilities of various functionaries of OSC;</li> <li>• enable trainees to understand the role of stakeholders/ respective agencies in responding appropriately to the needs of aggrieved women; and</li> <li>• emphasize multi-agency coordination for successful implementation of OSC scheme</li> </ul>
<b>CONTENTS</b>	<ul style="list-style-type: none"> <li>• About the OSC and Services provided under the scheme</li> <li>• Service delivery framework and roles and responsibilities of functionaries of OSC</li> <li>• Standard operating procedures for day to day administration and operation of OSC</li> <li>• Coordination among various stakeholders</li> </ul>
<b>DURATION</b>	1 hour
<b>TRAINING METHODS</b>	Brainstorming, Lecture presentation and group discussion
<b>LEARNING OUTCOMES</b>	<p>The trainees will be able to understand the:</p> <ul style="list-style-type: none"> <li>• role and responsibilities of various functionaries of OSC;</li> <li>• role of stakeholders/ respective agencies in responding appropriately to the needs of aggrieved women; and</li> <li>• importance of multi-agency coordination for successful implementation of OSC scheme</li> </ul>
<b>RESOURCES REQUIRED</b>	<ul style="list-style-type: none"> <li>• LCD Projector</li> <li>• White board and markers</li> <li>• Chart papers and pens</li> </ul>
<b>ANNEXURE</b>	<ul style="list-style-type: none"> <li>• The scheme of OSC</li> </ul>

## FACILITATOR'S NOTES

### Methodology

Based on the session on medico legal care and support to women affected by violence the trainer may emphasize the role of case worker, medical professionals assistance/health services/legal experts, police etc. in providing her required assistance.

### Ask

- What are the particular services in the practice areas (medical, psychological, police, legal)?

The trainer may write the points on the white board and keep referring to them as and when required throughout the session. The trainer may then start with the presentation on the OSC scheme and the various services to be provided at an OSC. The trainer should highlight the roles and responsibilities of the functionaries of OSC as well as multiagency coordination mechanism.

### Instruction for Trainers

Trainer should reiterate that:

- the functioning of an OSC requires each individual to fulfill their role in the manner envisaged and in coordination with each other.
- the primary role of an OSC and the criminal justice system linkages envisaged is to provide handholding support to the aggrieved women
- multi-agency coordination is a key element of OSC framework.

The trainer should keep emphasizing the centrality of the aggrieved women in this entire process. This will be particularly significant for stakeholders such as the police, who are trained to follow legal procedures but may not be equipped to provide handholding support to the women affected by violence. The trainer may refer to the guidelines to assist during medical examination and the guidelines for dealing with the cases in OSC such as during registration of FIR, during court proceedings etc.



## Contents for Trainer

### Services Delivery Framework – Roles and Responsibilities of Functionaries of OSC

The service providers of the OSC will include:

#### 6.1 Centre Administrator – The First Point of Contact

- The Centre Administrator would be a woman with requisite qualification available at OSC. She will be a residential staff attached to OSC.
- She would be in charge of functioning of OSC. She would be the first point of contact with the woman who is accessing OSC.
- She would interact with every woman seeking OSC's intervention for addressing violence.
- She will listen to the grievance, document the case history and register the case in the online/web-based case management system to generate a Unique Identity Number (UID).
- She would be responsible for supervision of each case, taking it to a logical conclusion and later following up with the aggrieved woman.
- As soon as the complaint is registered, She will send a text message (SMS/Internet) to the DPO/PO/CDPO/ SHO/ DM/ SP/ DYSP/CMO of the district in which the women is located at the time of accessing OSC.
- She would be responsible for coordination with all stakeholders (police station, hospital, legal aid, counselling), registration of cases in the absence of the IT Staff.
- She will consolidate a list of agencies/individuals providing/willing to provide legal/medical/psycho-social counselling services at OSC.
- She will coordinate with CBOs specialized in addressing violence against women, Gender Cells, Women's Study Centres at Universities to seek technical inputs in terms of training and capacity building of women affected by violence.
- She will monitor the functioning of OSC, (including the work of the staff), facilitate capacity building, guide and support the team of caregivers.
- She would approve the quarterly report prepared by the IT Staff to be submitted to the Management Committee (MC) through Implementing Agency (IA).
- She would also document the case studies/success stories as per the prescribed format.
- The Quarterly Report has to be submitted 15 days prior to the end of each Quarter.
- She will meet the MC on a monthly basis for guidance, support.
- The footage of the CCTV would be under the vigilance of the Centre Administrator.
- The Centre Administrators can design their own feedback forms for the purpose of Social Audit.

#### 6.2 Case Worker

Case Workers will work in shifts to provide 24 hour service at OSC.

- She will provide assistance and support to the Centre Administrator in facilitating services to women accessing OSC.
- She will intervene in cases of VAW and will take them to their logical conclusion.
- She will be responsible for other work as assigned by the Centre Administrator.

### 6.3 Police Facilitation Officer (PFO)

- The Police Facilitation Officer will help the aggrieved women in initiating appropriate police proceedings against the perpetrators. In case a woman affected by violence is denied lodging of FIR/complaint or any other assistance at the police station, the Police Facilitation Officer would help expedite the process and in special cases flag the issue to the Superintendent of Police and other relevant authorities.
- In case the denial to initiate proceedings relates to the commission of offences punishable u/s 326A, 326B, 354, 354B, 370, 370A, 376, 376A, 376B, 376C, 376D, 376E or 509 IPC, he/she will initiate proceedings under section 166A IPC against the accused police officials.
- The Police Facilitation Officer would advise on which laws are to be invoked for issues related to violence against women.
- He/she will ensure that the women affected by violence are not further harassed.
- In case the aggrieved woman is unable to go to the Police Station for lodging her complaint/FIR, the Police Facilitation Officer will ensure the recording of information from her home/ OSC /hospital after obtaining due permissions.
- He/she will facilitate recording of women's statement under section 161 and 164 CrPC through audio-video electronic means or otherwise.

### 6.4 Para Legal Personnel/ Lawyer

- He/she will inform and orient the woman about her legal rights and help/guide the woman to initiate legal proceedings against the abuse/violence suffered, if she is willing to do so.
- He/she will coordinate/liaise with the Public Prosecutor or the SLSA/DLSA Lawyer, to support the woman even after her case has been filed in court as well as to ensure there is follow-up of the case to its logical conclusion.
- He/she will simplify legal procedures for the affected women and advocate for her exemption from court hearings.
- He/she will facilitate speedy and hassle free police and court proceedings through the employment of video conferencing facility for the recording of statement of women affected by violence.

### 6.5 Para Medical Personnel

- She will provide first aid and immediate life-saving medical assistance to the aggrieved woman until she reaches the hospital.
- She will accompany the woman affected by violence to the Hospital. In cases of women affected by sexual violence, she will ensure strict compliance of the protocols developed by MoHFW to conduct forensic examination and other tests by the Doctors.
- She will help in drafting the medical case history of the women affected by violence.

### 6.6 Counsellor

- She will provide psychological counselling and guidance to the woman affected by violence and support in referral services that may be deemed fit for the women affected by violence based on her needs.
- She will help draft the case history of the women affected by violence.

### 6.7 IT Staff

- The IT Staff will generate the Unique ID of the women affected by violence through web based software.
- He/she will document the case history as provided by the Centre Administrator, Counsellor, Paramedic, Lawyer and Police Facilitation Officer and record proceedings for case management as well as develop the web based data, help in video conferencing, data entry operations etc.

- He/she will be responsible for keeping record of CCTV footage at OSC.
- He/she will follow strict proceedings to maintain privacy with regard to data generated and will ensure that name and other details of aggrieved women remain confidential in each step of case history documentation.
- He/she will assist the Police Facilitation Officer/counsellor/Para Medical Personnel/Para Legal Personnel to document the case history.
- He/she will draft the monthly/quarterly report based on the MIS, web based data collection which would be approved at the level of the Centre Administrator for submission to the Management Committee.

### **6.8 Multi- purpose Helper**

- She will be responsible for maintaining hygiene and sanitation at OSC.
- It will be her responsibility to clean the toilets (daily at such frequency which keeps it clean all the time), dispose the garbage, change the bed sheets, pillow covers (weekly) of shelter room.
- She will offer water to the visitors, maintain visitor register, provide information on legal aid/ police/ medical assistance sheet to the women.
- She will provide basic kit containing soap, comb, shampoo, sanitary pad, toothbrush, tooth paste, diapers (in case of infants) and sewing kit to the woman who is availing the facility of temporary shelter at OSC.
- She will help any other staff with referrals and do such other ancillary work as requested by the Centre Administrator.

### **6.9 Security Guard/ Night Guard**

- The Security Guard/ Night Guard shall be responsible for the overall security of OSC.
- He/she would be responsible for safety of all capital assets, furniture and equipment at OSC.

## DAY 2 – SESSION 4

SESSION	PROGRAMME EVALUATION
<b>OBJECTIVE</b>	The objective of the session will be to help the trainees become aware of and reflect on their learning process and provide their feedback on the training
<b>DURATION</b>	30 minutes
<b>RESOURCES REQUIRED</b>	Evaluation Proforma
<b>INSTRUCTIONS</b>	<ul style="list-style-type: none"> <li>• Distribute the evaluation forms to the participants.</li> <li>• Request them to fill in the evaluation forms of training. They do not have to write their names on the form that will enable them to be critical and honest about their feedback.</li> <li>• Collect the filled in forms from the participants.</li> <li>• Ask the participants if they would like to give any verbal feedback on the training- content, activities, module, logistics, duration, etc.</li> <li>• Thank the participants for their participation and feedback.</li> </ul>
<b>TIPS FOR FACILITATORS</b>	<ul style="list-style-type: none"> <li>• No training programme is complete without going through the important exercise of evaluation of the programme components and methods as a feedback.</li> <li>• These are valuable in upgradation and planning of future training programmes, and provide insight into the overall effectiveness of the training.</li> </ul>

## Evaluation Form 1 (Overall Rating)

Instructions: Please rate the training programme by ticking against the appropriate column.

### PART: I

#### Overall content, methodology and usefulness

No.	Evaluation	Rating			
		Excellent	Very Good	Good	Average
1.	Overall format and presentations				
2.	Meeting objectives of training				
3.	Training contents				
4.	Training methodologies				
5.	Balance between theoretical and practical aspects				
6.	Effectiveness of trainers				
7.	Training time schedules				
8.	Training venue				
9.	Food and accommodation				

### PART: II

#### Session wise Rating

No	Evaluation	Rating			
		Excellent	Very good	Good	Average
1.	Violence Against Women in India				
2.	Constitutional Provisions and Legal Safeguards for Women Affected by Violence				
3.	Medico-Legal Care and Support of Law Enforcement Agencies to Women Affected by Violence				
4.	Counselling the Women Affected Violence: Psychosocial Support				
5.	Roles and Responsibilities of Functionaries/ Stakeholders in Dealing with Women Affected by Violence				
6.	Group Activities/Exercises/Role Play				

Additional remarks/feedback about the Training Programme in general

- What did you find most useful about the training?
- Any suggestions for improvement?



# ANNEXURES





## Annexure- I

### 7.0 Frequently Asked Questions on Child Marriage and the Prohibition of Child Marriage Act, 2006

- Question No.1: Who is a Child under the “Prohibition of Child Marriage Act, 2006”?
- Answer: A girl under 18 years or a boy under 21 years is considered a child under the “Prohibition of Child Marriage Act, 2006”.
- Question No.2: When is any marriage called Child Marriage?
- Answer: Such a marriage, where:
- the girl is less than 18 years and the boy/man is 21 years or above; or else
  - the girl/woman is above 18 years and boy is less than 21 years; or else
  - the girl is less than 18 years and the boy/man is less than 21 years
- Question No.3: Can a Child Marriage be declared void?
- Answer: Yes, at the instance of the spouse who was a minor at the time when marriage took place, a Child Marriage may be declared void (no marriage in the eyes of law). Such a spouse who was a minor at the time of performance of marriage should approach the court on turning a major, i.e., 18 years in case of girls and 21 years in case of boys.
- Question No.4: Who should be approached, to get a Child Marriage declared void?
- Answer: District court of the district of residence is to be approached by the spouse who was a minor at the time of performance of marriage for getting the Child Marriage declared void (no marriage in the eyes of law).
- Question No.5: Can the petition to get the Child Marriage annulled (dissolved) be filed at any time in life?
- Answer: No. Any petition to get Child Marriage annulled (dissolved) has to be filed before completion of two years of being a major. That is to say, in case of girl, before she attains the age of 20 years and in case of boy, before he attains the age of 23 years.
- Question No.6: On dissolution of Child Marriage, can the parties retain the gifts and valuables exchanged between them at the time of solemnization of Child Marriage?
- Answer: No. At the time of dissolution of Child Marriage by the District Court, both parties shall be directed by the Court to return all the ornaments, valuables, gifts and money received by both the parties on the occasion of the Child Marriage, or alternatively pay to the other party money equivalent to the ornaments, valuables, gifts and cash received by it from the other party.
- Question No.7: In the case of a Child Marriage, is the married girl entitled to maintenance, during and after the proceedings held to declare the Child Marriage void?
- Answer: Yes. A girl who was given in marriage, in the case of a Child Marriage is entitled to maintenance, both during and after the proceedings for getting the Child Marriage dissolved. A decree of dissolution passed to dissolve Child Marriage does not disentitle the girl from continuing to obtain maintenance from her husband (if major) or his parents/guardians (if husband is a minor).
- Question No.8: Are children born out of Child Marriage, which has been dissolved, considered legitimate?
- Answer: Yes. The children born and/ or even conceived up to the day on which the decree of dissolution of marriage is passed in cases of Child Marriage, are legitimate.
- Question No.9: What happens to children in cases of Child Marriage which have been or are being declared void (no marriage in the eyes of law) by the Court?
- Answer: The Court passes orders both, during the proceedings to declare the Child Marriage void (no marriage in the eyes of law), and as well as at the stage of passing final order/decree declaring the Child Marriage to have been dissolved, regarding the custody and maintenance of children of such children, in reference to welfare and best interests of such children.

Question No.10: Where should the petition to get Child Marriage dissolved is filed?

Answer: Any petition to get the Child Marriage dissolved has to be filed in the District Court that has the jurisdiction of the area where:-

- Either party to the Child Marriage resides; or
- Child Marriage was solemnized; or
- Where parties to Child Marriage last resided together; or
- Party to Child Marriage who seeks dissolution of Child Marriage, is residing at the time of presenting the petition.

Question No.11: Can the person who was an adult at the time of Child Marriage be punished for marrying a minor?

Answer: Yes. If an adult man marries a minor girl, he can be made liable to rigorous imprisonment up to 2 years and/or be fined up to Rupees 1 lakh, but not vice-versa.

Question No.12: Is only the male adult entering into Child Marriage liable to penalty in case of a Child Marriage?

Answer: No. Not only the male adult entering into Child Marriage, but also all those persons:-

- who perform;
- who conduct;
- who direct; and
- who abet (support/ encourage)

The Child Marriage is liable for punishment of up to 2 years rigorous imprisonment and/or fine of up to Rupees 1 lakh.

Question No.13: Can we attend and participate in a Child Marriage as a social function when invited as a guest?

Answer: If you attend and participate in a Child Marriage in any capacity, and take no steps to stop it, you are at least abetting (supporting/ encouraging) Child Marriage and thus, liable to be punished with rigorous imprisonment up to 2 years and/or fine of up to Rupees 1 lakh.

Question No.14: Is the age of the minor contracting Child Marriage, the only consideration in declaring the marriage null and void?

Answer: No. Apart from the age of the minor child, other circumstances are also to be taken into consideration, like:-

- Taking minor child out of the custody (control) and care of parent/guardian; OR
- Forcefully compelling or deceiving the minor child into going from one place to another; OR
- Selling minor child for purpose of marriage and the minor child is married after being sold; OR
- Selling minor child, who is married and thereafter is sold/trafficked/abused for immoral purposes.

Question No.15: Who can file a complaint against performance of Child Marriage?

Answer: The complaint against performance of Child Marriage may be filed by any of the following:-

- Any person having personal knowledge or belief that the marriage being/having been performed is a Child Marriage; OR
- Any Non-Governmental Organisation (NGO) having reasonable information relating to likelihood of taking place of a Child Marriage or mass Child Marriages.
- Child Marriage Prohibition officer (CMPO)

Question No.16: Can a Magistrate do anything if he is in receipt of a reliable report or information about solemnization of Child Marriage?

Answer: The Magistrate may himself take notice of the performance of a Child Marriage as and when any reliable report or information is received and pass necessary orders.

Question No.17: What happens when any person or organisation does not obey the orders of the Magistrate prohibiting Child Marriage?

Answer: When any person or the responsible persons, of any organization, do not obey the orders of the Magistrate prohibiting Child Marriage, such person/persons is liable to pay fine up to Rupees One lakh and/or imprisonment up to two years.

However, no women can be imprisoned for having performed Child Marriage despite the directions of the Magistrate prohibiting that Child Marriage, even though she is liable to financial punishment, in terms of the fine prescribed under the law prohibiting Child Marriage.

Question No.18: What is the status of a Child Marriage that had been performed in violation of any order passed by the Magistrate prohibiting the performance of that Child Marriage?

Answer: Any Child Marriage, which has been performed in violation of the orders of the Magistrate prohibiting it, is considered to have never been performed and is no marriage at all in the eyes of law.

Question No.19: What is the nature of offence in cases of performance of a Child Marriage?

Answer: Performance of Child Marriage is an offence for which the offenders are not entitled to bail and the police are required to register the case of commission of an offence of Child Marriage, on receipt of such information at the very first instance. Thereafter, the facts related to Child Marriage are confirmed, before filing the challan in the court of the Magistrate. In case a Child Marriage is being solemnized before a police officer, it is his duty to stop such an offence from being committed and register the case against the offenders immediately and proceed with investigation and filing of the challan in court, in cases where the Child Marriage had been performed, despite his best efforts.

Question No. 20: What are the duties of the Child Marriage Prohibition Officer (CMPO)?

Answer: Any person, who is notified by the State Government as the Child Marriage Prohibition Officer (CMPO), for the area specified, shall:-

- Take steps to prevent performance of Child Marriage;
- Collect evidence against the person/persons who violated the law to organize a Child Marriage or else performed a Child Marriage or else participated in the activities relating to Child Marriage, including attending it;
- Advice and counsel persons into not promoting, helping and allowing solemnization of a Child Marriage;
- Generate awareness about the evils associated with Child Marriages.

## 7.1 The Prohibition of Child Marriage Act, 2006

Offence	Punishment
Any adult male contracting Child Marriage	A fine upto Rs. One lakh and rigorous imprisonment upto 2 years
Any person or organization who promotes and permits child marriage or whose negligence leads to child marriage (it includes attending and participating such marriage)	Penalty upto Rs. One lakh and rigorous imprisonment upto 2 years.
Anyone who disobeys knowingly, a judicial restraint order regarding performance/ conduct of Child Marriage	Penalty upto Rs. One lakh and rigorous imprisonment up to 2 years.

## 7.2 The Immoral Traffic Prevention Act, 1956

Offence	Punishment
Punishment for keeping a brothel or allowing premises to be used as a brothel	Rigorous imprisonment for a term not less than two years which may extend to seven years and also fine which may extend from ten thousand rupees to two lakh rupees
Punishment for living on the earnings of prostitution	Imprisonment for two years which may extend to seven years or fine or both
Procuring, inducing or taking person for sake of prostitution	Imprisonment for a term not less than three years which may extend to imprisonment for fourteen years and also with fine
Prostitution in or in the vicinity of public place	Imprisonment for a term of three months but may be for life and also liable to fine
Seduction of a person in custody	Imprisonment for a term not be less than seven years but may extend for life and also liable to fine

## 7.3 The Sexual Harassment of Women at Work Place (Prevention, Protection and Prohibition) Act, 2013

Offence	Punishment
If any workplace has failed to constitute an internal complaints committee or failed to initiate action within a reasonable time on the complaint of sexual harassment or failed to obey orders passed by the district officer	A fine of not less than Rs. 10, 000
Penalty for non-compliance with the provisions	A minimum fine of Rs. 10,000

## 7.4 The Indecent Representation of Women (Prohibition) Act, 1986

Offence	Punishment
Advertisement and publication of books, pamphlets containing indecent representation of women	<ul style="list-style-type: none"> <li>Imprisonment of a term which may extend to two years and a fine which may extend to Rs.2000</li> </ul>
	<ul style="list-style-type: none"> <li>Second or subsequent conviction comprises imprisonment for a term not less than six months which may extend to five years and a fine not less than Rs. 10000 which may extend to Rs. 100000</li> </ul>

## 7.5 The Protection of Children from Sexual Offences Act, 2012 (POCSO)

Offence	Punishment
If a penetrative sexual assault, aggressive sexual assault or sexual harassment is committed upon a child	Imprisonment of either a term not be less than seven years which may extend to imprisonment for life, a fine or both
Using a child in any form of media for the purpose of sexual gratification (pornographic purposes) including representation of child's sexual organs, engaging child in sexual acts and indecent representation of child	Imprisonment which may extend from three years to imprisonment for life, also liable to fine or both
A person if abets/instigates any person or engages with others to attempt/commit an offence	Imprisonment which may extend upto one half of the imprisonment for life or a fine or both
A person, who fails to report an offence or refuses to record the information	Is punishable with upto 6 months of imprisonment and a fine or both
Reporting the identity of the child or making comments in media that invades child's privacy	Imprisonment upto one year

## 7.6 Questions and Answers on Domestic Violence and Protection of Women from Domestic Violence Act (PWDVA), 2005

**Question No.1:** Does domestic violence mean only physically beating or grievously injuring the female in a domestic relationship?

**Answer:** No. Domestic violence not only includes physical violence (beating, torture, causing physical injury) but also includes the following:

Sexual abuse of females (rape, including having sex with the female partner in domestic relationship without her consent; forcing to view pornography or obscene material; any act of sexual nature to humiliate or degrade or violate her dignity; child sexual abuse).

Verbal and emotional abuse (name calling; using bad or abusive language for the female or her kith and kin; taunts; emotional blackmail).

Economic abuse (forcing to quit a job; depriving of financial means and bare necessities of life; disturbing at the place of employment; forcing her to meet any unlawful demand for dowry).

Even a threat to cause any of the above types of violence qualifies as domestic violence.

[Note: Domestic relationship implies a man and a woman living together, with or without marriage, i.e. both marriage and live-in relationship.]

**Question No.2:** What is the need or benefit of PWDVA, 2005?

**Answer:** This Act provides for an effective and efficacious relief against domestic violence to women in a domestic relationship (and their children) living in a household. It provides for an immediate relief and support through the machinery of the State notified under the Act. Earlier there was no specific law for tackling domestic violence and it went unpunished and without any relief to the victim due to it not being recognised as an offence.

**Question No.3:** Who all can benefit from PWDVA, 2005?

**Answer:** The beneficiaries under the Act include: All such females who are or have been in a domestic relationship with the abuser in a household through blood, marriage, adoption or any relationship in the nature of marriage (live-in relationship). It includes widows and children as well.

The Act also covers relationships with family members living together as joint family.

The term 'relationship in the nature of marriage' not only covers marriage but also a 'live-in' relationship, thus, giving relief to not only a wife but also, to a female sexual partner in a 'live-in' relationship [outside a legal marriage].

**Question No.4:** Is PWDVA, 2005 a substitute of the existing laws for women affected by matrimonial disharmony/conflict?

**Answer:** The provisions of this Act are in addition to the provisions under others laws benefitting women and these do not undermine the provisions of other laws that grant rights and reliefs to women in conflict/disharmony in a household, like the Indian Penal Code (IPC), Hindu Marriage Act and Dowry Prohibition Act.

**Question No.5:** Who can file a complaint under PWDVA, 2005?

**Answer:** A complaint under the PWDVA, 2005 may be filed by:

- the victim of domestic violence
- the Protection Officer
- the Police Officer
- any other person on behalf of the victim of domestic violence (e.g. neighbor, well-wisher of the victim, representative of an NGO).

- Question No.6: Whom should the victim of domestic violence approach?
- Answer: In case of domestic violence the following in your district may be approached:
- Protection Officer (notified State Government).
  - Service Provider (notified by State Government).
  - Police Officer.
  - Magistrate
  - Any well-wisher/local NGOs who would approach any of the officers mentioned at (a), (b), (c) and (d) above.
- Question No.7: Can a victim of domestic violence directly approach the Magistrate with a complaint under PWDVA, 2005?
- Answer: Yes. A victim of domestic violence may directly approach a Magistrate with an application under PWDVA, 2005 or otherwise, and the Magistrate would begin the proceedings by associating the local Protection Officer and such other machinery under PWDVA, 2005, as may be required.
- Question No.8: Who is a Protection Officer? How can the Protection Officer help the victim of domestic violence?
- Answer: The State Government notifies under PWDVA, 2005 an individual (Government Officer/NGO representative) as a Protection Officer responsible for an area. Such an officer has been assigned duties related to care, protection and rehabilitation of the victim of domestic violence. The officer assists the Magistrate in granting and securing relief for the victim and is entitled to enlist the support of local police and Service Providers.
- Question No.9: Who is a Service Provider? What kind of services does a Service Provider render to the victim of domestic violence?
- Answer: A Service Provider is any voluntary organization or a company registered by the State Government as a Service Provider for the purposes of this Act. The services rendered by Service Provider to the victim of domestic violence are:
- Short-Stay Home/Shelter Home.
  - Medical facility
  - Counsellor
- Question No.10: What are the reliefs available under PWDVA, 2005?
- Answer: Relief under the Act is provided through the following types of Orders passed by the Magistrate in favour of the victim of domestic violence.
- Residence order –**  
Protecting rights of the victim to stay in the shared household or alternate accommodation to be arranged by her husband or male partner  
[Note: For right of residence in a shared household in case of a woman victim, the property should belong to her husband or should have been taken on rent by her husband or the shared household should alternatively be a joint family property in which her husband is/was a member.]
  - Protection order –**  
against continuation of domestic violence  
against approaching the victim of domestic violence or persons related to her at places of stay and work  
against disposal/alienation of property of the victim of domestic violence
  - Monetary relief order –**  
towards expenses incurred as a consequence of domestic violence, which may include loss of earnings and the medical expenses  
maintenance of the victim of domestic violence and the children (if they are with the victim)

**d) Compensation order –**

for physical and mental injury and pain caused by domestic violence  
for loss of wages/employment suffered by victim as a consequence of domestic violence

**e) Custody order –**

for temporary custody of children to their mother in order to prevent emotional abuse and/or blackmail

[Note: Such order shall be of a temporary nature. The long-term custody shall be determined in terms of the rights of the parties and the welfare of the minors under the guardianship and custody related laws.]

**f) Interim and/or Ex-parte orders –**

to safeguard and protect the life and property of the victim of domestic violence and to stall the violence likely in the near future.

Question No.11: Can a victim of domestic violence without financial and other means take recourse to legal action for relief?

Answer: When a Police Officer/Protection Officer/Service Provider/Magistrate receives information about an incident of domestic violence or witnesses it, he is duty-bound to inform the victim about her right to free legal services under the Legal Services Authorities Act, 1987. Thus, the victim can initiate legal action for relief with free legal aid and advice even when she does not have financial means.

Question No.12: Is record of past misconduct of the perpetrator of domestic violence of any relevance in giving relief to victim of domestic violence?

Answer: Yes. The past conduct of the perpetrator of domestic violence assumes significance in deciding about the ex-parte/interim relief, and the subsequent relief to be granted to the victim of domestic violence under the PWDVA, 2005 and formulation and assessment of the 'Safety Plan' to secure the future of the victim.

Question No.13: What are the rights of the victim of domestic violence in the matrimonial household in terms of shared household under the PWDVA, 2005 vis-s-vis other laws of the land?

Answer: The victim can claim the right of residence in shared household in case the property belongs to her husband or has been taken on rent by her husband or it is a joint family property in which her husband is/was a member.

Question No.14: Can a victim of domestic violence avail the provisions of Section 498A of the Indian Penal Code (cruelty by husband & his relatives) after the enactment of PWDVA, 2005?

Answer: The victim of domestic violence has the freedom and option to decide under which provisions(s) of law she would like to proceed, depending upon her ultimate goal. The provisions under PWDVA, 2005 are in addition to the existing laws, including Section 498A, IPC and the victim may plan her action as per the legal advice received.

Question No.15: Does police have any role or duty under PWDVA, 2005 in a case of domestic violence?

Answer: Yes. The Police Officers are supposed to take immediate cognisance of every evident serious offence reported or witnessed under PWDVA, 2005 and assist in providing medical aid, inform the victim about her rights under PWDVA, 2005 like lodging FIR, availing help of Protection Officer/Service Providers for medical aid, shelter and legal action to obtain relief orders from the Magistrate.

