

A Study on Implementation of PWDV Act in Odisha

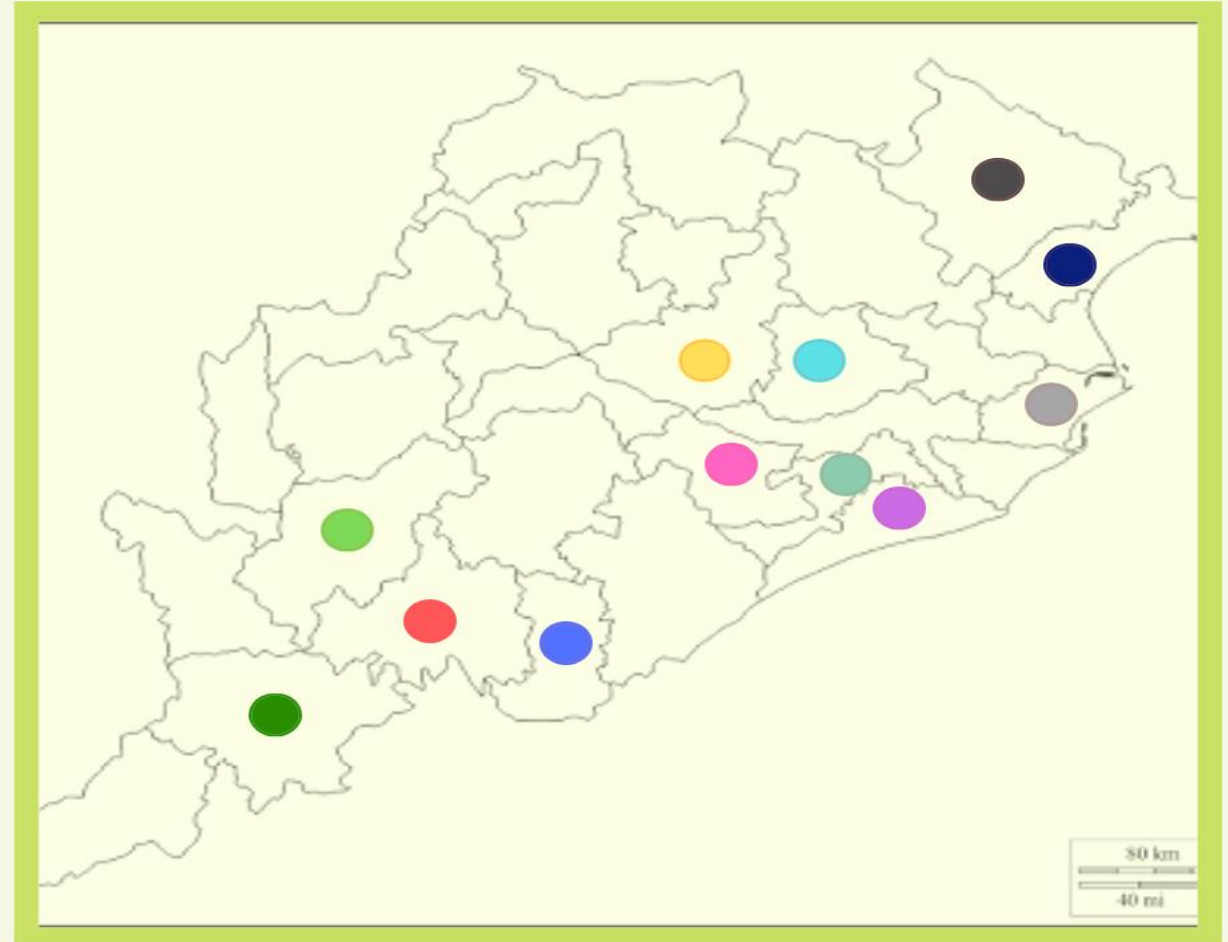


ऑक्सफैम इंडिया
OXFAM
India

A STUDY ON IMPLEMENTATION OF THE PWDVA IN ODISHA

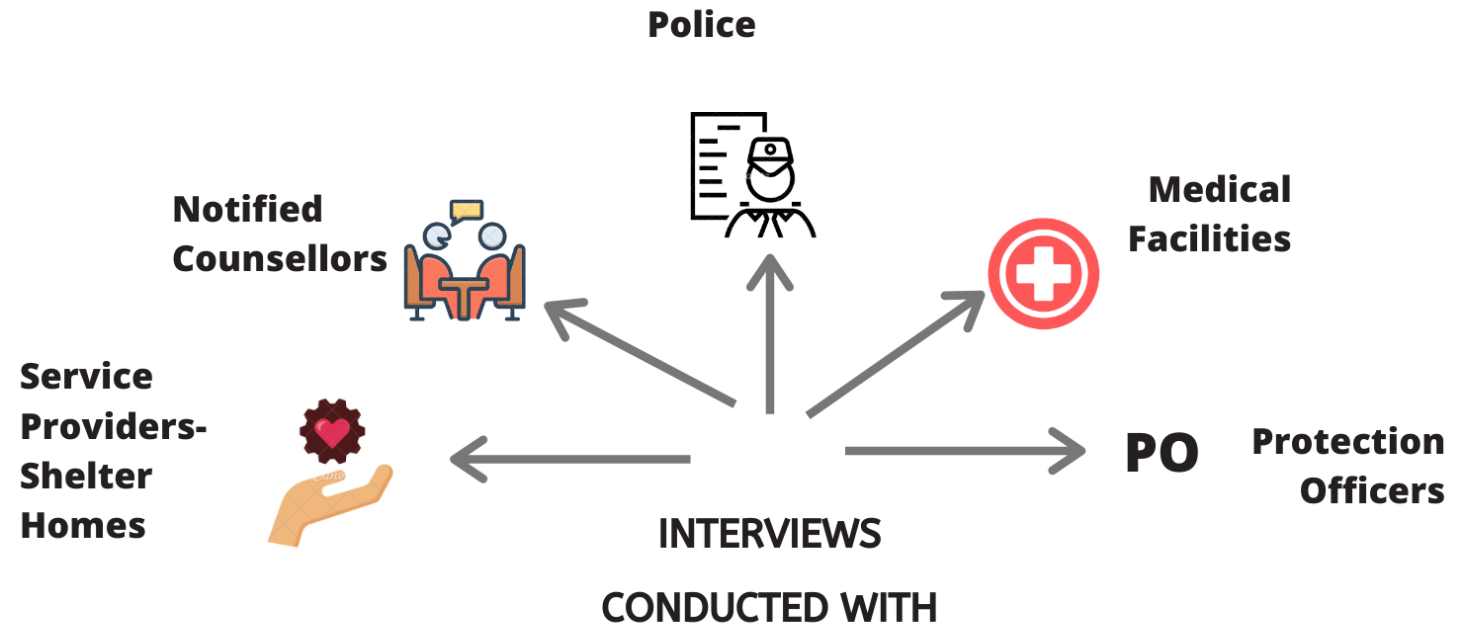
12 out of 30 districts covered

- KORAPUT
- PURI
- KALAHANDI
- KHORDHA
- MAYURBHANJ
- NAYAGARH
- RAYAGADA
- ANGUL
- GAJAPATI
- DHANKANAL
- KENDRAPARA
- BALASORE



STAKEHOLDERS INTERVIEWED IN ODISHA

- Protection Officer – 12 (one per district except for two POs in Kalahandi and none in Kendrapada district)
- Service Provider (cum Shelter Home) – 19 Counsellors attached to Shelter Homes
- Medical Facility – 5 Medical Officers were interviewed
- Shelter Homes – 11 (Superintendent and Project Director of Swadhar Gruh and Ujjwala)
- Police – 20 Inspectors and Sub-Inspectors of Police stations

