

Two-Day Training on PWDVA with Service Providers in Chhattisgarh

Organized by Oxfam India

October 6-7, 2021 via Microsoft Teams

Report by Abhiruchi Chatterjee for Oxfam India

Oxfam India organized a two-day virtual training on October 6-7, 2021, on the implementation of the Protection of Women from Domestic Violence Act, 2005 (PWDVA) in the central Indian state of Chhattisgarh with the state sanctioned service providers for survivors of Gender-Based Violence (GBV). It was attended by Protection Officers (POs) and staff, including Counsellors, case workers and Centre Administrators from One Stop Crisis Centres (OSCs or *Sakhi Kendras*) across Chhattisgarh.

The first day of the training had 35 participants. The second day had 42 participants.

The resource persons were:

- Ms. Amita Pitre, Lead- Gender Justice, Oxfam India
- Ms. Anushree Jairath, Programme Coordinator, Oxfam India
- Ms. Ujwala Kadrekar, Lawyer & Expert on PWDVA

The virtual training commenced with the Oxfam India team welcoming the participants, asking for their comments on the Roundtable conference held the previous day, and their expectations from the training. Participants shared that they found the sessions helpful in understanding the journey and context of their work, while also enlisting their questions and expectations.

Welcome Remarks

Mr. Anand Shukla, Regional Manager- Chhattisgarh, Oxfam India commenced the proceedings by introducing **Mr. Pankaj Anand, Director, Oxfam India** who welcomed all the participants and thanked the State Department for Women and Child Development (DWCD) and co-facilitators for making this endeavour possible. Iterating Oxfam India's expanse of work on Ending Violence Against Women, he underscored the relevance of the work as some of its practices have been integrated into systems by State Governments. He highlighted the organization's sharpened focus on addressing DV, and prioritizing its implementation, notably with new environmental challenges due to the pandemic. While mentioning its efforts to link survivors to service providers during the lockdown using its limited resources, he recognized that in the long-term, governments are best placed to provide comprehensive essential services for survivors, even as NGOs like Oxfam can serve to strengthen and complement the mechanisms. He concluded his remarks by emphasizing that "Knowledge is Power," encouraging participants to ask questions.

An Overview of Key Findings of Needs Assessment

After the welcome address, Ms. Anushree Jairath was invited to share the findings of the Needs Assessment with stakeholders conducted by Oxfam India. She shared that the exercise was conducted

with stakeholders in the state for development of training modules, and highlighted the key findings, which were:

- Lack of feminist approach and perspective.
- Lack of Understanding on Gender-Based Violence, the underlying structures and intersectionality.
- Lack of Sensitivity during follow up.
- Underreporting of violence and a process-oriented approach.
- Gaps in Inter-Agency Coordination and Trust.
- Autonomous functioning of service providers is a challenge.

The findings and recommendations of the assessment enabled Oxfam to devise a strategy for advocacy and capacity development that served the on-ground requirements of service providers in the state.

Session on Gender, Patriarchy and PWDVA

This was succeeded by a session on Gender, Patriarchy and an overview of the PWDVA, 2005 by Ms. Amita Pitre, Oxfam India. Ms. Pitre commenced by showing a short clip of popular feminist activist and icon Ms. Kamla Bhasin, chanting slogans of “Azaadi”, i.e., freedom, to demonstrate the demands of women for leading violence-free lives. Underlining that DV is the most common form of GBV, she shared its formal definition, as mentioned by the United Nations and in the landmark Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

She then invited participants to share their understanding of Gender and Patriarchy. Participants provided diverse responses of their understanding of gender and patriarchy as visible in the division of labour, discrimination in finances and property, feminization of childcare, and women’s dependency on men for survival. Ms. Pitre, engaging with each point raised, shared that patriarchy is a system, with rules, practices and gender roles, that are pervasive across social structures, laws and policy, and emphasized how support services such as the work done by participants are able to break the patriarchal structures and patterns towards dignity and equity in social fabric. She highlighted key principles that are essential for service providers. These included “Respecting Survivors,” listening to and believing in them, “ensuring safety and confidentiality,” and upholding “integrity and non-discrimination.” She underlined that these factors are critical in enabling the survivor to reclaim her own agency, as she experiences powerlessness and loss of control due to the violence.