Question No.16: What should a woman do if she faces domestic violence at night or is thrown out of the matrimonial home at night?

Answer: In case of occurrence of an incident of domestic violence, either the victim or any other person on her behalf may give information to Protection Officer/Service Provider/ Local Police/Judicial Magistrate by any means of communication, including telephone. Information may be given even on toll-free Helplines for women in distress under the SWADHAR scheme of the Ministry of Women and Child Development, Government of India. The Domestic Incident Report (DIR) prepared by any of the above officers shall be immediately presented to the Magistrate for relief to ensure safety of the victim and to prevent further



violence. In case of an apprehended domestic violence, the Protection Officer/Service Provider shall take police assistance and reach the spot to prepare the DIR and submit it immediately to the Magistrate.

- Question No.17: What is the time frame for disposal of an application under PWDVA, 2005 by the Magistrate?  
 Answer: The notice on an application/complaint under the PWDVA, 2005 shall be returnable within 3 days. Although, no rigid time frame can be fixed, yet it will be the effort of the Magistrate to dispose of the complaint within 60 days from the date of its first hearing.
- Question No.18: Can any compensation be granted by the Magistrate to the victim of domestic violence?  
 Answer: The victim of domestic violence may be granted compensation and damages for physical injuries, mental torture and emotional distress caused by domestic violence, besides other monetary relief.
- Question No.19: What happens if orders passed by the Court under PWDVA, 2005 are not followed or are violated by any person?  
 Answer: If the abuser does not obey, or violates the orders passed by the Magistrate, he is liable to pay a fine upto Rs. 20,000/- and/or imprisonment upto a term of one year.
- Question No.20: What can the victim of domestic violence do if no Protection Officer or Service Provider has been appointed in her area or she is not aware of them?  
 Answer: In case no Protection Officer/Service Provider has been notified for the area, the victim of domestic violence may directly approach the Police to record her FIR or DIR, which will be presented by the Police Officer to the Magistrate immediately. Alternately, the victim may directly approach the Magistrate with her complaint.
- Question No.21: Against whom can a woman victim of domestic violence file a complaint under PWDVA, 2005?  
 Answer: Any woman victim of domestic violence may file a complaint under the PWDVA, 2005 against her husband or the male partner and/or his male and female relatives, who had indulged in any form of domestic violence against the woman victim.
- Question No.22: Can the female relatives of the husband file any application for relief under PWDVA, 2005 against a married woman or woman in a live-in relationship?  
 Answer: No. None of the female relatives of the husband/partner of a married woman or a woman in a live-in relationship can ever file against such woman any application for relief under PWDVA, 2005. For instance, the mother-in-law of a married woman or the mother and sister/sister-in-law of the man in a live-in relationship cannot claim any relief under PWDVA, 2005, from a woman who is either married into the household or who is in a live-in relationship with such a man.
- Question No.23: What is a Protection Officer supposed to do in cases of domestic violence under the PWDVA, 2005?  
 Answer: A Protection Officer is supposed to undertake the following duties in the cases of domestic violence under the PWDVA, 2005:
- 1) To accept the victim(s) of domestic Violence in case the victim(s) approach the Protection Officer:
  - 2) To reach the victim(s) of domestic violence in case the victim(s) is/are elsewhere:
  - 3) To prepare the Domestic Information Report (DIR) on talking to the woman victim of domestic violence or on receipt of complaint related to domestic violence and endorse its copy to the area Police Station:
  - 4) To assist in preparation of the victim(s) of domestic violence for seeking relief from the Magistrate:
  - 5) To arrange for legal aid to the woman victim of domestic violence for seeking relief from the Court of the Judicial Magistrate;
  - 6) To arrange for temporary stay of woman victim of domestic violence and /or her children, in a Short-Stay Home/Shelter Home notified under the PWDVA, 2005, in case she does not have any arrangement for stay, and inform the Police & Judicial Magistrate accordingly;
  - 7) Arrange for medical examination, medical aid and treatment of the woman victim(s) of domestic violence and coordinate the provision of free copy of the medical report to the victim and also send copies of the medical report to the area Police Station and the Judicial Magistrate, after retaining one copy of such medical certificate in the record being maintained by the Protection Officer;

- 8) To maintain complete and updated record of the notified Shelter Homes/Short-Stay Homes, Medical Facilities, Counsellors, legal aid authorities in the area;
- 9) To assist in Preparation of Safety Plan for safe rehabilitation of the woman victim(s) of domestic violence in consultation with the woman victim of the domestic violence;
- 10) To provide the woman victim information about her rights under the PWDVA, 2005;
- 11) To arrange transportation for the woman victim of domestic violence to and fro Shelter Home and to and fro Medical Facility;
- 12) To invite applications form Service Providers, seeking particulars of members to be appointed as Counsellors under the PWDVA, 2005;
- 13) To revise the list of Counsellors every 3 years and forward the same to the Magistrate of the area;
- 14) To Maintain complete records of documents related to each case of domestic violence; and
- 15) To serve notice on the persons complained against.

Question No.24: Does the Protection Officer always act on his/her own in cases of domestic violence?

Answer: No. The Protection Officer at times acts on the written direction of Court, as per the requirements of the specific case.

Duties of Protection Officer, when directed in writing by the Magistrate

- 1) Home visits to the shared household for preliminary enquiry to obtain clarifications, to enable ex-parte interim relief to the victim of domestic violence;
- 2) After enquiry within the shared household, filing of a report on the emoluments/income, assets, bank accounts, or other documents, as per direction of Court;
- 3) Restore the possession of the personal effects of the victim, including gifts and jewellery, etc;
- 4) Assist victim to secure custody of children or secure visitation rights under supervision of Protection Officer, as ordered by the Court;
- 5) Assist in enforcement of all orders passed by Court under PWDVA, 2005; and
- 6) Take into custody any weapon used in the incident of domestic violence, with help of the local Police.

Question No.25: What happens when a Protection Officer refuses to discharge the duties assigned by the Magistrate under the PWDVA, 2005?

Answer: Any Protection Officer who either fails to or refuses to discharge the duties assigned by the Magistrate under the PWDVA, 2005 without any reasonable cause, may be punished by imposing a fine upto Rupees twenty thousand only and/or imprisonment upto one year.

Question No.26: What is a Domestic Incident Report (DIR)?

Answer: A Domestic Incident Report (DIR) is the report prepared on the basis of the complaint of victim of domestic violence received by the Protection Officer or a Service Provider, whom the victim approaches and the report is recorded as per the format prescribed in the Form –I of “Protection of Women from domestic violence Rules, 2006” and is signed by the Protection Officer or Service Provider who has recorded the report.

Question No.7: Who records the DIR if the victim approaches the Magistrate directly?

Answer: If the victim of domestic violence approaches the Magistrate directly, then the Magistrate may direct the Protection Officer to record the DIR, as per the facts to be furnished by the victim, in the prescribed format (Form –I)

Question No.28: What is required to be done after recording the DIR?

Answer: The copies of DIR are sent by the Protection Officer to the Magistrate, the area Police Station and the Service Providers of the area, like the Medical facility and the Shelter Home. In case the DIR has been recorded by a Service Provider at the instance of the victim, then the copies of such report are sent to the Magistrate and the Protection Officer.

- Question No.29: Can a victim of domestic violence file a formal complaint before a Magistrate under the PWDVA, 2005 without the copy of DIR being enclosed?
- Answer: Yes. Any victim of domestic violence can file a formal complaint before a Magistrate under the PWDVA, 2005, without the copy of DIR being enclosed. In such a case, the Magistrate directs the Protection Officer to record the DIR on the basis of the information to be provided by the victim to the Protection Officer and any order of relief is passed thereafter on the Complaint.
- Question No.30: Can any victim of domestic violence or any lawyer filing a complaint on her behalf file the DIR in her case?
- Answer: No. Neither the victim of domestic violence nor the lawyer filing a complaint on her behalf can file the DIR. Only the Protection Officer & Service Provider of the area are authorised under the PWDVA, 2005 to fill DIR Format in a case of domestic violence. In case the Service Provider fills up the DIR Format, it shall be forwarded to the Protection Officer also.
- Question No.31: Who serves the notice on the accused in cases of complaint regarding domestic violence that is being heard by the Magistrate?
- Answer: The Protection Officer serves the notice on the accused in the cases of domestic violence being heard by the Magistrate.
- Question No.32: Can the victim of domestic violence obtain copy of medical certificate in cases of domestic violence that had required medical treatment?
- Answer: Yes. The victim of domestic violence is given free of cost, a copy of the medical certificate in all such cases of domestic violence wherein the victim was given first aid/treatment for any injuries caused by domestic violence at the notified medical facility under PWDVA, 2005.
- Question No.33: In the custody of children granted to the victim of under PWDVA, 2005 permanent?
- Answer: No. Whenever a victim of domestic violence is granted the custody of children under the PWDVA, 2005, it is a temporary order. The decision regarding the parent to retain/be granted the custody of children is finally taken by the Civil Court under the relevant civil laws.
- Question No.34: What should a Police Officer do in cases where the victim of domestic violence does not agree to register the F.I.R. in a case of domestic violence?
- Answer: In cases where the woman victim of domestic violence does not wish to lodge a FIR regarding the case of domestic violence, the Police Officer should record the incident of domestic violence in the Daily Diary with the remark that the victim did not agree for registering of the FIR and wants to pursue civil remedies and the matter of registering FIR is being kept pending, for appropriate enquiry prior to registering FIR.
- Question No.35: What happens when the Protection Order or the interim Protection Order is violated / breached by the accused?
- Answer: The reporting of breach/violation of the Protection Order or the interim Protection Order shall be in writing, with the signatures of the informant/victim. Such report shall be forwarded by the Protection Officer to the Magistrate, enclosing along with a copy of the order stated to have been breached / violated. Alternately, the victim may report about the violation/breach of the Protection Order or the interim Protection Order directly to the Magistrate in writing. Such breach/violation of the Protection Order or the interim Protection Order is to be treated by the Police as a cognizable offence and proceed accordingly.
- Question No.36: Can the victim/informant obtain a copy of the complaint of domestic violence lodged by her/him with the Protection Officer?
- Answer: Yes. A copy of the DIR prepared by the Protection Officer under PWDVA, 2005 shall be given to the victim/information free of cost.
- Question No.37: Can ex-parte orders be passed by the Magistrate on any complaint under PDDVA, 2005?
- Answer: Yes. The Magistrate may pass ex-parte orders in favour of the Complainant and against the perpetrator of domestic violence, on being satisfied that the application and the record before him discloses commission of /likelihood of further commission of an act of domestic violence. An affidavit in Form –III is required in cases seeking ex-parte orders.

- Question No.38: Can the whereabouts of the victim of domestic violence be kept confidential, when the victim is lodged in a Shelter Home?
- Answer: Yes. At the request of the victim of domestic violence, her identity shall not be disclosed or communicated to the accused/person(s) complained against.
- Question No.39: Can the notified Medical Facility under PWDVA, 2005 refuse to provide medical assistance to the victim of domestic violence on the ground that DIR has not been recorded / furnished?
- Answer: No. None of the Medical Facilities that have been notified under the PWDVA, 2005 can refuse to undertake medical examination or provide medical assistance to the victim of domestic violence on the ground that the DIR is yet to be recorded/ furnished.
- Question No.40: Can help be given to the victim of domestic violence in emergencies?
- Answer: Yes. Whenever information is received by the Protection Officer/Service Provider through e-mail, telephone or other modes, such Officer/functionary may reach the spot where domestic violence has reportedly occurred, along with police assistance to help the victim of domestic violence and immediately place the Domestic Incident Report before the Magistrate for necessary orders.

## Annexure-III

### 7.7 Questions & Answers on Protection of Children from Sexual Offences (POCSO) Act, 2012

- Question No. 1: When did POCSO Act 2012 come into force?
- Answer: The Protection of Children from Sexual Offences Act, 2012 came into force on 14 November 2012. The Act was passed in the Indian Parliament in May 2012. The Act under its ambit defines child as a person below the age-group of 18 and is gender neutral and have a clear definition for all types of sexual abuses like sexual harassment, penetrative or non-penetrative sexual abuse, and pornography.
- Question No. 2: What happens if someone hides the information of the commission of the offence?
- Answer: If someone fails/hides the information of the commission /apprehension of the offence shall be punishable with imprisonment for a term which may extend to one year with fine.
- Question No. 3: How it is different from other IPC provisions?
- Answer: Sexual offences are currently covered under different sections of IPC. The IPC does not provide for all types of sexual offences against children and, more importantly, does not distinguish between adult and child victims.
- Question No. 4: Who is a child in POCSO Act 2012?
- Answer: The Protection of Children from Sexual Offences Act, 2012 defines a child as any person below the age of 18 years and provides protection to all children under the age of 18 years from the offences of sexual assault, sexual harassment and pornography.
- Question No. 5: What is special in POCSO ACT 2012?
- Answer: The Act provides for stringent punishments, which have been graded as per the gravity of the offence. The punishments range from simple to rigorous imprisonment of varying periods. There is also provision for fine, which is to be decided by the Court.
- Question No. 6: What is an “aggravated” offence?
- Answer: An offence is treated as “aggravated” when committed by a person in a position of trust or authority of child such as a member of security forces, police officer, public servant, etc.
- Question No. 7: What are the punishments for various offences in the POCSO ACT 2012?
- Answer: Punishments for Offences covered in the Act are:
- a) Penetrative Sexual Assault (Section 3) – Not less than seven years which may extend to imprisonment for life, and fine (Section 4)
  - b) Aggravated Penetrative Sexual Assault (Section 5) – Not less than ten years which may extend to imprisonment for life, and fine (Section 6)
  - c) Sexual Assault (Section 7) – Not less than three years which may extend to five years, and fine (Section 8)
  - d) Aggravated Sexual Assault (Section 9) – Not less than five years which may extend to seven years, and fine (Section 10)
  - e) Sexual Harassment of the Child (Section 11) – Three years and fine (Section 12)
  - f) Use of Child for Pornographic Purposes (Section 13) – Five years and fine and in the event of subsequent conviction, seven years and fine (Section 14 (1))
- Question No. 8: Where will the cases of the POCSO ACT 2012 be tried?
- Answer: The Act provides for the establishment of Special Courts for trial of offences under the Act, keeping the best interest of the child as of paramount importance at every stage of the judicial process. The possibility of establishment of Special Courts for trial of offences under the law has also been provided for. Also, the Special Court is to complete the trial within a period of one year, as far as possible.

- Question No. 9: Whether the POCSO ACT 2012 has incorporated the child friendly procedures?
- Answer: The Act incorporates child friendly procedures for reporting, recording of evidence, investigation and trial of offences.
- Question No. 10: Whether the POCSO ACT 2012 has recognized the intent to commit an offence?
- Answer: The Act recognizes that the intent to commit an offence, even when unsuccessful for whatever reason, needs to be penalized. The attempt to commit an offence under the Act has been made liable for punishment for upto half the punishment prescribed for the commission of the offence. An important step forward is also the recognition of the intent of committing an offence, which has also been provided for with the possibility of punishment of up to half the punishment that has been provided for the actual committing of the crime.
- Question No. 12: What are the specifications of the POCSO ACT 2012?
- Answer: The Act incorporates child friendly procedures for reporting, recording of evidence, investigation and trial of offences. These include:
- Recording the statement of the child at the residence of the child or at the place of his choice, preferably by a woman police officer not below the rank of sub-inspector. Evidence has to be recorded within 30 days
  - No child to be detained in the police station in the night for any reason.
  - Police officer to not be in uniform while recording the statement of the child
  - The statement of the child to be recorded as spoken by the child
  - Assistance of an interpreter or translator or an expert as per the need of the child
  - Assistance of special educator or any person familiar with the manner of communication of the child in case child is disabled.
  - Medical examination of the child to be conducted in the presence of the parent of the child or any other person in whom the child has trust or confidence.
  - In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.
  - Frequent breaks for the child during trial
  - Child not to be called repeatedly to testify
  - No aggressive questioning or character assassination of the child
  - In-camera trial of cases
- Question No. 13: Whether the abetment of the offence is punishable in the POCSO ACT 2012?
- Answer: The Act also provides for punishment for abetment of the offence, which is the same as for the commission of the offence. This would cover trafficking of children for sexual purposes.
- Question No. 14: On whom lies the burden of proof in the heinous cases of POCSO ACT 2012?
- Answer: For the more heinous offences of Penetrative Sexual Assault, Aggravated Penetrative Sexual Assault, Sexual Assault and Aggravated Sexual Assault, the burden of proof is shifted on the accused. This provision has been made keeping in view the greater vulnerability and innocence of children.
- Question No. 15: What is the role of the SJPU in the POCSO ACT 2012?
- Answer: To provide for relief and rehabilitation of the child, as soon as the complaint is made to the Special Juvenile Police Unit (SJPU) or local police, these will make immediate arrangements to give the child, care and protection such as admitting the child into shelter home or to the nearest hospital within twenty-four hours of the report. The SJPU or the local police are also required to report the matter to the Child Welfare Committee within 24 hours of recording the complaint, for long term rehabilitation of the child.
- Question No. 16: What is the duty of the Central and State Governments in spreading the awareness of the act among civil society?
- Answer: The Act casts a duty on the Central and State Governments to spread awareness through media including the television, radio and the print media at regular intervals to make the general public, children as well as their parents and guardians aware of the provisions of this Act.

Question No. 17: Who will monitor the implementation of the Act?

Answer: The National Commission for the Protection of Child Rights (NCPCR) and State Commissions for the Protection of Child Rights (SCPCRs) have been made the designated authority to monitor the implementation of the Act.

Question No. 18: Who can make the necessary changes in the ACT?

Answer: Section 45 of the Act allows the Union Government to make the necessary changes in the Act, whenever and wherever applicable. The power to make rules rests with the Central Government. The rules framed under the Act provide for qualifications and experience of interpreters, translators, special educators, and experts; arrangements for care and protection and emergency medical treatment of the child; compensation payable to a child who has been the victim of a sexual offence; and the manner of periodic monitoring of the provisions of the Act by the National Commission for Protection of Child Rights and State Commissions for Protection of Child Rights. The Act has also defined the facts like qualification and experience of the translators, interpreters, special educators, experts, arrangement for protection and care at times of emergencies and emergency treatment of child as well as the Compensation amount that is payable to any victim of sexual abuse.

Question No. 19: Whether documentation or magisterial requisition be demanded in the emergency medical facility to the child?

Answer: The Act has also made it clear that under situations in which the child who is being taken for the medical facility on an emergency factor no documentation or magisterial requisition would be demanded before the treatment.

Question No. 20: Is there any compensation awarded to the subject as the consequence of the abuse?

Answer: The Rules laid down in the Act also had defined the criterion of awarding the compensations by the special court that includes loss of educational and employment opportunities along with disability, disease or pregnancy suffered by the subject as the consequence of the abuse. This compensation would be awarded at the interim stage as well as after the trial ends.

Question No. 21: Why such act was required in India?

Answer: The Bill which remained pending for a long time is a necessity in a country where 40 percent of the population is below the age of 18. Also, in the absence of stringent laws against Child Sexual Abuse (CSA), over 53 per cent children surveyed in 2007 stated that they had experienced one or more forms of sexual abuse.

Question No. 22: Is disclosing the name of the child in media is punishable?

Answer: Disclosing the name of the child in the media is a punishable offence, punishable by up to one year.

Question No. 23: Is reporting of the commission of the crime mandatory?

Answer: In keeping with the best international child protection standards, the Act provides for mandatory reporting of sexual offences and is made under sec-21 of the POCSO Act

## 7.8 Know Your Fundamental Rights

### What are fundamental rights?

Certain rights are known as fundamental rights, which every citizen of India possesses as a human being. They are natural rights. They determine other rights. They are absolutely necessary for the development of every person.

### Why are fundamental rights necessary?

Fundamental rights are essential to protect the rights and liberty of citizens against encroachments by the government. They are made to control the powers of the Government, Legislature and the Executive.

### What do the fundamental rights represent?

They represent the basic value cherished by the people of India. They are created/designed to protect the dignity of the individual and create conditions in which every human being can develop his/her personality to the fullest extent.

### Why these rights are considered fundamental?

They are most essential for the attainment, by the individual of his full intellectual, moral and spiritual status. The denial of these rights will hamper the moral and spiritual growth.

### Where do we find the fundamental rights?

In part III of the Constitution of India.

### How are fundamental rights classified?

They are classified as follows:

- Right to Equality (Articles 14-18)
- Right to Freedom (Article 18-22)
- Right against Exploitation (Articles 23-24)
- Right to Freedom of Religion (Articles 25-28)
- Right to Culture and Education (Articles 29-30)
- Right to Constitutional Remedies (Article 32)

## 7.9 Equality Before Law (Articles 14-15)

### What is guaranteed by Article 14?

Article 14 guarantees that the State (Government and its agents) should not deny any citizen equality before law or equal protection of law within the territory of India.

### What is guaranteed by Article 15?

The State should not discriminate against any citizen on the grounds of religion, race, caste, sex and place of birth.

- Every person has the right to access to shops public restaurants, hotels and places of public entertainment or to use wells, tanks, bathing ghats, road and places of public resort maintained out of state fund or dedicated to the use of general public.
- State can make any special law for the development of any socially and educationally backward class of citizens or for the Scheduled Castes and the Scheduled Tribes.



**What is guaranteed by Article 16?**

Equality of opportunity for all citizens in public (government) employment or appointment to any office of the State.

Can the State make any law for reservation of appointment or posts or in matters of promotion for the benefit of any backward class of citizens or SCs/STs who are not adequately represented in the services under the State?

Yes.

**7.10 Abolition of Untouchability (Article 17)****What is abolished by Article 17?**

The practice of untouchability in any form.

Under which laws can a person be punished for committing the offence of Intouchability?

1. The Protection of Civil Rights Act, 1955
2. The Atrocities of Scheduled Castes and Scheduled Tribes (Prevention) Act, 1989.

**7.11 Abolition of Titles (Article 18)****What does Article 18 prohibit?**

This Article prohibits the State from conferring titles on citizens (except military or academic untouchability) as well as accepting titles from foreign States.

**7.12 Right to Freedom (Article 19)**

What are the rights regarding freedom guaranteed to all the citizens by Article 19?

- Right to freedom of speech and expression
- Right to assemble peacefully and without arms
- Right to form associations or unions
- Right to move freely throughout the territory of India
- Right to reside and settle in any part of India
- Right to practice any profession, or to carry on any occupation, trade or business

Can the State make reasonable restrictions on the above freedoms?

Yes. The State can make laws to impose reasonable restrictions on the above freedoms on the grounds on the grounds of the sovereignty and integrity of India, the security of the State, friendly relationship with foreign State, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

**7.13 Protection from Illegal Conviction (Article 20)****Can any person be convicted and punished except for committing an offence (crime)?**

No. A person can be convicted and punished only for violating a law in force.

**Can a convicted person be given a penalty more than what is prescribed under the law?**

No.

**Can an accused person be forced by the police to confess the truth against him?**

No.

## 7.14 Protection of Life and Personal Liberty (Article 21)

### What is guaranteed by this Article 21?

Right to live with human dignity and personal liberty.

### Can a person be deprived of his life or personal liberty except according to the procedure established by law?

No.

## 7.15 Right to Primary Education (Article 21-A)

### What is guaranteed by this Article?

Right to free and compulsory primary education to every child between 6-14 years of age.

## 7.16 Protection Against Illegal Arrest and Detention (Article 22)

### What are the rights of an arrested person?

- Right to know the reasons for arresting
- Right to get the opportunity to choose and consult a lawyer to defend him
- Right to be produced before the nearest magistrate within 24 hours of his arrest if police plans to keep the accused in police custody after 24 hours of his arrest.

## 7.17 Right Against Exploitation (Article 23-24)

### What is prohibited by Article 23?

- Trafficking (buying and selling) of human beings for immoral purpose
- Beggar, (bonded labour) and other similar forms of forced labour

## 7.18 Which Laws can Punish the above Offences?

- The Minimum Wages Act, 1948
- The Bonded Labour Abolition Act, 1976
- The Immoral Traffic Prevention Act, 1986

## 7.19 What is prohibited by Article 24?

Children below 14 cannot be employed to work in any factory or mine, or engaged in any other dangerous employment.

## 7.20 Right To Freedom of Religion (Article 25-28)

### What are the rights guaranteed to all people under these Articles?

- Freedom of conscience
- Right to freely profess, practice and propagate ones religion
- Right to establish and maintain Institutions for religious and charitable purposes
- Right to manage its own affairs in matters of religion
- Right to own and acquire movable and immovable property
- Right to administer such property in accordance with law

**Can the State impose restrictions on religious freedom?**

Yes. On the grounds of public order, morality, health and other provisions of Part III of the Constitution.

**What is the special privilege of Sikhs?**

Sikhs can wear turbans and carry kirpans

**Who are considered as members of Hindu religion for the purpose of temple entries?**

All individuals professing the Sikh, Jain or Buddhist religion.

**Can the State impose taxes on citizens for the benefit of a particular religion?**

No.

**Is an educational Institution wholly maintained by State funds allowed to provide religious instructions to students?**

No.

**Can an educational Institution established by a religious trust or endowments for the purpose of giving religious instructions impart religious instructions to students?**

Yes.

**7.21 Cultural and Educational Rights of Minorities (Article 29 and 30)****Who are minorities in India?**

Minorities based on language and religion.

**What is the basis of determining minorities?**

Minorities are determined by the population of a State.

**What are the Constitutional rights of minorities?**

- Right to establish and administer educational institutions of their choice
- Right to be ensured by law that the amount fixed for taking over of property of minority would not restrict or abrogate the right guaranteed under Article 30(1)
- Right to take legal action against discrimination made by the State in granting aid to educational institutions on the ground that it is managed by a religious or linguistic minority
- Right to take reasonable fees
- Right to admit students of minority community on the basis of merits
- Right to appoint teacher of its choice provided they have required qualifications fixed by the State.
- Right to take disciplinary action against employees in accordance with the principles of natural justice

**7.22 Right to Constitutional Remedies (Article 32)****What is guaranteed by Article 32?**

The Right to move the Supreme Court for the enforcement of any of the fundamental rights guaranteed by Part III of the Constitution. For the same purpose a person may move to High Court under Article 226 of the Constitution.

### What are the powers of the Supreme Court or the High Courts under the above Articles?

Power to issue directions, orders or writs (habeas corpus, mandamus, prohibition, quo warranto and certiorari) for the enforcement of any of the fundamental rights.

### What is the importance of knowing fundamental rights?

Knowledge of fundamental rights will empower us to affirm and protect them as well as to enforce them.

## 7.23 Fundamental Right to Life and Personal Liberty (Article 21)

- Q. What is the importance of human life?
- A. Human life is the most precious and greatest gift of God to every person and society. It is the responsibility of every person, family, community and government to preserve it and develop it to its fullness. If human lives are destroyed society will be destroyed,

### Most Important Fundamental Right

- Q. What is the most important fundamental right guaranteed by the Constitution of India to every Citizen?
- A. Article 21 of the Constitution. It guarantees that "no person shall be deprived of his life or personal liberty except according to the procedure established by law".
- Q. Against what action does this Article guarantee protection?
- A. It guarantees protection against executive and legislative actions.
- Q. **What are the conditions to be fulfilled to deprive a person of his life and personal liberty?**
- A. First, there must be a law; secondly there must be a procedure prescribed by that law and thirdly, that the procedure must be just fair and reasonable.

### Right to life

- Q. How did the Supreme Court of India define "the right to life"?
- A. In a case filed by Maneka Gandhi, the Supreme Court said that "right to live" is not merely the right to physical existence but it includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing ourselves in diverse forms, freely moving and mixing and communicating with fellow human beings. (AIR 1978 SC 587).

### Right to livelihood

- Q. Does the right to life include right to livelihood?
- A. Yes. In the case of Olga Tellis Vs Bombay Municipal Corporation (AIR 18866 SC 180) the Supreme Court affirmed that right to life includes right to livelihood.
- Articles 39 (a) and 41 also require the government to secure for the citizens adequate means of livelihood and the right to work.

### Directive Principle of State Policy

#### Article 39

- Q. What are the principles of State Policy to be followed by the State (Government) under Article 39 to secure health and adequate means of livelihood to citizens, especially the poor?
- A. "The State shall, in particular, direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means to livelihood; that the ownership and control of the material resources of the community are so distributed, at best, to subserve the common good; that the operation of the economic system does not result in the concentration of wealth and means of production, to the common detriment; that there is equal pay for work for both men and women; that the health and strength of workers, men and women, and the tender age children are

not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength; that children are given opportunities and facilities to develop in a health manner and in conditions of freedom and dignity; that childhood and youth are protected against exploitation and against moral and material abandonment".

Q. What is the objective of this Article?

A. This Article has been described as having the object of securing a welfare state and may be utilized for construing provisions as to fundamental rights.

