



**CEQUIN**  
CENTRE FOR EQUITY AND INCLUSION

# **NCW-UNDP-CEQUIN**

CONFERENCE ON

GENDER-BASED VIOLENCE IN PUBLIC SPACES:

CHALLENGES AND SOLUTIONS

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## OVERVIEW

The conference on '**Gender-Based Violence in Public Spaces: Challenges and Solutions**' held at the Constitution Club, New Delhi on October 26-27, 2010 was aimed to look at issues of violence against women (VAW)/gender-based violence (GBV) in public spaces, defined for the purpose of the conference as the “geographical” spaces between the home and the workplace, schools, public institutions'.

The Centre for Equity and Inclusion (CEQUIN), organiser of the conference, acknowledged the lack of safety for women in public spaces, real or perceived, as a hindrance to their full participation politically, economically and socially. The conference was meant to challenge the private-public divide, highlight the range of manifestations of VAW/GBV and facilitate shared understanding of these issues and a common framework towards responding to the same.

Representatives of the women's movement, non-government organisations working with women on different issues, researchers, academics, select government agencies, the UN System in India and bilateral/multi-lateral organisations working in India participated in the Conference (*see Annex 1 for list of Participants*). The two-day conference proceeded with eleven presentations (*see Annex 2 for list of presentations*) on the various dimensions of VAW/GBV, thematically divided into five panel discussions:

- Session 1: Laws and Responses from the Police and CSOs
- Session 2: Understanding GBV in Context of Public Spaces
- Session 3: Different Dimensions of GBV in Public Spaces
- Session 4: Emerging Issues
- Session 5: Measuring Impact of GBV in Public Spaces

While the presentations summarised the points from thematic papers prepared for the conference and submitted to the organisers beforehand, discussions on the subject was enriched by the different perspectives offered by the presenters through which issues were analysed. As the sessions were chaired by experts with enormous experience of working on the issues, interactions between presenters and participants were guided accordingly and synthesised as necessary. Likewise, the experiences of various actors present added to the depth of appreciation in terms of the magnitude of the challenge, the levels of interventions required and proposed strategies in response to the issues.

## OPENING SESSION

Ms Sara Pilot, Chairperson of CEQUIN, organiser of the conference, extended a warm welcome to the guests and the participants to the two-day conference. She stressed on CEQUIN's commitment to facilitate understanding on issues of VAW/GBV in public spaces to complement efforts already

being undertaken in other respects. She underlined the need for responsive measures to deal with the issues and ensure women's safety in public spaces, noting that this would open up the doors for women's full participation in society.

Ms Lora Prabhu, Director of CEQUIN, explained the objectives of the Conference, to facilitate shared understanding of VAW/GBV and come to a common framework towards responding to the same. She talked of the challenge in the private-public divide and constraints on women owing to this dichotomy. She referred to the range of manifestations of VAW/GBV, discussed in the Conference.

In partnership with CEQUIN, both the National Commission for Women (NCW), Government of India (GOI) and the UN System in India through the United Nations Development Programme (UNDP), shared the concern for women's rights and the need for gender equality. All partners in the conference recognised the increasing number of cases coming into the open regarding VAW/GBV. Partners shared the resolve and commitment *to act on the issues* and support initiatives to tackle VAW/GBV.

Shri Veerappa Moily, Minister of Law and Justice, GOI, emphasised the need to 'reform the system' in light of VAW/GBV. He noted the need for laws to be responsive to changing times and circumstances and cautioned against 'blindly follow(ing)' law without regard to social, economic and political realities. While underlining the need for dialogue on issues between and among various stakeholders, he conceded the need for action beyond mere discussions. He noted the urgency for consensus on pending bills relating to women. Guaranteeing a response from the government, he invited meaningful engagement from the conference participants and substantive recommendations on issues.

Mr Patrice Coeur-Bizot, UN Resident Coordinator and UNDP Resident Representative, while commending CEQUIN in organising the Conference, acknowledged the many efforts in India both by the government and the CSOs towards women's empowerment and gender equality. He reiterated the commitment of the UN System in India to address the issues of gender-based violence. He underscored the significance of the UN Security Council Resolution 1325 on its 10<sup>th</sup> year anniversary for 'rais(ing) awareness of the unique and grave issues faced by women and girls in situations of armed conflict, and also provided those with a legitimate basis to demand action from their governments and the international community'. He referred to India's international commitments through the Committee of Elimination of Discrimination Against Women (CEDAW), etc., and its new role as member of the UN Security Council. He enumerated various strategies to effect social change. He emphasised the role of partnerships among stakeholders for transformative change.

Smt Girija Vyas, Chairperson of NCW, shared her own experiences and that of the NCW in dealing with VAW/GBV. She spoke of the policies and mechanisms put in place to provide effective interventions for women victims of VAW/GBV. She highlighted the need to work with the police, the legislative branch of the government and all other government agencies/units for comprehensive action to deal with discrimination against women generally and issues of VAW/GBV in particular. She emphasised the critical partnership between NCW, the public and CSOs especially those working on women's/gender issues to tackle the various forms of VAW/GBV. In this regard, she spoke of the following 'pillars' for intervention:

- ❑ More responsive and effective implementation of *laws* and administration of justice;
- ❑ *gender-sensitization* of various government units especially the law-enforcement agencies, judiciary, Parliament;
- ❑ *gender-awareness* of the public and various institutions, both government and non-government;
- ❑ *response* of civil-society, guided by social responsibility;
- ❑ increased/responsive *role of the media*.

Shri D.K. Sikri, Secretary, Ministry of Women and Child Welfare (MWCD), acknowledged the paradox of economic growth and increasing VAW/GBV facing India and the region today. He noted the need to build consensus on issues among stakeholders in India especially in regard pending bills in Parliament, the need for proper implementation of laws and the requisite training for various agencies to ensure effective implementation of laws. Over-all, he highlighted the need for a change in mindset to be able to respond to VAW/GBV and achieve gender equality. He enjoined the participants of the conference to provide the way forward in this regard.



## SESSION 1: LAWS AND RESPONSES FROM THE POLICE AND CSOs

Chair: Kiran Bedi, IPS (retired)

The first session provided the socio-legal context of VAW/GBV in public spaces and, in analysing the framework, points to the weaknesses in the system in responding to VAW/GBV and women's needs in general. Presentations<sup>1</sup> covered a review of the private-public divide, the gendered notion of citizenship, laws dealing with sexual offences and various crimes against women, legal changes introduced to respond to women's needs against the backdrop of women's movements initiatives/campaigns, currently pending bills to deal with the range of abuses/violations against women and marginalised communities, police response to VAW/GBV and the role of media in this regard.

At the outset, there is an acknowledgment that VAW/GBV is rampant across the world, including India. While there has been increasing activism across contexts for women's rights, issues of gender discrimination, stereotyping of women, gender division of labour and marginalisation of women, among others, remain persistent. While more and more women are stepping out of the confines of their homes to pursue education, employment/livelihood, even political careers, abuse and violation of women continues, traversing the continuum of the private-public domains.

**Ms Flavia Agnes noted in her presentation 'Gendered Claims of Citizenship and Notions of Honour and Stigma' that '(a)s women expand the boundaries of their domestic life, and challenge patriarchal power and authority, the violence unleashed upon them becomes more severe. The logic of maintaining of patriarchal power and control provides the justification for the violence'. And, '(w)hen women are demanding safety in public places, they are, in fact, claiming their rights of citizenship'.<sup>2</sup>**

The Indian Constitution guarantees equality, freedom and liberty to its citizens including women citizens, thus:

- Article 14: Equality before law and equal protection of laws.
- Article 15(1): Non discrimination on grounds of sex
- Article 15(3): Special provisions to protect women and children
- Article 16(1): Equal opportunities to women in employment
- Article 16(2): Non discrimination in respect of employment
- Article 16(3): Special provisions to protect women in terms of employment.

Yet, citizenship cannot be viewed strictly from a legal perspective when talking about women's issues, especially in relation to VAW/GBV. Citizenship is a gendered notion and the following<sup>3</sup> summarises the explanation:

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<sup>1</sup> 'Gendered Claims of Citizenship and Notions of Honour and Stigma' by Flavia Agnes, Legal scholar and feminist activist; 'Police Response to Gender-Based Violence in Public Spaces' by Suman Nalwa, Additional Deputy Commissioner of Police, Special Police Unit (Women & Children), Delhi Police; and 'Role of Media in Addressing Gender-Based Violence in Public Spaces' by Mohuya Cahudhuri, Senior Editor, New Delhi Television (NDTV).

<sup>2</sup> Agnes, F., 'Gendered Claims of Citizenship and Notions of Honour and Stigma', Flavia Agnes, Legal scholar and feminist activist.

<sup>3</sup> Agnes, F.

- 'The gendered notion of citizenship comes about through “(t)he negotiations between state, community and family which take place in the context of women's rights”.'
- 'The 'gendering' of citizenship has arisen due to the creation of the public-private divide, where the male is perceived to belong to the public sphere and the female to the private'. (Roy 2005: 28)
- 'A woman's need for a public identity and a legal relationship directly with the state had not been adequately addressed within the citizenship discourse and hence women's claims to citizenship were mediated through the male heads of their family and through the interventions of the community.'
- 'A woman is seen as a multi-dimensional gendered citizen, and, as such, is compelled to negotiate their citizenship with the state through a kaleidoscope of identities resulting in layered, fragmented, hierarchical and, at times, overlapping claims. It is in this interface between family, community and state that women negotiate their rights. It is also within this interface that much of the violence suffered by women, both within the private sphere of the home as well as the public domain, is located.'
- 'The notions of honour and control, shame and stigma govern the violence that takes place in the public domain.'

Ms Agnes point to the various public locations of VAW/GBV, categorised broadly into four themes:

1. Rape and sexual crimes.
2. Caste- and community-based violence.
3. Violence in workplace-related situations.
4. Violence by the family and the community.

## 1. Rape and Sexual Crimes

During the early Eighties, rape became the central theme of the campaign of the Indian women's movement. The catalyst for the campaign was the Supreme Court judgement in the *Mathura* rape case<sup>4</sup> and resulted in changes in the rape laws in the country.

### The Salient Features of the 1983 Rape Law Amendments and its Impact

**Shifting of Burden of Proof:** In selective cases of custodial rape—in police lockups, prisons, hospitals, rescue homes, remand homes, etc.—the burden of proving consent, once sexual intercourse was proved, shifted to the accused.

<sup>4</sup> *Tukaram v State of Maharashtra* AIR 1979 SC 185. Mathura, a sixteen-year old, illiterate, orphan, tribal girl was raped by two policemen, while on duty, within the vicinity of the police station; a stark incidence of public and custodial violence against a young helpless girl. But since the young girl had eloped with her boyfriend and was brought to the police station on a complaint filed by her own brother, she was viewed as a woman of loose moral character. Since there were no marks of injury, the court termed Mathura a liar. Her evidence regarding the rape was disbelieved. The Supreme Court set aside the Bombay High Court decision and acquitted the policemen.

**Minimum Mandatory Punishment:** The amendment prescribed a mandatory minimum punishment of seven years for ordinary rapes and ten years for rapes of aggravated nature—gang rapes, custodial rapes, rape of children under the age of twelve years, rape of pregnant women, etc.

**Consensual Intercourse in Custodial Situation:** To deal with the issue of sex with consent (as made out in the Mathura rape case), the amendments introduced a new offence and made consensual sexual intercourse in certain custodial situations culpable.

'Despite the positive stipulations within the amended rape laws, most cases ended in acquittals.<sup>5</sup> But periodically, the Supreme Court and the High Courts laid down procedural norms and issued strictures against a lax and corrupt investigative machinery and a gender-biased lower judiciary for their hostile attitude and suspicious approach towards a rape victim.' Court procedures would occasion re-victimization of women in many ways for requiring victim's credibility on one hand and providing leniency to the accused on the other hand. The notions of shame and stigma would follow the women.

The Gurmit Singh judgement becomes an important marker of judicial sensitivity<sup>6</sup> where it noted, thus:

It is the accused and not the victim of sex crime who is in trial in the court. ... Why should the evidence of a girl or a woman who complains of rape ... be viewed, with doubt, disbelief or suspicion? ... The evidence of a victim of a sexual offence is entitled to great weight, absence of corroboration notwithstanding.

The need to redefine the crime became evident through many cases and unresponsive judgements. Several special interest groups—women's groups, child rights groups and gay, lesbian, bi-sexual and transgender (LGBT) groups worked together to campaign for a nuanced law which would take into effect the concerns of all these different segments. After many rounds of deliberations, a draft for a new law on sexual assault was submitted to the home ministry and to the law minister in July 2010.