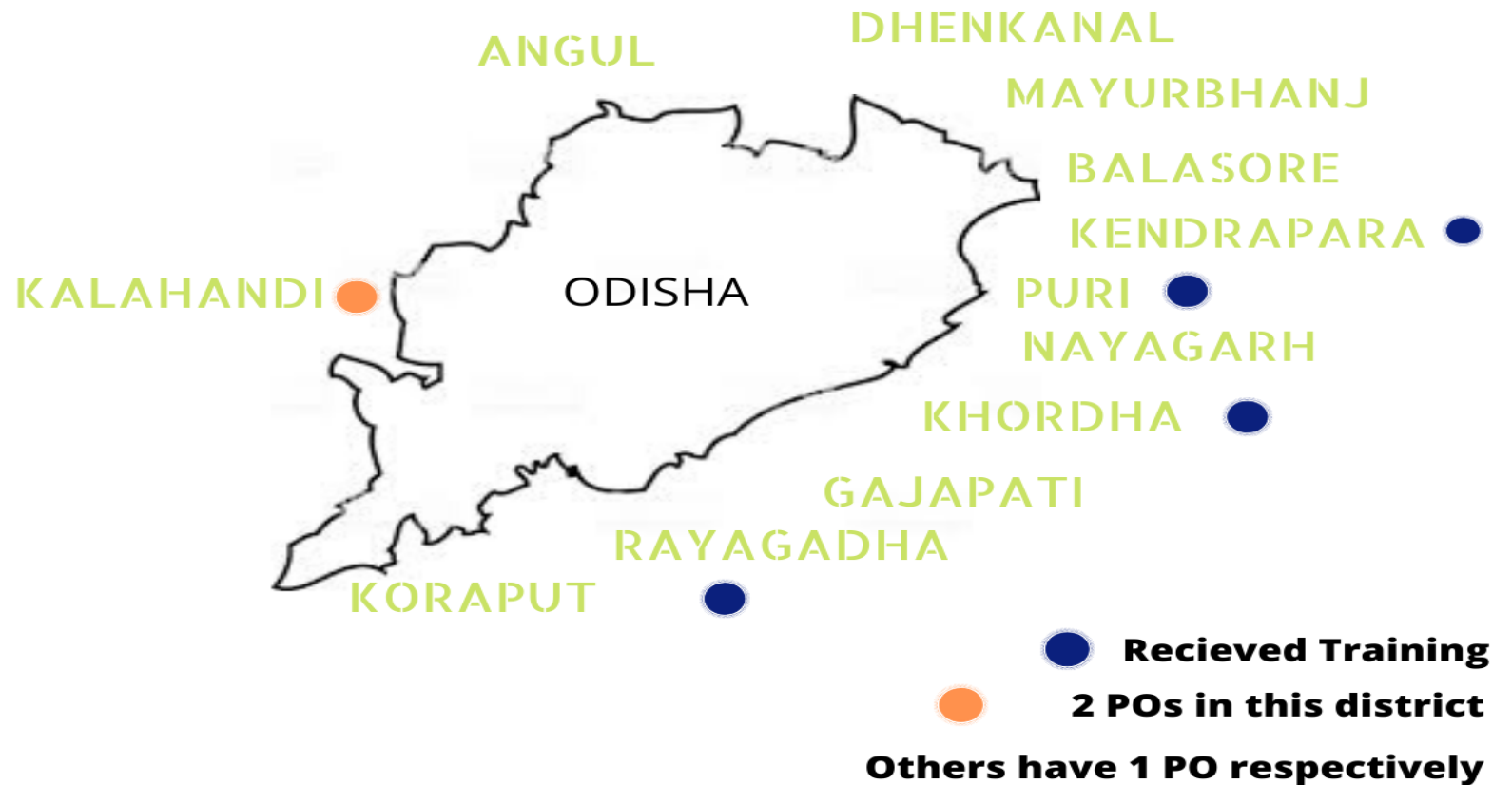


*Protection of Women from Domestic Violence Act 2005

FINDINGS ON PROTECTION OFFICERS (POs) UNDER PWDVA* IN ODISHA

PROTECTION OFFICERS

- Protection Officer is the person in charge to assist women to avail of institutional mechanisms for redressal & support services
- Out of 12 sample districts, Kalahandi has two POs while the rest have only one PO respectively
- Only 7 out of 13 POs are trained
- Only 5 are designated PO as primary obligation



*Protection of Women from Domestic Violence Act 2005

FINDINGS ON PROTECTION OFFICERS (POs) UNDER PWDVA* IN ODISHA(1)



MEDICAL EXAMINATION

- **POs interviewed know that Aggrieved Woman need to be medically examined if she has sustained injuries.**
- 10 POs said they do not make requests in writing
- **No DIR sent to Med Officer. No provision for transport**
- If a child is involved then the PO sends the child to DCPU Unit or Childline
- PO in one district has got the AP medically examined with help of police.



DOMESTIC INCIDENT REPORT (DIR)

- All the POs regularly fill the DIR in all the cases who approach them
- **The POs do not receive DIR from Med Facilities and Service Providers, except one district.**
- **3 dists have established practice to send copies of DIR to Magistrate, Police, SPs.** Some districts send only to the magistrate.



APPLICATION TO THE MAGISTRATE

- Except for POs of 3 districts, all POs stated that they do not assist the Aggrieved **Woman in preparing her application nor do they forward it to Magistrate to fill in FORM II.**
- **Unclear if POs, except for 3 districts are aware of safety plans. (Form-V)**
- **Most POs have no idea about FORM II & FORM III**

FINDINGS ON PROTECTION OFFICERS (POs) UNDER PWDVA* IN ODISHA (2)



ASSISTANCE TO ACQUIRE LEGAL AID

- All POs assist the Aggrieved Woman in getting a lawyer empanelled with District Legal Services Authority for accessing the services of a lawyer.