### Means of Livelihood

Q. Are the hawkers (vendors) entitled to ask the government to provide them with suitable place (site) to carry on their trade?

A. Hawkers have no fundamental right to carry on business on the public streets. However, under Article 39(a) it is the duty of State to provide alternative site to them to carry on their trade. So they are entitled to ask for an alternative site.

### Right to Privacy

Q. Is the right to "privacy" guaranteed by Article 21 of the Constitution?

A. In *Autoshankar's* case, the Supreme Court held that the "right to privacy" is guaranteed by Article 21 of the Constitution. A citizen has a right to safeguard the privacy of his own family, marriage, procreation, motherhood, child-bearing and education among other matters.

Q. Can anyone publish anything concerning the above matters without his consent?

A. No. If he does so, he would be violating the right of the person concerned and would be liable for damages.

### Right to Health and Medical Care

Q. Is right to health and medical care a fundamental right?

A. Yes. In a case the Supreme Court held that right to health and medical care is a fundamental right under Article 21 of the Constitution as it is essential for making the life of the workman meaningful and purposeful upholding his dignity. The Court further said that the right of life in Article 21 includes protection of the health and strength of the worker, right to livelihood, a better standard of life, hygienic conditions in the work place and leisure.

### Professional Obligation of Doctors

Q. What is the professional obligation of doctors to give medical aid to the injured?

A. All doctors whether government or private have a professional obligation to give medical aid to the injured to preserve life without waiting for legal formalities to be complied with by police under the Criminal Procedure Code.

The Supreme Court in *Paramananda Katara Vs. Union of India* (AIR 1889 SC2039) said that Article 21 puts the duty on the State (government) to preserve life. So it is the duty of those who are in charge of the health of the community to preserve life. No law or State action can interfere to delay the discharge of this paramount obligation of the members of the medical profession.

### No Right to Die

Q. Does the "right to life" include "right to die"?

A. No. Held the Supreme Court in *Smt. Gian Kaur Vs. State of Punjab*. (AIR 1996 SC 946)

Q. Do people have the right to commit suicide?

A. No. Attempt to suicide (Section 309 IPC) is punishable.

### Prisoner's Rights

Q. Are the convicted prisoners in jails entitled to the protection guaranteed under Article 21?

A. Yes. Every convict is entitled to the precious right guaranteed by Article 21. He cannot be deprived of his life or personal liberty except according to procedure established by law.

- Q. What is the fundamental freedom lost by a convict in a jail?
- A. The right to move freely anywhere in India and the right to "practice" any profession, occupation, etc.
- Q. Do prisoners have fundamental rights for speedy trials and legal services to preserve their life and personal liberty?
- A. Yes.

### **Right Against Inhuman Treatment**

- Q. Is the use of "third degree methods" (Torturing) by police violative of Article 21?
- A. Yes. Every torture of a arrested person or a convicted person by police or jail authorities is violation of his Fundamental Right under Article 21.
- Q. Has the affected person the right to file criminal and civil case against torture?
- A. Yes. A criminal case can be filed to punish the guilty official and a civil case to demand compensation for causing damage to his body and person.

### **Right of a Condemned Prisoner for Procedural Fairness**

- Q. Is a person sentenced to death also entitled to procedural fairness till his last breath of life?
- A. Yes.

### **Right to Maintenance and Improvement of Public Health**

- Q. Is right to maintenance and improvement of public health included in the right to life with human dignity enshrined in Article 21 of the Constitution?
- A. Yes. In *Vincent Panikulagara Vs. Union India* [(1987)2SCC165] the Supreme Court observed that a healthy body is the very foundation of all human activities. In a welfare State it is the obligation of the State (government) to ensure the creation and sustaining of conditions congenial to good health.

### **Personal liberty**

- Q. What is understood by "personal liberty"?
- A. It means freedom of the physical body, freedom from arrest and detention from false imprisonment or wrongful confinement.
- Q. What did the Supreme Court about "personal liberty" in the case of *Maneka Gandhi Vs. Union of India*?
- A. In this case Justice P.N. Bhagavati observed: "The expression "personal liberty" in article 21 is of widest amplitude and it covers a variety of rights which go to constitute the personal liberty of man and some of them have raised to the status of distinct fundamental rights and given additional protection under Article 19".

### **Stress on Procedural safeguards**

- Q. Should every court insist on the procedural safeguards to protect the right to life and personal liberty?
- A. Yes. the legal procedure must satisfy the requirement of natural justice, i.e. procedure must be just, fair and reasonable.

### **Right Against Illegal Arrest**

- Q. Do Article 21 and 22 guarantee protection to a person from illegal arrest?
- A. Yes.
- Q. Is a person liable to arrest merely on suspicion of committing an offence?
- A. No. There must be some reasonable justification in the opinion of the police officer making the arrest that such arrest was necessary and justified.

### **Rights Against Arbitrary Arrest and Detention**

- Q. What are the rights of an arrest person?
- A. The right to know the grounds (reasons) of arrest and to prepare for his defense; the right to consult a lawyer of one's

choice; the right to be produced before the Magistrate for sanction if the arrested person has to be detained more than 24 hours; the right to see the warrant if arrested with a warrant from the Magistrate; the right to get bail from the police station if arrested for a bailable offence; the right to apply in a competent court for bail in a non-bailable case.

### Emergency and Article 21

- Q. Can the enforcement of the right to life and liberty under Article 21 be suspended by the Presidential Order?
- A. No. the 44th amendment of the Constitution has amended Article 359. This amendment was made to prevent the suspension of Article 21 during emergency.

### Right to Claim Compensation for Violation of Article 21

- Q. Can the Constitutional Courts (Supreme Court and High Courts) order payment of compensation to victims of state violence?
- A. Yes. In a judgment in Rudal Shah Vs. State of Bihar [(1983)4SCC 141: AIR 1984 SC 1026] the Supreme Court held that the Court has power to award monetary compensation in appropriate cases where there has been violation of the Constitutional rights of citizens. Eg. Riots, terrorist attack, torture by police, unjustified shooting and killing of people by government agencies, causing injury or death by gross negligence of government officials, illegal arrest and detention etc.

### Right to Primary Education (Article 21 A)

- Q. What was the judgment of the Supreme Court in "Capitation Fee case" (Mohini Jain Vs. State of Karnataka [(1982)3 SCC 666] regarding the right to primary education?
- A. In this case, Court said "the right to education flows directly from the right to life. The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education.

### Insertion of Article 21 A in the Constitution

- Q. What amendment was made in the Constitution by Parliament after the judicial pronouncement of the Supreme Court?
- A. Parliament made an amendment in the Constitution and inserted Article 21 A to provide for free and compulsory elementary education as a fundamental right of every child between 6-14 years of age.

## 7.24 Rights of Wife and Children for Maintenance

### Rights for Maintenance

- Q. Do women and children have the rights for maintenance?
- A. yes.
- Q. Which law deals with the rights for maintenance?
- A. Section 125 to 128 (Chapter IX) of the Code of Criminal Procedure, 1973.

### Object of Section 125

- Q. What is the object of Section 125?
- A. To promote social justice; To protect women, children and old and infirm poor parents according to the constitutional goals; To help a man to perform his duties to maintain his wife, children and parents so long as they are unable to maintain themselves.

### Statutory right

- Q. Is the right to recover maintenance a statutory right?
- A. Yes. The right to recover maintenance is a statutory right (right based on the law). Any agreement which takes away this right is opposed to public policy and as such cannot be given effect to.

**Court**

- Q. Which court will decide matters related to maintenance?
- A. First class Judicial Magistrate's Court or a Family Court.

**7.25 Provisions of Section 125****Rights of wife**

- Q. Who has the legal duty to maintain a legally married woman who is unable to maintain herself?
- A. Her husband, if he has sufficient means.
- Q. Can a wife who has sufficient economic means claim maintenance from her husband?
- A. No.

**Rights of Children**

- Q. Which children can claim maintenance from their father?
- A. Every minor child whether legitimate or illegitimate; Unmarried child, if he/she is unable to maintain himself/herself; every child (legitimate or illegitimate) who has attained majority but is unable to maintain itself due to any physical or mental abnormality or injury.

**Proof**

- Q. What is to be proved to get maintenance for a child from his father?
- A. Birth Certificate of the child; Proof of paternity (fatherhood) of the child; The child's father has sufficient means to maintain himself; That the child was neglected by its father or he refused to maintain the child.

**Rate of maintenance**

- Q. How much money can be ordered by the Magistrate for maintenance?
- A. A monthly rate as such as the Magistrate thinks fit. The amount may also depend on the economic (financial state) capacity of the husband or the father of the child.

**Interim maintenance**

- Q. Is the Magistrate entitled to order an interim (temporary) maintenance to the wife or child during the pendency of the proceeding regarding monthly allowance for maintenance?
- A. Yes.
- Q. Can he also order the husband of the wife or the father of the child pay the expenses of such proceeding?
- A. Yes.

**Enhancement of maintenance**

- Q. Can the quantum (amount) of maintenance as already ordered by the Court be reviewed?
- A. Yes, with the change of circumstances. Increase of the earnings of the husband is a ground for enhancement of maintenance.

**Date of payment of maintenance**

- Q. From what date should the maintenance be payable?
- A. Maintenance or interim maintenance and express of proceeding is payable from the date of the order, or if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceedings.



### **Conditional ensurance to maintain wife and child**

- Q. Is it permissible for a person to ensure the court that he will maintain his wife or child on condition of her living with him?
- A. Yes.
- Q. What should the Magistrate do if she refuses to live with him?
- A. He must consider the grounds of refusal stated by her and make appropriate order.

### **Ground of second marriage**

- Q. Is it a just ground for a wife to refuse to live with her husband if he contracts another marriage with another woman or keeps a mistress?
- A. Yes.

### **No right for maintenance**

- Q. When is a wife not entitled to receive any maintenance from her husband?
- A. When she lives in adultery; When she refuses to live with her husband without sufficient reason; When they are living separately by mutual consent.
- Q. Can the Magistrate cancel the earlier order for maintenance when the above facts are proved?
- A. Yes.
- Q. Can a wife claim maintenance for herself and children?
- A. Yes

### **Husband "having sufficient means"**

- Q. Who has to prove that the husband lacks sufficient means to maintain his wife and children?
- A. The husband.

### **"Unable to maintain herself"**

- Q. Is the statement of the wife that she was unable to maintain herself enough to get maintenance?
- A. Yes. It would be for the husband to prove otherwise.

### **Just grounds**

- Q. What are the just grounds for the wife's refusal to live with her husband and yet to demand maintenance?
- A. Impotency of the husband; Inability of the husband to discharge his martial obligations; Physical and mental cruelty; Persistent demands for dowry; Unreasonable threats; Ill- treatment by husband; Apprehension (fear) of the wife that her life is not safe in the company of her husband.

### **Presumption of marriage**

- Q. Can marriage between parties be presumed if they lived as husband and wife?
- A. Yes.

### **Second wife can not claim maintenance**

- Q. Can the second wife claim maintenance if her marriage is null and void?
- A. No.

### **"Mother"**

- Q. What is the meaning of the expression "mother"?
- A. It means a biological mother or natural mother, who has actually given birth to the child.

**"Wife"**

- Q. What is included in the term "wife" in this law?
- A. "Wife" includes, a woman who has been divorced by, or has obtained a divorce from her husband and has not remarried.

**Right of a Divorced wife**

- Q. Has a divorced wife a right to claim maintenance allowance?
- A. Yes. Divorced wife's right to maintenance continues unless the parties make adjustments and come to terms regarding the amount or the right to maintenance.
- Q. How long a woman divorced by her husband continues to enjoy the status of a wife for the purpose of claiming maintenance allowance from her ex-husband?
- A. So long as she is unable to maintain herself and has not remarried.

**Place to initiate legal proceeding**

- Q. Where can legal proceedings under Section 125 be taken against any person?
- A. It can be taken in any district (a) where he resides, or (b) where he or his wife resides, or (c) where he last resided with his wife, or with the mother or the illegitimate child.

**Ex- parte decision**

- Q. what should the magistrate do if he is satisfied that the person against whom an order for payment is proposed to be made is willfully avoiding service, or willfully neglecting to attend the court?
- A. Then the Magistrate may proceed and decide the case ex-parte (in the absence of the other person).
- Q. Can such an ex-parte order be set aside by the Magistrate?
- A. Yes.
- Q. When?
- A. When the person against whom an ex-parte decision was made, submits an application to the Magistrate within three months, showing good cause for his absence.

**Enforcement of order of maintenance**

- Q. To whom should the copy of the order of maintenance be given?
- A. To the person in whose favour it is made or to his guardian, if any.
- Q. Can any fee be charged for it?
- A. No
- Q. Who has the power to enforce such an order?
- A. any Magistrate in my place, where the person against whom it is made may be.

**Punishment**

- Q. What can the Magistrate do if any person ordered to pay maintenance fails without sufficient cause to comply with the order?
- A. Then the Magistrate may issue a warrant for levying the amount due in the manner provided for levying fines.
- Q. Can he also sentence (punish) such person?
- A. Yes, he can sentence such person, for the whole or any part of each other months allowance for the maintenance or the interim maintenance and expenses of proceedings, remaining unpaid.
- Q. Can the defaulter be arrested and jailed?
- A. Yes. After the execution of the warrant the defaulter can be imprisoned up to one month or until the payment is made.

### **Nature of Relief**

- Q. What is the nature of relief sought under these Sections?
- A. Under these Sections relief to be given is of a civil nature. But the criminal procedure is applied for the purpose of summary and speedy trial in the interest of society so that a helpless wife and children are not left on road.
- Q. Which Court has the jurisdiction to decide questions related to guardianship, custody and paternity of a child?
- A. A civil Court.
- Q. When should the application for interim maintenance be disposed of by the Magistrate?
- A. As far as possible, it must be disposed of within sixty days from the date of the service of notice of the application to the concerned person.

### **Limit to quantum of maintenance**

- Q. Is the Court free to award any amount of maintenance?
- A. Yes. The Court is free to award any amount, which it thinks just and proper on the facts and circumstances of each case.

### **Personal law**

- Q. Should the Magistrate look into the personal law of each religions group to decide the validity and legality of the marriage of the applicant for maintenance?
- A. Yes.
- Q. For validity of marriage according to Hindu Law, should certain religious rites be performed?
- A. Yes. Invoking the fire and performing Saptapady are the basic requirements for a traditional marriage.
- Q. Can there be legal marriage according to customs which do not insist on performance of such rite/
- A. Yes.

## 7.26 Rights Against Dowry

### Evil of Dowry Practice

- Q. What is the custom of dowry and what is its effect on women and families in India?
- A. The custom of dowry started with the giving of presents to the young woman entering upon marriage by her immediate family and relatives as an expression of love and affection. But in course of time it became a monstrous evil which involved the question of family prestige and social status. The end result is anxiety for many parents with marriageable daughters that their daughters would not be married off because of lack of means to provide dowry. Even where marriages take place, the young bride uprooted from her parental home, lives in a real hell amidst the jeering, harassment and physical violence from her in-laws for bringing less dowry than acceptable to their greed. In many cases the poor woman is driven to suicide; or else, she is burnt alive. Every year, thousands of innocent young women in India die this way, while the lives of many more thousands are made unbearable to themselves.

### Concept of Marriage

- Q. What is the spiritual concept of marriage?
- A. In most religions, marriage is considered a sacramental union of a man and a woman. The essence of marriage is love and self-sacrifice.

### Effect of dowry

- Q. What is the effect of dowry-practice on women?
- A. The practice of dowry makes a woman an unwanted thing. And because her worth is equated with the amount of wealth she brings to her husband's family, this evil practice degrades women and violates the principles of equality enshrined in our Constitution.

### Government's response

- Q. How did the Government of India try to control this evil practice?
- A. By passing the Dowry Prohibition Act 1961.
- Q. How many times this Act was amended (modified) by the Government to make it more effective?
- A. Twice. In 1984, and 1986.

### Measures to be taken

- Q. What are the measures to be taken to make this law effective and to root out this evil?
- A.
- Educate the public about the bad effect of dowry in society and the provisions of the law.
  - Make the enforcing machinery more effective by ensuring greater participation of public spirited persons and organizations in the social reform.
  - The burden of providing the offence of dowry must be made on both the prosecution and the defense equally.
  - The magistrate dealing with the cases must be an active partner in finding out the truth.
  - Start mobile family courts to try social crimes.
  - Social animators must make efforts to raise legal awareness among the common people and to organize the youth to fight this social evil.

### The Dowry Prohibition Act, 1961

- Q. What is the aim of the Act?
- A. The law enacted in 1961 and its amendments passed in 1984 and 1986 aim to curb the practice of dowry by punishing the guilty.

Q. What is 'dowry'?

A. Dowry means any property of valuable security given or agreed to be given either directly or indirectly by one party to a marriage to the other party to the marriage or by the parents of either party or by any other person to either party to the marriage. It may be given at or before or any time after marriage in connection with the marriage of the said parties.

Q. Does dowry includes dower or 'mahr' in case of person to whom the Muslim Personal Law (Shariat) applies?

A. No.

### Application of the Act

Q. Does this Act apply to all communities in India?

A. Yes. This Act applies to all communities irrespective of the religion. It equally applies to Hindus, Muslim, Christians, Parsis, Sikhs, Buddhists and Jains or to any and every person who performs his/her marriage in India and is found guilty of dowry offence.

### Penalty

Q. What is punishable under this Act?

A. Giving or receiving dowry.

Q. Is it a criminal offence?

A. It is a criminal offence and is punishable.

Q. What punishment can be imposed on the guilty for giving or receiving dowry?

A. Imprisonment upto five years and fine not less than Rs. 15000/- or the amount of the value of the dowry whichever is more.

Q. Has the court the power to grant less punishment for adequate and special reasons?

A. Yes, but reasons for the same must be recorded in the judgement.

### Giving of Gifts

Q. Is giving of presents (gifts) to the bride or bridegroom at the time of marriage punishable?

A. No, if the gifts are given freely or voluntarily.

Q. Should all the presents be listed?

A. Yes. Also the giving of such presents should be proportional to the financial capacity of the giver.

### Demanding Dowry

Q. Is demanding dowry directly or indirectly punishable?

A. Yes.

Q. What punishment can be imposed on the guilty?

A. Imprisonment for a minimum six months or maximum two years and a fine upto Rs. 10,000.

Q. Can the court reduce the period of imprisonment to below six months for adequate and special reasons?

A. Yes. Then the court must record the reasons in the judgment. (Section 4)

### Advertisement

Q. Is giving an advertisement regarding dowry an offence?

A. Yes. Section 4A of the Act prohibits any publicity regarding dowry offers through newspaper, periodicals, and journal or through other media.

Q. What punishment can be imposed on the guilty person?

A. Imprisonment from six months (minimum) upto five years, or fine upto Rs. 15000/-. If less punishment is given for adequate and special reason then it must be recorded in the judgment.

### Contract or agreement

- Q. Is an agreement or contract to give or receive dowry valid?
- A. No. Such an agreement or contract is invalid and cannot be legally enforced.

### Maintenance of lists

- Q. What are the rules regarding the maintenance of the list of presents?
- A. 1. The bride must maintain the list of presents given to her at the time of marriage.  
 2. The bridegroom must maintain the list of presents received by him.  
 3. These lists must be prepared at the time of marriage or as soon as possible thereafter.  
 4. They must be in writing.  
 5. They must contain the following:
- A brief description of each present;
  - The name of the giver;
  - Its approximate value;
  - His relationship to the receiver of the gift;
  - The signatures (or thumb impression, if illiterate) of both the bride and the bridegroom.

Attesting this list by any of the relatives present at the marriage is at the option of the bridegroom.

### Stridhan

- Q. What is stridhan?
- A. Stridhan is regarded as the property given to the bride (daughter) voluntarily at the time of marriage as part of share in her parent's property. It can be the property which the wife owns prior to her marriage and brought into the matrimonial house.
- Q. Is stridhan the absolute property of the wife, even if the husband was given the possession of the same?
- A. Yes. So if required wife can file a criminal case or a civil case to recover her stridhan.

### Denial of Conjugal Rights

- Q. Can the husband deny the conjugal rights and privileges to his wife and refuse to look after her for not bringing more dowry?
- A. No. The guilty husband can be punished for it.
- Q. What punishment can be imposed for it?
- A. Imprisonment upto one year and fine upto Rs.5000/-.

### Cognizance of Offence

- Q. Which court is competent to try offences under this Act?
- A. A Metropolitan Magistrate or a Judicial Magistrate of the first class. (Section 7)
- Q. Who are competent to make a complaint to the court?
- A. • A police officer;  
 • Any person affected by the offence or parent or other relatives of such person;  
 • Any recognized welfare institution or organization. (These are social welfare institutions or organizations recognized for this purpose by the Central or State Government).  
 • A court also can initiate a trial on the basis of its own knowledge of the facts of the offence. (Section 7)
- Q. Is dowry a cognizable offence?

- A. Yes. Dowry is considered a cognizable offence for the purpose of investigation. That means the police officer can investigate the case as soon as a complaint is lodged in the police station. But he has no power to arrest the accused person without a warrant or without an order of a Magistrate.
- Q. Is an offence under this Act bailable or non-bailable?
- A. Every offence under this Act is non-bailable. It means the accused person has no legal right to get bail. Only a Magistrate can grant him bail on application, using his discretion. Offences under this Act are also non-compoundable. The complaint cannot withdraw the case on compromise with the opposite party.
- Q. Is there any period of limitation for filing complaint?
- A. No. There is no limitation of period whatever.

### **Burden of Proof**

- Q. Who has the legal duty to prove the guilt in dowry offence?
- A. The burden of proving that he has not committed an offence under the Dowry Act is on the accused. (Section 8-A)

### **Cruelty is a Cognizable Offence**

- Q. Is cruelty to a married woman a cognizable offence?
- A. Yes. To make it cognizable offence information about the offence must be given to an officer in charge of the police station by the woman or by any person related to her by blood, marriage or adoption, or by a specified public servant (government officer).
- Q. Is it a bailable offence?
- A. No. It is a non-bailable offence. The offender has no right to get bail. He can get bail only on application to the Magistrate and at the latter's discretion.

### **Dowry Death**

In 1986 through an amendment a new Section 304B was added to the Indian Penal Code to deal with dowry death cases.

- Q. What is Dowry Death?
- A. If a woman dies due to burns or bodily injury and in suspicious circumstances within seven years of her marriage and if it is shown that just before her death she was subjected to cruelty or harassment by her husband or his relatives in connection with demands for dowry such will be known as "dowry death". In this case her husband or his relatives will be considered to cause her death. (Section 304-B IPC)

### **Punishment**

- Q. What is the punishment for dowry death?
- A. A guilty person can be jailed from seven years to life imprisonment (20 years).
- Q. How serious is the offence of dowry death?
- A. Causing dowry death is a cognizable offence, and a police officer can arrest the accused person without a warrant. It is also a non-bailable offence, the granting of bail being left to the discretion of the Magistrate.
- Q. Which court can try an offence of dowry death?
- A. Only a Court of Session can conduct a trial for the offence of dowry death.
- Q. Is there any time limit for the offence of "dowry death"?
- A. Yes. Within seven years of the victim's marriage.

## 7.27 Ethical Guidelines for Counselling Women Facing Domestic Violence

### Section I: Ethical Principles

#### I. Principle of Autonomy: clients have a right to make decisions about all spheres of their life and circumstances.

It is the responsibility of the counsellor to enhance the ability of the client to act autonomously and enable her to promote her well-being. This includes respecting the client's right to decline or discontinue or resume counselling at any point. The counsellor should strive to promote an egalitarian counselling relationship in which the client is recognized as an expert regarding her life situation. Counsellors should not knowingly or inadvertently impose their own views on the client.

#### II. Principle of Non-maleficence: it is a counsellor's duty to cause no harm to the clients by way of an act of commission or omission.

The principle is based on the assumption that any intervention including counselling carries some risk to clients and to society. The interventions need to be informed by a sound analysis of the consequences of every action and should be based on a risk-benefit analysis. Harm could include physical, material, social, legal, sexual and/or psychological. It is the counsellor's duty to ensure that no act, suggestion or behaviour of the counsellor, by commission or omission, is harmful to a client. The principle also necessitates that counsellors refrain from blaming the survivors for the abuse they have suffered, for this may be potentially harmful to them. Further, minimising risk to the client also means that interventions need to be contextualized in the socio-economic, political and cultural backgrounds and the operating patriarchal norms of women's lives.

#### III. Principle of Beneficence: it is a counsellor's duty to do good and actively work towards the best interests of the clients.

Every act of the counsellor should be for the benefit of the client. It is the counsellor's duty to act positively and proactively towards anticipating and preventing harm. The principle of beneficence is not just about reducing or minimising harm but also to positively and proactively working towards the best interests of the clients.

#### IV. Principle of Veracity and Fidelity: counsellors should be honest and loyal in a counselling relationship

Veracity requires that clients are not misled about any aspect of counselling or about expectations from it. Fidelity refers to the notion of loyalty and commitment to the client. This is essential so that no other interests come in the way of the client's best interest.

#### V. Principle of Justice: counsellor should be fair and not discriminate on the basis of class, caste, marital status, sexual orientation, religion, community, disability, etc.

Counsellors should not be judgmental of their clients. Each client's situation must be treated with equal respect. Counsellors need to be aware of the various forms of discrimination in society and how these impact the lives of their clients. Vulnerabilities resulting from social, economic, and other discrimination should be clearly acknowledged so that special measures may be put in place when necessary. Social justice recognizes the impact of the overall environment on discrimination and subjugation in society. The principle entails working to bring about overall change in societal attitudes by working directly in the community or on advocacy issues. This principle is also applicable for fostering fairness in working relationships where counsellors work as a team.



## **SECTION II: Application and Translation of Ethical Principles**

### **A. Informed Consent**

1. Informed consent is the voluntary and informed participation of a client in counselling. It implies that the client is given accurate information, verbally and in print, in a language understood by her on the basis of which she may make a decision on whether or not to participate in counselling. The counsellor must make every effort to ensure that the client understands in full all the information provided to her before she gives her consent.
2. The information explains the nature and process of counselling and the anticipated outcome; details about the counsellor and the counselling centre (where relevant), its purposes, goals, services provided, procedures employed, fees (if any), the sphere of confidentiality (that is, people who may have access to information such as supervisors, senior colleagues or even other team members). Circumstances, when persons beyond the sphere of confidentiality need to be consulted, should be communicated. Client consent is also required for all forms of recording of counselling sessions, viz., note taking and recording, as well as the presence of a third party besides the counsellor (such as that of a supervisor in the counselling session), and the purpose for the same needs to be explained. The client also has a right to deny such access or recording; a right that must be made known to her.
3. Informed consent is essential to protect the clients; not the counsellor or the institution. Counselling may be recommended and clients may be referred, but they cannot be forced to undergo counselling. They may accept or decline counselling. Where the individual declines to seek counselling services or chooses to discontinue the process at any stage, she should be informed that she can come back any time to resume without fear of being chastised or discriminated against by the centre/ counsellors.
4. At all stages of the counselling process the client is encouraged to ask questions or articulate her discomfort about any aspect of the process. It is the counsellor's duty to examine the client's concerns.
5. Informed consent is not a one-point or one-time action. Such consent needs to be freshly sought every time there is a change in the conditionality's or context of counselling- whether it is the introduction of referral/person or a new feature of counselling.

### **B. Respect for Dignity of the Client**

1. Counsellors should be sensitive, non-judgmental, patient, and attentive.
2. Counsellors should recognize and acknowledge the huge step that the survivor of domestic violence is taking in seeking counselling services. Counsellors should respect and protect the dignity of the clients.
3. Counsellors should develop an attitude and outlook that is not judgmental, nor discriminatory. They should have a patient and encouraging approach so that the client is at no time hurried, harried or rushed. Counsellors should take particular care to give time and space to the client and refrain from overbearing and presumptuous expressions. Attentive listening is a must at all times. Counsellors should not be distracted during sessions, nor appear lax in their approach.
4. Counsellors must validate clients' experience of violence and trust her story.

### **C. Right to Privacy**

1. Clients have a right to a private space (so that no one can see or hear a counselling session) and privacy (absence of non-significant others) during counselling.
2. The client's request for the presence of a third party should be respected. The third party present might be a supportive relative, neighbour, friend or a co-worker whose presence might be a confidence-building measure. Domestic violence counselling involves intimate and traumatic sharing; the client must be offered the option of one-to-one counselling.
3. A counsellor is required to use her ingenuity to ensure privacy in counselling in delicate situations such as when perpetrators or unsupportive members of the natal family insist on being present at counselling sessions.
4. The client's right to privacy also means having a choice over how much and what information is shared with the counsellor. The client should not be forced or persuaded against her will or prodded unduly for information. The counsellor too should only seek as much information as is essential and relevant to help the client through the counselling process.