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<sup>5</sup> NCRB has reported a conviction rate of around 26–27 per cent for the years 2006, 2007 and 2008. This is at the Sessions Court level. Most convictions lead to appeals to High Courts and result in acquittals. So, the actual conviction rate is much lower.

<sup>6</sup> *State of Punjab v Gurmit Singh 1996 CrLJ 1728*. The case concerned the rape of a school girl while she was appearing for her Class X examination. She was kidnapped after her exam, was taken to a lonely spot and was gang raped. Next morning she was left outside the school entrance. The girl did not disclose the incident to her teachers or classmates. She even appeared for her exam, a behaviour which is in direct conflict with the notion that 'rape is worse than death'. For this first generation literate girl, the exam was of paramount importance. Only upon reaching home, did she narrate the incident to her mother. The lower courts had viewed this behaviour as 'highly suspicious' and on the presumption that the girl was of 'loose moral character' acquitted the accused. But the Supreme Court viewed the conduct of the girl as natural and declared that her evidence could not be disbelieved on grounds that she did not disclose the incident to the first person she came across.

### **Salient Features of the Proposed Criminal Law Amendment Bill, 2010**

The Bill seeks to place all provisions relating to sexual violence—Sections 375, 376, 377, 354 and 509 of the Indian Penal Code (IPC)—within a single chapter, in an attempt to provide a comprehensive framework for protecting women, children and all other persons who on account of their sexual, gender or other identities suffer from sexual violence and abuse.

The proposed definition of sexual assault moves away from the penetrative reproductive logic to a more nuanced understanding of sexual assault redefined as sexual violence; that which takes into account a range of violations perpetrated against persons, with or without the use of criminal force. These include acts ranging from sexual harassment to the gravest forms of sexual assault.

The Bill includes within its scope sexual assault on men in custodial situations and otherwise, on transgender persons and on children. There is by now a realisation that while sexual assault against women continues to be a major concern, children, men and transgender persons also face sexual abuse—children by family members and strangers; men in custody by police; and gays and transgender persons due to their different sexual orientation by both police and members of civil society.

In view of the fact that prosecution depends heavily on the question of consent, the Bill introduces a comprehensive definition of consent to guide the prosecution and the judiciary.

The Bill provides for effective and speedy procedures. Protective measures such as safe havens, counselling, rehabilitation and support services, witness protection, compensation to victims of sexual crimes have been included.

## **2. Violence Against Women as Markers of their Caste and Community**

The gendering of citizenship renders women as unequal citizens, not just in opposition to men within the binaries of the public and private domains, but also within the hierarchical order of class, caste and community. The significance of the anti-rape campaign of the Eighties lies not just in focusing upon sexual violence but also in addressing theories of dominance and subordination and construction of gender within wider social parameters.

In situations of conflict and violence involving communities as seen in Gujarat in 2002 or Kandhamal, Orissa, in 2008, women's bodies became terrains of contestation. Yet, in other instances, '(t)he sexualised female body which is constantly violated and humiliated gets transformed into a weapon of retaliation and causing humiliation for the masculine state power'.

It has now become evident that provisions of the IPC and criminal laws are inadequate in addressing issues of mass crimes as the criminal law focuses on crimes against individuals and not crimes against a group or a collective. Therefore, sexual violence against women in certain specific situations of conflict where they are targeted by reason of their identity, including community, ethnicity, caste, religion and language, merits special recognition. In an effort to bring in a law to deal with communal violence, in 2005 a bill was drafted titled 'Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005'. This was redrafted as the 'Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2009' incorporating changes to guard against abuse of authority especially against vulnerable communities. A memorandum submitted to the Government of India on 17 November 2009 by various secular organisations demanded that the Bill should be revised along the lines of the several constructive suggestions made by various civil society and anti-communalism groups in the country. The salient points of this memorandum are stated here:

- It must create new crimes/offences, definitions and new rules of procedure and evidence.
- There should be a provision for Command Responsibility, to pin responsibility on political and military powers who fail to curb communal violence.
- There should be accountability of public officials who at present enjoy immunity from prosecution.
- It should specifically provide for gender-based crimes.
- It should provide for setting up of an independent National Authority to ensure effective compliance with the law.
- Reparations and Witness Protection clauses must be clearly set out and these must include rescue, relief, compensation, restitution, rehabilitation and reconstruction of places of worship destroyed during the violence.

The most important recommendation relates to GBV. Special recommendations were made for redefining the crime of rape and to bring it within the purview of sexual assault in the context of the sexual crimes that have been committed during communal, caste and ethnic violence in recent years. The increasing centrality of sexual violence to mass crimes warrants an urgent legal response. The prevailing provisions of the IPC regarding rape are extremely inadequate and do not incorporate

within its scope the range of sexual violations perpetrated in contexts of mass crimes, or the gravity of such crimes. Therefore, in conformity with international standards, a range of sexual offences have been sought to be included within the purview of the Bill to give recognition to ground-level experiences of victim-survivors. These include rape, mutilation, indecent sexual exposure, sexual slavery, forced nudity, forced pregnancy and enforced sterilisation. The following special evidentiary rules have also been recommended:

- Medical evidence should not be insisted upon as corroborative evidence.
- Uncorroborated victim's testimony could form the basis for conviction provided it inspires the confidence of the court.
- Delay in lodging an FIR should not impact the case in any manner.
- Consent to sexual act as a defence to the perpetrator should be specifically excluded.
- Admission of evidence of prior or subsequent sexual conduct of a victim of sexual violence should be explicitly prohibited.
- Sexual violence in a communal situation should be equated to custodial rape as mob exercises complete control and is in a position of authority.
- Hence, the Bill should, as in cases of custodial rape, provide for enhanced punishment and also shift the burden of proof from the victim to the perpetrator.
- Victim/witness protection measures should be introduced for survivors of sexual violence.
- Special efforts should be made to conduct the trial in a gender sensitive environment to ensure that the consequent trauma is diminished

More recently, in August 2010, the work of redrafting the Bill along the lines of the recommendations has been assigned to a special committee constituted under the National Advisory Council.<sup>8</sup>

### **3. Workplace-Related Violence Against Women**

Many cases of abuse against women at the workplace have happened but rarely recorded or acted upon by employers, much less tried in a court of law. In the absence of specific laws to deal with cases of sexual harassment and the need to prove that violation was indeed committed, women would either shy away from fighting a case or go through a difficult process of actually 'making a case' drawing from various laws to show legal violations, and, additionally, face the stigma when they decide to file complaint of sexual harassment and similar work-related cases.

Of the constitutional guarantees on equality, Article 16(1) and (2) which guarantee equal opportunities to women in terms of employment and prohibits discrimination against them are of special relevance for discussion on women's rights as workers. In addition, Article 16(3) provides for additional safeguards and confers power on Parliament to make special provisions to protect women in terms of employment. This move facilitated the enactment of legislation meant especially to strengthen and protect women, beyond the confines of formal equality.

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<sup>8</sup><http://www.indianexpress.com/news/to-write-communal-violence-bill-nac-turns-to-activists/674685/>

The case of *Vishaka v State of Rajasthan*<sup>9</sup> was a breakthrough for women's rights at the workplace and for gender equality in India generally. Leading social activists and human rights lawyers filed a Writ Petition in the Supreme Court of India

demanding protection of women workers drawing on the provisions of CEDAW to which India is a signatory, the Constitution of India and the Human Rights Act of 1993.<sup>10</sup> The campaign resulted in a judgement, recognising sexual harassment as a violation of women's rights at the workplace and laying down guidelines for employers to deal with sexual harassment cases. The judgement mandated committees to be instituted to look into cases, shifted the onus of proving that there was no sexual harassment to the accused and made the employer liable with the accused for the violation.

The ruling amounted to judicial law making as a way of 'remedying the legislative vacuum on the subject of sexual harassment of women at their workplace'. The court defined 'sexual harassment', thus:

Any unwelcome, sexually determined behaviour, whether directly or by implication, like physical contact and advances, a demand or request for sexual favours, sexually-coloured remarks, showing pornography, and any other unwelcome physical, verbal, or non-verbal conduct of sexual nature.

The court in the *Vishaka* ruling directed that the guidelines laid down in this case should be followed until the legislature enacts a statute in this regard. Indeed, so many cases would have been decided using the jurisprudence laid down in the *Vishaka* case. And, more than a decade since the said case, a proposed **Protection of Women Against Sexual Harassment at Workplace Bill, 2010 is under consideration. This proposal is meant to respond to the situation of women in the unorganised sector, where bulk of the women workforce is located, continues to be exploitative.**

'Women continue to labour in extremely exploitative conditions in the unorganized sector, devoid of the constitutional guarantees and protective legislations. These women are devoid of the minimum protection that the labour law offers, such as maternity benefits, facility of crèches, health care, education of children, and even minimum wages. For many women in the unorganised sector, their workplace itself is a public place. Construction workers, agricultural workers, menial laborers, street vendors and sex workers work in public and open spaces and are subjected to extreme violations and sexual crimes. Their own supervisors, the contractors, the police and the public—all contribute towards creating exploitative and sexually abusive work conditions for these women.'<sup>11</sup>

'In order to bring these women within the scope of the sexual harassment guidelines, which are now applicable to the public sector, the government has proposed a new Bill on sexual harassment at the workplace.'<sup>12</sup>

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<sup>9</sup>1997 6 SCC 241. The gang rape of Banwari Devi (also referred to as Bhanwari Devi) while working on a government-sponsored development programme raised the issue of workplace safety for women. Despite her repeated complaints she received no support from her superiors. The district administration, including the police, tried to cover up the case by making the woman worker accountable for the incident.

<sup>10</sup>The Supreme Court referred to the Committee of Elimination of Discrimination Against Women (CEDAW) and the violation of gender equality as enshrined in Articles 14 and 15 and the right to life and personal liberty of women under Article 21 of the Constitution.

<sup>11</sup> Agnes, F.

<sup>12</sup> Agnes, F.

## Salient Features of the Proposed Protection of Women Against Sexual Harassment at Workplace Bill, 2010

**A Wider Definition of Sexual Harassment:** The Bill broadens the definition of 'sexual harassment' provided by the Supreme Court in *Vishaka v State of Rajasthan*<sup>13</sup> to include any implied or overt promise or threat of preferential or detrimental treatment in her employment or future employment status, conduct of any person which interferes with her work or creates an intimidating, offensive or hostile work environment and humiliating conduct constituting health and safety problems for her.

**A wider definition of 'workplace':** It provides for a very wide definition of 'workplace' and brings within its purview the private sector, society, trust, NGO, hospital or nursing home and any place visited either by air, land, rail or sea by the employee arising out of, or during and in the course of, employment.

**A wider definition of 'employee':** It defines 'employee' as any person employed at a workplace for work on a regular, temporary, ad-hoc or daily wage basis, either by an agent or a contractor, whether for remuneration or voluntary, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, or apprentice.

**Protection to women from the unorganised sector:** The Bill brings within its purview women employed in the 'unorganised sector' and defines this sector as an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing a service wherein the number of workers employed is less than ten.

The proposed Bill also provides for **Local Complaints Committees** and procedure for **settlements**.

'It is hoped that when enacted, the Bill will provide solace and redressal to a large segment of women workers from the unorganised sector. By laying down clear guidelines, it will also clear the ambiguity which prevailed after the Vishaka guidelines. It will also provide an alternate forum to those women who file complaints against their bosses (or heads of a unit) where there is a constant fear that witnesses would be intimidated from giving evidence. While the definition, scope and procedure laid out under the proposed legislation is elaborate, it is left to be seen how this new mechanism will be able to redress the atrocities suffered by women in the unorganised sector.'<sup>14</sup>

'Within the realm of women who work in the unorganised sector there is a huge population of women who work within the sex industry whose work does not even get recognition as 'work'. Social stigma, taboo and prejudice associated with sex work are embedded in social structures, processes, law and the public imagination and serve to reduce and set limits to citizenship rights and social justice for women who sell sex.'<sup>15</sup>

While exploring the many perspectives on sex work, Ms Agnes notes that '(i)n contrast to the earlier framework which views all sex work as violence, an emerging

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<sup>13</sup>1997 6 SCC 241.

<sup>14</sup>Agnes, F.

<sup>15</sup>Agnes, F.



perspective within feminism views prostitution as sex work and recognises the agency of women in sex work. This perspective does not subscribe to the image of sex workers as either 'victims', 'bad and evil' women or perpetrators of disease. This strategy helps sex workers to articulate the violation of their rights and helps them to claim their rights as workers and citizens. A rights-based approach, which acknowledges that women in sex work have rights and entitlements, would facilitate the state and society to engage with this discourse and endow them with these rights.'