SERVING NOTICE

- POs regularly serve notice to the respondent.
- Except for one district, POs do not take any police assistance
- Declaration to the Magistrate regarding notice being served to the respondents. **Only one district, PO submits the respondents' signed copy of notice to the Magistrate**
- **Time taken to serve notice- 3 to 15 days**



ENFORCING ORDERS

- 6 POs work to enforce court orders to differing extents
- **In case of breach of order, they do not take assistance from the police reporting it (lacks clarity)**
- **In 1 dist, PO refers to DLSA and refers her to Magistrate.**
- **If the Aggrieved Woman needs to be rescued, then the PO seeks assistance from the police.**

FINDINGS ON PROTECTION OFFICERS (POs) UNDER PWDVA* IN ODISHA(3)



ASSISTANCE TO MAGISTRATE

- POs need clarity on Rule-10 of PWDVA.
- POs are not clear of Rule 10 (3) wherein it is provided that the Magistrate can also issue direction to the POs for better handling of the cases.



MAPPING SERVICES

- POs in 2 districts only claimed that they maintain proper records of service providers, med facilities, legal aid, counselling, etc
- PO said that a service providers' list is given by the WCD Dept



COUNSELLING FACILITIES

- POs except in 2 districts informed that they have no clue about their role regarding the appointment of Counsellors under the PWDVA
- They have never invited any applications from the Counsellors nor scrutinized or revised it.

FINDINGS ON POs UNDER PWDVA* IN ODISHA

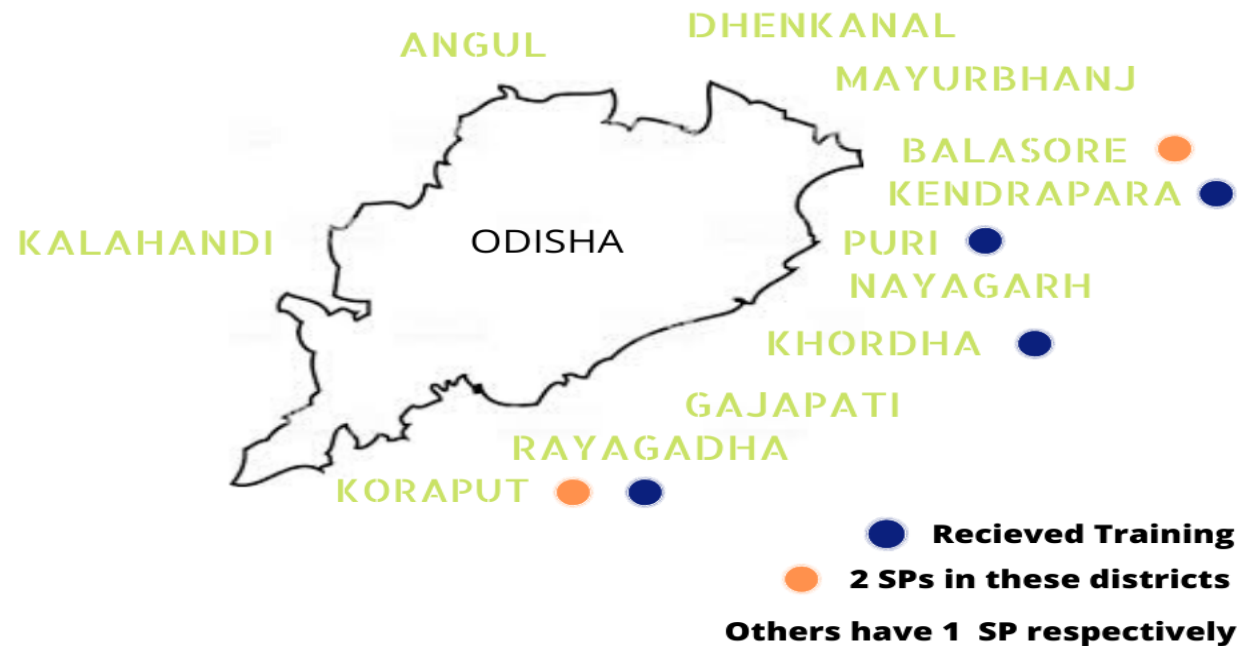
Good Practices by PO

- Established practice of sending DIR copies to the Magistrate, SP, police and Aggrieved Person
- PO submits the respondents' signed copy of notice to the Magistrate
- Safety plan in consultation with AP
- Maintain proper records of service providers, medical facilities, legal aid, counselling, etc