PWDVA and Its On-Ground Implementation

The second half of the first day of the training and the entire second day of training were devoted to unpacking the PWDVA and challenges in its implementation, especially in light of the evolving environmental constraints due to the pandemic. The sessions were facilitated by the legal expert, Ms. Ujwala Kadrekar. The topics covered were as follows: an in-depth reading of the Act; the roles and responsibilities of POs and OSCs; impact of Covid-19 induced lockdown on DV and its implications on the implementation of the Act; survivor centric approach and feminist principles; strategies to address GBV. The tools used were interactive discussions, case studies and good practices and PowerPoint presentations.

This section thematically weaves together the vibrant discussions of the two days.

Survivor-Centric Approach

Contextualizing the law in the Fundamental Rights of the Constitution, she detailed out and deconstructed the provisions for its implementation, highlighting the role of POs and different staff members of the OSCs throughout the process. She underlined that it is gender-specific law, thus actively working to uphold women and minors' rights to live a violence-free life within a shared household. Unpacking each of the terms within the law, she also shared feminist understanding of the rights entailed in the law.

She emphasized the importance of understanding violence and recognizing the various forms of violence experienced by women. She iterated that when a woman challenges the roles that society assigns her, she faces the threat of violence.

Emphasizing the need to listen and make the survivor comfortable from the moment she reaches the office, she illustrated through various case studies how POs and counsellors can prioritise the interests of the survivor through the process pipeline. For instance, she shared the trajectory of a case of DV she handled – from the moment the woman reached her office with her children, numb, by listening to her, to enabling her to clearly articulate the violence she faced and her concerns, and the role of the office in prioritising her demands, keeping her safety in mind, getting her due compensation – leveraging their legal knowledge and expertise, and the eventual evolution in the survivor from a woman in distress to an independent businesswoman.

Through this case, she underlined the importance of documentation, also addressing concerns raised by participants during the Roundtable conference regarding challenges in presenting a solid case for DV– by encouraging the survivor to write her experiences down for a comprehensive presentation of the situation to the court. She also highlighted that: despite the survivor not demanding compensation, as she feared that in disclosing her address, her harassment may not stop, the office was able to circumvent the apprehensions of the survivor by putting her mother's address in the application, and also apply (successfully) for compensation, which she was able to use for her children's education. Using another case, Ms. Kadrekar underscored that collating bills for documentation such as electricity and water bills, cooking gas, medical bills, school fees, etc. can potentially strengthen the case and equip the judiciary to arrive at a fair compensation for the survivor.

Where the survivor's immediate safety is at stake, she directed the attention of the participants to complete the "Safety Plan" in Form 5 in the DIR. This alerts the Magistrate to the urgency of the survivor's case. A strong case would enable the procurement of an order for granting interim ex-parte relief by the Magistrate under the Section 23 of the Act. Substantiating her response to the queries of participants in the challenges to present strong evidence in cases of DV, Ms. Kadrekar underlined that the POs can undertake home visits or visits to the area, including enquiring in neighbouring households to undertake inquiry should the court deem it suitable.

Encouraging participants to reflect on their own biases, prejudices and standpoints, she shared that patriarchal attitudes permeate our day-to-day practices, and awareness may help mitigate the impact of the biases on our work. She called on participants to reflect their experiences and contextualise them within broader social structures.

Sharing her experience in dealing with a case of DV where the husband had retained all the essential documents of the survivor, and her priority was not to file for maintenance, but to get all her documents back, she requested participants to focus on the survivor's needs, which may be different

from the priorities from a lawyer's perspective, but encouraged them to leverage their legal expertise to identify the route best suited to the survivor's needs.

Challenges in On-Ground Implementation in the context of Chhattisgarh

Inviting participants to share their on-ground challenges, she addressed their concerns as she proceeded in her presentation. Working in Chhattisgarh, which is impacted by Left-Wing Extremism in places, the participants, who were predominantly women, highlighted the personal risks in discharging their duties, and potential threat of violence in their work, especially when perpetrators are sensitive actors.

With a rich and diverse demography, and a significant indigenous population, socio-cultural practices vary differently for different communities, while also feeding into each other. Participants highlighted, they had to encounter cases of DV where the husband has had multiple marriages. The expert shared that polygamy is illegal in the country and such marriages shall thus not find legal validity. Participants also shared the social diminution of domestic violence as an internal or domestic matter, not treating it seriously, a perception that permeates the administrative and judicial systems as well, consequently this exacerbates the challenges for service providers.