'In India, sex work is not prohibited nor legalised and it hovers in between the realm of the legal and the criminal. This is because while sex work is not prohibited, the law prohibits solicitation in public places. This provision tends to be invoked to harass intimidate and arrest prostitutes and bring them to book under the provisions of Immoral Trafficking (Prevention) Act (ITPA) of 1956. This Act seeks to prevent trafficking of persons and prohibits most outward manifestations of sex work, including running brothels. While ITPA does not specifically prohibit prostitution, law enforcement officials have continuously used it with criminal intentions to harass sex workers while forming a nexus between themselves and the pimps and brothel keepers. The prohibition against 'public solicitation' is constantly used by the police not only to harass sex workers but also to demand bribes or sexual favours from them. If their demands are not met, the police implicate them in false cases...'

'The issue of decriminalisation seems to be on the government agenda. In 2005, the Department of Women and Child Development (WCD), Ministry of Human Resource Development proposed certain amendments to the IPA with a view of controlling trafficking and the spread of HIV/AIDS and also suggested decriminalisation of sex work. But the WCD failed to consult sex workers and AIDS service organisations and hence several provisions in the proposed Bill against sexual harassment were opposed by groups working with sex workers, sex workers collectives and NGOs working with AIDS prevention. A revised Bill came up for Cabinet approval in September 2007 but due to lack of consensus among the Ministries of Health and Home Affairs, the Bill was referred to a Group of Ministers (GOM) for further deliberations. One of the main issues that the GOM was expected to examine was if and how the proposed amendments will affect HIV prevention among sex workers and clients under the National AIDS Control Programme.'

### *Issues of Trafficking and Concern Over Children in Sex Work*

Voluntary and consensual sex work by adult women needs to be distinguished clearly from issues of trafficking and the violence inflicted upon children and adults who are forced into sex work. Since the concerns of these two groups are separate, there is a need to formulate two different strategies to remedy the problems.

The Supreme Court has provided several guidelines for the safety of children forced into sex work. Issues of trafficking and migration also need different frames of analysis just as trafficking sex work<sup>16</sup> needs to be differentiated. Trafficking in women needs to be understood within a continuum of women's movement and migrations. The need is to critically examine the intersections of migration, trafficking, labour, exploitation, security and terrorism, women's rights, sexuality and human rights. Any analysis of the complexities of the transnational female migrant

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<sup>16</sup> *Gaurav Jain v Union of India* AIR 1997 SC 3021.

must extend beyond the confining parameters of the current conceptual and operational work on cross-border movements which views all such movement with the lens of trafficking. To this end, diverse conceptual frameworks that need to be applied to understand and redress the vulnerabilities of the migrant woman in the causes, process and end conditions of her migration in order to evolve alternative approaches to migration and trafficking.<sup>17</sup>

There is a need to develop a human rights approach to trafficking and, further, develop specific and contextualised strategies and arguments to extricate the genuine concerns related to trafficking of persons from the unstated or moralistic concerns with migration, prostitution or national security.

#### **4. Violence by the Family and the Community**

Violence within the family has been a concern for the Indian women's movement since the early Eighties. The issue was articulated primarily within the realm of criminal law as cruelty, dowry harassment and dowry death, and addressed the concerns of extreme violence suffered by young brides in their matrimonial home. The campaign resulted in introduction of some new provisions within the IPC. Since, due to the private nature of the offence, it was difficult to prove the offence under the existing parameters of the criminal justice system, certain procedural and evidentiary rules were also changed. The changes, which were effected, can broadly be summed up as follows:

##### **Section Description of Offence**

S.304B	Dowry Murders
S.306	Abetment to Suicide*
S.498A	Cruelty to Wives”

\*Only the evidentiary rules of this pre-existing section were changed.

Murders, suicides and cruelty suffered by wives (whether dowry related or otherwise) could be made culpable under these provisions in addition to the pre-existing sections listed below which deal with violence in general:

##### **Section Description of Offence**

S.302	Murder
S.304	Culpable Homicide
S.323-6	Simple/Grievous Assault

While these provisions addressed issues under the criminal law, it was felt that there is also a need for a civil law to protect women from violence both in their marital as well as their natal homes. After a decade long campaign, finally a new Act titled The Protection of Women from Domestic Violence Act, 2005 (PWDVA) was enacted to provide speedy remedies to women who are subjected to domestic violence. The Act recognises a woman's right to reside in a violence free environment, both in her parental home as well as in her matrimonial home and provides remedial measures in

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<sup>17</sup> See Report of the Centre for Feminist Legal Research (2004) on the International Seminar on Cross Border Movements and Human Rights, New Delhi.

the event that the rights are violated. The three most important features of this enactment are:

- It provides a broad definition to violence—physical, emotional, sexual and economic—perpetrated upon women and children.
- It provides a statutory right to every woman to shelter under the notion ‘shared household’. Though this statute does not provide a woman title or interest in the dwelling house in which she is residing, it grants legal recognition to this right of residence and protects her against dispossession through injunctions and protection orders.
- It secures the rights of women whose marriages are not valid under the law or those women who have never been married but have been living in relationships in the nature of marriage.

Due to a sustained campaign which ranged over three decades, today there is a wide acceptance that Indian women are subjected to extreme violence in their homes. However, several other types of violence which a woman is subjected to by the sanction of the family and the community have not been sufficiently addressed. Some of these are known by certain specific terminology such as ‘honour killing’, ‘acid throwing’, ‘sati’, ‘witch hunting’, etc. Collectively these incidences bring to the fore the extreme violence to which women are subjected to by their natal families, marital families, the local panchayats and from partners in intimate relationships. The violence which women are subjected to within the domestic sphere is reproduced in different ways like a kaleidoscope of images refracted through broken mirrors.

“Sati”, the burning of a widow on her husband’s funeral pyre, is a crime that is well known and much publicised. This is an older concern which has been in the public domain for over two centuries. While the incidents of sati have been reduced there are occasional incidents which come into the public domain. As against acid throwing, which is considered ‘modern’ form of violence, sati is an older form violence and claims its roots in religion and Hindu culture and the commercial motive of inducing a woman to commit sati gets entangled within rituals and a hallowed place for the woman who has committed sati and raises her to the level of a local deity.’

‘There were widespread protests following the public murder of an eighteen-year-old girl, Roop Kanwar in Deorala, Rajasthan, in September 1987. As an outcome, one of the demands was for a legislation to deal with the issue of sati. The government was prompt in its response. Even before the embers of Roop Kanwar’s funeral pyre had cooled down, the law came into effect.’

#### **The Commission of Sati (Prevention) Act, 1988**

##### **The Preamble of the Act states:**

An Act to provide for the more effective prevention of the commission of sati and its glorification and for matters connected therewith or incidental thereto.

Whereas sati or the burning or burying alive of widows or women is revolting to the feelings of human nature and nowhere enjoined by any of the religions of India as an imperative duty;

And whereas it is necessary to take more effective measure to prevent the commission of sati and its glorification.

'By passing a law, the government has bestowed a special status to the public murders of widows and a religious and cultural context to the issue. The Act concedes that sati constitutes a special offence, distinct from murder and suicide. The law is stringent and shifts the burden of proving the offence on the accused. It was believed that such a move will ensure convictions and act as a deterrent. But the ground reality does not support this premise. However, the irony of the Act lies in the fact that despite its stringency, there were no convictions of the accused in Roop Kanwar's case, the very case which resulted in a sustained campaign to enact the legislation. So while the incident and the legislation created much hype its effect in punishing the guilty was nil. This indicates the haphazard manner in which the state machinery conducted the investigation and followed up the legal case. In fact the state machinery was implicated as they had also colluded in the act at the village level. Such collusions makes it difficult for an effective implementation of the Act and takes away its deterrent value. Hence the provisions of such legislation remain at a merely ornamental level rather than having any concrete effect in curbing the violence (Kishwar and Vanita 1987).'

Likewise included under this category are 'honour' killing, acid throwing and witch-hunting, among others, which shall be explored specifically in later sessions.

Ms Suman Nalwa, in her presentation '**Police Response to Gender-Based Violence in Public Places**', acknowledged the crucial role of the police force in ensuring response to cases of VAW/GBV but likewise recognised the challenges associated with the legal-socio-cultural aspects of the issues. She noted the expanding role of the police generally in the context of 'rapid industrialisation and increasing urbanisation and new idea in the wake of greater educational infrastructure, new social tensions and embarrassing tendencies have sprung up and the police has to cope with new and ugly anti-social activities, when it has hitherto primarily engaged in dealing with maintenance of law and order and protection of life and property'.

Ms Nalwa underscored that beyond prevention of crime and the prosecution of the guilty, the police today needs 'to look at the concept of gender justice and role of police within the parameters of human rights and social justice... Steps are to be taken to ensure that the law is not violated in the first place and if violated, is not repeated and the guilty punished in the tone they understand'.

'The incidents of gender-based violence are on the increase, and while the police do intervene actively, they still consider the reported incidents as merely isolated cases. The police do not try, and is not equipped, to address the root cause of the problem and why such incidents take place. Their area of investigation is limited to finding the culprit and booking (the person) under the various provisions of law, as applicable' and available. As law enforcers, the police generally treat cases from a 'strictly legal perspective'.

'There is lack of policy vision to address the problem of violence faced by women in public spaces in its totality... constraining the police from adopting ways and means for the prevention of

‘... research has indeed shown that the increase in the number of police personnel does not necessarily result in decrease in crime in general. However, when it comes to crimes against women, the kind of police force that we have indeed matters’. More than the number, regardless of men or women police officers, the need for them to be gender insensitive cannot be disputed.

‘The central government in its national policy for the empowerment of women 2001<sup>18</sup>, formulated a policy to bring about the advancement, development and empowerment of women and this is to be achieved by changing societal attitudes and elimination of all forms of gender-based discrimination, active participation of women in all spheres (like incorporation of gender perspectives, translation of de jure equality of women, and affirmative action wherever necessary). The policy will be widely disseminated so that a meaningful partnership is established with all sections of civil society to achieve its goals.’

‘One of the salient features of this policy is elimination of violence against women whether physical or mental, domestic or societal levels... Mechanisms/schemes for assistance will be created and strengthened for the rehabilitation of the victims of violence. Institutions and mechanisms responsible for elimination of violence against women and taking action against perpetrators of such violence will be strengthened. The legal-judicial system will be made more responsive and gender sensitive to women’s needs, especially in cases of domestic violence and personal assault. New laws will be enacted and existing laws reviewed to ensure that justice is quick and the punishment meted out to the culprits is commensurate with the severity of the offence.’ In essence, the rationale for the National Policy for the Empowerment of Women must be reflected in the criminal justice administration.

Policy in support of women notwithstanding, the response of police to cases of VAW/GBV is generally reactive and adhoc. The Delhi Police provide many examples on this. The attacks in Delhi on the women/students from the northeastern region resulted in a Standing Order<sup>19</sup>, including:

1. To have zero tolerance policy in respect of crime against women, including those hailing from the northeast states;
2. where necessary, action under law/preventive action under CrPC be initiated;
3. quick action to be taken by the police to restore confidence in the victim and the community;
4. regular patrolling especially in residential colonies where students from the northeast live in large numbers;
5. beat constables to have regular interactions and meetings with community leaders of the northeast regions.

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<sup>18</sup>Available at <http://wcd.nic.in/empwomen.htm>

<sup>19</sup>Standing order no.383/2009 dt 15.10.2009 regarding security of northeast region girls students.

Yet, there have been many other noteworthy proactive efforts of Delhi Police like 'Parivartan'<sup>20</sup>, Women's (Crime) Cell<sup>21</sup>, the Obscene Call Cell, the anti-stalking helpline, Rape Crisis Intervention Centres<sup>22</sup>, Special Drives on Valentine Days, gender sensitisation programmes, self-defence camps, etc., wherein they have tried to reach out to the women to address the problem of violence against them in public spaces.