## D. Confidentiality

1. The client has the right to expect that the information that she shares with her counsellor is protected and confidentiality is assured.
2. As a cardinal rule, no information should be shared with the perpetrators.
3. It is bad practice to engage in casual conversation about any client. Not only is it unprofessional and disrespectful of the client, but there is a potential for harm if confidential information gets inadvertently revealed.
4. Clients often require services beyond counselling. This necessitates appropriate referrals. Counsellors must protect confidentiality while making referrals and divulge only information relevant for the referral.
5. In exceptional situations, where the client is a threat to herself or others - as when she is suicidal, or may have expressed the urge to harm another individual - the counsellor has to assess the gravity of the threat. The counsellor should acknowledge feelings of helplessness and despair which are often associated with such ideation and enable the clients to overcome them. Counselling must communicate that the consequences of such an action could be fatal and can have an impact both on her and her children. Clients can also be encouraged to seek help from supportive relatives, friends, neighbours and co-workers (as identified by the client). They could be invited to a counselling session with the consent of the client. The client could also directly seek help from these significant others and even seek shelter with them till the urge to harm self or cause harm to another wanes. Under these circumstances, for the benefit and safety of the client, confidential information might need to be shared. Peer consultation in such situations is recommended.
6. All records of the client should be kept confidential and should not be accessible to anyone other than those within the sphere of confidentiality assured to the woman. The woman can seek access, if she so desires.
7. Clients should have a right to anonymity. When records are stored, used for peer review, transmitted electronically or used for any other beneficial purpose, it should be done in an anonymous manner.

## E. Dual and Multiple Relationships

1. Dual and multiple Relationships occur when the counsellor and the client have a relationship besides the counselling relationship. These could be when the client is also a friend, colleague, student, neighbour or even an employee. This is especially true in community-based counsellors and counselling centres. It is possible that counsellors may also be engaged in activities geared towards social change that are beyond one-to-one counselling. Interaction with the client, outside the counselling space, may become unavoidable and inevitable.
2. It is very important to recognize the existence of such relationships. Counsellors then have an additional responsibility towards protecting the interests and safety of the client.
3. When there is potential for a dual relationship, supervisors and experienced peers, amongst others, need to be consulted. A clear risk-benefit analysis needs to be made and presented to the client so that the client can make an informed decision. Referrals to a co-counsellor or another counselling centre may need to be considered.

## F. Boundaries

1. A boundary is the framework within which a counselling relationships functions. They are required, since boundaries set the parameters within which counselling services are delivered and ensure that relationships developing between client and counsellor are safe for the client. Boundaries typically include fee setting, length of a session, time of session, use of touch for comforting a client, and so on. These need to be defined by every counsellor and counselling centre, for use by the counsellor.
2. Any act of the counsellor that could lead to subjectivity or scope for exploitation, should be discouraged and discontinued. Counsellors should not accept gifts from clients. The client should be told the reason for this stand so that she does not feel offended or rejected.
3. Any physical, verbal or non-verbal conduct of a sexual nature or a conduct which may be construed as being of a sexual nature is prohibited.

## G. Power Differential

1. Counsellors wield a great deal of power; this may be because of differences in economic status, religion, education, caste, marital status, community or even sexual orientation. The power differential may become sharper when the

client trusts the counsellor with information of an intimate and sensitive nature leading to a feeling of increased vulnerability. Counsellors need to recognize and acknowledge this fact.

2. Skills, knowledge, training and competency should be used towards making the counselling relationship beneficial for the client.
3. Counsellors are duty-bound to strive to reduce client-counsellor power inequities while working with marginalized groups and with women facing domestic violence. They should aim to make the relationship more egalitarian and participatory where the counsellor is not just the "giver" and the client the "acceptor". Clients should be encouraged to contribute towards decisions regarding the course of counselling or even their expectations from counselling. Counselling and safety plans should reflect this.
4. In an organizational set up of teams of individuals, including counsellors, each member should promote ethical behaviour from peers and colleagues. Power differentials among team members need to be recognized and acknowledged and care should be taken to prevent these from being used to disadvantage members.

## H. Competency

1. There are three components of competency; competency with respect to expertise, emotional competency and cultural competency. All three are essential to not just fulfil the role of a counsellor effectively, but also to prevent harm.
2. Self-growth is a continuous process. Counsellors need to be well-informed and continuously seek required training in areas of expertise. This requires that the counsellors be aware of their own limitations of knowledge and (what), skills (how), judgment (when), and diligence (commitment). It also implies that there should be an accurate representation of one's qualifications and regular supervision must be sought.
3. Cultural sensitivity allows the counsellors to understand the trauma and coping mechanisms of clients in the context of caste, religion, marital status, age, sexual orientation and disability. Cultural competency allows counsellors to use this understanding and sensitivity to enhance the client's resistance to violence, but not to justify the violence.

## I. Supervision

1. Systematic supervision of the counselling process is essential to ensure the well-being and personal growth of the counsellors as it is for monitoring the process and outcome of counselling. It is the responsibility of every counsellor to seek regular supervision.
2. Supervision is critical to enhance expertise and effectiveness as counsellors. It helps the counsellor understand and best use the present guidelines and discuss ethical and other challenges as they arise in day-to-day practice in order to be able to provide the best possible service to clients.
3. In the case of counsellors attached to or working with an organisation, it is the organization's responsibility to arrange for supervision. Counsellors in private practice are required to organize their own supervision.
4. It is the responsibility of every supervisor to enhance the integrity of the counselling process and the promotion and protection of the rights of clients. A supervisor is bound by the same ethical responsibilities towards the client, as the counsellor.

## J. Follow-ups and Referrals

1. Women facing domestic violence often do not have much mobility outside the house. Given this, counselling sessions need to be set up at the convenience of the client. Clients may be contacted only at the address and/or phone number provided by her and only at the times that the client has indicated as being safe and suitable for her.
2. Referrals may come about when the client expressly asks for it or when the counsellor, assessing the client's needs suggests it. Referrals could be for legal assistance, shelter services, medical assistance, income generation programmes or other such assistance.
3. Referrals must be for the assured benefit of the client so that they provide her with the best assistance. Information passed on at the time of referrals must be limited and relevant to the process.
4. Referrals must be made in such a way that the client does not feel rejected or turned away. The counsellor must explain the necessity and importance of the referral to the client.

5. The client needs to have adequate information about where or who she is being referred to and what to expect. The counsellor should help her get in touch with the organisation / individual referral. Client follow-up subsequent to the referral and feedback are essential.
6. Counsellors should maintain a well-organized and user-friendly and regularly updated referral resource guide of organizations and individuals. These organizations/individuals should be regularly informed of the work of the counsellor and/or the parent institution and a vibrant referral network established among the organisations.
7. Written consent must be obtained from the client at all times when a referral is made.

#### **K. Protection and Self-care of the Counsellor**

1. While counselling can be a very rewarding experience, the nature and intensity of incidences of violence and the high volume of work undertaken by counsellors can take a toll of their emotional and physical strength. They could themselves suffer secondary traumatic stress (STS) or even serious burn-outs. Self-care for counsellors is critically important. Training, continuous professional development, regular supervision, an active support network and regular breaks from work are essential if the counsellors are to continue working effectively.
2. Counsellors may need to deal with contradiction between their own personal life-experiences and their training as counsellors. They may themselves have been subjected to various discriminations within a patriarchal society. It is possible that they may also be survivors of violence. Counsellor's own past experience may trigger unpredictable reactions to situations that they are dealing with in the course of their work. Counsellors need to be aware of this and seek help from peers, seniors or supervisors if they are unable to handle the situation by themselves.
3. Counsellors need to recognize when they are distressed, drained or tired. This is essential since unresolved stress may lead the counsellor to making errors in judgement; might disrespecting the client; disrespecting the work. The safety, security and well-being of the counsellor is of utmost importance and relevant safeguards need to be operationalized. Where counsellors work as part of a larger set-up, it is the responsibility of the institutions, to ensure their safety.

#### **L. Maintenance and Use of Records**

1. It is the ethical responsibility of a counsellor and/or organization, to effectively use the information collected during the course of their work to inform practice. This should be done in a way that upholds the rights of the clients and does not put them at risk. The Indian Council of Medical Research guidelines, "Ethical Guidelines for Biomedical Research on Human Participants", and the "Ethical Guidelines for Social Science Research in Health" by the National Committee for Ethics in Social Science Research in Health, should be used for research in areas pertaining to counselling.
2. Counsellor's may create, maintain, store, transfer, and dispose of client records in ways that protect their anonymity and confidentiality.

Cehat, centre for enquiry into Health and Allied Themes, Mumbai, 2012.

**Annexure-VI****ONE STOP CENTRE SCHEME****IMPLEMENTATION GUIDELINES**

FOR STATE GOVERNMENTS/UT ADMINISTRATIONS  
APRIL 2015



नए समाज की ओर  
Towards a new dawn

Ministry of Women and Child Development  
Government of India  
New Delhi

## Table of Contents

	Page No.
1. Introduction .....	112
2. Purpose of the Implementation Guidelines .....	112
3. Objectives .....	112
4. Target Group .....	112
5. Location .....	112
6. Services .....	113
7. Service Delivery Framework –Roles and Responsibilities .....	114
8. Modalities of the Scheme .....	116
9. Diagrammatic Overview of One Stop Centre: Human Resource and Services .....	118
10. Steps to be taken by State Government /UT Administration .....	119
11. Administration of the Scheme .....	121
12. Monitoring and Supervision Committees .....	121
13. Reporting .....	122
14. Grievance Redressal Mechanism .....	122
15. Social Audit .....	123
16. Resource Directory .....	123
17. Financial Management 20 .....	123
<b>List of Annexures</b>	
I. Standard Operating Procedures for day to day administration and operation .....	125
of the One Stop Centre	
II. Construction Model and Cost Estimates proposed by NBCC of One Stop Centre .....	128
III. Registration Form .....	130
IV. Proforma for Proposal for Setting up OSC .....	131
V. Eligibility Requirements For The Service Providing Agencies .....	133
VI. Half Yearly/Annual Progress Reporting Format/ Format for Case Study .....	134
VII. Indicative Feedback & Grievance Redressal Form .....	145
VIII. Suggested Resource Mapping List of Referral Services Directories Needed .....	146
for Helpline/ One Stop Centre	

## Glossary

ANM	Auxiliary Nurse Midwife	ITDA	Integrated Tribal Development Area
ASHA	Accredited Social Health Activist	ITDP	Integrated Tribal Development Programme
AWTC	Anganwadi Training Centre	MC	Management Committee
AWW	Anganwadi Worker	MoHFW	Ministry of Health & Family Welfare
CBO	Community Based Organisation	MOU	Memorandum of Understanding
CCTV	Close Circuit Television	MWCD	Ministry of Women and Child Development
CDPO	Child Development Project Officer	NALSA	National Legal Service Authority
CMO	Chief Medical Officer	NBCC	National Building Construction Corporation Ltd.
CrPC	Criminal Procedure Code	NGO	Non-Government Organisation
CSWB	Central Social Welfare Board	NHM	National Health Mission
DC	District Commissioner	OSC	One Stop Centre
DIR	Domestic Incident Report	PAB	Programme Approval Board
DLSA	District Legal Service Authority	PMU	Project Management Unit
DM	District Magistrate	PO	Protection Officer
DPO	District Panchayat Officer	PRI	Panchayati Raj Institutions
DPO	District Programme Officer	SHG	Self Help Group
DYSP	Deputy Superintendent of Police	SLSA	State Legal Service Authority
FIR	First Information Report	SP	Superintendent of Police
IA	Implementing Agency	UC	Utilisation Certificate
ICDS	Integrated Child Development Services	UID	Unique Identity Number
ICPS	Integrated Child Protection Scheme	UT	Union Territory
IPC	Indian Penal Code	VAW	Violence Against Women

## 1. INTRODUCTION

- 1.1 One Stop Centres (OSC) are intended to support women affected by violence, in private and public spaces, within the family, community and at the workplace. Women facing physical, sexual, emotional, psychological and economic abuse, irrespective of age, class, caste, education status, marital status, race and culture will be facilitated with support and redressal. Aggrieved women facing any kind of violence due to attempted sexual harassment, sexual assault, domestic violence, trafficking, honour related crimes, acid attacks or witch-hunting who have reached out or been referred to the OSC will be provided with specialized services.
- 1.2 Under this Scheme, in the first phase, one OSC will initially be established in each State/UT to facilitate access to an integrated range of services including medical, legal, and psychological support.
- 1.3 The OSC will be integrated with 181 and other existing helplines. Women affected by violence and in need of redressal services could be referred to OSC through these helplines<sup>1</sup>.

## 2. PURPOSE OF THE IMPLEMENTATION GUIDELINES

- 2.1 These guidelines have been developed to support stakeholders/agencies who would be involved in implementing the Scheme, as well as State, district and grassroot level functionaries. They are intended to serve as a reference manual for officials at the National and State/ Union Territory (UT) levels for policy guidance and monitoring. The guidelines list the services to be provided under the Scheme, steps and processes/procedures for implementation. The guidelines also highlight the roles and responsibilities of various line departments. It provides indicative monitoring and reporting formats to be used at different levels. The guidelines are not exhaustive and the feedback received from States/UTs from time to time will be incorporated as per requirements.

## 3. OBJECTIVES

The objectives of the Scheme are:

- (i) To provide integrated support and assistance to women affected by violence, both in private and public spaces under one roof.
- (ii) To facilitate immediate, emergency and non-emergency access to a range of services including medical, legal, psychological and counselling support under one roof to fight against any forms of violence against women.

## 4. TARGET GROUP

The OSC will support all women including girls below 18 years of age affected by violence, irrespective of caste, class, religion, region, sexual orientation or marital status. For girls below 18 years of age, institutions and authorities established under Juvenile Justice (Care and Protection of Children) Act, 2000 and the Protection of Children from Sexual Offences Act, 2012 will be linked with the OSC.

## 5. LOCATION

- 5.1 The Ministry of Women and Child Development (MWCD) will provide support to the State Governments/UT Administrations for the establishment of OSC. In the first phase, one OSC shall be established in every State/UT on a pilot basis.
- 5.2 For establishing a OSC, the first preference would be to obtain suitable and adequate accommodation with carpet area of at least 132 sq.m. within a hospital / medical facility. If it is not possible to locate accommodation within a hospital or medical facility, then an existing Government/Semi Government institution located within 2 km radius of the hospital/medical facility in the district headquarter with adequate accommodation will be used for the purpose.
- 5.3 If it is not possible, to locate the OSC in the existing Government/Semi Government accommodation, the OSC could be constructed on adequate land either within hospital / medical facility or within 2 km radius of the hospital/ medical facility.
- 5.4 The requirement for construction of building of OSC will be assessed, after taking into account the non-availability of existing accommodation. The budgetary provision for construction has been kept up to 20 OSCs, if required.

<sup>1</sup> Presently Ministry of Home Affairs is in the process of developing an emergency System which will work as a single emergency number for the purposes of ensuring women's safety and this will be eventually integrated with OSC.



## 6. SERVICES

The OSC will facilitate access to following services:

Sl. No.	Type of Service	Description
1	<b>Emergency Response and Rescue Services</b>	OSC will provide rescue and referral services to the women affected by violence. For this, linkages will be developed with existing mechanisms such as National Health Mission (NHM), 108 service, police (PCR Van) so that the woman affected by violence can either be rescued from the location and referred to the nearest medical facility (Public/ Private) or shelter home.
2	<b>Medical Assistance</b>	Women affected by violence would be referred to the nearest Hospital for medical aid/examination which would be undertaken as per the guidelines and protocols developed by the Ministry of Health and Family Welfare.
3	<b>Assistance to Women in Lodging FIR/NCR/DIR</b>	The OSC will facilitate the lodging of FIR/NCR/DIR.
4	<b>Psycho-social Support/ Counselling</b>	A skilled counsellor providing psycho-social counselling services would be available on call. This counselling process will give women confidence and support to address violence or to seek justice for the violence perpetuated. Counsellors shall follow a prescribed code of ethics, guidelines and protocols in providing counselling services.
5	<b>Legal Aid and Counselling</b>	To facilitate access to justice for women affected by violence, legal aid and counselling would be provided at OSC through empanelled Lawyers or National/ State/District Legal Service Authority. The aggrieved woman would be provided with an advocate of her choice in case she wants to engage the same to assist the State Prosecutors in trying her case <sup>2</sup> . It would be the responsibility of the Lawyer/ Prosecutor to simplify legal procedures for the aggrieved woman and advocate for her exemption from court hearings. In case the trial or inquiry relates to an offence of rape as defined under section 376, 376A-D IPC, it would be the duty of the Prosecutors trying the case to complete the inquiry or trial as far as possible within a period of two months from the date of filing of charge sheet. <sup>3</sup>
6	<b>Shelter</b>	The OSC will provide temporary shelter facility to aggrieved women. For long term shelter requirements, arrangements will be made with Swadhar Greh/Short Stay Homes (managed/affiliated with government/NGO). Women affected by violence along with their children (girls of all ages and boys up till 8 years of age) can avail temporary shelter at the OSC for a maximum period of 5 days. The admissibility of any woman to the temporary shelter would be at the discretion of Centre Administrator.
7	<b>Video Conferencing Facility</b>	To facilitate speedy and hassle free police and court proceedings the OSC will provide video conferencing facility (through Skype, Google Conferencing etc.). Through this facility if the aggrieved woman wants, she can record her statement for police/ courts from OSC itself using audio-video electronic means as prescribed under sections 161(3), 164(1) and 275(1) of the Code of Criminal Procedure and section 231(1) in line with Order XVIII Rule 4 of the Code of Civil Procedure. This facility will be provided only after consultation among Superintendent of Police, District and Sessions Judge of the concerned district (place of incident).

<sup>2</sup> Section 24(8) of the Code of Criminal Procedure as amended by section 3 of the Code of Criminal Procedure (Amendment) Act, 2009

<sup>3</sup> Section 309 of the Code of Criminal Procedure as amended by section 21 of the Criminal Law (Amendment) Act, 2013

## 7. SERVICE DELIVERY FRAMEWORK – ROLES AND RESPONSIBILITIES

The service providers of the OSC will have following responsibilities:

### Centre Administrator –The First Point of Contact

- a. The Centre Administrator would be a woman with requisite qualification available at OSC. She will be a residential staff attached to OSC.
- b. The Centre Administrator would be in charge of functioning of OSC. She would be the first point of contact with the woman who is accessing OSC.
- c. The Centre Administrator would interact with every woman seeking OSC's intervention for addressing violence.
- d. The Centre Administrator will listen to the grievance, document the case history and register the case in the online/web-based case management system to generate a Unique Identity Number (UID).
- e. The Centre Administrator would be responsible for supervision of each case, taking it to a logical conclusion and later following up with the aggrieved woman.
- f. As soon as the complaint is registered, the Centre Administrator will send a text message (SMS/Internet) to the DPO/ PO/CDPO/ SHO/ DM/ SP/ DYSP/CMO of the district in which the women is located at the time of accessing OSC.
- g. The Centre Administrator would be responsible for coordination with all stakeholders (police station, hospital, legal aid, counselling), registration of cases in the absence of the IT Staff.
- h. The Centre Administrator will consolidate a list of agencies/individuals providing/willing to provide legal/medical/ psycho-social counselling services at OSC.
- i. The Centre Administrator will coordinate with CBOs specialized in addressing violence against women, Gender Cells, Women's Study Centres at Universities to seek technical inputs in terms of training and capacity building of women affected by violence.
- j. The Centre Administrator will monitor the functioning of OSC, (including the work of the staff), facilitate capacity building, guide and support the team of caregivers.
- k. The Centre Administrator would approve the quarterly report prepared by the IT Staff to be submitted to the Management Committee (MC) through Implementing Agency (IA).
- l. The Centre Administrator would also document the case studies/success stories as per the prescribed format.
- m. The Quarterly Report has to be submitted 15 days prior to the end of each Quarter.
- n. The Centre Administrator will meet the MC on a monthly basis for guidance, support.
- o. The footage of the CCTV would be under the vigilance of the Centre Administrator.
- p. The Centre Administrators can design their own feedback forms for the purpose of Social Audit.

### Case Worker

Case Workers will work in shifts to provide 24 hour service at OSC.

- a. She will provide assistance and support to the Centre Administrator in facilitating services to women accessing OSC.
- b. She will intervene in cases of VAW and will take them to their logical conclusion.
- c. She will be responsible for other work as assigned by the Centre Administrator.

### Police Facilitation Officer (PFO)

- a. The Police Facilitation Officer will help the aggrieved women in initiating appropriate police proceedings against the perpetrators. In case a woman affected by violence is denied lodging of FIR/Complaint or any other assistance at the police station, the Police Facilitation Officer would help expedite the process and in special cases flag the issue to the Superintendent of Police and other relevant authorities.

- b. In case the denial to initiate proceedings relates to the commission of offences punishable u/s 326A, 326B, 354, 354B, 370, 370A, 376, 376A, 376B, 376C, 376D, 376E or 509 IPC, he/she will initiate proceedings under section 166A IPC against the accused police officials.
- c. The Police Facilitation Officer would advise on which laws are to be invoked for issues related to violence against women.
- d. She/he will ensure that the women affected by violence are not further harassed.
- e. In case the aggrieved woman is unable to go to the Police Station for lodging her complaint/FIR, the Police Facilitation Officer will ensure the recording of information from her home/ OSC /hospital after obtaining due permissions.
- f. She/he would facilitate recording of women's statement under section 161 and 164 CrPC through audio-video electronic means or otherwise.

### **Para Legal Personnel/ Lawyer**

- a. She/he will inform and orient the woman about her legal rights and help/guide the woman to initiate legal proceedings against the abuse/violence suffered, if she is willing to do so.
- b. She/he will coordinate/liase with the Public Prosecutor or the SLSA/DLSA Lawyer, to support the woman even after her case has been filed in court as well as to ensure there is follow-up of the case to its logical conclusion.
- c. She/he will simplify legal procedures for the affected women and advocate for her exemption from court hearings.
- d. She/he will facilitate speedy and hassle free police and court proceedings through the employment of video conferencing facility for the recording of statement of women affected by violence.

### **Para Medical Personnel**

- a. She will provide first aid and immediate life-saving medical assistance to the aggrieved woman until she reaches the hospital.
- b. She will accompany the woman affected by violence to the Hospital. In cases of women affected by sexual violence, she will ensure strict compliance of the protocols developed by MoHFW to conduct forensic examination and other tests by the Doctors.
- c. She will help in drafting the medical case history of the women affected by violence.

### **Counsellor**

- a. She will provide psychological counselling and guidance to the woman affected by violence and support in referral services that may be deemed fit for the women affected by violence based on her needs.
- b. She will help draft the case history of the women affected by violence.

### **IT Staff**

- a. The IT Staff would generate the Unique ID of the women affected by violence through web based software.
- b. She/he would document the case history as provided by the Centre Administrator, Counsellor, Paramedic, Lawyer and Police Facilitation Officer and record proceedings for case management as well as develop the web based data, help in video conferencing, data entry operations etc.
- c. She/he would be responsible for keeping record of CCTV footage at OSC.
- d. She/he would follow strict proceedings to maintain privacy with regard to data generated and will ensure that name and other details of aggrieved women remain confidential in each step of case history documentation.
- e. She/he will assist the police facilitation officer/counsellor/ Para Medical Personnel/ Para Legal Personnel to document the case history.
- f. She/he would draft the monthly/quarterly report based on the MIS, web based data collection which would be approved at the level of the Centre Administrator for submission to the Management Committee.

### Multi-purpose Helper

- a. She would be responsible for maintaining hygiene and sanitation at OSC.
- b. It would be her responsibility to clean the toilets (daily at such frequency which keeps it clean all the time), dispose the garbage, change the bed sheets, pillow covers (weekly) of shelter room.
- c. She will offer water to the visitors, maintain visitor register, provide information on legal aid/ police/ medical assistance sheet to the women.
- d. She will provide basic Kit containing soap, comb, shampoo, sanitary pad, tooth brush, tooth paste, diapers (in case of infants) and sewing kit to the woman who is availing the facility of temporary shelter at OSC.
- e. She will help any other staff with referrals and do such other ancillary work as requested by the Centre Administrator.

### Security Guard/ Night Guard

- a. The Security Guard/ Night Guard would be responsible for the overall security of OSC.
- b. She/he would be responsible for safety of all capital assets, furniture and equipment at OSC.

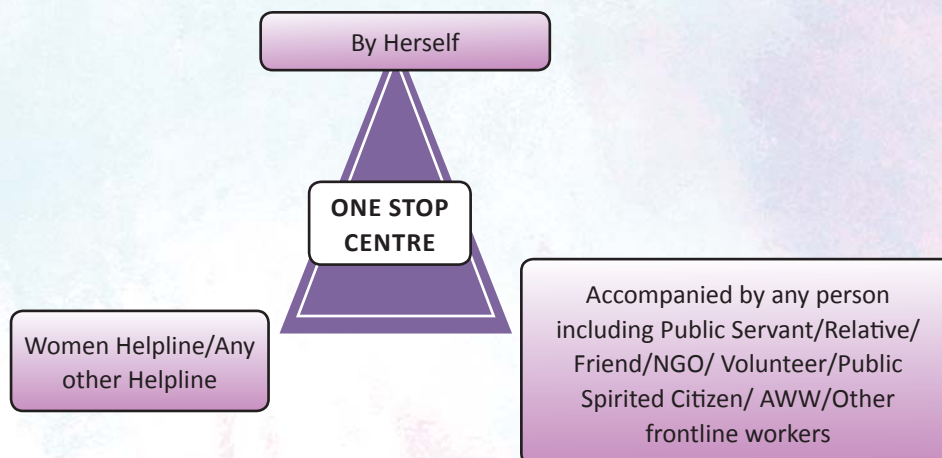
A graphic representation of Standard Operating Procedures for day to day administration and operation of the OSC is at **Annexure I**.

## 8. MODALITIES OF THE SCHEME

### 8.1 Construction of OSC

- 8.1.1 The requirement for construction of building of OSC will be assessed, after taking into account the non-availability of existing accommodation.
- 8.1.2 The Ministry with the support of National Buildings Construction Corporation (NBCC) has worked out a layout and pre-fabricated structure model. This has been done with the objective of maintaining uniformity and distinct identity of OSC as well as to complete the construction activity, wherever undertaken, in a time bound manner. The States/UTs may assign the construction activity to any agency of their choice. In case the States/UTs take up the NBCC design and assign the work to NBCC, they would enter into a Memorandum of Understanding (MoU) with NBCC. The details of the building specifications along with the construction cost are at **Annexure II**. The construction of OSC should be completed within three months of release of funds to the State/UT and NBCC (in case the construction is assigned to them). In case, the States/UTs choose to establish OSC within existing accommodation as mentioned in para-5, the process of establishment should be completed within two months of the release of first instalment of funds.
- 8.1.3 In case the States/UTs choose to establish the OSC within an existing institution, refurbishment of the institution can also be carried out.

### 8.2 Accessing One Stop Centre



A woman affected by violence can access OSC in the following manner:

- By herself; or
- Through any person including any public spirited citizen, public servant (as defined under section 21 of Indian Penal Code, 1860), relative, friend, NGO, volunteer etc., or
- Through Women Helpline integrated with police, ambulance and other emergency response helplines.

As soon as the complaint is registered a text message (SMS/Internet) would be sent to the DPO/PO/CDPO/ SHO/ DM/ SP/ DYSP/CMO/PO of the district/area as required.

When an aggrieved woman approaches the OSC for help either in person or if anybody approaches on her behalf, the case details will be fed in to a system as per the prescribed format and a Unique ID Number will be generated. A sample Registration Form (preliminary) is annexed at **Annexure III**.

A web based software for OSC integrated with Women Helpline (181) has been developed by Aman Satya Kachroo Trust which is operational in Chhattisgarh (in Chandigarh 181 Helpline is operational). This may be adopted by the States/UTs, customized as per the OSC implementation guidelines and contextualized as per their local requirements (regional language version of the software).

### **8.3 Provision for Shelter under OSC**

- 8.3.1 Women affected by violence along with their children (girls of all ages and boys up till 8 years of age) can avail temporary shelter at OSC for a maximum period of 5 days. The admissibility of any woman to the temporary shelter would be at the discretion of Centre Administrator.
- 8.3.2 The women accessing temporary shelter at OSC would be provided with basic facilities i.e. food, medicine, clothes etc. A basic Kit having soap, shampoo, hair oil, sanitary pads, sewing kit, comb, tooth brush, tooth paste and diapers (in case of infants) etc will be provided to every women availing shelter facility at OSC. At any given time, OSC will provide shelter facility to maximum number of 5 women. The cost of each Kit should not exceed Rs. 100. The list of items is indicative and State may adopt this as per the local requirements.