Implementing DV Act during Lockdown

A consequence of the lockdown and restricted mobility and connectivity was the increase in DV. Underscoring the UN's labelling of this global phenomenon as a **"Shadow Pandemic,"** and referring the **judgement of the Delhi High Court in April 2020** on devising strategies to mitigate the increase in DV and ensure access to support services for survivors, Ms. Kadrekar laid out the various actions taken by the Government and feminist civil society in addressing the *Shadow Pandemic*. From setting up of specialized helplines and WhatsApp support for the lockdown by the National Commission for Women, as well as virtual video and telephonic counselling by many women's rights organizations across the country, to the awareness generation of helplines through Police, Ministry of Information and Broadcasting using all tools such as radio, television, social media, etc. for mass outreach. Using case studies, she illustrated how women accessed helplines even in the middle of the night with distress calls, which was echoed by the participants' experiences.

She mapped out the **various challenges women faced during the lockdown**, including in **accessing essential services for reproductive health**, such as sanitary napkins, contraception and even abortion services. As hospitals and Police functioned with overstretched resources steered towards combatting the pandemic, the immediate support required for the health, safety and even medical examination for survivors of violence became secondary and at times, unavailable. She shared the example of a woman who was unable to seek abortion care, and through a virtual meeting with the doctor, took abortion pills that led to her bleeding, which turned fatal, even as she waited outside hospitals.

However, Ujwala noted that NCRB data reveals that crimes against women in cities reduced by 21 percent in 2020, and a comparison of pre-pandemic versus pandemic figures (2019 versus 2020) depict marginal changes in the reporting of various crimes against women such as assault, cruelty by husband or his relatives, kidnapping and rape. She mentioned that the contributory factor for this may potentially be the **low reporting of crimes during lockdown, increase in community patrolling by Police forces and consequently limited mobility of assaulters** as well.

She invited participants to share their experiences of working on the ground during lockdown. The participants from OSCs shared that Sakhi Kendras were open throughout the lockdown, 24*7, functioning with limited resources. However, due to restrictions in mobility, women were not able to

reach the Centre, although telephonic casework and counselling continued to take place. One of the challenges was ***the crisis shelter facility for women in Sakhi homes were often wrongfully used*** by the Police to accommodate stranded women they found, even if they were not victims of violence. It also emerged that due to non-availability of vehicles for Sakhi centres, the ***staff used police vehicles to visit women in their homes when they received distress calls***, needing immediate action or to follow up on cases.

The ***POs shared that their role during the lockdown was more limited*** as courts were closed. Once courts opened, follow up was being done on pending cases. To this, Ujwala shared that courts were not fully closed, judges were coming to office in rotation. The Supreme Court had ordered all courts to look only at urgent matters, which does not rule out GBV. If DV cases were reported during the lockdown and a case was deemed urgent, keeping in focus the safety of the survivor, it could be taken to courts. She also shared examples of how POs worked with survivors leveraging the help of Sarpanch, Panchayati Raj Institutions, which know their jurisdiction intimately, and frontline functionaries, such as ASHA and ANM healthcare workers, who continued to have access to households during the lockdown.

Sharing good practices from other states, she mentioned how, having the PO's office located in a Shelter Home enabled ease of coordination for rescuing a victim trapped in an abusive household during lockdown, in coordination with the Police, and arranging her temporary stay at the Shelter Home, before eventually transferring her to her natal home once lockdown restrictions were relaxed, using special passes. Reiterating the social nature of the legislation, she underlined the ***pro-active nature of the role of POs under the Section 9*** of the Act, in leveraging the assistance of the Police and Law enforcement to reach the household/site of violence, even during the Lockdown, should an ***emergency*** arise, upon being notified through call or mail, and immediately documenting, collating and presenting the case to a magistrate seeking orders, therefore ***ensuring the bodily safety of the survivor***. She also emphasized the criticality of working in conjunction with OSCs to uphold the same and leveraging the allowances made for the functioning and mobility of support services during lockdowns.