FINDINGS ON SERVICE PROVIDERS UNDER PWDVA* IN ODISHA

SERVICE PROVIDERS

Certain external agencies are recognised as SPs that are mandated to facilitate medical, shelter, legal, counseling and other kinds of support services



1. In Odisha, **Shelter Homes** are notified as **service providers**.
2. Total 15 SPs in 12 districts
3. Only 4 out of 15 SPs are trained under the PWDVA

*Protection of Women from Domestic Violence Act 2005

FINDINGS ON SERVICE PROVIDERS (SPs) UNDER PWDVA* IN ODISHA(1)



PROVIDE INFORMATION & REFERRAL

- Except 2 districts, all Service Providers regularly provide information to the Aggrieved Woman as per section 5
- **9 districts' SPs are aware and 3 SPs are unaware of FORM IV, which provides a gist of the PWDVA and a ready referral for the Stakeholders to make the woman know of her rights and remedies.**



MAKE AVAILABLE SAFE SHELTER

- Service Providers are aware that as per the Act they have to provide safe shelter to Aggrieved Women when referred
- The PO sends a letter of request and copies of DIR for admission and the same is maintained in files
- In some districts, SPs provide shelter even if the AP comes on their own without reference letter from PO
- Once admitted in the shelter home, they get AP medically examined.

FINDINGS ON SERVICE PROVIDERS (SPs) UNDER PWDVA* IN ODISHA(2)



MEDICAL EXAMINATION

- Service Providers in 3 districts informed that they get the Aggrieved Woman medically examined if she has sustained injuries
- Some have maintained that they have their own medical practitioner



DOMESTIC INCIDENT REPORT (DIR)

- If the Aggrieved Woman desires, the Service Provider makes a DIR.
- One copy of DIR is given to the Aggrieved Woman free of cost and sometimes one copy is forwarded to PO.
- **No standard practice of recording DIR, some records and forwards the copy to PO, some take help of advocates to record DIR. However, all refers to PO.**



IN CASE OF EMERGENCY

- If call is received, the Service Provider seeks police assistance to go to the place of occurrence and record DIR.
- **Many Service Providers claim they have not come across any Aggrieved Woman in emergency situations and till date have not received any mails/calls to that effect**

FINDINGS ON SERVICE PROVIDERS UNDER PWDVA* IN ODISHA



Challenges faced by Service Providers

- During women's stay at shelter homes as Women's Counselling Centre simultaneously conduct counselling of the Aggrieved Woman
- As the expenditure is high for home visits, it is difficult for the Service Providers & the Government does not bear the costs
- Lack of communication, non-cooperation from police, and sometimes safety issues come up.
- Funds are not released on time, hence it is difficult to run a shelter home.
- Hurdles are faced while dealing with mental illness related issues

***Protection of Women from Domestic Violence Act 2005**

FINDINGS ON SERVICE PROVIDERS UNDER PWDVA* IN ODISHA

Best Practices adopted by SPs



- SHELTER & PSYCHO-SOCIAL COUNSELLING PROVEN EFFECTIVE
- FIRE EXTINGUISHER & CCTV CAMERAS FOR MONITORING MOVEMENT
- UTMOST CARE FOR PRIVACY & PROTECTION
- REGULAR CONTACT WITH PROTECTION OFFICERS

*Protection of Women from Domestic Violence Act 2005

RESPONSES OF POLICE UNDER PWDVA* IN ODISHA (1)



PROVIDE INFORMATION & REFERRAL

- The Police personnel in 8 districts provides information to the Aggrieved Woman & sometimes make her aware of the availability of services of the Service providers, Protection Officers, free legal services. Sometimes also refer her to PO.
- **Most of the police personnel are not aware about the Form-IV and PWDVA in detail.**



FILING CRIMINAL COMPLAINTS

- Regularly file complaints under section 498 A of IPC and other relevant sections of the IPC (304, 506 etc.)
- In one district, police personnel said that they provide counselling first.



DOMESTIC INCIDENT REPORT (DIR)

- **Police in 2 district regularly receive copy of DIR from PO and in 10 districts, they have not received copy of DIR from PO**
- **Most not even aware that they should receive a copy of DIR and initiate necessary action.**

FINDINGS ON POLICE UNDER PWDVA* IN ODISHA

- No police officer interviewed have assisted POs for enforcement of Orders, confiscate weapons or breach of Orders. 11 Police officers have assisted in service of notice.
- Only one police officer assisted for execution of Order under 125 CrPc for execution.
- Police Officers are unaware of the provision of the Act that says violation of Protection Order is an offence under sec-31 of the Act.