## 9. Diagrammatic Overview of One Stop Centre: Human Resource and Services

### ORGANIZATIONAL SET UP OF ONE STOP CENTRE: HUMAN RESOURCES

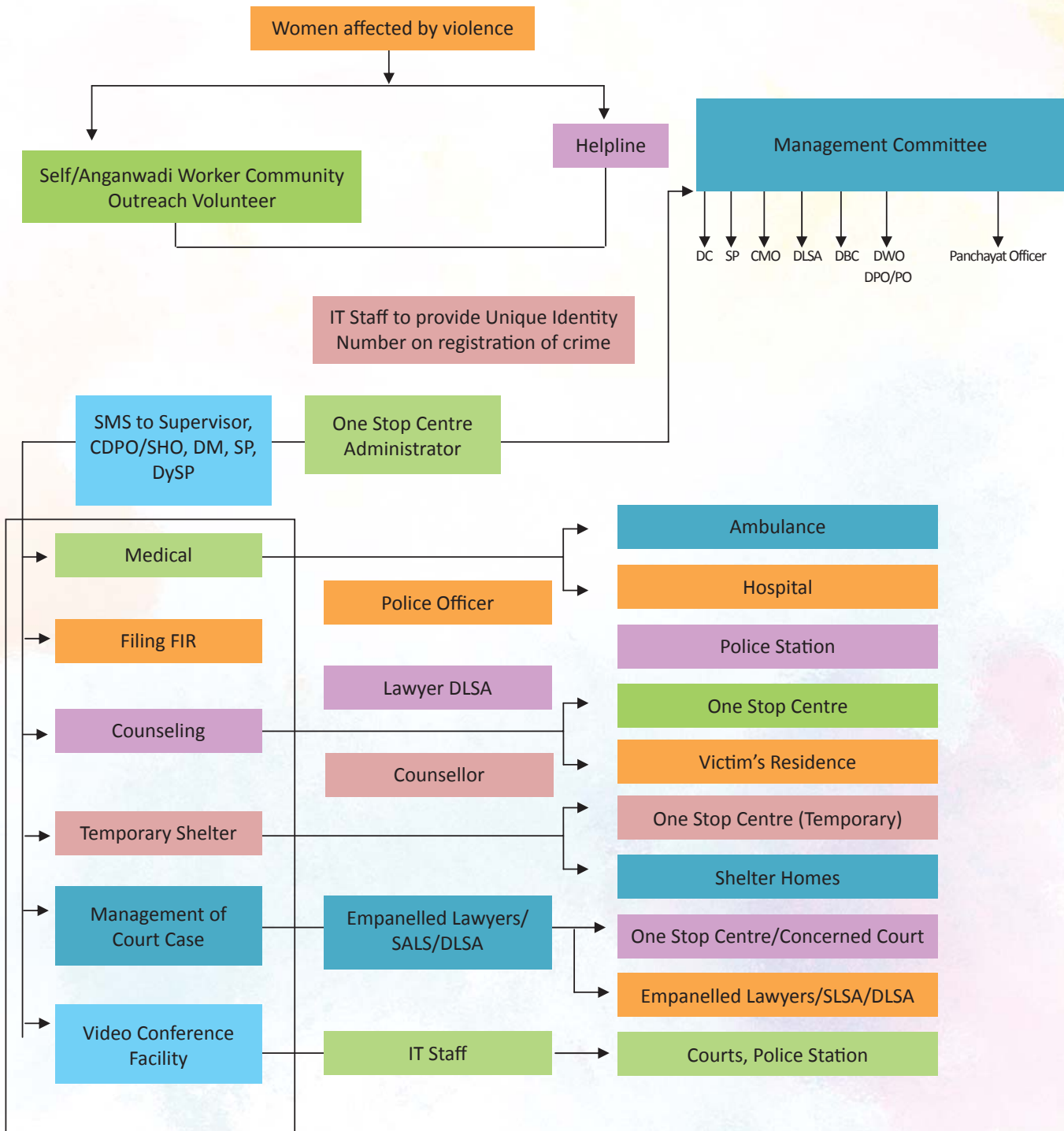


Figure: 1

## 10. Steps to be Taken by State Governments / UT Administrations

10.1 **Formulation of proposal for OSC:** At the State/UT level, the Department of Women and Child Development will formulate a proposal for the establishment of OSC and submit the same to the Ministry of Women and Child Development for approval. The proposal should contain specific timelines for the establishment, construction (if required) and functioning of OSC. For approving the proposal, so submitted, a Programme Approval Board (PAB) will be constituted in the MWCD. A format for OSC proposal is at **Annexure IV**.

10.2 All Proposals received by State Government/UT Administration will be submitted to a Programme Approval Board (PAB) constituted in the Ministry of Women and Child Development for approval.

The PAB will be headed by the Secretary and will comprise of inter alia the following members:

- Financial Advisor, Ministry of Women & Child Development
- Additional Secretary/Joint Secretary of the concerned Bureau in the MWCD
- Director of concerned Division, Ministry of WCD
- Representative of the concerned State Government
- Any other expert/statutory body/invitees as co-opted by Chairperson

The PAB shall be the final authority for accepting, reviewing the proposal and sanctioning the grants under the scheme.

10.3 **Formation of Management Committee:** The Director, DWCD will be responsible for overall management of the OSC. The Management Committee (MC) would be responsible for the day to day operation of the OSC. The MC will comprise of following members from the district where the OSC is located:

- District Magistrate/Commissioner (Chairperson of the Committee)
- Superintendent of Police
- Secretary, District Legal Service Authority
- Chairperson of District Bar Council
- Chief Medical Officer
- District Programme Officer (DPO)/Protection Officer (PO)
- District Panchayat Officer
- Members of the Civil Society (3 members out of which at least 2 be women)
- Project Officer ITDA/ITDP in district with ITDA/ITDP area
- Any other member co-opted by the Chairperson

The DPO/PO will be the convener of the Committee and it would be his/her responsibility to constitute such Committee.

10.3 The functions of the Management Committee (MC) will be as follows:

- Decide the location of the OSC
- Outsource the activities required for daily functioning of the OSC
- Select the Implementing Agency (IA), and entrust day-to-day operations of Centres to them as per prescribed norms
- Make suitable, viable administrative arrangements for running the OSC
- Approve the proposal for the OSC
- Select agencies/individuals to provide legal counselling/medical aid / psycho-social counselling at the OSC
- Coordinate the actions of different stakeholders, agencies and government departments providing services at the OSC
- Appraise the performance of the OSC
- Receive the financial accounts provided by the IA
- Monitor the functioning of the OSC on monthly basis and provide guidance, support and advice to the Centre Administrator towards the effective functioning of OSC

- Review the physical and financial progress of the OSC on quarterly basis
  - Report on the functioning of the OSC to the State Government through submission of Monthly Progress Report (MPR) and quarterly physical and financial reports. The Utilisation Certificate and quarterly SoE will be submitted on bi-annual basis to the State/UT.
- 10.4 The MC has the authority to entrust day-to-day operations of the OSC to a designated Implementing Agency. This IA could be the hospital administration of the Hospital where OSC is located, or an existing health society/ institution/ outsourced agency/civil society organisations working on the issue of VAW identified by the State Government or a Service Provider (SP) notified under Protection of Women from Domestic Violence Act, 2005 (PWDVA). In case, where such establishments are not available, the State Government/UT Administration may explore the option of an alternative operating structure.
- 10.5 The IA will be responsible for the smooth functioning of the OSC.
- 10.6 **Human Resource Requirements:** For smooth functioning of the OSC, the State Government through IA may outsource activities required for functioning of OSC such as management, legal assistance, medical assistance, counselling, IT, related multipurpose activities and security etc. The eligibility requirements for the agencies providing these above-mentioned services are mentioned in **Annexure V**.
- 10.7 **Convergence with Other Departments:** The roles/responsibilities of other Departments to facilitate the functioning of OSC are outlined in the table below:

Sl. No.	Ministry	Primary Role	Other Support
1	<b>Department of Health &amp; Family Welfare</b>	<ul style="list-style-type: none"> <li>• Protocols for doctors issued by the Ministry to be made available in local dialect</li> <li>• To be given in a “calendar form” to OSC.</li> <li>• Directories of Doctors/Hospitals/ Clinics (public &amp; private) operational within the State/UT.</li> <li>• Directories with complete address, phone number of in-charge/nodal Doctor and hospital.</li> <li>• Directories of Ambulances (public and private).</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure strict enforcement of Protocols.</li> <li>• Training and sensitization of Health personnel including para-medical staff.</li> <li>• Ensure proper collection of evidence in cases of sexual assault.</li> <li>• Support process of identifying paramedical staff.</li> </ul>
2	<b>Department of Home</b>	<ul style="list-style-type: none"> <li>• Designate police officer for OSC to facilitate prompt and proper filing of FIR.</li> <li>• Facilitation in proper collection of evidence.</li> </ul>	<ul style="list-style-type: none"> <li>• Sensitize police personnel dealing with violence against women cases.</li> </ul>
3	<b>State Legal Service Authority</b>	<ul style="list-style-type: none"> <li>• List of dedicated and sensitive lawyers ready to give legal aid to the women affected by violence and liaison with OSC.</li> <li>• List of district wise para legal volunteers.</li> </ul>	<ul style="list-style-type: none"> <li>• Support in ensuring expeditious disposal of cases.</li> <li>• Facilitating compensation to the survivors of violence</li> </ul>

- 10.8 The integrated nature of OSC will require linkages with the other two agencies of the justice system – the police and the Courts. Towards this, the Guidelines envisage support of the District Legal Services Authority to provide assistance of the para-legal personnel/PLVs in liaising with the police, and in liaising with the Public Prosecutor/ Courts<sup>4</sup>.
- 10.9 **Engagement with stakeholders** such as CBOs, civil society groups, women’s organisation working on gender based violence, Gender Cells, Special Cells of reputed institutions such as TISS and Women’s Studies Centres in Universities for providing training, capacity building and technical support. It is envisaged that OSC will provide a platform for leveraging these support systems to enhance the effectiveness of the services provided by it.

<sup>4</sup> This is as per the Supreme Court directives provided in Bachpan Bachao Andolan v. GOI [Writ Petition (C) 51/2006], which called for provision of “support persons” in police stations in case of missing children. In furtherance of this, the NALSA has revised its ‘Scheme for Para Legal Volunteers’.



- 10.10 Apart from the panel of para-legal or legal experts provided by DLSA/SLSA/NALSA, the OSC may induct the services of other Lawyers at the rates approved for DLSA/SLSA.
- 10.11 As per the Criminal Amendment Act, 2013, it is mandatory for every hospital whether public or private to provide free of cost first aid or medical treatment to any women affected by acid attack or against whom an offence of rape has been committed. For providing medical treatment to women afflicted with violence other than acid attack or rape, the MC has the authority to empanel any private hospital/clinic/medical practitioner willing to provide emergency response/free/compulsory/voluntary medical or psycho-social counselling services to the OSC.
- 10.12 The OSC will remain under 24 hrs CCTV surveillance. However, no camera would be used to record any counselling sessions. The CCTV footage of day to day functioning of OSC would be maintained for a minimum period of two years.
- 10.13 **Leveraging with existing institutional structures:** The institutional structures under MWCD (ICDS, ICPS, NIPCCD, CSWB, State Commission for Women etc.) at the state/district/village level will be leveraged for creating awareness about the OSC and issues pertinent to violence against women. Anganwadi Worker (AWW) will be the frontline worker at the village level for these activities.
- 10.14 **Training:** The State Government will provide induction training to all the personnel involved in the functioning of OSC. Towards fulfilling this objective, the State will coordinate with its various departments so that people providing services at OSC and those belonging to various departments could be sensitized and trained in handling the issues related to violence against women. State Governments/UTs will involve agencies, civil society groups, community based groups, institutions or resource persons for imparting education of the services mentioned above and for training the staff. These will be selected by the States/UTs in consultation with MC based on the accessibility and availability of these organizations at the field level. Besides, Gender Cells, Women's Studies Centres in Universities could also be involved to provide technical inputs in terms of training and capacity building for women affected by violence.

## 11. ADMINISTRATION OF THE SCHEME

- 11.1 At the national level, MWCD would be responsible for budgetary regulation and administration of the scheme. The scheme will be implemented under overall supervision of MWCD.
- 11.2 At the State level, Department of Women and Child Development will be responsible for overall direction and implementation of the scheme. The MC will report to the Director, WCD through DPO/PO for all reporting and monitoring purposes.
- 11.3 The Centre Administrator, at the OSC will report to the MC on monthly basis and submit quarterly reports.

## 12. MONITORING AND SUPERVISION COMMITTEES

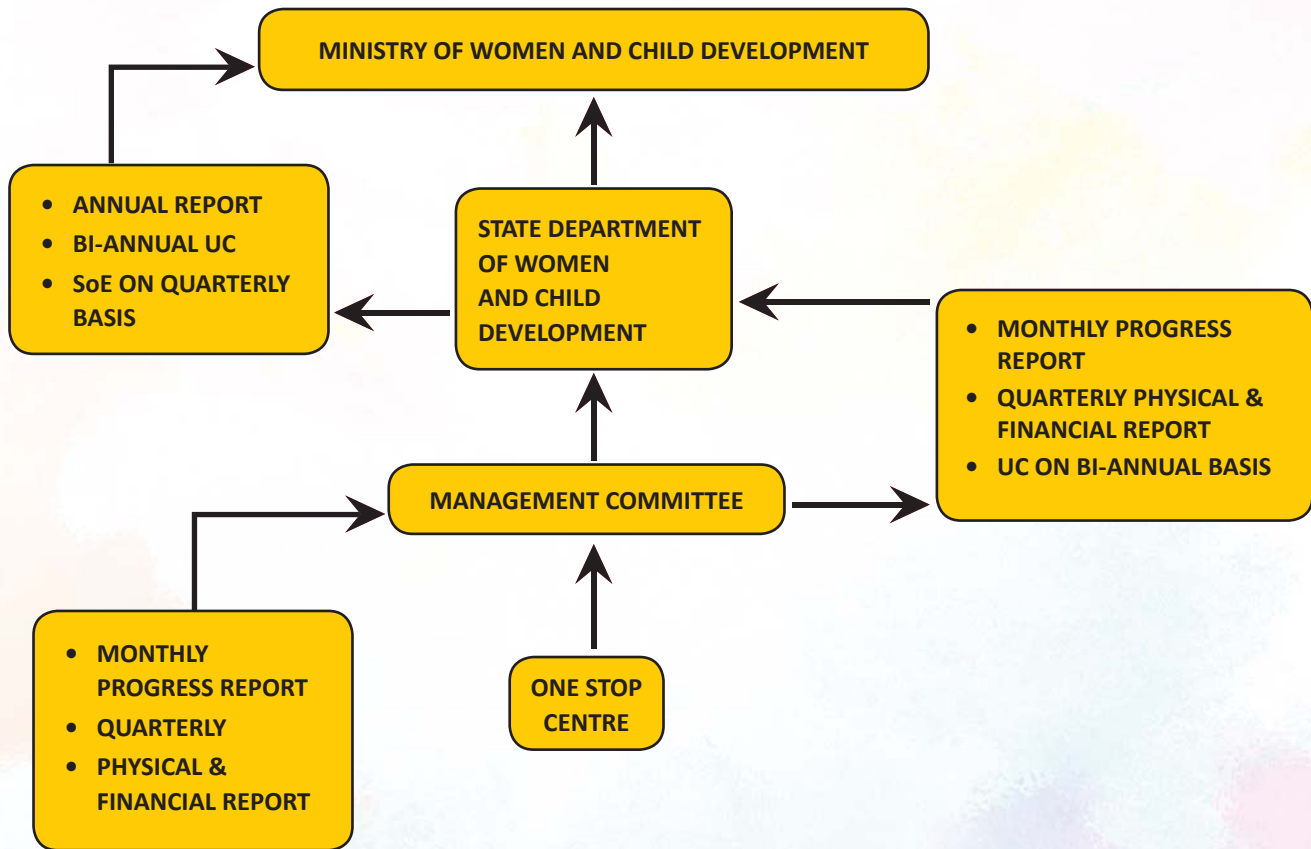
Monitoring of the OSC would be at three levels:

- 12.1 At the National level, a National Steering and Monitoring Committee will be constituted under the chairpersonship of the Secretary, WCD comprising of representation from the Ministry of Home Affairs, Ministry of Social Justice, Ministry of Health and Family Welfare, Ministry of Law and Justice, Ministry of Tribal Affairs, National Legal Service Authority (NALSA), Civil Society representatives, five representative members from the State Steering and Monitoring Committee on a rotation basis. The basis of selection of the State Steering and Monitoring Committee members would depend on regional representation. The National Steering and Monitoring Committee will monitor and evaluate the functioning of all OSC at every six months. A Project Management Unit (PMU) will be set up which is to act as the Secretariat to the National Steering and Monitoring Committee.
- 12.2 At the State level, there will be a State Steering and Monitoring Committee under the chairpersonship of the Principal Secretary, WCD with representatives from the Department of Home Affairs, Health and Family Welfare, Social Justice, SLSA and Civil Society members. The Principal Secretary/Secretary for Tribal Welfare in Schedule-V and North Eastern Region will also be the member of the Committee. The State Level Project Management Unit (PMU) functional under the supervision of the Secretary, Department of Women and Child Development will monitor the functioning of OSC on quarterly basis.

### 13. REPORTING

- 13.1 OSC will submit monthly progress reports to the MC through IA. The MC will submit the monthly progress reports (MPR) and quarterly physical and financial reports (QPR) to the State. The Utilisation Certificate (UC) will be submitted by the MC on bi-annual basis to the State. The State will submit quarterly SoE, consolidated annual report to the Ministry and UC on bi-annual basis. The PMU will compile state monitoring reports on a six monthly basis and place them before the National Steering and Monitoring Committee for review. In addition, the Unique ID issued at the time of registration at OSC may be used for follow up on cases.

#### DIAGRAMATIC REPRESENTATION OF MONITORING MECHANISMS



- 13.2 SoEs are to be furnished to Gol as per formats given at **Annexure VI** along with the physical and financial report as under:

- Annual SoE for previous year : by 31<sup>st</sup> May
- Quarter ending 30<sup>th</sup> June : by 15<sup>th</sup> July
- Quarter ending 30<sup>th</sup> September : by 15<sup>th</sup> October
- Quarter ending 31<sup>st</sup> December : by 15<sup>th</sup> January
- Quarter ending 31<sup>st</sup> March : by 15<sup>th</sup> April

- 13.3 Utilisation Certificates (UC) are to be furnished to as per formats given at **Annexure VI** as under:

- 1<sup>st</sup> Bi-Annual UC : by 15<sup>th</sup> October
- 2<sup>nd</sup> Bi-annual UC : by 15<sup>th</sup> April

### 14. GRIEVANCE REDRESSAL MECHANISM

The State Government will have the authority to constitute a grievance redressal mechanism to address the complaints related to the functioning of OSC. The purpose is to have enough checks and balances in place to provide quality service that

is timely, appropriate and dealt with sensitivity, respect and confidentiality wherever required. The States/UTs have the power to establish this mechanism in any manner they choose.

## 15. SOCIAL AUDIT

- 15.1 It is crucial for any service provider to review and monitor its services provided and also receive feedback from its users (in this case women affected by violence seeking support/help from OSC) and other stakeholders such as the service providers working in close association with the OSC to provide a holistic service package to women affected by violence. A Feedback Form is attached at **Annexure VII**. Identity of feedback providers will be kept confidential if desired by the feedback provider.
- 15.2 This record will be maintained at OSC by the IT staff to be shared with the Centre Administrator, MC and Steering and Monitoring Committees at the State/National Level on a quarterly basis for appropriate action. Forums at district level will also be considered as platforms for feedback from the general audience or village dwellers who could be indirect beneficiaries/target group of the OSC.

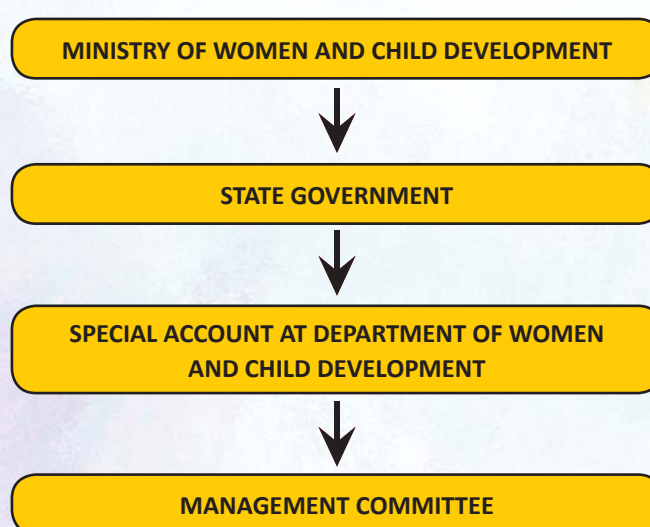
## 16. RESOURCE DIRECTORY

- 16.1 The Resource Directory would be collated from resource mapping at the State level and uploaded in the computer managed by the IT Staff. The OSC will have this Resource Directory for redressal of issues faced by women affected by violence. This list is suggestive and not exhaustive. The indicative Directory format is at **Annexure VIII**.

## 17. FINANCIAL MANAGEMENT

- 17.1 The Scheme will be funded through Nirbhaya Fund. The Central Government will provide 100% financial assistance to the State Governments /UT Administrations under the Scheme. The day to day implementation and administrative matters would be the responsibility of the State Government.
- 17.2 The MWCD will be responsible for budgetary regulation and administration of the scheme at the Central level. The MWCD will transfer the funds to the consolidated funds of the State Government after obtaining due approvals. The State Government will operate a separate bank account for scheme of OSC. The State Department will transfer the funds to MC (headed by DM/DC) who will operate a separate bank account in the name of the scheme.

### DIAGRAMATIC REPRESENTATION OF FUND FLOW



- 17.3 The financial assistance to the State Governments/UT Administrations shall be released in two installments. However, **the initial budget will be allocated to the State Governments/UT Administrations as per the Proposals received by the respective States/UTs**. Further release of funds to the State Governments /UT Administrations will be made bi-annually; first installment will be released by 15<sup>th</sup> April and second installment will be released by 15<sup>th</sup> October of the calendar year after receiving the Statement of Expenditure (SoE) and Utilisation Certificate (UC) of the grant. The format of the SoE and UC are annexed at **Annexure VII**.

**Timelines for submission of reports:**

- i) SoE and UC : **by 15<sup>th</sup> October (for the 1st bi-annual), 15<sup>th</sup> April (for the 2nd bi-annual)**  
 ii) Annual SoE, along with UC for previous year : **by 31<sup>st</sup> May**

Time schedule for submission of the Utilisation Certificate (UC) may be strictly adhered to enable the MWCD to release the funds to States/UTs in time.

17.4 The estimated construction cost of OSC based on CPWD 2012 rates is Rs. 37.69 Lakhs. The grant for construction of the building (capital expenditure) of OSC shall be released to State Government /UT Administrations in two installments based on the progress of the work. The details of the construction cost along with the specifications are at **Annexure-III**.

17.5 The financial projections for operationalisation of OSC is Rs 11.04 crore (2015-16 to 2016-17). The total financial projections for operationalisation for One Stop Centre including construction cost for 18.58 crore.

The summary of the estimated cost for its scheduled duration along with a break-up of year-wise, component-wise expenses segregated into non-recurring and recurring expenses are as under:

Sl. No.	Items/Components	No. of Units	Per month / Case (Rs)	2015-16	2016-17	Total
<b>A</b>	<b>Recurring</b>					
1	One Stop Centre Management * @78400 pm			940800	940800	1881600
2	Stationery (Cartridge, Paper etc.)	monthly	2000	24000	24000	48000
3	Electricity	monthly	3000	36000	36000	72000
4	Telephone/Fax	monthly	3000	36000	36000	72000
5	Catering/Food	monthly	4000	48000	48000	96000
6	Clothing & Medicine & Kit etc	monthly	2000	24000	24000	48000
7	Contingency	5% of recurring budget		55440	55440	110880
	<b>Sub-Total</b>			<b>1164240</b>	<b>1164240</b>	<b>2328480</b>
<b>B</b>	<b>Non-recurring</b>					
1	Refurbishment of Existing facility			500000		
2	Refrigerator			6000	0	6000
3	Computer Peripherals (Desktop, Printer, Scanner)			100000	0	100000
4	Telephone, Fax, Internet, Modem			6000	0	6000
5	Furnishing for the ward (bed, side table, chair) mattresses, pillows and curtains	5 beds with furnishing @ 10000		50000	0	50000
6	Furnishing for other rooms			50000	0	50000
7	CCTV Camera			25000	0	25000
	<b>Sub-Total</b>			<b>737000</b>	<b>0</b>	<b>737000</b>
	<b>Total cost per OSC</b>			<b>1901240</b>	<b>1164240</b>	<b>3065480</b>
	<b>Total Cost for 36 OSC s (One OSC in each State/UTs)</b>			<b>68444640</b>	<b>41912640</b>	<b>110357280</b>
<b>C</b>	<b>Construction Cost for 20 OSC @ Rs. 37,68,927.06</b>					<b>7,53,78,541</b>
	<b>Grand-Total Project cost including construction</b>					<b>18,57,35,821</b>

\* Note: The cost of OSC Management includes the activities pertaining to Outsourcing of Services, Training/Capacity Building and Information Education and Communication (IEC) activities.

## Annexure-I

### STANDARD OPERATING PROCEDURE FOR DAY TO DAY ADMINISTRATIONS AND OPERATION OF THE ONE STOP CENTRE

#### Steps for Initial Handholding of women coming to One Stop Centre:

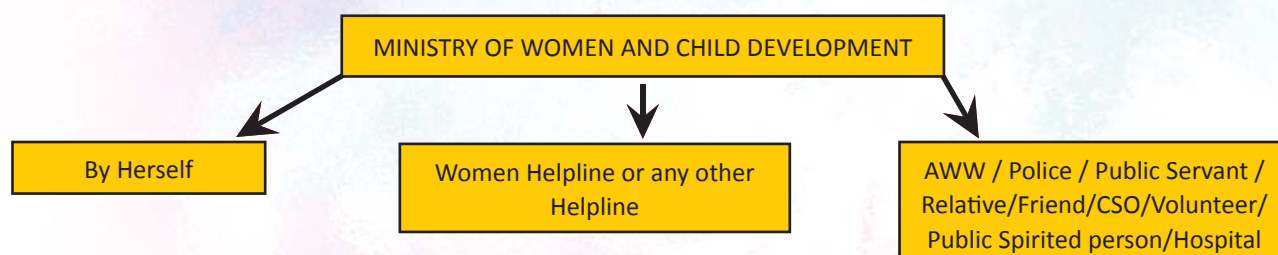
- a. Greet the survivor by name; use her preferred name.
- b. Make her your central focus.
- c. Introduce yourself to the survivor and tell her your role, e.g. Centre Administrator, Para-medical
- d. Offer her water, put her at ease.
- e. Ensure privacy for history taking, examination and counseling.
- f. Aim for an attitude of respect, professionalism within the boundaries of your survivor's culture.
- g. Have a calm demeanor. A frightened survivor will want to be in the company of people who are not frightened.
- h. Be unhurried, give time.
- i. Maintain eye contact. Be empathetic and non-judgmental as your survivor recounts her experiences.
- j. Aim to limit the number of care givers attending to the survivor: 'one-on-one' care works best in sexual assault cases.
- k. Ask the survivor if she wants to have a specific person present for support.
- l. Ask the survivor if she has any questions.

#### Case Specific Steps:

The first point of contact for women approaching One Stop Centre would be the Centre Administrator or Case Worker (authorized by her in this behalf) who will take following steps:

- a. She would listen to her grievance; document the case history and ask the IT person to register the case in the online/web-based case management to generate a UID. She would be responsible for overall supervision of each case.
- b. As soon as the complaint is registered a text message (SMS/Internet) would be sent to the PO/DPO/CDPO/ SHO/ DM/ SP/ DYSP/CMO of the district/area as required.
- c. Based on an assessment of the needs of the women affected by violence as expressed by her, the Centre Administrator will refer her to the Counsellor or the Para legal worker, to the hospital, or to the Police Facilitation Person where she is desirous of registering a FIR.
- d. In case the woman was provided temporary shelter at Centre, she will be provided with a Basic Kit having soap, comb, shampoo, hair oil, sanitary pad, tooth brush, tooth paste, diapers (in case of infants).
- e. The next functionary interacting with the woman will document the additional information received, the remedy/support sought by the woman, and action taken into the online case management system. This would be done through the password-protected access and adding to the UID generated case documentation made by the IT person. For instance, if the aggrieved woman is referred to the Police Facilitation Officer for registration of FIR, she will do the needful and document the progress and any additional details in the case management system. This will ensure that the aggrieved does not have to repeat/narrate her story/incident each time she interacts with a new functionary.