To increase the accessibility of Delhi Police to the women, Crimes against Women Cell started a 24-hour women helpline in the year 2002, which responds to women in distress. The helpline number, 1091, is managed by the Police Control Room which receives and manages all calls for police help/intervention. A women police mobile team headed by a women officer is available round the clock at the Special Police Unit for Women and Children (earlier Crimes against Women Cell) to respond to calls received through the helpline or directly in the Cell. The staff is well trained in dealing with these calls, and are equipped to provide counselling and other assistance in addition to providing links to emergency support services such as shelters and short stay homes, besides offering on the spot counselling and legal advice to the needy. The creation of a women's helpline with a mobile women police team to respond to the calls was to encourage the women to report a crime committed. But the observations of independent social workers associated with the mobile police team pointed out to the ineffectiveness of this team to perform its duties on account of limitation of time as there is only one women's helpline vehicle for the whole of Delhi; lack of resources like mobile phones wherein they could have talked to the victim much before physically reaching her to console and to guide her to name the

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<sup>20</sup>PARIVARTAN, A programme launched by Delhi Police to tackle violence against women: A Campaign for Safety of Women and Children was launched in the year 2005 aimed at reducing violence against women particularly rape by changing the mindset of society towards women. It involved large-scale participation of community, civil society, academia, police and media. It was done through educating the public as well as police personnel by way of pantomime, workshop and lectures in educational institutes in each police station area, self-defence training programmes for women, workshops on monthly basis to sensitise the male staff in the police station, participation of the members of Women Safety Committee in all these endeavours, awareness programmes/meetings in each beat, etc., with women constables at the forefront of this programme. see <http://www.delhipolice.nic.in/parivartan/parivartan.htm>.

<sup>21</sup>The (Women) Crime Cell, Nanakpura, established in the year 1983, in the wake of rising dowry deaths and domestic violence against women including marital violence, was the first police response meant specifically for women in India. The setting up of Crime Against Women Cells was indeed a progressive step but the powers and intervention of the cell got limited to marital disputes and the role they could have played as a specialised agency in addressing all issues including the safety of women through consultations with the schools, colleges, the RWAs, the market associations, the local police, the municipal bodies and other stakeholders could not be done. Primarily engaged in reconciliation and amicable out of court settlement in marital discords, the cell later on increased its scope by undertaking a variety of activities to help, guide and empower and equip women while facing violence, harassment, etc.

<sup>22</sup>Rape Crisis Intervention Centres or RCICs were set up as the first intra agency cohesive response to address the needs of a rape victim which brought relief to lots of women through social, psychological, financial and legal help. Making a small beginning in year 1999 in the southern range of Delhi Police, the efforts and the relief brought to the victims was recognised resulting in institutionalisation of the scheme for the whole of Delhi in coordination with other departments. Now institutionalised, through an integrated partnership with Delhi Commission for Women and identified NGOs, the RCIC provides support to victims of rape, ensures professional investigation for successful prosecution and provides long-term counselling and rehabilitation support to traumatised victims of crime.

The obscene calls and anti-stalking helpline are similarly other efforts to address the increasing number of incidents and the problems faced by women in the present day context, with the main focus to reach out to the victims. However, these efforts are extralegal in the sense that no legal action is initiated until and unless the woman complainant so desires specifically. Thus the police agency has been proactive in helping women who have been thus harassed but do not want to take recourse in law due to various social pressures or otherwise. The obscene calls helpline was set up in December 2008 and has so far received 6,406 complaints of this nature till September 2010. The anti-stalking cell was set up in May 2010 and has received 26 calls till September 2010.

The gender sensitisation programmes have been conducted across police stations with the objective of facilitating change in the mindset of police personnel to gender issues. The programmes were conducted across the police stations of Delhi in collaboration with reputed NGOs to create a gender-friendly environment in police stations. The basic premise of these programmes was not only to build skills and sensitivity at the 'individual level' but to bring about an element of gender sensitivity in the organisational behaviour. The programmes were conducted in coordination with the NGOs in different districts across Delhi. The course content included awareness on the status of women, its significance to society and development; the legal perspectives; and vulnerabilities of women among other things. The programme helped in updating the legal knowledge on women-related law and developing linkages with other service providers for women in distress and developing a close association of NGOs and police thus bridging a gap between them and bringing them together on one platform to address a common goal of women's safety. However, some other suggested steps can be: to inculcate gender sensitivity as one of the points in the Annual Confidential Report of any police officer and to check the organisations' response to gender issues; gender audit of the activities of the police at the police station level should also be incorporated to see how the complaints related to women are treated; and, to see what response mechanism exists to make the area more safe and friendly for women. The state response is meant to make it convenient and easy for women to report any abuse and take recourse in law.

The role of police must be clearly defined. The role of Women Cells can be expanded to promote gender equality within as well as outside the force by focusing on issues like harassment—including sexual harassment, cruelty, violence, discrimination, female foeticide—in order to create and ensure a safe environment for the women and children in the community. The police must treat any reported incidence of violence against women in public spaces in its totality. In working towards this goal, the police has to work closely with the other stakeholders, that is, the communities, the agencies providing legal, social help, information and material aid to making the criminal justice system accessible to the victims and the women themselves to help police evaluate their needs and their expectations from the police. Indeed, a multi-coordinated, multidisciplinary response is required to address this issues relating to VAW/GBV in public spaces.

The media's power in responding to VAW/GBV cannot be undermined. Media's sensitive intervention can help women get redress for violations; otherwise, media can make the situation more complicated, if not doubly violative for women. It is thus imperative that the media is knowledgeable about gender issues and women's rights if its portrayal of women has to be sensitive. Media can call attention to issues and ensure action by agencies concerned, especially the police. Media's penchant for sensationalisation must be curbed, however.

Addressing VAW/GBV is a huge challenge since the matrix is complex and the issues are not limited to law and order. As Ms Chauduri in her presentation on 'The Role of Media in Addressing Gender-Based Violence in Public Spaces' emphasised, '(t)he social order must change. The new woman must be accepted. Besides, cultural changes need to be initiated as well. But they cannot take place overnight. Women themselves must demand change and demand security for themselves. There is greater awareness of the responsibilities among women and they are willing to go that extra mile, if only they knew how. This is where the media, a mirror to society, comes in'.

The following summarises the role of the media and its challenges in responding to VAW/GBV:

- ❑ Media has the power to highlight issues and to influence public opinion on issues, positively or negatively.
- ❑ Present state of media tends to compromise on quality of news/news reporting given on-the-spot news feed and absence of editing.
- ❑ Media ethics has become even harder to regulate given written, visual, virtual and other means of communications. A plethora of publications and channels in both radio and TV in English, national and regional languages are available 24/7 across the country.
- ❑ Media tends to focus attention selectively on some issues like dowry deaths, 'honour' killings, acid throwing, etc. These issues are deemed 'newsworthy' as indeed they raise TRPs on TV and radio.
- ❑ Media tends to sensationalise issues and in the process becomes intrusive and unable to respect privacy of those concerned, especially women. The media also projects issues wrongly, many times re-victimizing women who have suffered violations and abuse.
- ❑ Most of those in the media don't seem to understand basic concepts such as gender, women's rights, gender equality, and as such are unable to provide the public with an accurate picture when reporting on VAW/GBV.
- ❑ The media has failed to drive home the message where it matters most. Safety of women is not high priority on the list of what makes news today. And so the government remains nonchalant as well.



Ms Chauduri raised the matter of what she calls 'new age violence against women'. 'Cyberstalking, verbal abuse and sexual exploitation of women by misusing images, (morphing of faces, MMS clips) all make a woman extremely vulnerable in the age of the internet. The woman is not in control and lies can easily become truth. Abuse on the net is a growing phenomenon. Children too are under attack. Child pornography has grown exponentially... (In this context), (i)nternet Service Providers (ISPs) can be asked to play a proactive role and women themselves encouraged to report such crimes so that perpetrators can be punished. Special support systems can be made within the policing system to actively track down cyber criminals. Currently, laws do exist but they need to be fine-tuned to the needs of women when it comes to virtual crimes'.

Ms Chauduri points out that '(media) needs to do some serious spring cleaning. There is a need to engage the top management as well as reporters on the ground to assess the quality and standard of their work. The crucial aspect of ethics must be raised with the editorial. Gatekeepers must be put in place to review and cross-check how stories are played and guidelines of ethical reporting formulated.'

She also notes that 'a continuous process of dialogue is required. Investing in the media has enormous spin-offs. There's a buy-in. Once reporters understand the impact of their work on people, they will pursue rights-based sensitive journalism. The media must be treated as a partner and not an adversary. A partnership makes news organisations much more responsible. Right now, each entity is in its separate, isolated space. If the government, media and civil society is brought together to discuss how best to prevent violence against women in public spaces, change is possible'. Key stakeholders, such as women's organisations and UN agencies need to work closely with the media to develop guidelines on how gender violence is reported along with a commitment that corrective action will be taken in case of violations.

Overall, the issue of 'citizenship' was the overarching subject in the session, underlining the need for women to reclaim their rights to public spaces, services and infrastructure as equal citizens. The mindset which considers women as secondary to or extension of men allows for discriminatory practices against women which gets reflected in the laws and policies governing family, community and society.

The gendered nature of the legal system must be understood accordingly if women and interventionists have to confront it and for change to materialise. Because women are not seen as individuals entitled to rights and freedom, the range of issues confronting women at home, the workplace and in public spaces are regularly glossed over and not taken seriously as transgressions which are meritorious of legal action. Where there are no laws punishing acts of violence against women or where laws are inadequate to respond to the issues and the law-enforcement agencies do not understand gender issues, let alone respect women's rights, recourse to the legal system is a tall order for women. And, an insensitive police force inadvertently becomes a conduit in perpetrating

## VAW/GBV.

As suggested by the Chair, there is a need to gauge the effectiveness of the law and its proper implementation thereof. For this, there must be accurate documentation of cases and action taken. Information must be made available and citizens should use the Right to Information (RTI) Act to access information. She talked of the need to involve law students and law professors in social audit to help in monitoring the situation and provide inputs on how to make the legal and justice administration system better. She stressed on the need for prevention plan through research/social audit and citizen's participation/vigilance.

Notedly, as raised by the participants, in addition to forms of violence under this category are issues of homelessness of women, sex work, women farmers and farmers' suicide, and girls/women affected by armed conflict. Additionally, it was noted that senior/elderly women who are single and living alone in urban areas are vulnerable to VAW/GBV. These are concerns that remain minimally, if at all, explored by the feminist movement. They need to be looked into more fully and for which legal recourse must be made available.

## SESSION 2: UNDERSTANDING GBV IN CONTEXT OF PUBLIC SPACES

Chair: Urvashi Butalia, Zubaan

Sexuality<sup>23</sup> and masculinity<sup>24</sup> were explored in the session to understand more clearly the gendered usage of public spaces<sup>25</sup>. The common thread among the presentations was the issue of citizenship, discussing the need to situate women's access, if claimed, on public spaces within the framework of equal citizenship. To comprehend this completely, a discussion on the private-public divide and how social constructs get extended to public spaces and institutions was necessary.

Sanjay Srivastava, in his presentation '**Masculinity and Its Role in Gender-Based Violence in Public Spaces**', 'reflects the position that in order to comprehend the nature of gender inequalities we must closely interrogate the *relationship* between gender identities in their various social, cultural, economic and political contexts'.

He noted that '(t)he study of feminine, masculine and trans-gender identities concerns the exploration of *power relationships* within the contemporary gender landscape, where certain dominant ideals of manhood impact on women, different ways of being men, as well those identities that may not fit either gender category. He explored masculinity, referring thus to the *socially produced but embodied ways of being male*. Its manifestations include manners of speech, behaviour, gestures, social interaction, a division of tasks 'proper' to men and women ('men work in offices, women do housework'), and an overall narrative that positions it as superior to its perceived antithesis, femininity. The discourse of masculinity as a dominant and 'superior' gender position is produced at a number of sites and has specific consequences for women as well as those men who may not fit into the dominant and valorised models of masculinity. These sites include: customary laws and regulations, the state and its mechanisms, the family, religious norms and sanctions, popular culture, and, the media'.

He defined patriarchy to refer 'to a *system* of social organisation which is fundamentally organised around the idea of men's superiority to women...Patriarchy 'makes' men superior, whereas masculinity is the process of producing superior men'. Masculinity is then played out through various processes and contexts but note must be made that '(a)ll social contexts are gendered, and the gendered nature of social contexts 'means that neither male nor female power can be examined entirely in isolation' (Malhotra and Mather 1997: 603).'

The relationship between social identity and space is important in understanding social relationships. The 'different-spheres-for-different-genders perspective, and the public/private distinction' show that spaces have their own characteristics in terms of behaviours expected of those located in those spaces, as well as the 'natural' claims of certain groups to them (say, men against women). 'The public sphere has historically been defined as that of men and the private as that of women,... (T)he public is

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<sup>23</sup>'Neutral' Laws or 'Moral' Codes Controlling And Recreating Sexualities/Intimacies' by Rukmini Sen, Junior Fellow, Centre for Women's Development Studies (CWDS), New Delhi.