FINDINGS ON POLICE UNDER PWDVA* IN ODISHA



Hurdles of Police

- Many cases received per month. Hurdles due to lack of counselling centres
- Long distance cases are a problem
- Problems sometimes faced during seizure & arrest when during execution of order, they learn the house belongs to somebody else or the accused is absent. Court should verify in whose name the property stands
- Police personnel need to be trained
- Transit homes needed as difficult to find shelter at times due to lack of service providers or shelter homes

***Protection of Women from Domestic Violence Act 2005**

FINDINGS ON POLICE UNDER PWDVA* IN ODISHA

Best Practices adopted by Police



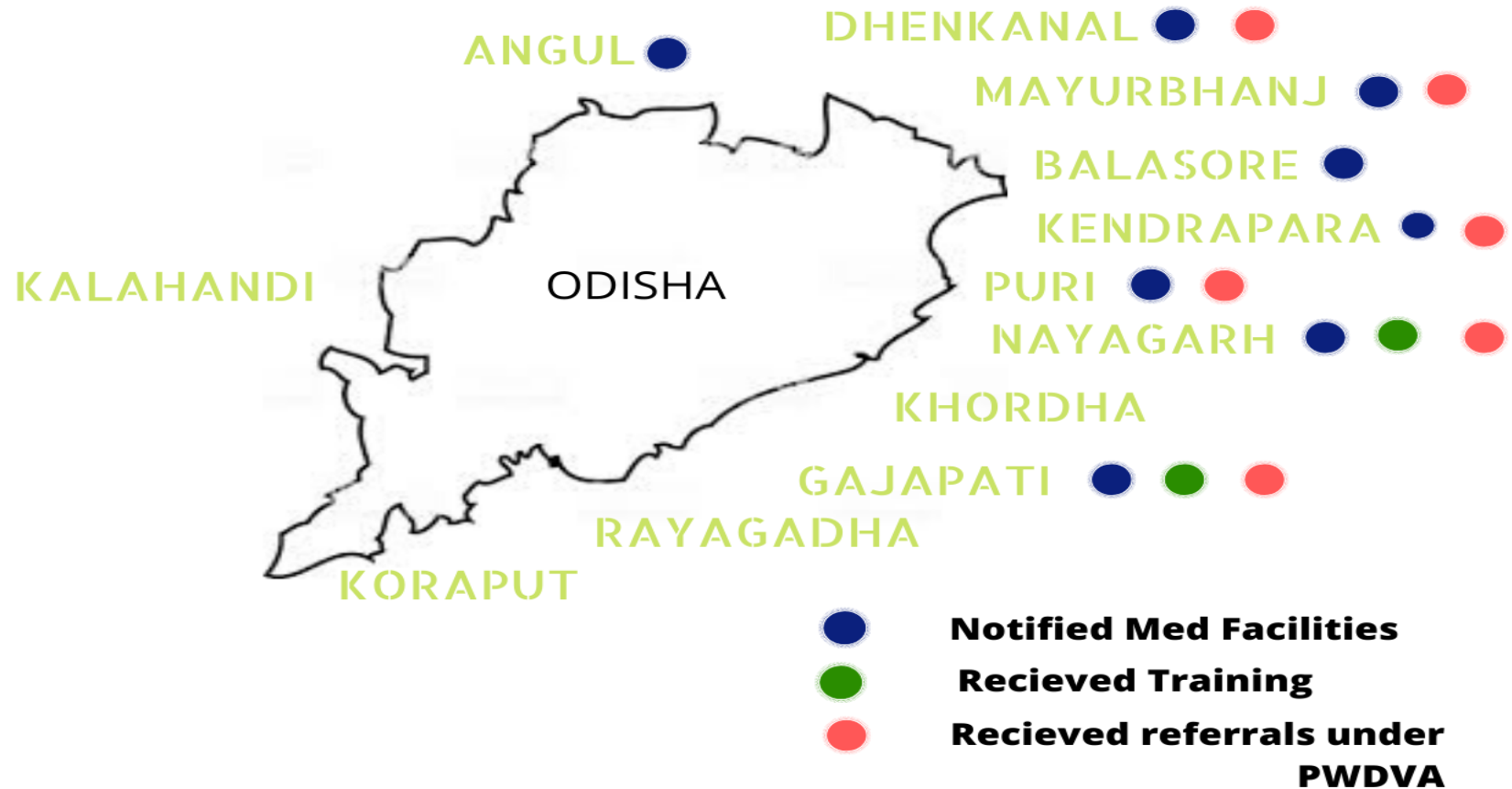
- PROTECTION, CONCILIATION AND REFER TO SHELTER HOME.
- MAHILA AND SHISHU DESK GENTLY HANDLES COMPLAINTS AND VICTIMS.
- PROVIDING COUNSELLING
- AFTER COUNSELLING THEY DO CHECK-INS OVER THE PHONE OR MAKE A HOME VISIT.
- KENDRAPADA POLICE SAID THAT THEY HAVE FAMILY COUNSELLING CENTRES IN THEIR OFFICE TO COUNSEL AG PROPERLY