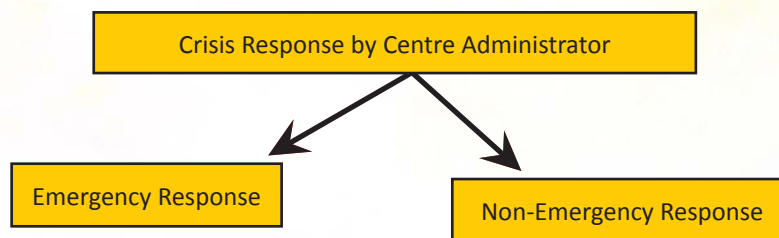
#### A. Accessing One Stop Centre



## B. Response

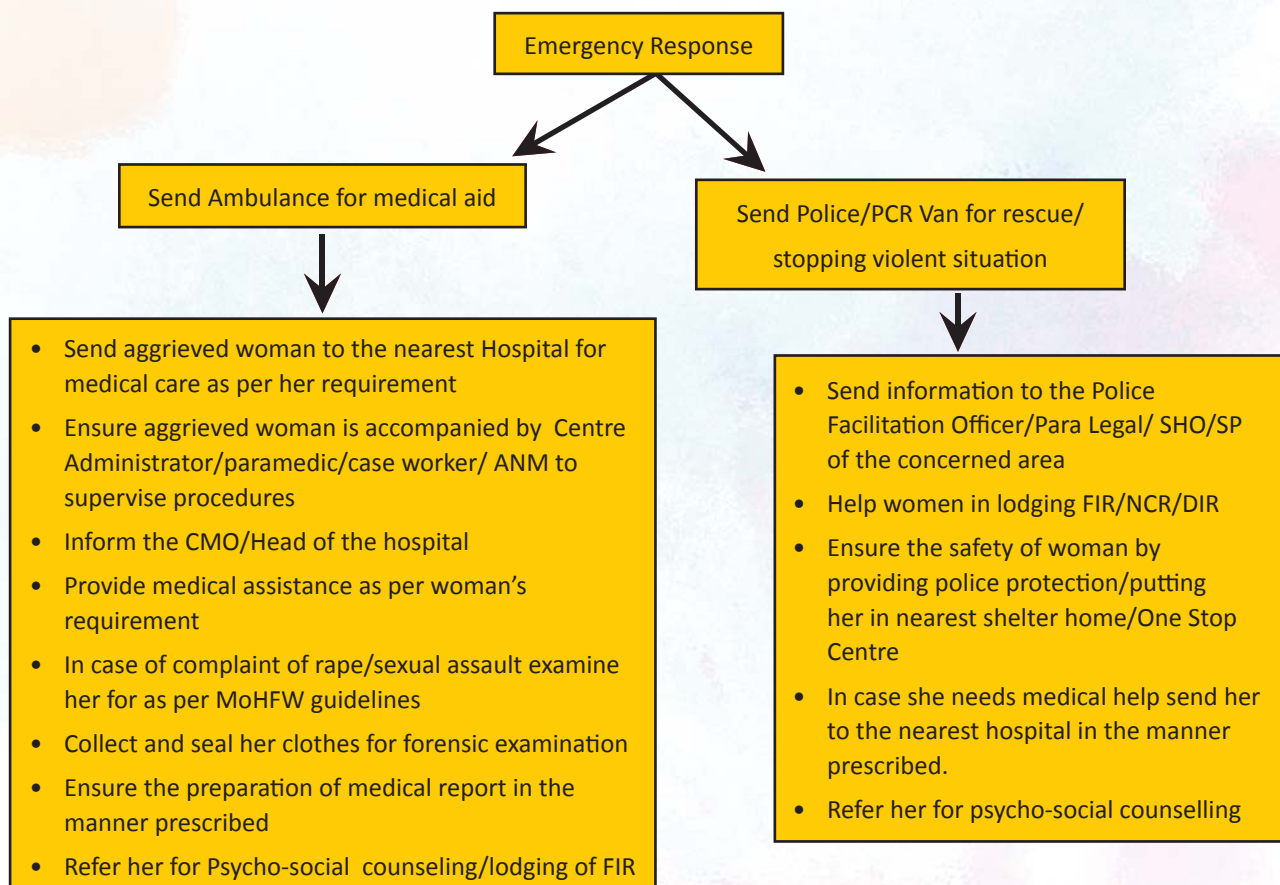
The Centre Administrator will receive the information about aggrieved woman in the above mentioned manner and after quick assessment of situation presented will formulate crisis response giving due regard to following core values:

- a. Safety of the aggrieved woman shall be the foremost priority.
- b. Ensure respect for aggrieved woman by:
  - i. Maintaining confidentiality
  - ii. Ensuring independent decision-making
  - iii. Ensuring privacy
  - iv. Obtaining informed consent from the aggrieved
- c. Ensure proper medical assistance for the aggrieved
- d. Ensure proper collection of evidence through strict compliance of protocols framed by police and Ministry of Health and Family Affairs.
- e. Best interest of the aggrieved women will have precedent over anything else.

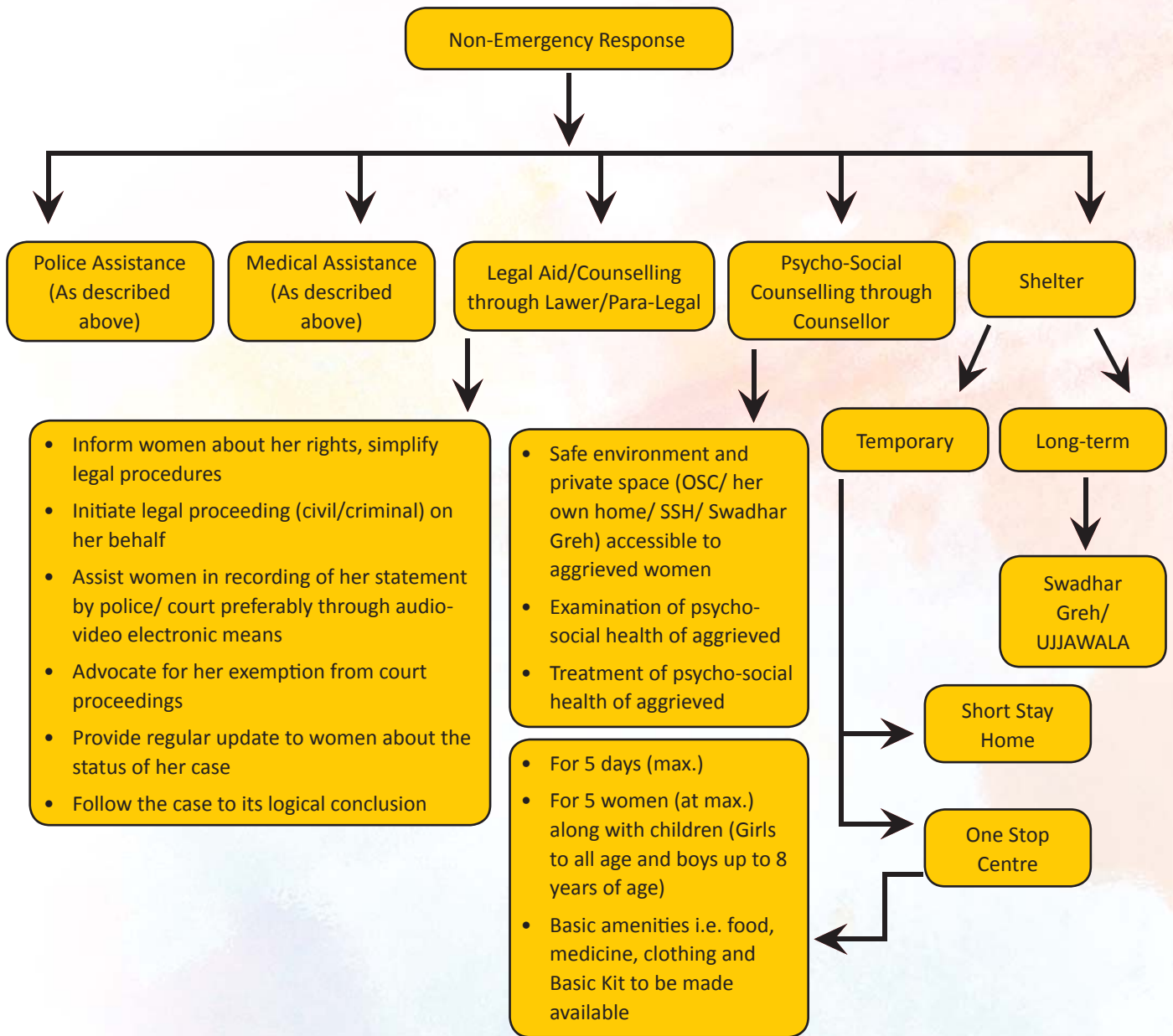


### (i) Emergency Response

The Centre Administrator will respond in the following manner:

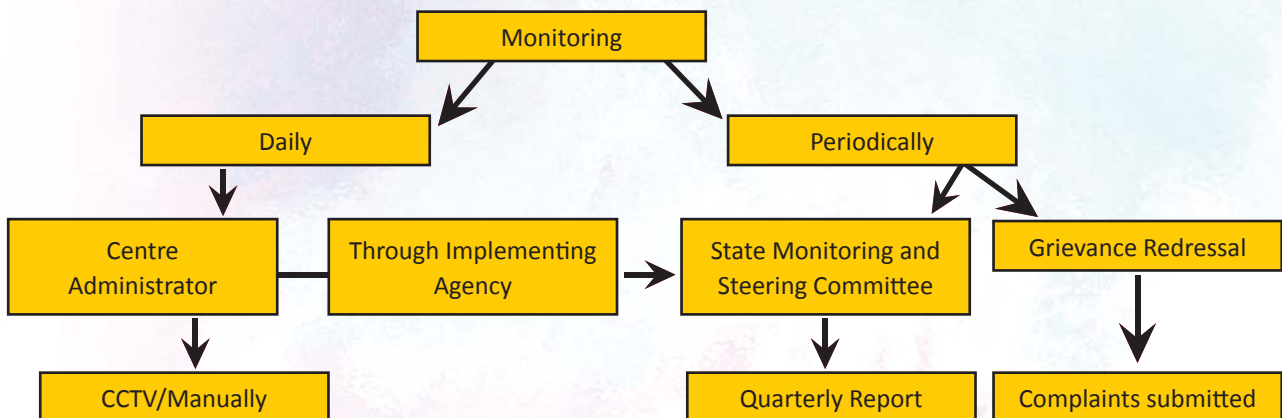


(ii) Non-Emergency Response



C. Monitoring Process

The Centre would remain under 24 hour constant surveillance of CCTV camera to monitor the day to day functioning of the staff.





Specifications for Construction of One Stop Centre are mentioned below:

- i. Plot Area 300 Sq. M (3229.2 sq ft)
- ii. Ground Coverage 102 Sq. M (1098 sq. ft)
- iii. Total area (Carpet area) 132 Sq. M (1421 sq ft)

Sl. No.	Purpose /Uses	Unit	Area (Sq. ft.)
<b>Ground Floor</b>			
1	Office /Video Conferencing	1	1100 Sq.ft. (102.19 sq. m)
2	Administrator	1	
3	Counsellor/Medical Consultant	1	
4	Toilet	2	
5	Short Shelter with 5 beds	1	
6	Pantry	1	
7	Others (Lobby, Stairs )		
<b>First Floor (Accommodation for Administrator)</b>			
1	Room	2	300 sq.ft. (27.87 sq. m)
2	Pantry	1	
3	Toilets	1	
4	Others (Stairs etc)		



## Construction Cost

Cost Estimate based on CPWD PAR-2012			
Sl. No.	Description	Area (Sq.ft.)	Amount
1	Office Building	132.00	2761657.80
2	Site Development	300.00	228000.00
3	Solar Photo Voltaic Power Generation System	750 Watt	93,750.00
4	<b>Total</b>		<b>30,83,407.80</b>
5	Add Cost Index @ 7% on PAR 2012(for Delhi, NCR Region)		2,15,838.55
6	<b>Total</b>		<b>32,99,246.35</b>
7	Add for Contingency @ 3%		98,977.39
8	Add for Agency charges @ 10%		3,29,924.64
9	Add Service Tax on Agency Charges @ 12.36%		40,778.68
	<b>Grand total</b>		<b>37,68,927.06</b>

*Note: -The above rates are applicable in Delhi NCR Region only. For Rates of other regions/locations, prevailing cost index of respective regions/locations shall be added on above rates.*

- Construction cost for each One Stop Centre = Rs. 37,68,927.06
- Construction cost for the 20 One Stop Centers  $37,68,927.06 \times 20 = \text{Rs. } 7,53,78,541.20$

## REGISTRATION FORM

**Registration No:**

**Date:**

1. Name (in capital letters):

Aggrieved Women:

Referred by:

2. Address:

Contact No.:

3. Response Required:

Emergency:

Non Emergency:

**4. In case of Emergency:**

Police:

Medical Assistance/Services:

5. Present address/location (Mention Landmark)

**6. In case of non-emergency**

(i) Has she filed an NCR/FIR/DIR?

(ii) In case Yes, Details of the same:

**7. Assailants:**

Number of Assailants:

Relationship with the assailant:

Name of assailant:

Police station nearest to residence: Police station nearest to incident:

**8. History of Violence**

9. *Expectations from the center (In the woman's words)*

10. Feedback from the caller about the case, suggestive course of action:

11. Recourse Undertaken

## Annexure-IV

### PROFORMA FOR PROPOSAL FOR SETTING UP ONE STOP CENTRE (OSC)

1 Location of the OSC \_\_\_\_\_

2 Name of the hospital/medical facility/Government Semi -Government institution identified for setting up of OSC \_\_\_\_\_

3 Requirement of Fund for setting up OSC

a) Recurring Expenditure:

(Rs. in Lakhs)

Sl. No.	Items/Components	2015-16			2016-17		
		1 <sup>st</sup> Half Year	2 <sup>nd</sup> Half Year	Total	1 <sup>st</sup> Half Year	2 <sup>nd</sup> Half Year	Total
i)	One Stop Centre Management:						
ii)	Stationary (Cartridge, Paper etc.)						
iii)	Electricity						
iv)	Telephone/Fax						
v)	Catering/Food						
vi)	Clothing & Medicine & Kit etc						
vii)	Any other item out of Contingency fund						

b) Non Recurring Expenditure:

(Rs. in Lakhs)

Sl. No	Items/Components	2015-16
i)	Refurbishment of Existing facility:	
ii)	Refrigerator:	
iii)	Computer Peripherals (Desktop, Printer, Scanner)	
iv)	Telephone, Fax, Internet, Modem	
v)	Furnishing for the ward (bed, side table, chair) mattresses, pillows and curtains	
vi)	Furnishing for other rooms	
vii)	CCTV Camera	
	<b>Total</b>	

c) For Construction of the Centre, if required \_\_\_\_\_

4. The fund required for setting up OSC [3 (a)+(b)+(c)] \_\_\_\_\_

5. Details of Land (land should be free from all encumbrance):

a. Location of the land \_\_\_\_\_

b. Area of the land \_\_\_\_\_

- c. Copy of the approved plan for construction has been enclosed (Y/N) \_\_\_\_\_
- d. Name of the Agency identified by State for construction  
(NBCC/CPWD/State PWD/District Development Authority etc. \_\_\_\_\_)
- e. Is the State has entered in MOU with the identified Agency (Y/N) \_\_\_\_\_

**Authorized Signatory**

**Name and Designation:**

**Principle Secretary/Secretary/Director, DWCD**

## Annexure-V

### ELIGIBILITY REQUIREMENTS FOR THE SERVICE PROVIDING AGENCIES

The outsourcing agency looking after the day to day functioning such as management, counseling, call responding etc. at One Stop Centre needs to have expertise in chosen fields in order to accomplish the effective functioning of the Centre. Keeping in mind the qualitative nature of the services, an indicative qualification criterion is provided:

- A. Centre Management – The management of One Stop Centre could be outsourced to any woman having a Law degree/ Masters in Social Work with at least 5 years' experience of working on violence against women issues in an administrative set-up with a Government or Non-Government project/programme and preferably with at least 1 years' experience of counselling either within or outside the same set-up. She should be a resident of the local community so that local human resource and expertise is utilised for effective functioning of the centre.
- B. Case Worker: This service could be outsourced to any woman having a Law degree/ Masters in Social Work with at least 3 years' experience of working on violence against women issues in a Government or Non-Government project/programme. She should be a resident of the local community so that local human resource and expertise is utilised for effective functioning of the centre.
- C. For Police Assistance –The police assistance service could be outsourced to a Police Officer deployed from amongst serving cadre/ retired preferably a woman police officer at the Sub-Inspector level, with experience of working for at least 5 years. He/she will be qualified as per the requirements of the Ministry of Home Affairs for police personnel at the SI rank.
- D. For Legal Counselling –The legal counseling service could be outsourced to any person having a background in Law/ Social Sciences with para legal training or knowledge of laws with at least 3 years' experience of working within a Government or Non-Government project/programme on VAW at the district.
- E. For Legal Aid and Counselling –The legal aid service could be outsourced to any practicing Lawyer with at least 2 years' experience of litigation in the court of fact.
- F. For Medical Assistance –The medical assistance service could be outsourced to any woman having professional degree in paramedics with a background in health right and preferably with at least 3 years' experience of working within a Government or Non-Government health project/programme on VAW at the district.
- G. For Psycho-social Counselling –The counseling service could be outsourced to any woman having a postgraduate degree in Social Work/ Clinical Psychology with at least 3 years of experience of working as Counsellor/Psychotherapist in a reputed Mental Health Institute/Clinic at the District/State level.
- H. For IT Activities –The IT services could be outsourced to any person who is a graduate with a diploma in computers/ IT etc with a minimum of 3 years of experience in data management, process documentation and web based reporting formats, video conferencing in either at the level of state/ district/ Non-Governmental/ IT based organization.
- I. For Multi-purpose Activities –The multi-purpose activity could be outsourced to any person who is literate with at least 3 years of experience of working as a helper, peon etc.
- J. For Maintaining Safety and Security -The safety and security of the One Stop Centre could be outsourced to any person having at least 2 years of experience of working as security personnel in a government or reputed organization in the district/ state level. He/ She should preferably be retired military personnel and should be hired after police verification and registration.









## k. Any other crime:

Age group (in yrs)	No of cases registered		Service/assistance provided					
	Direct	On reference	Legal Aid/ Counselling	Medical	Police	Psycho-social Support/ Counselling	Shelter	Any other
0-18								
18-35								
35-60								
60 and above								

7. No. of visits conducted by State officers \_\_\_\_\_
8. Documentation of at least one case study/success story of a woman with a positive end (as per the sample enclosed)

**SUCCESS STORIES: CASE STUDY FORMAT**

This is the story of \_\_\_\_\_ 5 from \_\_\_\_\_ village; district \_\_\_\_\_ who has been living in \_\_\_\_\_ shelter home. She is \_\_\_\_\_ years old and belongs to a \_\_\_\_\_ community. She came to the Centre on \_\_\_\_\_ to access legal support in relation to the abuse she had been facing for the past \_\_\_\_\_ years.

She was referred to a lawyer immediately and we ensured that we followed up on her case every 15 days to understand the progress she had made in consultation with the lawyer from DALSA.

Story after this.....

Prepared By:

Approved By (with seal)

:

**QUARTERLY STATEMENT OF EXPENDITURE****One Stop Centre (OSC)**

Name of the State/UT \_\_\_\_\_ Financial Year \_\_\_\_\_

Quarter: I (Apr-June)                      II (Jul-Sept)                      III (Oct-Dec)                      IV (Jan-Mar)

**PART A: HALF YEARLY OSC BUDGET****UTILISATION CERTIFICATE**

Certified that out of the total amount of ` \_\_\_\_\_ released under One Stop Centre (OSC) during 20\_\_20\_\_ to the State/UT of \_\_\_\_\_ by Government of India upto Half yearly I / II, a sum of ` \_\_\_\_\_ has been utilized for the purpose for which the amount was released as per Scheme norms. Out of this, ` \_\_\_\_\_ was utilized in the current Half Year (I / II).

**Signature and seal of the Authorized Officer**

**PART B: PHYSICAL**

In Quarter	Cumulative
I/ II/ III/ IV	upto the Quarter I/ II/ III/ IV

**1. Meetings of Committees**

- a. No. of State steering Committee meetings held to review the function of the centre \_\_\_\_\_
- b. No. of Meetings of Management Committee held for review the progress/function of the centre \_\_\_\_\_

**2. Orientation & sensitization programme**

- a. No. of orientation/workshop organized for Government officers/  
i. Elected representative/Judiciary/Legal Expert/Police officers/  
ii. NGOs/Staff of OSCC \_\_\_\_\_
- b. No. of participants attended the orientations/workshops: \_\_\_\_\_

**3. No. of awareness generation activities organized (if any) \_\_\_\_\_****4. Number of Cases registered at Centre:**

- a. Domestic violence
- i. Below 18 yrs \_\_\_\_\_
- ii 18-35 yrs \_\_\_\_\_
- iii. 36-60 yrs \_\_\_\_\_
- iv. 60 and above \_\_\_\_\_
- b. Rape
- i. Below 18 yrs \_\_\_\_\_
- ii. 18-35 yrs \_\_\_\_\_
- iii. 36-60 yrs \_\_\_\_\_
- iv. 60 and above \_\_\_\_\_
- c. Sexual Offence / Sexual Harassment
- i. Below 18 yrs \_\_\_\_\_
- ii. 18-35 yrs \_\_\_\_\_
- iii. 36-60 yrs \_\_\_\_\_
- iv. 60 and above \_\_\_\_\_
- d. Acid Attack
- i. Below 18 yrs \_\_\_\_\_
- ii. 18-35 yrs \_\_\_\_\_
- iii. 36-60 yrs \_\_\_\_\_
- iv. 60 and above \_\_\_\_\_
- e. Women trafficking
- i. Below 18 yrs \_\_\_\_\_
- ii. 18-35 yrs \_\_\_\_\_

- iii. 36-60 yrs \_\_\_\_\_
- iv. 60 and above \_\_\_\_\_
- f. Child sexual abuse \_\_\_\_\_
- g. Child Marriage \_\_\_\_\_
- h. Missing/kidnapping/Abduction
- i. Below 18 yrs \_\_\_\_\_
- ii. 18-35 yrs \_\_\_\_\_
- iii. 36-60 yrs \_\_\_\_\_
- iv. 60 and above \_\_\_\_\_
- i. Cyber crime
- i. Below 18 yrs \_\_\_\_\_
- ii. 18-35 yrs \_\_\_\_\_
- iii. 36-60 yrs \_\_\_\_\_
- iv. 60 and above \_\_\_\_\_
- j. Dowry Harassment/ death
- i. 18-35 yrs \_\_\_\_\_
- ii. 36-60 yrs \_\_\_\_\_
- iii. 60 and above \_\_\_\_\_
- k. Any other \_\_\_\_\_
- Total** \_\_\_\_\_

**5. Services provided at centre:**

- a. No. of legal aid/counseling support provided \_\_\_\_\_
- b. No. of medical assistance provided \_\_\_\_\_
- c. No. of police assistance services provided \_\_\_\_\_
- d. No. of cases in which Shelter support required \_\_\_\_\_
- e. No. of Psycho-social support/counseling support provided \_\_\_\_\_
- f. No. of cases in which survivor linked with the government Scheme \_\_\_\_\_

**6. No. of case study/success story of women documented/reported** \_\_\_\_\_

**7. Monitoring**

- i) No. of visits conducted by State officers \_\_\_\_\_

**PART C: FINANCIAL**

(`In lakhs)

- 1 Funds released during previous financial year by Gol \_\_\_\_\_
- 2 Expenditure incurred in previous financial year \_\_\_\_\_
- 3 (a) Unutilized balance of previous financial year (1-2) \_\_\_\_\_

OR

- (b) Excess expenditure incurred in previous financial year (2-1) \_\_\_\_\_

4. Funds released upto previous Quarter in current year by Gol \_\_\_\_\_
5. Funds released during the current Quarter by Gol \_\_\_\_\_  
(Sanction Order No. \_\_\_\_\_ Date: \_\_\_\_\_)
6. Cumulative release during the year (4+ 5) \_\_\_\_\_
7. Net Central funds available (6 + 3(a) OR 6– (b) as the case may be) \_\_\_\_\_
8. **Expenditure incurred during the Quarter (in lakhs)**

	In Quarter the Quarter		Cumulative up to
	I/ II/ III/ IV	I/ II/ III/ IV	I/ II/ III/ IV
<b>i) Recurring Expenditure:</b>			
a) One Stop Centre Management:	_____	_____	_____
b) Stationary (Cartridge, Paper etc.):	_____	_____	_____
c) Electricity	_____	_____	_____
d) Telephone/Fax	_____	_____	_____
e) Catering/Food	_____	_____	_____
f) Clothing & Medicine & Kit etc.	_____	_____	_____
h) Any other item out of Contingency fund	_____	_____	_____
<b>ii) Non recurring Expenditure:</b>			
a) Refurbishment of Existing facility:	_____	_____	_____
b) Refrigerator:	_____	_____	_____
c) Computer Peripherals (Desktop, Printer, Scanner)	_____	_____	_____
d) Telephone, Fax, Internet, Modem	_____	_____	_____
e) Furnishing for the ward (bed, side table, chair) mattresses, pillows and curtains:	_____	_____	_____
f) Furnishing for other rooms:	_____	_____	_____
g) CCTV Camera:	_____	_____	_____
<b>Total</b>	_____	_____	_____

**iii). Construction of the centre, if required**

9. **Grand Total 8 (i) +8 (ii) + 8(iii)**
10. Utilization Funds ( 7-9) :
11. Saving, if any along with reasons:

## ANNUAL STATEMENT OF EXPENDITURE

### One Stop Centre (OSC)

Name of the State/UT \_\_\_\_\_ Financial Year \_\_\_\_\_

### PART A: ANNUAL One Stop Centre (OSC) BUDGET

#### Central

1.OSC \_\_\_\_\_ (in lakhs)

### UTILISATION CERTIFICATE

Certified that out of the total amount of \_\_\_\_\_ released under **One Stop Centre (OSC)** during 201\_\_-201\_\_ to the State/UT of \_\_\_\_\_ by Government of India, a sum of \_\_\_\_\_ has been utilized for the purpose for which the amount was released as per Scheme norms. The unspent balance available with the State as on 31.03. \_\_\_\_ is ` \_\_\_\_\_ OR the excess expenditure incurred by the State as on 31.03. \_\_\_\_ is ` \_\_\_\_\_.