<sup>24</sup>'Masculinity and Its Role in Gender-based Violence in Public Spaces' by Sanjay Srivastava, Senior Lecturer in Communications and Cultural Studies, Deakin University.

<sup>25</sup>'Gendered Usage of Public Spaces: A Case Study of Mumbai' by Shilpa Phadke, Assistant Professor, Centre for Media and Cultural Studies, Tata Institute of Social Sciences, Mumbai.

presented as the domain of action, 'rationality', 'educated opinion', and a realm where important matters of social life can be discussed among the rightful claims to the public sphere—men—then the private is imagined as that sphere where men can find relief from the 'difficult' tasks of engaging and forming the public sphere. The private is represented as the 'soft' sphere where other kinds of—'feminine'—sensibilities come into play.'

The historic division of social life as 'public' and 'private' has simultaneously entailed a division of *institutions* as public and private. And, along with this, there has developed a logic of the gender of such institutions. According to this logic, public institutions have been understood to be the 'natural' preserve of men and hence have tended to operate according to a variety of masculinist ideologies. Beyond this, there are even more serious issues, such as the denial of equal opportunities to women through masculinity notions of what men can do and what women are capable of. It becomes important, therefore, to explore the gender of our institutions in order to devise strategies for change.

Hence, there are a number of other issues we need to keep in mind as a background to any discussion on the relationship between the public and private spheres, gender relations and the unfolding of gendered power. These include: How is gender power consolidated through civic associations such as clubs and societies that, either implicitly or explicitly, base themselves upon masculinist ideologies? And, how are the conjoined contexts of patriarchal privilege and masculinist ideals normalised through institutions such as state bureaucracies, schools, the legal system and the police? That is to say, there are significant linkages between discourses and ideologies formulated at institutional sites (whether public or private) and behaviours and expectations at non-institutional spaces such as streets and parks. Hence, if we are to address violence against women in specific instances (say, at a bus stop or in a park), then a proper understanding of the issues that underpin such violence requires a focus on those other *institutional* sites where ideas on the nature of the public/private dichotomy are formulated, discussed and promulgated.

Following from the above, the idea that the public sphere is a 'masculinised' one is the starting point for exploring the relationship between gender and publicness. The kinds of issues we need to explore within this context have already been alluded to above. These throw light upon the causes and nature of gender-based violence in public spaces, and the new emerging issues in urban and semi-urban contexts that are leading to gender-based violence in public spaces.

Ms Rukimini Sen in her presentation "**Neutral' Laws or 'Moral' Codes Controlling and Recreating Sexualities/Intimacies'** categorically noted that '(s)exuality is not a private matter and is linked to public privileges and persecutions; it intersects with gender, law, religion and nationality, directly affecting health and human rights... It (remains) a contested terrain the world over—although constructed differently in different places and at different times, it remains a site where power is played out (Misra and Chandiramani 2005: 131).'

'Sexuality in the urban, middle class Indian context is not discussed openly, and if at all, it is linked to women (that is what the law also does) and restricted to either reproductive health or sexual violence. Non-normative sexual expressions, sex work

or sexual pleasure by a woman in a heterosexual relationship, are still largely invisible. While autonomous women's groups have protested violations against non-heterosexual people, there has not been a more positive, proactive articulation of a woman's right to her sexuality (Sharma and Nath 2005: 84). The Indian women's movement, therefore, to the extent that it specifically foregrounds sexuality, has usually concentrated on the question of enforcing laws that would act as a restraint on long sanctioned male privileges over the bodies and lives of women. It is the legal domain that has produced some of the most detailed discussions on sexuality.'

'There have been various incidents across the country in the last few years which have received media attention, reinforced gender- and sexuality-based stereotypes, generated campaigns and agitations among members of the civil society and, on certain occasions, impacted the legal system... While the image of a 'good woman' is remains dominant, there has been a deviation/challenge from that stereotype. People in India have time and again taken up the morality markers in their own hands.' Cases including the Mangalore Pub Incident (2009), Majnu Case (2005), the Khusboo Controversy (2005-10), cases involving the khap panchayats on marriages, Aligarh Muslim University's Professor Siras case, the bar dancers' case in Mumbai, etc., have all underscored moral policing in the name of culture and/or religion. Community norms have constantly been imposed on women and expectations are extended when women venture out in public spaces. 'Violence maybe inflicted if that norm is deviated. There is also an indication how little space there is for the individual here, this is evident in individual adults not being allowed to drink in public (because they are women), discouraged from choosing their partners (because of caste endogamy), disciplined to control sexual desires (because sex outside marriage is wrong) and punished for showing affection in public (because Indian culture does not allow a public display of intimacy). Thus, what is culture, morality and, subsequently, proper sexual conduct is at times decided by fundamentalist religious groups or community members or even the courts of law.'

'The Naz Foundation case of 2009 was a landmark judgement, which, after a decade of struggle by different groups, decriminalised homosexuality in India... This judgement was the first occasion where the concept of citizenship was understood, providing a specific character to the abstract citizen so as to be deserving of rights. In India, in spite of the scope of the 'citizen' being expanded to include marginal figures like child labourer, prisoner, or street dweller, one of the excluded categories have been that of 'queer' sexualities...'

'Some general observations from the (many cases on) issues relating to morality, sexuality campaign strategies and the legal responses to them are the following:

- Issues of sexuality are definitely not personal or private, as one expects, rather they acquire a public dimension, especially with societal sanctions and legal doctrines trying to control sexual spaces.
- Sexuality is connected with marriage, cohabitation, the sexual act, partnerships that a person chooses to be in, certain economic activities which provide livelihood to some.
- Heteronormative sexuality is nearly unquestioned as a given, except for campaigns and movements by women's rights groups, or groups struggling for the rights of the LGBT community.
- Sexuality as an issue remains buried from the everyday educational environment although the media, films and serials portray the above mentioned themes widely and uncritically.
- When it comes to issues of sex and morality surprisingly all the political parties despite their varied ideology seem united on the issue and hardly anyone is seen to come out in support of the victims.
- Some of the cases have got favourable judicial support but these have been pyrrhic victories for the victims. The decision in Khusboo's case came five years after the controversy began and the Mumbai bar dancers had already lost their livelihood by the time of the decision. In fact, despite a favourable judicial decision, Professor Siras was murdered and his killers have still not been apprehended.
- Lack of teeth of the law enforcement agencies. The message sent out by the cases has been that conservative groups have more power to curb one's fundamental rights than the state has to protect them.
- Imposition of morality standards cut across class barriers. Both urban and rural women have been targeted.'

Ms Shilpa Phadke in her presentation on '**Gendered Usage of Public Spaces: A Case Study of Mumbai**' referred to the different mind-maps of the cities by men and women. 'Women spatially inhabit a city differently from men. They/we not only negotiate the city differently but also perceive it differently. This difference lies not only in the strategies women use to produce safety but also in the mind-maps that women carry in their heads of the city.'

Like other presenters, Ms Phadke spoke of the notion of gendered space, including public spaces. She spoke of how stereotypes are replicated in the public domain and how women have to negotiate and challenge the hierarchies associated with spaces. Women either choose or are forced to take risks to access public spaces. When they do, women have to produce safety by clinging on to their (mobile) phones and/or talking to someone on the mobile phone while commuting or walking in crowded places, carrying pepper spray, moving around in the company of a man, etc., or produce 'private bubbles' to feel safe in public spaces like showing purpose and respectability, believing that these will deter anyone from invading 'that' space or generally undo threats in public spaces. Ms

Phadke advises that women accordingly claim citizenship rights. 'The idea of the 'citizen', not a *neutral* citizen but an *equal* citizen, is one important way for us to negotiate the hierarchies in access to space and the boundaries that determine who might interpret that space as the author of the 'gaze'.'

'Such a vision of equal citizenship must then challenge the power hierarchies of the construction and use of space at various levels: as cultural notions of the need to control female sexuality, as legal visions of women as a source of urban disorder, and as urban planning utopias of a sanitized, policed 'safe' public space in order that various marginalised groups might feel an uncontested and secure claim to public space. A real sense of security and belonging for every citizen can eventually only stem, not from surveillance, but from a recognition that the city is a complex space that encompasses myriad imaginations and worlds and should allow for varied forms of engagement with it.'

**'Within such an understanding of citizenship and access to public space, women** will experience themselves as citizens with 'citizenship rights' of access rather than as female bodies with a tenuous and threatened claim to public space. In order to strengthen our understanding of a more inclusive citizenship and to work towards this we need to create a strong debate and dialogue in our cities that will engage with the various narratives and ideologies underlying the threat to women in public space. Our research suggests that such a dialogue can only emerge when we build bridges with the struggles of other marginal peoples to access public space.'

Given urbanization and the densification in cities, '(i)t's not just the attitude to women in public that prevents women from accessing public space (though of course that plays a big role), but also, quite literally, the availability of public space or lack thereof, as well as the infrastructure and design in the city. Although the provision of infrastructure is an important aspect of citizenship, by itself infrastructure is inadequate to expand women's access to public space, there are physical infrastructural elements and amenities that may contribute significantly to providing for women's needs in public space, e.g. public toilets, public transport and public parks constitute critical factors in creating a city that is friendly not just to women but also to other marginal citizens—the poor, the elderly, the physically challenged and children.'

The Chair, in synthesizing the points raised, stressed on the need to have inclusive policies to take into consideration realities beyond the male-female binary. The multiple hierarchies reflected in public spaces must be challenged if women's rights as citizens have to be exercised. Ms Phadke added that the discourse should move away from safety towards comfort for women in public spaces, suggesting that safety should be provided as a basic entitlement to pave the way for women's greater access to public spaces as citizens.

## Film Screening: *The Great Indian Witch Hunt*

Discussant: Sohaila Kapoor

Ms Chauduri's presentation in Session I makes reference to witch-hunting as one of the cases of VAW/GBV that has caught media attention. 'One of the worst forms of extreme force used against Adivasi and Dalit women in at least six states in India is witch hunting. All victims of this vicious violence are poor, vulnerable women, usually widows or women abandoned by their families. The state with a terrible report card is Jharkhand. In fact, 30 per cent of all witchcraft related cases that took place in 2007–8 in the country were reported from Jharkhand. The state government's own data shows that at least 249 women were killed and 1,200 women branded as witches and tortured in public in the state during 2001–9. Women have been tonsured, tortured, beaten up, paraded naked and forced to eat excreta because they were labelled a witch.'

*The Great Indian Witch Hunt*, a short film, indeed shows how the practice of witch-hunting remains widespread in Jharkhand to date. The village being investigated in the film is situated in the heart of the forest of Jharkhand, virtually cut off from the rest of the state, if not country. The film takes the form of investigative journalism to gather information about the particular case and witch-hunting in general through interviews, observation, participation in events and use of official records.

The film used earlier TV footage of a story of a woman who was beheaded by her nephew in broad daylight, as a point of reference. The woman was working in the fields one day when her nephew came, attacked her and beheaded her, thereafter running around the village with the severed head, subsequently proceeding to the police station. The nephew believed she was responsible for the death of his two brothers and the sickness of another. The incident was reported on TV. The nephew was arrested; nothing was said about any condemnation from the villagers. In an interview shown in *The Great Indian Witch Hunt*, the nephew didn't show, even while in jail, any remorse for the murder he committed. He held on to his belief that his aunt was a witch, responsible for the family's problems. The film's anchor-investigator/researcher, in the course of filming, found out from the doctor consulted by one of the brothers that the latter was suffering from tuberculosis, a disease which could have been treatable if attended to in a timely manner.

This case was not an isolated incident. The film shows a group of women, all branded as witches, being isolated or marginalised. It also shows some women who claimed to have been oppressed taking to witchcraft to deter any more abuses but henceforth assume power over others—and they are learning from a man deemed wise, powerful and able to control events and other's fate.

The film gathers that deeply entrenched superstitious beliefs alongside lack of information and education, abject poverty and host of economic issues, including land grabbing, combine together to perpetuate a situation that is prejudicial for women. Men decide the fate of the villagers, especially women, by pronouncing them witches as shown in the film; and, the women, who are deemed witches, get marginalised, isolated or killed. The system generally gets perpetuated because of inaction on the part of those responsible for enforcing the law, providing a false sense to the community that witch-hunting is the order of the day and justified as such.