*Protection of Women from Domestic Violence Act 2005

FINDINGS ON MEDICAL FACILITIES UNDER PWDVA* IN ODISHA

MEDICAL FACILITIES

- Under PWDVA, medical facility is notified by the State Government and to which an aggrieved woman may be directed to
- Out of 12 sample districts, 8 had notified medical facilities
- Only 2 out of 8 received training
- Only 5 have received referrals from the respective Protection Officer



*Protection of Women from Domestic Violence Act 2005

FINDINGS ON MEDICAL FACILITIES UNDER PWDVA* IN ODISHA



GIVING INFORMATION

- They do not make the Aggrieved Woman aware of the availability of services of the Service providers, Protection Officers, free legal services.
- The Medical Officers are not aware of FORM IV, which provides a gist of the PWDVA and a ready referral for the Stakeholders to make the woman know of her rights and remedies.



DOMESTIC INCIDENT REPORT (DIR)

- The Medical Officers were not aware of DIR, and hence did not fill any
- The Aggrieved Woman is referred to the PO.
- In some districts, the MF have received a form from police to fill and to be submitted in the Court. But not clear if it is any form under PWDV Act.



MEDICAL AID

- Free treatment is given
- Thorough medical history not usually recorded
- Medicines sometimes not available at CHC
- With respect to psychosocial support, the Aggrieved Woman is sent to Swadhar gruh counselling facilities

FINDINGS ON MEDICAL FACILITIES UNDER PWDVA* IN ODISHA



Challenges faced by Medical Officers

- Lack of information about PWDVA
- Felt it was not their duty to inform the aggrieved woman about her rights
- Need for special person to be appointed

*Protection of Women from Domestic Violence Act 2005

FINDINGS ON COUNSELLORS UNDER PWDVA* IN ODISHA

COUNSELLORS

- Under PWDVA, Counselling, as directed by the magistrate, should be provided to both the parties involved, or whichever party requires it, as ordered.
- Out of 12 sample districts, 11 have notified counsellors
- Mayurbhanj and Kendrapara have 2 counsellors each
- Only 6 out of 13 counsellors have been trained



**COUNSELLORS
INTERVIEWED ARE
ATTACHED TO
NARISHNGHA
SWADHARGRUH**

- **Notified Counselling Facilities**
- **Received Training**
- **2 Counsellors in these districts**

*Protection of Women from Domestic Violence Act 2005

FINDINGS ON COUNSELLORS UNDER PWDVA* IN ODISHA



PROCEDURE

- Most Counsellors regularly convene meetings at a place convenient to the Aggrieved Woman
- They regularly take undertakings and assurances from the Respondent for not committing domestic violence
- The Counsellor shall also report the failure of counselling proceedings to the court
- Record of findings shall not be deemed to be material on record



SETTLEMENT

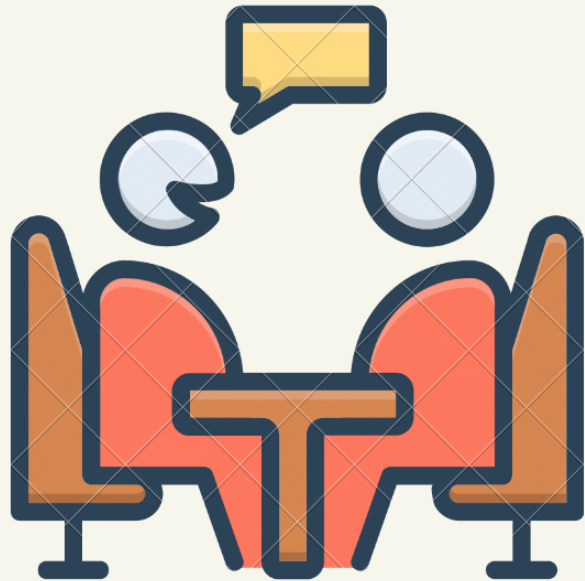
- May make efforts at settlement as per wishes of the Aggrieved Woman
- If the parties arrive at a settlement, the Counsellor records it and gets it endorsed by the parties
- The Counsellor submits a report to the Magistrate, who may consider or draw inference from the same



DOMESTIC INCIDENT REPORT (DIR)

- **In one district, Counsellor said that they fill up the DIR and send it to SDJM Court.** They do not provide copies of DIR to Aggrieved Woman but to the PO.