Signature and Seal of the Authorized Officer

### PART B: PHYSICAL

#### 1. Meetings of Committees

- i) No. of State Steering Committee meetings held to review the function of the centre \_\_\_\_\_  
 ii) No. of Meetings of Local Management Committee held for review the progress/function of the centre \_\_\_\_\_

#### 2. Orientation & sensitization programme

- ii) No. of orientation/workshop organized for Government Officers/Elected Representative/Judiciary/Legal Expert/Police Officers/NGOs \_\_\_\_\_  
 iii) No. of participants attended the orientations/workshops: \_\_\_\_\_

#### 3. No. of awareness generation activities organized (if any) \_\_\_\_\_

#### 4. Number of Cases registered:

- a. Domestic violence  
 i. Below 18 yrs \_\_\_\_\_  
 ii. 18-35 yrs \_\_\_\_\_  
 iii. 36-60 yrs \_\_\_\_\_  
 iv. 60 and above \_\_\_\_\_
- b. Rape  
 i. Below 18 yrs \_\_\_\_\_  
 ii. 18-35 yrs \_\_\_\_\_

- iii. 36-60 yrs \_\_\_\_\_
- iv. 60 and above \_\_\_\_\_
- c. Sexual Offence/Sexual Harassment
  - i. Below 18 yrs \_\_\_\_\_
  - ii. 18-35 yrs \_\_\_\_\_
  - iii. 6-60 yrs \_\_\_\_\_
  - iv. 60 and above \_\_\_\_\_
- d. Acid Attack
  - i. Below 18 yrs \_\_\_\_\_
  - ii. 18-35 yrs \_\_\_\_\_
  - iii. 36-60 yrs \_\_\_\_\_
  - iv. 60 and above \_\_\_\_\_
- e. Women Trafficking
  - i. Below 18 yrs \_\_\_\_\_
  - ii. 18-35 yrs \_\_\_\_\_
  - iii. 36-60 yrs \_\_\_\_\_
  - iv. 60 and above \_\_\_\_\_
- f. Child Sexual Abuse \_\_\_\_\_
- g. Child Marriage \_\_\_\_\_
- h. Missing/Kidnapping/Abduction
  - i. Below 18 yrs \_\_\_\_\_
  - ii. 18-35 yrs \_\_\_\_\_
  - iii. 36-60 yrs \_\_\_\_\_
  - iv. 60 and above \_\_\_\_\_
- i. Cyber Crime
  - i. Below 18 yrs \_\_\_\_\_
  - ii. 18-35 yrs \_\_\_\_\_
  - iii. 36-60 yrs \_\_\_\_\_
  - iv. 60 and above \_\_\_\_\_
- j. Dowry Harassment/Death \_\_\_\_\_
  - i. 18-35 yrs \_\_\_\_\_
  - ii. 36-60 yrs \_\_\_\_\_
  - iii. 60 and above \_\_\_\_\_

k. Any other \_\_\_\_\_

**Total** \_\_\_\_\_

**5. Services Provided:**

a. No. of legal aid/counseling support provided \_\_\_\_\_

b. No. of medical assistance provided \_\_\_\_\_

c. No. of police assistance services provided \_\_\_\_\_

d. No. of cases in which Shelter support required \_\_\_\_\_

e. No. of Psycho-social support/counseling support provided \_\_\_\_\_

f. No. of cases in which survivor linked with the government Scheme \_\_\_\_\_

**6. Monitoring**

ii) No. of visits conducted by State officers \_\_\_\_\_

**PART C: FINANCIAL**

(`In lakhs)

1. Funds released during previous financial year by Gol \_\_\_\_\_

2. Expenditure incurred in previous financial year \_\_\_\_\_

3. (a) Unutilized balance of previous financial year (1-2) \_\_\_\_\_

OR

(b) Excess expenditure incurred in previous financial year (2-1) \_\_\_\_\_

4. Funds released upto previous Quarter in current year by Gol \_\_\_\_\_

5. Funds released during the current Quarter by Gol \_\_\_\_\_ (Sanction Order No. \_\_\_\_\_ Date: \_\_\_\_\_)

6. Cumulative release during the year (4+ 5) \_\_\_\_\_

7. Net Central funds available (6 + 3(a) OR 6 – (b) as the case may be) \_\_\_\_\_

**8. Expenditure incurred during the annual (`in lakhs)**

**i) Recurring Expenditure:**

a) One Stop Centre Management: \_\_\_\_\_

b) Stationary (Cartridge, Paper etc.): \_\_\_\_\_

c) Electricity \_\_\_\_\_

d) Telephone/Fax \_\_\_\_\_

e) Catering/Food \_\_\_\_\_

f) Clothing & Medicine & Kit etc. \_\_\_\_\_

h) Any other item out of Contingency fund \_\_\_\_\_

**ii) Non Recurring Expenditure:**

a) Refurbishment of Existing facility: \_\_\_\_\_

b) Refrigerator: \_\_\_\_\_

c) Computer Peripherals (Desktop, Printer, Scanner) \_\_\_\_\_

d) Telephone, Fax, Internet, Modem \_\_\_\_\_

e) Furnishing for the ward (bed, side table, chair) mattresses, pillows and curtains: \_\_\_\_\_

f) Furnishing for other rooms: \_\_\_\_\_

g) CCTV Camera: \_\_\_\_\_

**Total** \_\_\_\_\_

**iii). Construction of the centre, if required** \_\_\_\_\_

**9. Grand Total 8 (i) +8 (ii) + 8(iii)** \_\_\_\_\_

10 Utilization Funds ( 7-9) : \_\_\_\_\_

11. Saving, if any along with reasons: \_\_\_\_\_



## Annexure-VII

### INDICATIVE GRIEVANCE REDRESSAL/FEEDBACK FORM

Address of One Stop Centre: \_\_\_\_\_

State: \_\_\_\_\_

Name of the Administrator: \_\_\_\_\_

Form No.: \_\_\_\_\_ **Administrator's Receipt** \_\_\_\_\_

OSC-ID No.: \_\_\_\_\_ Date: \_\_\_\_\_

Time: \_\_\_\_\_ Place: \_\_\_\_\_

Signature of the Survivor: \_\_\_\_\_

Signature with official seal of the Administrator of One Stop Centre: \_\_\_\_\_

**Complainant's Receipt** \_\_\_\_\_

OSC: \_\_\_\_\_ ID No.: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Place: \_\_\_\_\_

Signature of the Survivor: \_\_\_\_\_

Signature with official seal of the Administrator of One Stop Centre: \_\_\_\_\_

#### Details of the Complainant

1. Your full name: \_\_\_\_\_
2. Address: \_\_\_\_\_
3. Photo ID Number: \_\_\_\_\_
4. Contact Number: : \_\_\_\_\_
5. Email address: \_\_\_\_\_
6. Would you like a copy of your grievance emailed to you?
7. Are you making this grievance on behalf of someone else?
8. Details of the issue to be resolved:
9. Please name the person concerned:
10. What kind of outcome do you want to resolve your complaint?
11. Other ways you have tried to resolve your complaint?
12. Complaints to other agency?
13. If yes, details about the agency along with name, address and date of contact with agency: \_\_\_\_\_

#### Feedback from Survivor

1. Are you satisfied with the grievance redressal mechanism of the One Stop Centre?
2. If no, provide details in what you feel you have been treated unfairly?
3. If you have been treated unfairly by a person, please provide the details: name/designation of the personnel:
4. If you have been treated unfairly by the organization, please provide details of the Police Station/ Hospital/Any other Referral Service Provider/ Shelter Home:
5. Suggestions regarding the improvement of services of the One Stop Centre:

## **SUGGESTED REFERRAL SERVICES DIRECTORIES NEEDED FOR ONE STOP CENTRE**

1. All Hospitals Chief Medical Officer
2. List of Forensic Labs
3. Ambulance Service
4. District Magistrate/ District Collectors Office
5. Office of the SP, DSP and all Police Thana
6. Crime Against Women Cell
7. Protection Officers
8. District Legal Services Authority
9. District Panchayat Raj Officer
10. District Education Officer
11. District Social Welfare Officer
12. Elected Representatives of the PRI
13. Rural Development Functionaries
14. NGOs/ CBOs Directory specialized in dealing with services for women affected with violence and volunteers.
15. Community Leaders
16. Members of Nehru Yuva Kendras / Youth Clubs
17. Swadhar Greh/ Short Stay Home
18. Helplines by Social Justice Ministry, Home Ministry, Women and Child Development
19. Local Chemists
20. Blood Banks
21. Counsellor
22. Ward/ Municipality's Directory
23. Resident's Welfare Association (RWA)
24. Directory of WCD Functionaries namely CDPOs, Supervisors and Anganwadi Workers, ASHA's and ANMs
25. Poorna Shakti Kendras

## **Annexure-VIII**

### **GUIDELINES & PROTOCOLS**

#### **Medico- legal care for survivors/victims of sexual violence**

## MEDICAL EXAMINATION AND REPORTING FOR SEXUAL VIOLENCE

The following guidelines are for health professionals when a survivor of sexual violence reports to a hospital. The guidelines describe in detail the stepwise approach to be used for a comprehensive response to the sexual violence survivor as follows:

- I. Initial resuscitation/First Aid
- II. Informed consent for examination, evidence collection, police procedures
- III. Detailed History taking
- IV. Medical Examination
- V. Age Estimation (physical/dental/radiological) – if requested by the investing agency
- VI. Evidence Collection as per the protocol
- VII. Documentation
- VIII. Packing, sealing and handing over the collected evidence to police
- IX. Treatment of injuries
- X. Testing/prophylaxis for STIs, HIV, Hepatitis B and Pregnancy
- XI. Psychological support & counselling
- XII. Referral for further help (shelter, legal support)

Record the name of hospital where the survivor is being examined followed by the following:

- 2-5. **Name, address, age and sex** (male/female/other) of the survivor
- 6-7. **Date and time** of receiving the patient in the hospital and commencement of examination
8. **Name of the person who brought the survivor** and relationship to accompanying persons.
12. **Informed consent:** A survivor may approach a health facility under three circumstances:
  - a) On his/her own only for treatment for effects of assault;
  - b) With a police requisition after police complaint; or
  - c) With a court directive.
    - If a person has come directly to the hospital without the police requisition, the hospital is bound to provide treatment and conduct a medical examination with consent of the survivor/parent/guardian (depending on age). A police requisition is not required for this.
    - If a person has come on his/her own without FIR, she/he may or may not want to lodge a Complaint but requires a medical examination and treatment. Even in such cases the doctor is bound to inform the police as per law. However neither court nor police can force the survivor to undergo medical examination. It has to be with the informed consent of the survivor/parent/guardian (depending on the age). In case the survivor does not want to pursue a police case, a MLC must be made and she must be informed that she has the right to refuse to file FIR. An informed refusal must be documented in such cases.
    - If the person has come with a police requisition or wishes to lodge a complaint later, the information about Medico-Legal Case (**MLC**) no. & **police station** should be recorded.
    - Doctors are legally bound to examine and provide treatment to survivors of sexual violence. The timely reporting, documentation and collection of forensic evidence may assist the investigation of this crime; Police personnel should not be present during any part of the examination.

In all three circumstances, it is mandatory to seek an Informed Consent/refusal for examination and evidence collection. Consent should be taken for the following purposes: examination, sample collection for clinical and forensic examination, treatment and police intimation.

Doctors shall inform the person being examined about the nature and purpose of examination and in case of child to the child's parent/guardian/ or a person in whom the child reposes trust. This information should include:

- a) The medico-legal examination is to assist the investigation, arrest and prosecution of those who committed the sexual offence. This may involve an examination of the mouth, breasts, vagina, anus and rectum as necessary depending on the particular circumstances.
- b) To assist investigation, forensic evidence may be collected with the consent of the survivor. This may include removing and isolating clothing, scalp hair, foreign substances from the body, saliva, pubic hair, samples taken from the vagina, anus, rectum, mouth and collecting a blood sample.
- c) The survivor or in case of child, the parent/guardian/or a person in whom the child reposes trust, has the right to refuse either a medico-legal examination or collection of evidence or both, but that refusal will not be used to deny treatment to survivor after sexual violence.
- d) As per the law, the hospital/examining doctor is required/duty bound to inform the police about the sexual offence. However, if the survivor does not wish to participate in the police investigation, it should not result in denial of treatment for sexual violence.

Emphasize that seeking treatment is critical for the survivor's well-being

- The survivor or guardian may refuse to give consent for any part of examination. In this case the doctor should explain the importance of examination and evidence collection; however the refusal should be respected. It should also be explained that refusal for such examination will not affect/compromise treatment. Such informed refusal for examination and evidence collection must be documented.
  - In case there is informed refusal for police intimation, then that should be documented. At the time of MLC intimation being sent to the police, a clear note stating "informed refusal for police intimation" should be made.
  - Only in situations, where it is life threatening the doctor may initiate treatment without consent as per section 92 of IPC.
  - The consent form must be signed by the person him/herself if she/he is above 12 yrs. of age. Consent must be taken from the guardian/parent if the survivor is under the age of 12 years.
  - In case of persons with mental disability, please refer to section on "Persons with Disabilities".
  - The consent form must be signed by the survivor, a witness and the examining doctor.
  - Any major "disinterested" person may be considered a witness.
13. Two marks of identification such as moles, scars, tattoos, etc., preferably from the exposed parts of the body should be documented. While describing identification mark emphasis should be on size, site, surface, shape, colour, fixity to underlying structures. Left Thumb impression is to be taken in the space provided.
  14. **Relevant medical/surgical history**
    - Menstrual history (Cycle length and duration, Date of last menstrual period). If the survivor is menstruating at the time of examination then a second examination is required on a later date in order to record the injuries clearly. Some amount of evidence is lost because of menstruation. Hence it is important to record whether the survivor was menstruating at the time of assault/examination.
    - Vaccination history is important with regard to tetanus and hepatitis B, so as to ascertain if prophylaxis is required.
  15. **Sexual violence history**
    - Be sensitive to the survivor as she has experienced a traumatic episode and s/he may not be able to provide all the details. Explain to him/her that the process of history taking is important for further treatment and for filing a case if needed.
    - Create an environment of trust so that the survivor is able to speak out. Do not pass judgemental remarks.
    - A relative could be present with the consent of the survivor, if s/he is comfortable.
    - Details of the date, time and location of incident of sexual violence should be recorded.
    - In case of more than one assailant, their number should be recorded along with the names and relation if known.
    - One must note who is narrating the incident – survivor or an informant. If history is narrated by a person other than the survivor herself, his/her name should be noted. Especially if the identity of assailants is revealed it is better to also have a counter signature of the informant.

- The doctor should record the complete history of the incident, in survivor's own words as it has evidentiary value in the Court of Law.
- Use of any Physical violence during assault must be recorded with detailed description of the type of violence and its location on the body (e.g. Beating on the legs, biting cheeks, pulling hair, kicking the abdomen etc.)
- Note history of injury marks that the survivor may state to have left on the assailant's body as it can be matched eventually with the findings of the assailant's examination.
- If any weapon(s) were used such as sticks, acid burns, gun shots, knife attacks etc.; if the use of drugs/alcohol was involved. Verbal threats should be recorded in survivor's words, e.g. Harming her or her near and dear ones.
- Information regarding attempted or completed penetration by penis/finger/object in vagina/anus/mouth should be properly recorded. There could also be other acts such as masturbation of the assailant by the survivor, masturbation of the survivor by the assailant, oral sex by the assailant on the survivor or sucking, licking, kissing of body parts. Information about emission of semen, use of condom, sucking or spitting along with the location should be clearly stated. Information about emission of semen outside the orifices should be elicited as swabs taken from such sites can have evidentiary value. Information regarding use of condom during the assault is relevant because in such cases, vaginal swabs and smears would be negative for sperm/semen.
- While recording history of sexual violence, it is important to enquire and record in simple language whether these acts occurred or not. A clear differentiation should be made between a 'negative' and 'not sure' history. If the survivor does not know if a particular act occurred, it should be recorded as "did not know".
- One should not feel awkward in asking for history of the sexual act. If details are not entered it may weaken the survivor's testimony. The details of history are what will also guide the examination, treatment and evidence collection and therefore seeking a complete history is critical to the medical examination process, sample collection for clinical & forensic examination, treatment and police intimation.
- In case of children, illustrative books, body charts or a doll can be used if available, to elicit the history of the assault. When it is difficult to elicit history from a child, please call an expert.
- Details of clothing worn at the time of assault should be recorded.
- Post assault information should be collected on activities like changed clothes, cleaned cloths, bathed/urinated/defecated/showered/washed genitals (in all cases) and rinsing mouth, drinking, eating (in oral sexual violence)/had sexual intercourse after the incident of sexual violence. This would have a bearing on the trace evidence collected from these sites.
- If vaginal swabs for detection of semen are being taken then record history of last consensual sexual intercourse in the week preceding the examination. It should be recorded because detection of sperm/semen is valuable evidence. While seeking such history, explain to the survivor why this information is being sought, because the survivor may not want to disclose such history as it may seem invasive.
- Information related to past abuse (physical/sexual/emotional) should be recorded in order to understand if there is any health consequence related to the assault. This information should be kept in mind during examination & interpretation of findings.
- Relevant Medical & Surgical History: Relevant medical history in relation to sexually transmitted infections (gonorrhoea, HIV, HBV etc.) can be elicited by asking about discharge per-urethra/per-anus, warts, ulcers, burning micturition, lower abdominal pain etc. Based on this information re-examination/investigations can be done after incubation period of that disease. If there is vaginal discharge, record its type, i.e., texture, colour, odour, etc.

Relevant surgical history in relation to treatment of fissures/injuries/scars of ano-genital area should be noted.

#### 16. General physical examination

- Record if the person is oriented in space and time and is able to respond to all the questions asked by the doctor. Any signs of intoxication by ingestion or injection of drug/alcohol must be noted.
- Pulse, B.P., respiration, temperature and state of pupils is recorded.
- A note is made of the state of clothing if it is the same as that worn at the time of assault.
- If it is freshly torn or has stains of blood/semen/mud etc.; the site, size, and colour of stains should be described.

### 17. Examination for injuries

- Presence of injuries is only observed in one third cases of forced sexual intercourse. Absence of injuries does not mean the survivor has consented to sexual activity. As per law, if resistance was not offered that does not mean the person has consented.
- The entire body surface should be inspected carefully for signs of bruises, physical torture injuries, nail abrasions, teeth bite marks, cuts, lacerations, fracture, tenderness, any other injury, boils, lesions, discharge specially on the scalp, face, neck, shoulders, breast, wrists, forearms, medial aspect of upper arms, thighs and buttocks.
- Describe all the injuries, Describe the type of injury (abrasion, laceration, incised, contusion etc.) site, size, shape, colour, swelling, signs of healing simple/grievous dimensions. Mention possible weapon of infliction such as – hard, blunt, rough, sharp etc.
- Injuries are best represented when marked on body charts. They must be numbered on the body charts and each must be described in detail.
- Describe any stains seen on the body – the type stain (blood, semen, lubricant, etc) its actual site, size and colour. Mention the number of swabs collected and their sites.

### 18. Local examination of genital parts/other orifices

- A. External genital area and Perineum is observed carefully for evidence of injury, seminal stains and stray pubic hair. Pubic hair is examined for any seminal deposits/stray hair. Combing is done to pick up any stray hair or foreign material, and sample of pubic hair, and matted pubic hair is taken and preserved. If pubic hair is shaven, a note is made.
- B. In case of female survivors, the vulva is inspected systematically for any signs of recent injury such as bleeding, tears, bruises, abrasions, swelling, or discharge and infection involving urethral meatus & vestibule, labia majora and minora, fourchette, introitus and hymen.
  - Examination of the vagina of an adult female is done with the help of a sterile speculum lubricated with warm saline/sterile water. Gentle retraction allows for inspection of the vaginal canal. Look for bruises, redness, bleeding and tears, which may even extend onto the perineum, especially in the case of very young girls. In case injuries are not visible but suspected; look for micro injuries using good light and a magnifying glass/colposcope whatever is available. If 1% Toluidine blue is available it is sprayed and excess is wiped out. Micro injuries will stand out in blue. Care should be taken that all these tests are done only after swabs for trace evidence are collected.
  - Per speculum examination is not a must in the case of children/young girls when there is no history of penetration and no visible injuries. The examination and treatment as needed may have to be performed under general anaesthesia in case of minors and when injuries inflicted are severe. If there is vaginal discharge, note its texture, colour, odour.
  - **Per-Vaginum examination commonly referred to by lay persons as ‘two – finger test**, must not be conducted for establishing rape/sexual violence. Per vaginum examination can be done only in adult women when medically indicated.
  - The status of hymen is irrelevant because the hymen can be torn due to several reasons such as cycling, riding or masturbation among other things. An intact hymen does not rule out sexual violence, and a torn hymen does not prove previous sexual intercourse. Hymen should therefore be treated like any other part of the genitals while documenting examination findings in cases of sexual violence. Only those that are relevant to the episode of assault (findings such as fresh tears, bleeding, edema etc.) are to be documented.
  - Genital findings must also be marked on body charts and numbered accordingly.
- C. Bleeding/swelling/tears/discharge/stains/warts around the anus and anal orifice must be documented. Per-rectal examination to detect tears/stains/fissures/hemorrhoids in the anal canal must be carried out and relevant swabs from these sites should be collected.
- D. Oral cavity should also be examined for any evidence of bleeding, discharge, tear, odema, tenderness.

### 19. Collection of samples for hospital laboratory /clinical laboratory

- If requested by police radiographs of wrist, elbow, shoulders, dental examination etc. can be advised for age estimation.

- For any suspected fracture/injury – appropriate investigation for the relevant part of the body is advised.
- Urine Pregnancy test should be performed by the doctor on duty and the report should be entered.
- Blood is collected for evidence of baseline HIV status, VDRL and HbsAg.

#### 20. Collection of samples for Central/State forensic science laboratory

- After assessment of the case, determine what evidence needs to be collected. It would depend upon nature of assault, time lapsed between assault and examination and if the person has bathed/washed herself since the assault.
- If a woman reports within 96 hours (4 days) of the assault, all evidence including swabs must be collected, based on the nature of assault that has occurred. The likelihood of finding evidence after 72 hours (3 days) is greatly reduced; however it is better to collect evidence up to 96 hours in case the survivor may be unsure of the number of hours lapsed since the assault.
- The spermatozoa can be identified only for 72 hours after assault. So if a survivor has suffered the assault more than three days ago, please refrain from taking swabs for spermatozoa. In such cases swabs should only be sent for tests for identifying semen.
- Evidence on the outside of the body and on materials such as clothing can be collected even after 96 hours.
- The nature of swabs taken is determined to a large extent by the history and nature of assault and time lapse between incident and examination. For example, if the survivor is certain that there is no anal intercourse; anal swabs need not be taken.
- Request the survivor to stand on a large sheet of paper, so as to collect any specimens of foreign material e.g. grass, mud, pubic or scalp hair etc. which may have been left on her from the site of assault/from the accused. This sheet of paper is folded carefully and preserved in a bag to be sent to the FSL for trace evidence detection.
- Clothes that the survivor was wearing at the time of the incident of sexual violence are of evidentiary value if there is any stains/tears/trace evidence on them. Hence they must be preserved. Please describe each piece of clothing separately with proper labelling. Presence of stains – semen, blood, foreign material etc – should be properly noted. Also note if there are any tears or other marks on the clothes. If clothes are already changed then the survivor must be asked for the clothes that were worn at the time of assault and these must be preserved.
- Always ensure that the clothes and samples are air dried before storing them in their respective packets. Ensure that clothing is folded in such a manner that the stained parts are not in contact with unstained parts of the clothing. Pack each piece of clothing in a separate bag, seal and label it duly.

#### Body evidence:

- Swabs are used to collect bloodstains on the body, foreign material on the body surfaces, seminal stains on the skin surfaces and other stains. Detection of scalp hair and pubic hair of the accused on the survivor's body (and vice-versa) has evidentiary value. Collect loose scalp and pubic hair by combing. Intact scalp and pubic hair is also collected from the survivor so that it can be matched with loose hair collected from the accused. All hair must be collected in the catchment paper which is then folded and sealed.
- If there is struggle during the sexual violence, with accused and survivor scratching each other, then epithelial cells of one may be present under the nails of the other that can be used for DNA detection. Nail clippings and scrapings must be taken for both hands and packed separately. Ensure that there is no underlying tissue contamination while clipping nails.
- Blood is collected for grouping and also helps in comparing and matching blood stains at the scene of crime.
- Collect blood and urine for detection of drugs/alcohol as the influence of drugs/alcohol has a bearing on the outcome of the entire investigation. If such substances are found in the blood, the validity of consent is called into question. In a given case, for instance, there may not be any physical or genital injuries. In such a situation, ascertaining the presence of drug/alcohol in the blood or urine is important since this may have affected the survivor's ability to offer resistance. Urine sample may be collected in a container to test for drugs and alcohol levels as required.



- Venous blood is collected with the sterile syringe and needle provided and transferred to 3 sterile vials/vacutainers for the following purposes: Plain Vial/Vacutainer – Blood grouping and drug estimation, Sodium Fluoride – Alcohol estimation, EDTA –DNA Analysis.
- Collect oral swab for detection of semen and spermatozoa. Oral swabs should be taken from the posterior parts of the buccal cavity, behind the last molars where the chances of finding any evidence are highest.

#### **Genital and anal evidence**

- In the case of any suspected seminal deposits on the pubic hair of the woman, clip matted portion of the pubic hair; allow drying in the shade and placing in an envelope.
- Pubic hair of the survivor is then combed for specimens of the offender's pubic hair. A comb must be used for this purpose and a catchment paper must be used to collect and preserve the specimens. Cuttings of the pubic hair are also taken for the purpose of comparison or to serve as control samples. If pubic hair has been shaved, do not fail to make a mention of it in the records.
- Take two swabs from the vulva, vagina, anal opening for ano-genital evidence. Swabs must be collected depending on the history and examination. Swabs from orifices must be collected only if there is a history of penetration. Two vaginal smears are to be prepared on the glass slide provided, air-dried in the shade and sent for seminal fluid/spermatozoa examination.
- Often lubricants are used in penetration with finger or object, so relevant swabs must be taken for detection of lubricant. Other pieces of evidence such as tampons (may be available as well), which should be preserved.
- Swab sticks for collecting samples should be moistened with distilled water provided.
- Swabs must be air dried, but not dried in direct sunlight. Drying of swabs is a absolutely mandatory as there may be decomposition /degradation of evidence which can render it un-usable.
- Vaginal washing is collected using a syringe and a small rubber catheter. 2-3- ml of saline is instilled in the vagina and fluid is aspirated. Fluid filled syringe is sent to FSL laboratory after putting a knot over the rubber catheter.
- While handing over the samples, a requisition letter addressed to the FSL, stating what all samples are being sent and what each sample needs to be tested for should be stated. For example, "Vaginal swab to be tested for semen". This form must be signed by the examining doctor as well as the officer to whom the evidence is handed over.
- Please ensure that the numbering of individual packets is in consonance with the numbering on the requisition form. Specimens sent to the Forensic Science Laboratory will not be received unless they are packed separately, sealed, labelled and handed over.

#### **21. Provisional clinical opinion**

- Drafting of provisional opinion should be done immediately after examination of the survivor on the basis of history and findings of detailed clinical examination of the survivor.
- The provisional opinion must, in brief, mention relevant aspects of the history of sexual violence, clinical findings and samples which are sent for analysis to FSL.
- An inference must be drawn in the opinion, correlating the history and clinical findings.

*The following section offers some scenario about ways to draft a provisional and final opinion. However, this list is not exhaustive and readers are advised to form provisional opinions based on the examples given below.*

It should be always kept in mind that normal examination findings neither refute nor confirm the forceful sexual intercourse. Hence circumstantial/other evidence may please be taken into consideration.

Absence of injuries or negative laboratory results may be due to:

- a. Inability of survivor to offer resistance to the assailant because of intoxication or threats
- b. Delay in reporting for examination
- c. Activities such as urinating, washing, bathing, changing clothes or douching which may lead to loss of evidence
- d. Use of condom/vasectomy or diseases of vas

This reasoning must be mentioned while formulating the opinion.

Genital injuries	Physical injuries	Opinion	Rationale why forced penetrative sex cannot be ruled out	What can FSL detect
Present	Present	There are signs suggestive of recent use of force/forceful penetration of vagina/ anus. Sexual violence cannot be ruled out.	Evidence for semen and spermatozoa are yet to be tested by laboratory examination in case of penile penetration.	Evidence of semen except when condom was used
Present	Absent	There are signs suggestive of recent forceful penetration of vagina/anus.	Evidence for semen and spermatozoa are yet to be tested in case of penile penetration. The lack of physical injuries could be because of the survivor being unconscious, under the effect of alcohol/ drugs, overpowered or threatened. It could be because, there was fingering or penetration by object with or without use of lubricant – which is an offence under Sec 375 IPC	Evidence of semen or lubricant except when condom was used
Absent	Present	There are signs of use of force, however vaginal or anal or oral penetration cannot be ruled out.	The lack of injuries could be because of the survivor being unconscious, under the effect of alcohol/ drugs, overpowered or threatened or use of lubricant.	Evidence of semen or lubricant
Absent	Absent	There are no signs of use of force; however final opinion is reserved pending availability of FSL reports. Sexual violence cannot be ruled out.	The lack of genital injuries could be because of use of lubricant. The lack of physical injuries could be because of the survivor being unconscious, under the effect of alcohol/drugs, overpowered or threatened. It could also be because, there was fingering or penetration by object with use of lubricant- which is an offence under Sec 375 IPC	Evidence of semen or lubricant

## 22. Treatment guidelines and psychosocial support

### Sexually Transmitted Infections:

- If clinical signs are suggestive of STD, collect relevant swabs and start PEP. If there are no clinical signs, wait for lab results. For non-pregnant women, the preferred choice is Azithromycin 1gm stat or Doxycycline 100mg bd for 7 days, with Metronidazole 400 mg for 7 days with antacid.
- For pregnant women, Amoxicillin/Azithromycin with Metronidazole is preferred. Metronidazole should NOT be given in the 1st trimester of pregnancy.

Hepatitis B. Draw a sample of blood for HBsAg and administer 0.06 ml/kg HB immune globulin immediately (anytime upto 72 hours after sexual act).

### Pregnancy Prophylaxis (Emergency contraception)

- The preferred choice of treatment is 2 tablets of Levonorgestrel 750 i.g. within 72 hours. If vomiting occurs, repeat within 3 hours. OR 2 tablets COCs Mala D -2 tablets stat repeated 12 hours with 72 hours.
- Although emergency contraception is most efficacious if given within the first 72 hours, it can be given for up to 5 days after the assault.
- Pregnancy assessment must be done on follow up and the survivor must be advised to get tested for pregnancy in case she misses her next period.

**Laceration:** Clean with antiseptic or soap and water. If the survivor is already immunized with Tetanus Toxoid or if no injuries, TT not required. If there are injuries and survivor is not immunized, administer ½cc TT IM. If lacerations require repair and suturing, which is often the case in minor girls, refer to the nearest centre offering surgical treatment.