'Gladson Dung Dung'<sup>26</sup> in his article 'Hunting Witches or Hunting Women' says that the practice of witch hunting in the Adivasi community has been shaped through tradition and culture and is extremely deep rooted. But along with the Adivasi's belief in ghosts and spirits, a key reason why women, especially older women and widows, are particularly chosen as witches by their own relatives is because of property, money or land. In Adivasi communities like the Santhals, women and widows are given property rights. And as land holdings shrink and get divided, such attacks are on the rise.'

'Another key issue that has come up several times in media reports, both national dailies as well as the international press, is the link between healthcare and witchcraft. Every time someone falls sick in the village and does not recover with the help of the traditional healer, called *ojha*, the blame is shifted to someone, usually a woman who is marginalised in the village. So the government's failure to deliver healthcare to people propels them to depend on *ojhas* who are nothing better than quacks. And, invariably, to shift the blame for the loss of life, a witch is created, who in turn often pays with her own life. This is documented by the media. However, the media also perpetuates these myths by showing agitated women having fits on air. A woman's off key, agitated behaviour becomes a signal of witchcraft.'<sup>27</sup>

'Like every other tradition which targets women, witch hunting shows no signs of dying out because the state has no interest in intervening...Jharkhand is one of the two states with a law—Prevention of Witch Practices Act, passed in 2001—banning the practice of witch hunting. Sadly, the law remains unimplemented.'<sup>28</sup>

'Bihar and Chhatisgarh, like Jharkhand, have enacted state laws to curb the practice of witchcraft. The Chhatisgarh law is more specific and mentions that it is an Act to prevent atrocities related to Witchcraft in its title which implies that the focus of the Act is to protect atrocities committed upon women who are branded as witches and not just to prevent witchcraft.

Bihar:	Prevention of Witch (Dayan) Practices Act of 1999
Jharkhand:	Anti-Witchcraft Act, 2001
Chhatisgarh:	Witchcraft Atrocities (Prevention) Act, 2005' <sup>29</sup>

“By and large, the law has remained ineffective with less than 2 per cent of those accused of witch hunting being actually convicted, according to a report by the Free Legal Aid Committee, a group that works with victims in the state of Jharkhand.”<sup>30</sup>

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<sup>26</sup>Gladson Dung Dung is a human rights activist and freelance writer based in Ranchi, Jharkhand; cited in Chauduri, M.

<sup>27</sup>*India Today*; Gladson Dung Dung; figures from Jharkhand Criminal Investigation Department; cited in Chauduri, M.

<sup>28</sup>Chauduri, M.

<sup>29</sup>Agnes, F.

<sup>30</sup>Agnes, F.

### SESSION 3: DIFFERENT DIMENSIONS OF GBV IN PUBLIC SPACES

Chair: Farah Naqvi

This session looks at VAW/GBV in public spaces under two varied conditions, for example, conflict situation in India's northeast<sup>31</sup> and the streets of an urban centre (focus on Delhi)<sup>32</sup>.

Ms Binalakshmi Nepram in her presentation '**Gender-Based Violence in Conflict Zones**' talked about the conflict in India's northeast and its impacts on the population especially on women, the elderly, children and those with special needs. She spoke of the violations women particularly suffer in the midst of conflict, but also their roles, forced or otherwise, given the circumstances.

The violence endured by women during conflict is innumerable. 'Women have been, in internal war, the targets of sustained and frequently brutal violence' and their bodies become a site of struggle. Warring parties equally treat women with violence. 'Both the sides often use violence to punish or dominate women believed to be sympathetic to the opposite side. Women have been threatened, raped and murdered (Human Rights Watch 1998).' Women are also used as human shields.

Rape is used as a weapon of war. Instances of rape by security forces have been reported. Rape is used as a retaliatory measure, as a tool to put pressure on the other party to surrender or as tool of repression.

Women suffer displacement along with everyone else but they provide for the family and the community on a daily basis. Aside from witnessing their family members die in the fighting, they are expected to hold the family together. In the midst of conflict and in the absence of earning male members of the family, women have to find means to earn income for the household.

Women in India's northeast are additionally impacted by armed conflict through increased vulnerability, change in women's traditional roles, widowhood. They also suffer because of the missing family members. They also undergo 'ambiguous transformation due to the scattering, displacement and breakdown of their families and communities (Senanayake n.d).' In cases, women become combatants themselves or involved in the hostilities, directly or indirectly.

'Besides the impact of armed violence on women and that of the ambiguous transformations, which occurred, a lot of women seemed to be joining the armed insurgent movement (ibid.). It is perhaps the history of women's oppression to suffer seclusion in the family, political exclusion and

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<sup>31</sup>'Gender-based Violence in Conflict Zones, Case Study of Impact of Ongoing Armed Conflict, Small Arms Proliferation and Women's Response in India's Northeast', by Binalakshmi Nepram, Founder, Manipur Women Gun Survivor Network and Secretary-General, Control Arms Foundation of India.

<sup>32</sup>'Homeless Women and Violence' by Shivani Chaudhary (Associate Director, Housing and Land Rights Network), Amita Joseph (Advocate/Business & Community Foundation) and Indu Prakash Singh (Technical Advisor, Indo-Global Social Service Society/IGSSS).

exposure to male violence, which instituted the dangerous association between active violence and the urge for separation. The hostile affection of women, freed of the consciousness of their own suffering, having seen their near and dear ones being killed, the desire to work for a cause for the welfare of her society may be some of the reasons why women join the insurgent movement.'

Women in conflict areas, as in the experience of the Manipur Women Gun Survivors Network, may be defined by the roles they assume in conflict or by the way conflict would have impacted them, thus:

- ❑ Women relatives of armed activists
- ❑ Women relatives of state armed forces
- ❑ Women militants or combatants
- ❑ Women as shelter providers
- ❑ Women as victims of sexual and physical abuse
- ❑ Women as peace negotiators
- ❑ Women's rights activists

Participants felt the need to strongly provide a gendered perspective in the analysis of the situation of women in conflict. The corollary to this would be: How do we negotiate gender in identity-based conflicts? The response has to be context-specific but the basic denominator remains the feminist politics against violations of girls/women.

The question of state and non-state aggressors was raised although Ms Binalakshmi Nepram clearly stated that aggression from whomsoever is treated the same way and distinction as such is irrelevant. Women are clearly against guns, rape and war.

The issue of IDPs must be looked into and the application of the UN Security Council Resolution 1325 must be undertaken but Ms Binalakshmi remarked that the latter is predicated on the Government of India acknowledging the existence/state of conflict in India's northeast as also in other parts of the country.

Outside of the conflict zone, the scores of homeless people in urban India attest to extreme poverty confronting this section of the population; it also reflects the magnitude of social issues and failure of governance that India is faced with. Ms Shivani Chaudhry, Ms Amita Joseph and Mr Indu Prakash Singh in their presentation on '**Homeless Women and Violence**' spoke about the vulnerabilities of the homeless especially the women and girls.

In defining the homeless, they referred to the Census of India which classifies them as 'houseless people' who are not living in 'census houses' or 'a structure with roof'. The physical structure is the defining element going by this definition. Meanwhile, the United Nations in 1999 interpreted the homeless as including 'those sleeping without shelter, in constructions not meant for habitation and in welfare institutions'.

Since 'the majority of homeless in India are found living in places such as roadsides, pavements, drainage pipes, under staircases, or in the open, temple-mandaps, platforms and the like' (Census of India 1991: 64), and by the official definition they are deemed 'not living in census houses', it could well be surmised that the homeless are not accounted for in the official Census. Consequently, the homeless are unable to access even basic services like healthcare, children's education, etc., that every citizen should have. State response to the needs of homeless, including women, is grossly inadequate, if any, and the majority of the homeless are left to fend for themselves. For the most part, the homeless are denied their status as citizens and thus, their rights.

The critical factors that result in homelessness, including of women, are:

- ❑ *Lack of affordable housing*
- ❑ *Slum demolitions and evictions without rehabilitation*
- ❑ *Domestic violence*
- ❑ *Breakdown of family and partnership/marriage*
- ❑ *Inequitable planning and land use*
- ❑ *Inadequacy of the law*

Other factors contributing to homelessness of women are: lack of secure tenure, lack of information about women's human rights, lack of access to affordable social services as a result of privatisation, lack of access to credit and housing subsidies, bureaucratic barriers preventing access to housing programmes, rising poverty and unemployment and discriminatory cultural and traditional practices.

The presentation underscored that 'women constitute one of the groups worst affected by homelessness. While the phenomenon of homelessness violates the most basic of human rights for all populations, women without housing and living on the streets suffer the most severe kinds of abuse and violence.' In context of VAW/GBV in public spaces, the situation of homeless women stare us in the face. Homeless women negotiate through the hostilities attendant in public spaces, otherwise deemed male domains, day in and day out. While a sense of 'privacy' over the space used for sleeping (and 'living') is created/produced, there is no denying the degree of vulnerability in the situation.

Without much recourse to the system, let alone to claims of citizenship, the kinds of violence faced by homeless women include, thus:

- a) Verbal and physical abuse
- b) Sexual violence and exploitation
- c) Lack of basic services and risks to security and personal safety
- d) Inadequate living conditions and risks to health
- e) Inadequate government response, lack of access to government schemes and livelihood opportunities, increasing vulnerability

- f) Difficulty in accessing healthcare
- g) Destruction of possessions and livelihood means
- h) Hunger as violence
- i) Arbitrary arrests and detention
- j) Death

During the discussion, the matter of homelessness being criminalised was raised. It was also highlighted that meaningful engagement by the feminist movement on issue of homelessness is long overdue.

## SESSION 4: EMERGING ISSUES

Chair: Govind Kelkar, UNIFEM

Presented in the session titled 'Emerging Issues', were 'honour' killing<sup>33</sup> and acid throwing<sup>34</sup>, age-old forms of VAW/GBV, perpetrated on women not only in parts of India but also in other places in South Asia. 'Honour' killing puts into focus traditional set-up at home and the community and customary laws which ensure rigid control in matters concerning sexuality, morality and marriage. Acid throwing, a form of VAW/GBV which is more recent relative to 'honour' killing, is committed against a girl or woman as a form of vengeance, if 'punishment', by a jilted lover or deserted husbands. Owing to media attention on the issues, many cases are coming out in the open. General awareness on the incidents is being generated as such but accurate, if sensitive reporting on issues is rarely available.

A discussion on 'honour' killing outlined yet again the mindset that considers women as repositories of honour of the family and by extension the clan, and as such controls are put in place to 'protect' said honour. Controls and tensions are played out in connection with marriage. 'Young couples who exercise their choice to get married often get trapped within family feuds or caste and community hostilities. The use (and abuse) of police power at the instance of parents with regard to marriages of choice is in direct contrast to women's autonomy, agency and free will.<sup>35</sup>

Prem Chowdhry, in her presentation 'Redeeming 'Honour' Through Violence: Unravelling the Concept and Its Application' explained that 'the customary rules regulating marriages in most parts of India, especially northern India, are based upon caste endogamy, on the one hand, and clan, village or territorial exogamy on the other; neither are legally recognised categories for marriage purposes. The introduction of the modern concept of adulthood and the sanctity given to individual rights gives legal recognition to the individual settlement of marriage between two consenting heterosexual adults. Under the Hindu Marriage Act, 1955, except for certain prohibited degrees of relationship, the legal restrictions on marriage are almost non-existent<sup>36</sup>. This implies that under the law, both *sagotra* (kin in the patrilineal line of descent whose members claim descent from the same *gotra* ancestor) and inter-caste marriages are permitted among 'Hindus' (broadly defined as Hindus, Jains, Sikhs or Buddhists, by birth, upbringing or conversion), not withstanding any text, rule or interpretation of the Hindu law or any customary usage.'

Customary dictates may be in contravention of the statutory laws but nonetheless imposed through the natal families and khap (caste) panchayats: 'a group of elders drawn from the same clan or gotra, from a cluster of geographically contiguous

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<sup>33</sup> 'Redeeming 'Honour' through Violence: Unravelling the Concept and Its Application' by Prem Chowdhry, Independent Researcher.

<sup>34</sup> 'Gender-Based Violence in Public Places: Acid Throwing' by Keerthi Bollineni, Technical Support Manager, Vasavya Mahila Mandali.

<sup>35</sup> Agnes, F.