FINDINGS ON COUNSELLORS UNDER PWDVA* IN ODISHA



Challenges faced by Counsellors

- During Counselling both parties are unable to accept their mistakes
- They lack full knowledge of the Act.
- It is evident to note that they do not record the terms of settlement
- Sometimes respondent may become violent during intervention
- Lack of communication & protection from police and other stakeholders
- Difficult to counsel in rural areas

***Protection of Women from Domestic Violence Act 2005**

Analysis of DIRs

District	Dhenkanal	Gajapati	Khordha	Koraput	Kalahandi	Nayagah	Rayagada
Total DIRs (113)	13	9	4	24	41	19	3
Period during which these DIRs are files	30-07-2018 to 29-10-2019	14-03-2019 to 27-12-2019	29.06.2019 to 28.08.2020	26-12-2018 to 29-05-2020	13-01-2017 to 10-01-2020	24.06.2019 to 30.12.2019	10-10-2018 to 14-08-2019
Range of duration	11 months to 2 years	8 months to 17 months	20 days to 14 months	3 months to 20 months	8 months to 3 years	8 months to 14 months	1 year to 2 years

Analysis of DIRs- Orders Requested

District	Dhenkanal	Gajapati	Khordha	Koraput	Kalahandi	Nayagah	Rayagada	Total
Protection Order under section 18	13	8	2	4	3	19	3	52
Residence Order under section 19	0	4	1	0	3	19	2	29
Maintenance Order under section 20	13	9	3	14	41	19	3	102
Custody Order under section 21	0	3	2	4	1	19	0	29
Compensation order under section 22	13	9	0	5	3	19	3	52
Any other	0	0	0	0	11(Streedhan recovery),4 Property right	0	0	

Orders Passed by the Hon'ble Courts: 12 in Koraput district only (Protection-3, Maintenance- 2, Custody-4, Compensation-3)
Pendency in Koraput is dominantly due to non-appearance of respondents)

Suggestions to improve implementation

- Protection Officers
 - They should fill DIR in every case that gets reported since it is record of violence. It is irrespective of the fact, whether a survivor wants to proceed with Court matter or not.
 - If the Court has directed the PO to fill the DIR, then it is essential that the PO should take into account the Petition filed by her lawyer.
 - If the woman is directly approaching the PO, fill in the minute details, seek a detailed application from the survivor to be attached to the DIR, Fill Form II (Application u/sec 12), Form III (Affidavit) and FORM V (Safety Plan).
 - Issue summons to the Respondent well before the Court date and take his acknowledgment and submit in the Court
 - During the pendency of the case, seek direction from the Court for Home visit to assess the violence faced by her, assess her emoluments, important documents, children's safety.
 - Take police assistance while enforcing the Court Order
 - If the survivor reports breach of order, immediately inform the Court by filing Application u/sec 31, enabling police to take cognizance and register FIR against the Respondent/s

Suggestions to improve implementation

- Service Providers:
 - In case of no amicable settlement between the parties or in cases when the settlement fails, immediately refer the Survivor to the PO
 - Document the process of counselling and terms of settlement, if any. The Court may call for Record.
 - Service Providers can also fill DIR, and assist the survivor in filling Form II and III and accompany her to Court.
- Medical facility
 - Document the history of violence, by whom, date, time , treatment provided
 - Provide copy of the report/OPD paper to the survivor
 - Refer her to PO with reference letter
- Shelter Homes
 - Document case history and refer her to PO
- Police
 - Make daily diary entry and refer her to PO with copy of NC complaints.
 - Register FIR u/sec 498 A, DPA, PCMA, sexual violence
 - Provide assistance in issuance of summons, enforcement of orders
 - Take cognizance if breach of orders reported

Suggestions to improve implementation

- Convergence among all the stakeholders is must.
- In order to bring uniformity of practice, the WCD dept and SALSA should prepare SOPs in consultation with judiciary.
- Trainings and strengthening the capacities of all the stakeholders should be carried out jointly enabling convergence
- Transport facility, adequate infrastructure should be provided to POs
- Budget allocation, creating Independent cadre of POs, notification OF counsellors, medical facilities, shelter homes to be monitored



Thank you