**Post Exposure Prophylaxis (PEP)** for HIV should be given if a survivor reports within 72 hours of the assault. Before PEP is prescribed, HIV risk should be assessed.

**Follow-up:** Please emphasize the importance of follow up to the survivor. It is ideal to call the survivor for re-examination 2 days after the assault to note the development of bruises and other injuries; thereafter at 3 and 6 weeks. All follow ups should be documented.

- Repeat test for gonorrhoea if possible
- Test for pregnancy
- Repeat after six weeks for VDRL
- Assess for psychological sequel and re-iterate need for psychological support

**Psychosocial care:** All survivors should be provided the first line support. The health professional must provide this support himself/herself or ensure that there is someone trained at the facility to provide this.

### Signature and seal

After the examination the medical practitioner should document the report, formulate opinion, sign the report and handover the report and sealed samples to police under due acknowledgement.

- On the last sheet, mention how many pages are attached. Each page of the report should be signed to avoid tampering.
- It is important that one copy of all documents be given to the survivor as it is his/her right to have this information. One copy to be given to the police and one copy must be kept for hospital records.
- **All evidence needs to be packed and sealed properly in separate envelopes.** The responsibility for this lies with the examining doctor. **All blood samples must be refrigerated until handed over** to next in chain of custody. The hospital has the responsibility of properly preserving samples till handed over to police.
- Each envelope must be labeled as follows

**Packet number** .....

**Name of the hospital & place** .....

**Hospital number & date** .....

**Police station with MLC number** .....

**Name of the person with age & sex** .....

**Sample collected** .....

**Examination required** .....

### Date & time signature of doctor with seal

- Chain of custody: The hospital must designate certain staff responsible for handling evidence and no one other than these persons must have access to the samples. This is done to prevent mishandling and tampering. If a fool-proof chain of custody is not maintained, the evidence can be rendered inadmissible in the court of law. A log of handling over of evidence from one 'custodian' to the other must be maintained.

### Miscellaneous information

If a woman reports with a pregnancy resulting from an assault, she is to be given the option of undergoing an abortion, and protocols for MTP are to be followed. The products of conception (PoC) may be sent as evidence to the forensic lab (FSL) for establishing paternity/identifying the accused. The examining doctor/AMO/CMO is to contact the respective police station, ask them to collect the DNA kit from the FSL and bring it to the hospital to coincide with the time of MTP. The DNA Kit is used to collect the blood sample of the survivor. The accompanying DNA kit forms are to be filled by the examining doctor. A photograph of the survivor is required for this form, and should be arranged for prior to the MTP. The products of conception (PoC) are to be rinsed with normal saline (NOT completely soaked in saline) and collected in a wide-mouthed container with a lid. This sample is to be handed over immediately to the police along with the DNA kit, or preserved at 4 degree Celsius. It is to be transported by the police in an ice-box, maintaining the temperature at around 4 degree Celsius (2 to 8 degree Celsius) at all times.

#### 23. FINAL OPINION: To be formulated after receiving reports from the FSL

S.No.	Genital	Physical	FSL report injuries/ diseases	Final opinion
<b>FOR PENILE PENETRATION</b>				
1	Present	Present	Positive for presence of semen	There are signs suggestive of forceful vaginal/anal intercourse.
2	Present	Absent	Positive for presence of semen	There are signs suggestive of forceful vaginal/anal intercourse.
3	Absent	Present	Positive for presence of semen	There are signs suggestive of forceful vaginal/anal intercourse.
4	Absent	Absent	Positive for presence of semen	There are signs suggestive of vagina/anal intercourse.
5	Absent	Absent	Positive for presence of semen	There are signs suggestive of vagina/anal intercourse under the influence of drugs/alcohol.
<b>FOR NON-PENILE PENETRATION</b>				
6	Present	Present	FSL report is negative for presence of semen/ alcohol/drugs/ lubricant	There are no signs suggestive of vagina/anal intercourse, but there is evidence of physical and genital assault.
7	Present	Absent	FSL report is negative for presence of semen/ alcohol/drugs/ lubricant	There are no signs suggestive of vagina/anal intercourse, but there is evidence of genital assault.
8	Absent	Present	FSL report is negative for presence of semen/ alcohol/drugs/ lubricant	There are no signs suggestive of vaginal/anal intercourse, but there is evidence of physical assault.
9	Absent	Absent	FSL report is negative for presence of semen/ alcohol/drugs/ lubricant	There are no signs suggestive of penetration by vaginal/anal.
10	Absent	Absent	FSL report is positive for presence of Publicans only	There is a possibility of vaginal/anal penetration by lubricated object.

**OPINION FOR NON-PENETRATIVE ASSAULT**

1	Bite marks present and/or FSL detects salivary stains	There are signs suggestive of evidence of bite marks/ on.....site (time the injury)
2	Sucking marks (discoïd, subcutaneous extravasation of blood, with or without bite marks) present and/or FSL detects salivary stains	There are signs suggestive of sucking marks/on..... site (time the injury)
3	Forceful fondling, with presence of bruises or contusions with or without fingernail marks	There are signs suggestive of forceful physical injuries on .....site (time the injury) (which may be due to fondling)
4	Only forceful kissing and FSL detects salivary stains	There are signs suggestive of salivary contact (which may be due to kissing)
5	If the history suggests forced masturbation of the assailant by the survivor and if there is evidence of seminal stains detected on the hands	There are signs suggestive of the survivor of seminal fluid contact (which may be due to masturbation)
6	In case there are no signs of sucking, licking..... detected, but the history suggests some such form of assault	It is still important to document a good history because the survivor may have had a bath or washed him/herself.

## PSYCHO-SOCIAL CARE FOR SURVIVORS/VICTIMS

### Clinical guidelines for responding to IPV and sexual assault, WHO, 2013:

Health-care providers should, as a minimum, offer first-line support when women disclose violence. First Line support includes:

- Ensuring consultation is conducted in private.
- Ensuring confidentiality, while informing women of limits of confidentiality.
- Being non-judgmental and supportive and validating what the woman is saying.
- Providing practical care and support that responds to her concerns, but does not intrude
- Asking about her history of violence, listening carefully, but not pressuring her to talk (care should be taken when discussing sensitive topics when interpreters are involved).
- Helping her access information about resources, including legal and other services that she might think helpful.
- Assisting her to increase safety for herself and her children, where needed.
- Providing or mobilizing social support-

if doctors are unable to provide first-line support, they should ensure that someone else at the health facility is available to do so.

A set of guidelines based on the above:

#### Creating an enabling atmosphere and establishing trust

##### The health professional should

- Speak to survivor in a private space.
- Recognize her courage in reaching you as she has overcome several barriers.
- Recognize the dilemma faced by survivor in reporting violence. Do not label non-reporting to police as false case.
- Assure the survivor that her treatment will not be compromised.
- Inform survivor of available resources, legal rights so that she can take an informed decision.
  - a. Sexual violence is known to cause physical, emotional social and economic consequences which can jeopardize the well-being of survivors and their families. Fear of police investigation procedures, shame related to the sexual violence, lack of support from the community fear that nobody will believe them and lack of information about negative health consequences may lead survivors to hide such incidents.
  - b. Reasons for not wanting to report to police could range from fear about community reactions, fear that nobody would believe them, feelings of shame, threats from perpetrators. With children there could also be a possibility that survivor has not disclosed the assault to parents/guardians.

### Facilitation and demystification of medical procedures

#### The health professional should.

- Prepare the survivor for an internal examination.
- Explain the various stages of the examination.
- Communicate the rationale for referral for X-ray, USG, age estimation amongst others.
  - a. Any incident of sexual violence leads to a feeling of powerlessness amongst survivors. It is therefore important to recognize such covert feeling and explain the purpose of medical examination. Explaining the purpose of internal examination and steps in conducting it can help survivors to make sense of what is happening to them. This can help in regaining control over the situation.
  - b. Currently each health setting may not have all the infrastructure for additional services such as age estimation, laboratory for assessing infections, sonography machines to detect internal injuries /pregnancy and so on. While making referral providers must ensure confidentiality and privacy of survivors so that they are not embarrassed due to being identified as a 'survivor of sexual violence'.

## Addressing survivor's emotional well-being

### The health professional should:

- Recognize that survivors may present varied emotions.
- Encourage the survivor to express her feelings.
- Encourage survivors to seek crisis counseling.
- Assess for suicidal ideation.
- Make a safety assessment and safety plan
- Involve family and friends in healing process of survivor.
  - a. Each survivor copes with the assault differently. Coping is also dependent on whether survivors have parental/spousal support, community support, job security, economic wherewithal for litigation and several such factors.
  - b. Most survivors may not openly express their feelings. A good starting point is to explain range of feelings that survivors may experience such as sleeplessness, anxiety, nervousness, crying spells, feelings of ending one's life, anger and flash backs (RTS, emotional reactions post rape) after an assault. It must also be discussed that such reactions are normal after a traumatic episode
  - c. Crisis counselling can help in overcoming trauma. Providers must explain to the survivors that:
    - i. 'rape' is a violation of bodily integrity and not a loss of honour.
    - ii. Assault is an abuse of power and not an act of lust.
    - iii. Positive messaging such as 'you are not responsible for rape'. "It is not about the clothes you wear'.
    - iv. This would enable the survivors to discard feelings of self-blame as it is the perpetrator who should feel ashamed about the act and help in rebuilding survivor's confidence in self.

### Safety assessment must be done:

In case assessment reveals that she is unsafe and fears reoccurrence of sexual violence health professional must offer her alternate arrangements for stay such as temporary admission in the hospital or referral to shelter services. However, some survivors may want to go home particularly if there are children or other dependents. A safety plan must be made which may include suggestions such as making a police complaint about threats received, building support strategy with neighbours/community and temporary relocation from the old residence.

### In situations, where a parent is the perpetrator of sexual abuse:

Survivors under 18 years, are likely to be accompanied by parents/guardians. If a health professional finds out that the perpetrator is the parent, it is critical to involve social worker/counselor from the hospital to discuss safety of the child. As per POCSO Act, 2012, social worker would have to speak with the child to assess whom the child trusts and can be called upon in the hospital itself. Simultaneously social worker would also have to contact police, who is communicating with social worker should assess whether the child is in need of protection and care. Likewise the child may be admitted to the hospital for a period of 24 hours till a long term strategy for shelter or child welfare home is made.

### Role of family, friends and community:

- Recovery from sexual violence is dependent on the extent of support received from family, friends and community. Health professionals are best suited to engage with family and discuss ways of promoting survivors' well-being. It must be discussed with all care givers that survivor should not be held responsible for the assault. Judgments such as ; 'she should have been careful', 'she should have resisted' make the survivors journey to recovery more difficult.

### In situations of child sexual abuse:

Parents may experience anger, confusion, and guilt. Some may also blame themselves for not having taken adequate care or paid attention to the child. Reiterate that it is the perpetrator who misused their position.

### Messages such as:

- Believe that recovery from abuse is possible.
- Strategies such as good touch and bad touch can be taught to the child from a very young age, so that if the child is touched inappropriately, she should raise an alarm.

- Restricting child's mobility such as not being allowed to play with friends, not allowed to go to school, not allowed to visit friends, may be perceived by the child as punishment for something the child had no control on.
- Encourage the child to carry on with his/her daily routine.
- Follow up with crisis counselling so that the child is able to deal with negative feelings and also heal from the abuse.

#### Dealing with adolescents:

- In cases of adolescent survivors, communicate that she was not at fault, encourage her to share feelings, fears and concerns. For an adolescent, acceptance by family and peers becomes a critical aspect in healing.
- Parents and friends should encourage survivor to seek counselling and crisis intervention support as adolescence is an age of turbulence and the survivor may not be comfortable talking about several issues with parents/carers such as 'contraception', 'health sexual relationships', fears of contracting infections such as STI/HIV, anxiety about how they are perceived by others in the school/college.
- Carers should exercise caution and not become over protective and restrictive in their approach. This could occur due to fear of recurrence of the assault and fear for survivors' safety. These concerns need to be discussed openly with the survivor and encourage her to make informed decisions.

### ONE PAGE INSTRUCTONS FOR DOCTORS

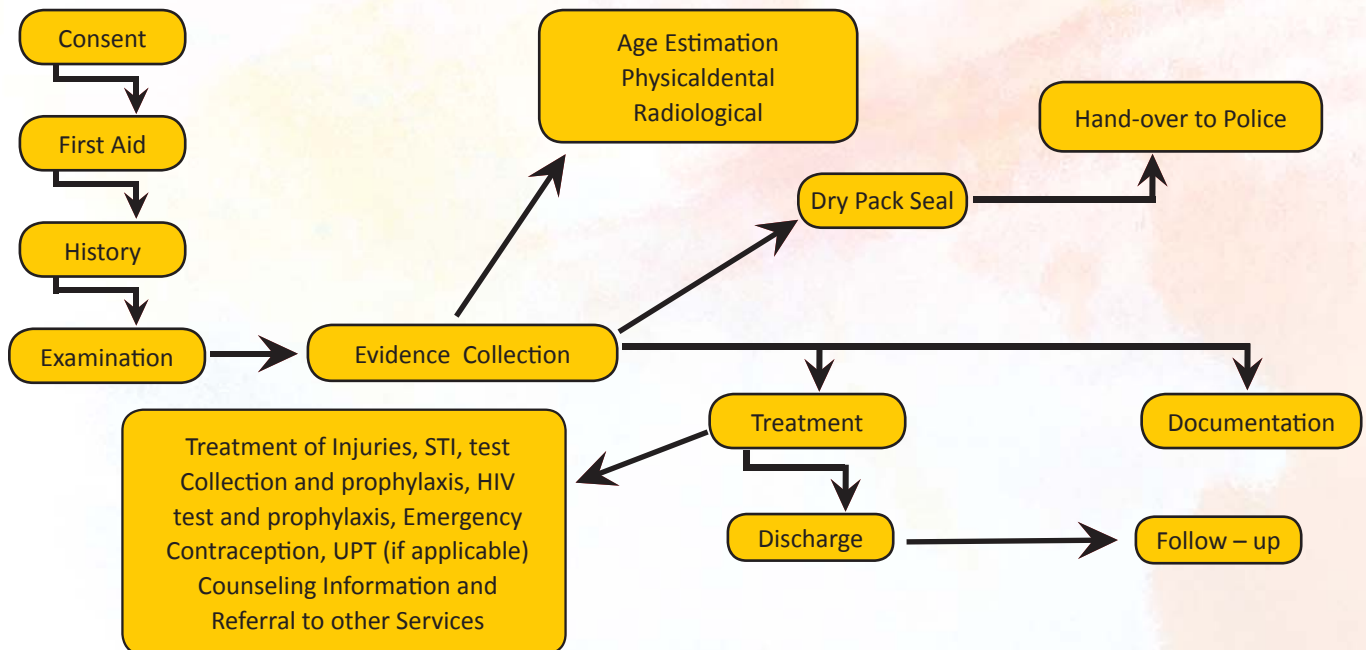
The examining doctor should carefully read the guidelines for responding to survivors of sexual violence issued by the MoHFW, and should be well aware of the comprehensive care to be provided.

1. **Informed consent:** Doctors shall inform the person being examined about the nature and purpose of examination and in case of child to the child's parent/guardian/person in whom the child reposes trust. This information should include:
  - a. The medico-legal examination is to assist the investigation, arrest and prosecution of those who committed the sexual offence. This may involve an examination of the mouth, breasts, vagina, anus and rectum.
  - b. To assist investigation, forensic evidence may be collected with the consent of the survivor. This may include removing and isolating clothing, scalp hair, foreign substances from the body, saliva, pubic hair, samples taken from the vagina, anus, rectum, mouth and collecting a blood sample.
  - c. The survivor or in case of child, the parent/guardian/person in whom the child reposes trust, has the right to refuse either a medico-legal examination or collection of evidence or both, but that refusal will not be used to deny treatment to survivor after sexual violence.
  - d. As per the law, the hospital/ examining doctor is required to inform the police about the sexual offence. However, if the survivor does not wish to participate in the police investigation, it will not result in denial of treatment for sexual violence. Informed refusal will be documented in such cases.
2. Per vaginum examination, commonly referred to by lay persons as 'two-finger test', must not be conducted for establishing an incident of sexual violence and no comment on the size of vaginal introitus, elasticity of the vagina or hymen or about past sexual experience or habituation to sexual intercourses should be made as it has no bearing on a case of sexual violence. No comment on shape, size, and/or elasticity of the anal opening or about previous sexual experience or habituation to anal intercourse should be made.
3. Injury documentation: Examine the body parts for sexual violence related findings (such as injuries, bleeding, swelling, tenderness, discharge). This includes both micro mucosal injuries which may heal within short period to that of severe injuries which would take longer to heal.
  - Injuries must be recorded with details – size, site, shape, colour.
  - If a past history of sexual violence is reported, then record relevant findings. Sexual violence is largely perpetrated against females, but it can also be perpetrated against males, transgender and intersex persons.
4. The nature of forensic evidence collected will be determined by three factors-nature of sexual violence, time lapsed between incident of sexual violence and examination and whether survivor has bathed or washed herself.
5. Opinion: The issue of whether an incident of rape/sexual assault occurred is a legal issue and not a medical diagnosis. Consequently, doctors should not, on the basis of the medical examination conclude whether rape/sexual assault had occurred or not. Only findings in relation to medical findings should be recorded in the medical report.



- Drafting of provisional opinion should be done immediately after examination of the survivor on the basis of history and findings of detailed clinical examination of the survivor.
- It should be always kept in mind that normal examination findings neither refute nor confirm sexual violence. Hence circumstantial/other evidence may please be taken into consideration.
- Absence of injuries may be due to:
  - o Inability of survivor to offer resistance to the assailant because of intoxication or threats
  - o Delay in reporting for examination

The following are the components of a comprehensive health care responses to sexual violence and must be carried out in all cases:



## Annexure-IX

### Confidential Medico-legal Examination Report of Sexual Violence

1. Name of the Hospital.....OPD no.....Inpatient No.....
2. Name.....D/o or S/o (Where known).....
3. Address.....
4. Age (as reported).....Date of Birth(if known).....
5. Sex(M/F/Others).....
6. Date and Time of arrival in the hospital.....
7. Date and Time of commencement of examination.....
8. Brought by.....(Name & signatures)\.....
9. MLC No.....Police Station.....
10. Whether conscious, oriented in time and place and person.....
11. Any physical/intellectual/psychosocial disability.....

(Interpreters or special educators will be needed where the survivor has special needs such as hearing / speech disability, language barriers, intellectual or psychosocial disability.)

12. Informed consent/refusal

I..... D/o or S/o.....

Hereby give my consent for:

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| a) Medical examination for treatment                     | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| b) This medico legal examination                         | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| c) Sample collection for clinical & forensic examination | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I also understand that as per law the hospital is required to inform police and this has been explained to me.

I want the information to be revealed to the police Yes  No

I have understood the purpose and the procedure of the examination including the risk and benefit, explained to me by the examining doctor. My right to refuse the examination at any stage and the consequence of such refusal, including that my medical treatment will not be affected by my refusal, has also been explained and may be recorded. Contents of the above have been explained to me in.....language with the help of a special educator/interpreter/support person (circle as appropriate).....

If special educator//interpreter/support person has helped, then his/her name and signature.....

Name & signature of survivor or parent/guardian/person in whom the child reposes trust in case of child (< 12 yrs)

.....  
 .....  
 .....

With date, time & place

Name & signature/thumb impression of witness

.....

.....

.....

With date,time & place

13. Marks of identification (Any scar/mole)

(1) .....

(2) .....

**Left Thumb impression**

14. **Relevant Medical/Surgical history**

Onset of menarche (in case of girls) Yes No Age of onset..... Menstrual history – Cycle and duration.....Last menstrual period.....

Menstruation at the time of incident - Yes/ No, menstruation at the time of examination - Yes/No

Was the survivor pregnant at the time of incident - Yes/No, If yes duration of pregnancy.....weeks

Contraception use: Yes/No..... If yes – method used:.....

Vaccination status - Tetanus (vaccinated/not vaccinated), Hepatitis B (vaccinated/not vaccinated)

**15 A. History of sexual violence**

(I) Date of incident/s being reported .....(ii) Time of incident/s .....

(iii) Location/s..... (iv) Estimated duration: 1-7 days.....

1 week to 2 months..... 2-6 months.....

>6months..... Episodes: One..... Multiple.....

Chronic (>6 months)..... Unknown..... (v) Number of assailant (s) and

Name/s..... (vi) Sex of assailant (s).....

Approx.Age of assailant (s)..... If known to the survivor – relationship with the survivor.....

(vii) Description of incident in the words of the narrator: Narrator of the incident: survivor/informant (specify name and relation to survivor) .....

If this space is insufficient use extra page

**15 B.Type of physical violence used if any (Describe):**

Hit with(Hand, fist, blunt object, sharp object)

Biting

Pinching

Violent shaking

Dragging

Burned with

Kicking

Pulling Hair

Banging head

Any other:

**15 C.**

- i. Emotional abuse or violence if any (insulting, cursing, belittling, terrorizing) .....
- ii. Use of restraints if any .....
- iii. Used or threatened the use of weapon(s) or objects if any .....
- iv. Verbal threats (for examples, threats of killing or hurting survivor or any other person in whom the survivor is interested; use of photographs for blackmailing,etc.)if any: .....
- v. Luring (sweets, chocolates, money,job)if any:.....
- vi. Any other .....

**15 D.**

- i. Any H/o drug/alcohol intoxication:
- ii. Whether sleeping or unconscious at the time of the incident .....

**15 E. if survivor has left any marks of injury on assailants/s, enter details .....**

**15 F. Details regarding sexual violence:**

**Was penetration by penis, fingers or object or other body parts (Write Y=Yes, N=NO, DNK=Don't know) mention and describe body part/s and/or objects used for penetration.**

Orifice of victim	penetration			Emission of Semen		
	By Penis	By body part of self-assailant or third party (finger, tongue or any other)	By object	Yes	No	Don't know
Genital (Vagina and/ or urethra)						
Anus						
Mouth						

Oral sex performed by assailant on survivor	Y	N	DNK
Forced Masturbation of self by survivor	Y	N	DNK
Masturbation of Assailant by Survivor, Forced Manipulation of genitals of assailant by survivor	Y	N	DNK
Exhibitionism (perpetrator displaying genitals)	Y	N	DNK
Did ejaculation occur outside body orifice (Vagina/anus/mouth/urethra)?	Y	N	DNK
If yes, describe where on the body			
Kissing,licking or sucking any part of survivor's body	Y	N	If yes,
Describe			
Touching/Fondling	Y	N	If yes,
Describe			

Condom used*	Y	N	DNK
If yes status of condom	Y	N	DNK
Lubricant used*	Y	N	DNK
If yes, describe kind of lubricant used			
If object used, describe object:			
Any other forms of sexual violence			

\* Explain what condom and lubricant is to the survivor

Post incident has the survivor	Yes/No/Do Not Know	Remarks
Changed clothes		
Changed undergarments		
Cleaned/washed clothes		
Cleaned/washed undergarments		
Bathed		
Douched		
Passed urine		
Passed stools		
Rinsing of mouth/Brushing/Vomiting		
(Circle any or all as appropriate)		

Time since incident.....H/o Vaginal/anal/oral bleeding/discharge  
prior to the incident of sexual violence.....

H/o painful urination/painful defecation/fissures/abdominal pain/pain in genitals or any other part since the incident of  
sexual violence

#### 16. General Physical Examination-

- i. Is this the first examination.....
- ii. Pulse.....BP.....
- iii. Temp ..... Resp.Rate.....
- iv. Pupils.....
- v. Any observation in terms of general physical wellbeing of the survivor.....

### 17. Examination for Injuries on the body if any

The pattern of injuries sustained during an incident of sexual violence may show considerable variation. This may range from complete absence of injuries (more frequently) to grievous injuries (very rare).

(Look for bruises, physical torture injuries, nail abrasions, teeth bite marks, cuts, lacerations, fracture, any other injury, tenderness, boils lesions, discharge specially on the scalp, face, neck, shoulders, breast, wrists, forearms, medial aspect of upper arms, thighs and buttocks) Note the injury type, size, shape, colour, swelling signs of healing simple/grievous, dimensions.)

Scalp examination for areas of tenderness (if hair pulled out/dragged by hair)	
Facial bone injury: orbital blackening, tenderness	
Petechial hemorrhage in eyes and other places	
Lips and Buccal Mucosa / Gums	
Behind the ears	
Ear drum	
Neck, shoulders and breast	
Upper limb	
Inner aspect of upper arms	
Inner aspect of thighs	
Lower limb Buttocks	
Other, please specify	

**18. Local examination of genital parts/other officers\*:**

**A. External Genitalia: Record findings and state NA where not applicable.**

Body parts to be examined	Findings	
Urethral meatus & vestibule		
Labia majora		
Labia minora		
Fourchette & introitus		
Hymen Perineum		
External Urethral Meatus		
penis		
Scrotum		
Testes		
Clitoropenis		
Labioscrotum		
Any other		

**\*Per/Vaginum or Per/Speculum examination should not be done unless required for detection of injuries or for medical treatment.**

P/S findings if performed.....

P/V findings if performed.....

Record reasons if P/V or P/S examination performed.....

**c. Anus and rectum (encircle the relevant)**

Bleeding /tear/discharge/oedema/tenderness

**d. Oral cavity – (encircle the relevant)**

Bleeding/tear/discharge/oedema/tenderness

**19. Systemic examination:**

**Central Nervous System:**.....

**Cardiovascular System:**.....

**Respiratory System:**.....

**Chest:**.....

**Abdomen:**.....

**20. Sample collection/investigations for hospital laboratory/clinical laboratory**

- 1) Blood for HIV, VDRL, HbsAg
- 2) Urine test for pregnancy
- 3) Ultrasound for pregnancy/internal injury
- 4) X-ray for injury

**21. Samples collection for central/state Forensic Science Laboratory**

- 1) Debris collection paper
- 2) Clothing evidence where available – (to be packed in separate paper bags after air drying)

**List and details of clothing worn by the survivor at time of incident of sexual violence****3. Body evidence samples as appropriate (duly labeled and packed separately)**

	Collected/ Not Collected	Reason for not collecting
Swabs from stains on the body (blood, semen, foreign material, others)		
Scalps hair (10-15 strands)		
Head hair combing		
Nail scrapings (both hands separately)		
Nail clippings (both hands separately)		
Oral swab		
Blood for grouping, testing drug/ alcohol intoxication (plain vial)		
Blood for alcohol levels (Sodium fluoride vial)		
Blood for DNA analysis (EDTA vial)		
Urine (drug testing)		
Any other (tampon/sanitary napkin/condom/object)		



#### 4. Genital and anal evidence (Each sample to be packed, sealed, and labeled separately-to be placed in a bag)

\*Swab sticks for collecting samples should be moistened with distilled water provided.

	Collected/ Not Collected	Reason for not collecting
Matted public hair		
Public hair combing (mention if shaved)		
Cutting of public hair (mention if shaved)		
Two vulval swabs (for semen examination and DNA testing)		
Two vaginal swabs (for semen examination and DNA testing)		
Two anal swabs (for semen examination and DNA testing)		
Vaginal smear (air-dried) for semen examination		
Vaginal washing		
Urethral swab		
Swab from glans of penis/clitoropenis		

\*Samples to be preserved as directed till handed over to police along with duly attested sample seal.

#### 22. Provisional medical opinion

I have examined (name of survivor).....M/F/other.....aged.....

Reporting\_ (type of sexual violence and circumstances).....XYZ days/hours after the incident, after having (bathed/douched etc).....My findings are as follows:

- Samples collected (for FSL),awaiting reports
- Samples collected (for hospital laboratory)
- Clinical findings
- Additional observations (if any)

#### 23. Treatment prescribed:

Treatment	Yes	No	Type and comments
STI prevention treatment			
Emergency contraception			
Wound treatment			
Tetanus prophylaxis			
Hepatitis B vaccination			
Post exposure prophylaxis for HIV			
counseling			
Other			

**24. Date and time of completion of examination.....**

This report contains.....number of sheets and.....

Number of envelopes.

Signature of examining Doctor

Name of examining Doctor

Place:

Seal

**25. Final opinion (after receiving Lab reports)**

Findings in support of the above opinion, taking into account the history, clinical examination findings and Laboratory reports of.....bearing identification marks described above,.....hours/days after the incident of sexual violence, I am of the opinion that:

Signature of Examining Doctor

Name of Examining Doctor

Place:

Seal

**COPY OF THE ENTIRE MEDICAL REPORT MUST BE GIVEN TO THE SURVIVOR / VICTIM FREE OF COST IMMEDIATELY**





नए समाज की ओर  
Towards a new dawn

**Ministry of Women and Child Development  
Government of India**