Distinctions in the Roles and Responsibilities of POs & OSCs

Through discussions, it emerged that, as offices of the POs in the state are located with the OSCs, sometimes, it is practiced that POs also participate in counselling sessions with survivors at OSCs, jointly charting a course of action. Ms. Kadrekar emphasized that ***it is not under POs jurisdiction to undertake any kind of mediation and joint counselling***. Counselling should be done confidentially, one-on-one, between the counsellor and the survivor, to enable a safe and comfortable environment for the survivor to speak uninhibitedly. She reminded that ***PO is a technical position, one that starts when OSCs refer a case*** to the PO. Further, OSCs need not share narrative details of counselling with the PO, only the administrative details to facilitate the case.

Bottlenecks with the Judiciary

Many participants shared the challenges to the case trajectory once it reaches the judiciary. Mr. Suvigya, Consultant, State Department of Women and Child Development, shared the statistics of

pending DV cases in Courts. He mentioned that of the 10,400 cases received by OSCs in the past 4 years, 8,200 have progressed to DIR, of which 7,300 have been presented in courts, but only 2,800 cases have gotten relief, while over 4,000 are pending. He shared that the **DWCD is pushing for the backlog to be addressed but underlined that judicial push is also needed** to ensure they are resolved by the Courts.

Reiterating earlier discussions on the need for timely intervention and access to support for survivors, as outlined in the law, and noting the response of participants on limited access to courts during lockdown, the legal expert emphasized on comprehensive documentation, going in detail on each of the 5 forms applicable in filing a case on DV, for painting a well-studied, comprehensive picture for the courts.

Ms. Kadrekar underscored that while Courts are always overburdened, it is the responsibility of the POs to remind the courts of the legal provisions for first hearing within 3 working days. She urged the participants to **vocalize the need to prioritize their cases, as per the law, in the courts, for access to justice** for the survivor, in keeping with the spirit and intent of the law.

Several participants recounted their experiences with judges – while some judges were sympathetic to women's plight, some others did not take matters of DV seriously, and reflected patriarchal bias, as is also sometimes experienced in engaging with the Police and bureaucracy. POs also highlighted the divergent views held by judges regarding appropriate sequence of processes under Section 14 of the law towards Counselling – sharing their experiences that some judges are critical of OSCs undertaking counselling without the direction of the courts, while others do not mind the same. The legal expert responded that **there is no bar to pre-litigation counselling in the law**. A lot of times courts direct mediation as the next step in the process, but it is a practice, and not necessary, if the woman doesn't want it. She unpacked the legal ambiguity surrounding the law: **while it is a civil law, but under Section 31 of the law, the breach of civil orders of the Court by the perpetrator may evoke criminal proceedings**. It was shared that there is lack of incentivization for justice amongst lawyers, as High Courts don't pay advocates for legal aid in District Courts.

Lack of latest or updated information was also brought out as a challenge: it was underlined by the experts that all Magistrates and service providers are to get notifications on high court orders concerning their work.

Way Forward & Feedback

Participants shared their takeaways from the training, noting that the training has been very helpful in providing practical tips that are directly relevant and can be implemented on the job.

Ms. Pitre steered the discussion towards next steps. She recognised the participants' on-ground challenges with judiciary, and shared that Oxfam India will discuss further with the DWCD on taking this tangent forward through advocacy. As judiciary emerged as a significant barrier in speedy access to justice, she suggested holding dialogues with the state judiciary and the creation of SOPs for judiciary.

Based on the discussions, she also pitched the idea for **conducting monthly feedback sessions**, as a follow up to the training for handholding, to discuss challenges faced by service providers in their ongoing cases, and also to go through **judgements of the Supreme Court and High Courts on the DV Act so that POs can use precedents to their advantage to build stronger cases**. The participants were

enthusiastic about this idea, and also requested Oxfam to share the Court judgements in advance. It was then decided that Oxfam India will share instalments of judgements in a newsletter format, for ease of reading and absorption of facts. It will be shared with the DWCD, which will then circulate it amongst all relevant stakeholders in the state through an official directive.

Mr. Suvigya suggested the POs chart out a case-by-case strategy in engagement with courts. He underlined that in interstate cases, OSCs from fellow states can be connected with and the cases can be transferred, while the original OSC can seek updates.

He also thanked Oxfam India for conducting the illuminating training, and looked forward to continuing the conversation through actions on the next steps.

Ms. Pitre concluded the session by thanking the DWCD and all the participants for taking out time for the training.