<sup>36</sup> Certain persons however could not marry under this Act: those related as *sapinda* (shared body relationship), unless the custom or usage governing them permitted marriage, those with a living spouse or those of unsound mind, suffering from mental disorder and incapable of giving consent, and those subject to recurrent attacks of insanity and epilepsy. See Section 5 of the Hindu Marriage Act, in Desai (1966: 599–751). The age limit of 15 years for the girl and 18 years for the boy sanctioned under this Act was raised to 18 and 21 respectively by the Child Restraint (Amendment) Act 2 of 1978.

villages, form a 'khap' or caste panchayat.<sup>37</sup> "Honour' killing is particularly rampant in Haryana, some parts of Rajasthan and western Uttar Pradesh<sup>38</sup> where 'khap' panchayats are brazenly vigilant.

Ms Chowdhry's presentation explained intra-caste marriages and inter-caste alliances, both seen as challenging customary laws. Anyone defying customary laws is meted punishment and the following are examples of documented cases on these, thus:

### 1. Intra-Caste Marriages

- January 2010: Kavita of village Kheri in Meham subdivision of Rohtak district was forced to leave her husband after her marriage with Satish was termed illegal by Benewal khap panchayat. The panchayat declared them brother and sister because they belonged to the same *got*. The couple had a son. Kavita lodged a complaint against the panchayat following which she was allowed to live with her husband but had to leave the village.
- In March 2010 there were two prominent cases. In one, Phogat khap panchayat directed Randhir Singh of Samastipur village in Charkhi Dadri of Bhiwani district to sell his land and property, and leave the village for marrying his son Sribhaghwan to Anita of Makrana village of the same district. He was declared to have brought 'dishonour' to the village and community for breaching the time honoured prohibition of *bhaichara* by bringing about a marriage alliance between the two *gots*. The second case was similarly that of the marriage of Ajay of Bedwa village near Meham with Poonam of Ludana village. The Meham khap panchayat ruled that they belonged to the same *got* and marriage between them should not have taken place.
- In April 2010, Usha Rani Kashyap of Bhaiswan village of Gohana, Sonapat district, was hanged to death by her brother for her relationship with her neighbour, Rakesh Kashyap. The boy's body was found hanging from a tree in the same village the next day. They belonged to the same *got*.
- The most noteworthy case that shot into prominence in May 2010 was that of Manoj and Babli, mentioned above, who had been killed on the orders of the khap panchayat for marrying despite belonging to the same *got*.

### 2. Inter-Caste Marriages

- Bibi Jagir Kaur, as the first woman President of the SGPC (Shiromani Gurdawara Prabhandak Committee), Punjab, was a high profile minister in the then ministry of Prakash Singh Badal. Early in 2000, her pregnant daughter Harpreet, who married Kamaljeet, a *mona* (shaven) Sikh from a different caste, secretly and against her mother's wishes, was killed after a forced abortion, allegedly at the instance of Jagir Kaur. Bibi Jagir Kaur is held as an example of one who 'justifiably subscribed to violence against daughters if they transgressed boundaries'.

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<sup>37</sup> Chauduri, M.

<sup>38</sup> Chauduri, M.

- Nitish Katara was abducted and killed by Vikas Yadav, the son of D.P. Yadav, a Member of Parliament from western Uttar Pradesh in 2002, for being friendly with his sister Bharati. The couple had planned to get married. Katara, belonging to a different caste, was totally unacceptable to the Yadavs. The killing was to preserve their 'honour'.
- Rizwanur Rahman, a 30-year-old computer graphic trainer, secretly married Priyanka Todi, daughter of an affluent businessman, in August 2007 in Kolkata. The Todi family, under false promise, took their daughter home for a few days after the marriage. She never came back. Rahman, who tried to get her back, was severely harassed by the police and others. Within a month he was found dead near the railway track in Kolkata. 'Honour' had taken its toll.
- Nirupama Pathak's case, May 2010, is most recent and is still being investigated. From all accounts it looks like an 'honour killing', self or induced. Belonging to two different castes, Nirupama's Brahmin family would not accept her wanting to marry Priyabhanshu, a fellow scribe, who belonged to a lower caste than her own. Also pregnant, she was found dead in her parental house in Jharkhand.

The government and the public alike agree that actions need to be taken to stop these forms of VAW/GBV but genuine efforts to take on the issues squarely are yet to materialise. As the Chair noted, in a scenario where families and communities are in cahoots with each other, and the elected leaders and authorities are constrained to condemn practices that violate human rights and statutory laws, the complexities of the issues need to be understood for a comprehensive response mechanism to be designed and undertaken. Political will is crucial alongside gender-responsive laws under the circumstances. The Chair stressed that traditions and cultural norms need to be confronted especially where women's rights are violated.

In the process of ending the vicious cycle of 'honour' killing, gender sensitisation of the public, the law enforcement agencies, elected leaders, law-makers, etc must be undertaken on a continuing basis. As emphasised by Ms Agnes in Session 1, the natal families need to be implicated in cases against VAW/GBV such as 'honour' killing. Likewise, the khap panchayats must be held accountable. The nature of khap panchayats needs to evolve positively and they can focus on social issues instead of their current self-designed role as guardians of morals.

Acid attacks are premeditated crimes targeted at women and intended to occasion lifetime consequences, if disability. **Ms Keerthi Bollineni** in her presentation '**Gender-based Violence in Public Places: Acid Throwing**' highlighted that '(a)cid attacks are a form of violence against women which cause disfigurement and perpetual suffering to the victim, it causes an unparalleled degree of pain, leaving the victim mutilated and scarred as well as giving her permanent disabilities, for example, blindness. (The) (c)onsequences are physical, psychological, social and economic.'



Ms Flavia Agnes in her earlier presentation noted that '(v)ictims of such attacks not only have to deal with the physical, mental and emotional trauma, but also the stigma and fear attached to such crimes. The medical and rehabilitation costs are not only exorbitant but also continuous. Further, their loss of income and livelihood after an attack of this nature is completely ignored.'

Ms Bollineni noted that '(m)ore often than not, these attacks are viewed as retaliatory or meant for 'teaching a lesson' to women who are seen as adamant...'. A woman who does not return a man's attention or who decides to end a relationship get 'punished' for making a choice. 'A perverse logic seems to be the underlying motive for this ghastly crime that a woman's face is her fortune and the crime of acid throwing will cause permanent damage to a woman's looks and mar her chances of leading a normal life in the future. Since acid throwing rarely results in death, the victim has to endure lifelong suffering. Another motive seems to be the easy access to harmful acids like hydrochloric acid and sulphuric acid which have the capacity of corroding the muscle tissue and burning the victim right up to the bone marrow and causing loss of sight and permanent disfigurement. The act of throwing the acid does not need much preparation and can be carried out in the home, on the street, at a bus stop or in any public place. For these reasons, it appears to be gaining popularity in South Asia with cases being reported from Bangladesh, Pakistan and India.'<sup>39</sup>

The law in India is inadequate in dealing with cases of acid throwing. Ms Bollineni underscored that Section 326 of the IPC deals with causing grievous hurt by throwing of a corrosive substance, etc. But, there is no special section in the IPC which deals with acid attacks, and incidents thereof are thus not recorded as such. The law falls short in responding to acid throwing, thus:

- ❑ *Firstly*, the definition of grievous hurt is not broad enough to cover the various kinds of injuries which are inflicted during acid attacks.
- ❑ *Secondly*, the section does not cover the act of administering acid.
- ❑ *Thirdly*, the section gives a wide discretion to the courts as far as punishment is concerned. The cases on acid attacks in India show that normally inadequate punishment is awarded in these cases.
- ❑ *Fourthly*, the section in the IPC does not punish the intentional act of throwing of acid if no injuries occur.
- ❑ *Lastly*, the section also does not specify who should be fined.

'...In 2002, Bangladesh enacted a special law awarding death penalty to offenders and also passed strict laws to curb the sale of acid. Under the Islamic law of Pakistan, the perpetrator must endure the same fate as the victim. Despite growing incidents, the India government has turned down repeated pleas and recommendations by the Law Commission and the NCW to include acid attacks as a separate crime under the IPC or to enact a separate law to deal with this issue.'<sup>40</sup>

<sup>39</sup> Agnes, F. citing [http://en.wikipedia.org/wiki/Acid\\_throwing](http://en.wikipedia.org/wiki/Acid_throwing)

<sup>40</sup> Agnes, F., <http://timesofindia.indiatimes.com/india/No-change-in-law-needed-to-make-acid-attack-a-heinous-offence-Centre/articleshow/5804710.cms>

public interest litigation filed by a victim, has also directed the government to study the legislation enacted in Bangladesh and enact a similar law in India.'

While there is need for a specific law against acid throwing, discussions also looked into the role of the family and the educational institutions in socializing boys and girls, men and women. The mindset which allows men to control (and punish) women must change.<sup>41</sup>

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<sup>41</sup>Agnes, F., [http://www.thaindian.com/newsportal/uncategorized/acid-attacks-on-women-india-to-learn-from-bangladesh\\_10042926.html](http://www.thaindian.com/newsportal/uncategorized/acid-attacks-on-women-india-to-learn-from-bangladesh_10042926.html)

## SESSION 5: MEASURING IMPACT OF GBV IN PUBLIC SPACES

Chair: Govind Kelkar, UNIFEM

VAW/GBV has its costs and the need to measure them is important to understand the gravity and far-reaching consequences of the violations.

Ms Bhatla in her presentation '**Gender-Based Violence in Public Spaces: Consequences and Costs**' sought to establish that direct and indirect costs of gender based violence in public spaces leads not only to personal costs for the 'victim' but has significant costs for the economy and society as a whole. Thus, Ms Bhatla proposed that a 'method for overcoming this obstacle is to estimate the 'cost' that violence incurs on society as a whole—in economic and social terms and on individuals' lives.' However, with scant empirical evidence, it is difficult to justify and lobby for effective policy around domestic violence and violence against women.

"Costs' are described in terms of the specific social, health and economic consequences to a more specific estimation of the 'monetary or economic cost'. The monetary cost is constructed by measuring and quantifying the various consequences (as a whole or specific measurable elements) that households and national economies experience due to violence.'

It was pointed out that while GBV and DV, in particular, have widely accepted definitions, those pertaining to VAW/GBV in public spaces do not form a 'holistic category'. Taking from CEDAW General Recommendation 19, she looked at reports of the UN Special Rapporteurs on Violence to examine how public forms of violence are defined and how state parties collect, report and be accountable for data. Expanding on Declaration on the Elimination of VAW, she used the definitions of VAW to illustrate the scope of public and private spheres to include violence in the family, in the community and that perpetrated or condoned by the state. Observing that the categorisation is partial and does not lend itself to mutually exclusive categories, she used a simple categorisation.

While recognising multiple locations as arenas of VAW/GBV, Ms Bhatla restricted herself to the public non-institutional sphere where the VAW/GBV perpetrator is unknown, for commenting on a cost estimation methodology on public violence. She meant this to demonstrate impact of such costs and for it to 'act as an advocacy tool for allocation of resources and necessary political action'. Institutional public spaces are not considered as there are additional mechanisms and dynamics which would then have to be factored into the estimation.

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<sup>41</sup> 'Gender-Based Violence in Public Spaces: Consequences and Cost' by Nandita Bhatla, Senior Technical Specialist, Gender and Development, International Centre for Research on Women (ICRW), New Delhi.

Her analysis recognised that public spaces as sites of violence have to be seen in the gendered social context, in this case that of South Asia where public spaces are masculine domains and notions of patriarchy dominate them and contemporary moral sense. Firstly, while extreme events such as 'honour-related violence', acid throwing and witch hunting are relatively less common than sexual harassment, they impact the public consciousness due to the media coverage. Secondly, she pointed out the need to distinguish between actual acts of public violence and the threat of violence. The latter is critical as it manifests itself in prohibitory forms as well and have a different sets of impacts and consequences leading to 'missed opportunities' or 'unrealised potential' by not going out/allowed out of the homes for education, employment, etc. This is referred to as socio-economic violence while the specific acts of violence are classified as verbal, emotional and physical/sexual violence.

Measuring the prevalence of VAW/GBV in public spaces is the first step to assess its costs. Sufficient data on this is not available in India. Data on 'criminal' categories from the NCRB (rape and sexual harassment) is available. These are under-reported and thus prevalence underestimated, however, NCRB reports have been noting a rising trend in the instances of rape over 2003-7. Very few studies documenting 'missed opportunities' are available. Some of them being the WHO report on gender in achievement of MDGs, the PROBE report on education and a study under Safe Cities Initiative which give some information on this. All these suggest that recognised and reported violence prevalence is significant but presents only a margin of the reality. To better gauge the costs and consequences of violence in public places, better and innovative data collection tools and survey designs are needed.

Consequences of violence are described in two ways in terms of violence on key outcomes such as reproductive health, mental health, and productivity by estimating monetary costs. It is difficult to use current documents as most use VAW as a broad category or highlight specific forms of violence. Some data is available in industrialised countries where strong routine data collection and a well organised service provision system exists.

While consequences of VAW/GBV are positioned within different frameworks—denial of human rights, public health, and as a developmental concern—violence is seen to erode development gains, obstructs participation and contradicts the goals of development. This lends itself to frame the costs of 'missed opportunities' as a cost incurred due to VAW/GBV in public places. For example, the WHO lists the following:

## Health Consequences of Violence Against Women

<b>NON-FATAL OUTCOMES</b> <i>Mental health outcomes</i>	<b>NON-FATAL OUTCOMES</b> <i>Mental health outcomes</i>	<b>FATAL OUTCOMES</b>
<ul style="list-style-type: none"> <li>• Fear</li> <li>• Anxiety</li> <li>• Depression</li> <li>• Low self-esteem</li> <li>• Sexual dysfunction</li> <li>• Eating problems</li> <li>• Obsessive-compulsive disorder</li> <li>• Post-traumatic stress disorder</li> </ul>	<ul style="list-style-type: none"> <li>• Injury</li> <li>• Unwanted pregnancy</li> <li>• Gynaecological problems</li> <li>• STDs including HIV/AIDS</li> <li>• Miscarriage</li> <li>• Pelvic inflammatory disease</li> <li>• Chronic pelvic pain</li> <li>• Headaches</li> <li>• Permanent disabilities</li> <li>• Asthma</li> <li>• Irritable bowel syndrome</li> <li>• Self-injurious behaviours (smoking, unprotected sex)</li> </ul>	<p>Suicide</p> <ul style="list-style-type: none"> <li>• Homicide</li> <li>• Maternal mortality</li> <li>• HIV/AIDS</li> </ul>

Source: 'Violence against Women', WHO Consultation, 1996.

Moving from the individual, impact of violence is also captured through its burden on the economy—the economic cost of violence which is calculated in monetary terms. In this direct costs include those linked to responding to violence like service provision for medical/health, law enforcement, judicial and social service and indirect costs include the losses incurred as a result of violence-covering social and economic well being of a person.

Ms Bhatla noted that classification of costs needs to have a nuanced framework for understanding indirect costs as different categories of costs require different methodologies, and corresponding data sets to enable the essential parameters to be defined and quantified. She underlined that one has to ensure that for estimation of any form of violence, the following critical elements are covered:

1. Defining the form of violence.
2. Measurement of the form of violence.
3. Conceptualisation of the help-seeking behaviour of those experiencing violence.
4. Delineating the types of costs to be measured.
5. Deciding the appropriate methodology and analysis frameworks.
6. Deciding on data collection methods to fill existing data gaps.

She observed that most studies have either used the direct costs of service provision or have estimated the economic multiplier effect (which are easier to quantify) than social or inter-generational impacts.

Computation of direct costs are most commonly estimated through accounting methodology where costs for various categories are made and aggregated. For this, unit costs for a specific service and the number of times the service was utilised are needed. Preconditions include reliable data on prevalence, service utilisation and calculation of unit costs. Direct cost estimates provide only a specific type of cost incurred on account of violence experienced and does not look at other social and economic impacts of VAW/GBV. With severe data gaps in developing countries, this method has severe limitations. For the estimation of indirect costs, social, economic and intergenerational costs. Economic costs are easier to assess, using the accounting methods (through estimating number of days of work lost or estimating loss on women's labour force participation and earnings. It is the social costs that are difficult to estimate, among them being pain and suffering due to VAW/GBV. Millier, Cohen and Wiersama have proposed two approaches—the willingness to pay approach which estimates the willingness of individuals (and society) to pay for lives free of VAW/GBV using a contingent valuation methodology (can be useful for evaluation of costs of public violence). The second being the willingness to accept (or compensation) which can be derived from the actual judicial/jury awards for identified individuals. These need to be adopted for application in developing countries.

During the discussion, the perspective that the consequences of VAW/GBV is beyond costing was raised. The impact of VAW/GBV on women consists of physical, mental, emotional, economic and social trauma, and if life-threatening the magnitude of consequences could not possibly be estimated in terms of monetary costs alone. Ms Preet Rustagi, Discussant, acknowledged the points raised and commended the attempt to come up with the formula to approximate the costs of VAW/GBV, even if this may only provide relief in part. The focus of response strategies must therefore remain at the preventive level.

Costing of VAW/GBV is dependent on available data—and where data is not available, possibility, if accuracy of the process is an issue in itself. Besides, as noted in the presentation, only certain forms of VAW/GBV have been considered. And, would a case of domestic violence be seen as more or less in gravity because of cost assigned? The Chair informed that at the moment, there are provisions in some cases where a victim is compensated for loss of earning for inability to work after an episode of VAW/GBV. Likewise, some compensation package is provided for in certain laws.

Costing is deemed an instrumentalist approach to addressing VAW/GBV. However, it could also make people, institutions and government realise the consequences of the issues, actual or potential. For now, as indeed the presentation underscored, costing of VAW/GBV may be used as advocacy tool to ensure action from various stakeholders to address VAW/GBV very seriously.

## **1. PRESENTATION OF ISSUES AND WAY FORWARD**

### **1. Recommendations**

Across presentations and sessions, the following recurring observations were made:

- 1) VAW/GBV is a means to control women, their sexuality, their freedom, their participation in public life, etc.
- 2) There is a lack of understanding of gender issues and of the gendered notion of public spaces and, consequently, of VAW/GBV in public spaces by the public, the police, the media, the law makers, the judiciary, the various government agencies, the politicians, etc.
- 3) The gender stereotypes associated with the private and the public domains impact women's claims to citizenship.
- 4) The binaries beyond gender, such as class, caste, age, etc., get played out in public spaces and must be all dealt with for inclusive response to the issues.
- 5) There is need for response to VAW/GBV in public spaces.

Taking from the observations mentioned above, recommendations have been culled out from the presentations and the participants' inputs. Broadly, it is recommended to ensure zero-tolerance policy/approach to VAW/GBV and gender discrimination, undertake continuing human rights education/training on women's rights and gender sensitisation for members of the judiciary and parliament, various government agencies and units, particularly the police as also the civil society, particularly the media, the educational institutions, civic organizations, NGOs, etc.

Specific recommendations are directed for various stakeholders:

### **Parliament**

1. Discuss/build consensus on pending bills and pass them into law, for example, Anti-Sexual Harassment Bill, Anti-Communal Violence bill, etc.
2. Formulate law against 'honour' killing, acid throwing, anti-stalking, etc.
3. Repeal of The Armed Forces (Special Powers) Act.
4. Amend Section 19 of the Human Rights Act 1993 to make the verdict of Human Rights Commissions more binding. Restrictions on the Commissions' jurisdiction over armed forces must be removed.

5. Amend Army Act of 1950 to bring transparency in all cases of court martial pertaining to rape, sexual harassment and assault.
6. Amend the IPC by including 326A, Indian Evidence Act by including 114B and Criminal Procedure Code to deal with acid attacks.
7. Formulate Law against VAW/GBV on the internet.
8. Broaden application of DV Act to recognise the link with the right to adequate housing and provide alternative adequate housing for victims of domestic violence and abuse.
9. Repeal the Bombay Prevention of Begging Act 1959 that criminalises homelessness and formulate gender-sensitive housing laws, especially for women who are victims of domestic violence, widows, women-headed households, women victims of forced evictions, minorities, and indigenous women.
10. Ensure that national laws and policies reflect commitment to human rights and gender equality, and in compliance with international conventions and declarations especially CEDAW, BPFA, MDG, UN Security Council Resolution 1325, etc.

### **Judiciary**

1. Ensure ongoing human rights education and training on women's rights and gender sensitisation for members of the judiciary.
2. Ensure gender-sensitive court procedures.
3. Use of gender-sensitive language in decisions.
4. Setting up of Special Courts to provide speedy redress in rape cases in areas of conflict. Laws and legal procedures must be amended to put the onus of proof on the perpetrator and to ensure that perpetrators of sexual violence in areas of conflict are persecuted.
5. Create Fast Track Courts for cases of VAW/GBV.
6. Ensure that decisions reflect commitment to human rights and gender equality, and in compliance with international conventions and declarations especially CEDAW, BPFA, MDG, UN Security Council Resolution 1325, etc.



## Government

1. Ensure that government policies reflect commitment to human rights and gender equality, and in compliance with international conventions and declarations especially CEDAW, BPFA, MDG, UN Security Council Resolution 1325, etc.
2. Ensure ongoing human rights education and training on women's rights and gender sensitisation for various government agencies and units.
3. Raise general awareness on gender issues, educate the public on sexuality and gender equality and laws.
4. Ensure sex education in high schools and colleges.
5. Ensure that national legal systems provide accessible and gender-sensitive avenues of redress for victims of VAW/GBV including victims of conflict..
6. Provide women equal access avenues of legal redress for violations of their rights as citizens.
7. Ensure state accountability on issues of VAW/GBV across locations.
8. Develop training manuals for police, government functionaries, etc.
9. Undertake all-out effort to find a political solution to the armed conflict in India's northeast.
10. Allocated resources to set up Women's Commissions and State Human Rights Commissions.
11. Realign budget allocation for development and economic interventions, taking into account the social realities of women's lives. Economic packages for states must be worked out in consultation with women especially the most vulnerable.
12. Recognise women's role in public life including peace processes, and ensure their participation as decision makers in peace negotiations and post-conflict reconstructions by both the central and state governments.
13. Make available special schemes for easy loans/subsidies for entrepreneurship by women victims of VAW/GBV, including homeless women, women in conflict situation, etc. Adequate attention and efforts must be devoted to addressing the causes of homelessness, including investing in agrarian and rural development and the needs of women in conflict situation.

14. Call for demilitarization of conflict zones; check state-sponsored violence and police brutality against the homeless and those in conflict situation; those responsible for offences must be brought to justice.
15. Review the nature and role of traditional panchayats and appropriate policies thereon.
16. Introduce low-cost housing and public housing schemes for the poor with special incentives for women, including single women and women-headed households to access housing.
17. Develop and implement gender-sensitive housing policies especially for victims of domestic violence, widows, women-headed households, women victims of forced evictions, minorities, and indigenous women.
18. Ensure a nation-wide, large-scale campaign on awareness of women's rights - protected and guaranteed by the Constitution of India, national laws (Domestic Violence Act) and international law (CEDAW, etc.) using posters, billboards, pamphlets, TV, radio, telephones.
19. Cost consequences of VAW/GBV through:
  - Mapping of public violence. Collecting data to understand how women perceive public violence and their perceived indirect costs.
  - Routine data collection of incidence of violence in public spaces.
  - Routine data collection at services accessed (identified through mapping of services such as health, legal, etc.) in response to violence in public spaces.

### **State Government**

1. Create safer cities for women by considering factors like lighting, sight/visibility, entrapment possibilities, ear and eye distance, movement predictors (such as pathways and tunnels), signage information, visibility of park staff/police, public telephones, assailants escape routes, maintenance levels, parks programming officials and isolation, the most critical single factor.
2. Ensure theoretical understanding of how the built environment affects the users, not just in terms of their immediate behaviour within it, but in the way the built environment reinforces, contradicts, and transforms social structures, keeping in mind safety and comfort especially for women, girls, elderly, those specially-abled, etc.
3. Develop a short-term and long-term plan to address VAW/GBV including homelessness in the city.

4. In response to acid attacks, the respective state governments should pay compensation up to Rs 25-30 lakhs to the acid victims as it would be a life-long trauma for the dismembered victims as a rehabilitative measure. The government should also bear the expenses for undergoing treatment.
5. In response to the needs of the homeless, implement and execute in a time-bound manner the directives to the Government of Delhi issued by the High Court on 20 October 2010 (bench of Chief Justice Misra and Justice Manmohan), Case number W. P. (C.) 5913/2010, thus:
6. Creation of five shelters specifically for homeless, destitute, pregnant and lactating women.
7. Helpline for destitute homeless women run by professional trained people.
8. Food and medical facilities available at shelters, 24 hours.
9. Dissemination of information on government schemes for women and available shelters through radio and TV (in Hindi).
10. Awareness camps to be held every fortnight by professionally trained people.
11. Mobile medical units to move around streets and slum areas, to help identify needy/destitute women and take them to shelters or hospitals.
12. Need for government to involve 'genuine NGOs' in the process.
13. Set up independent Monitoring Committees consisting of experts, including representatives of civil society, and women to look at brutality by state actors, such as police, against women victims of VAW/GBV.
14. Ensure access to affordable utilities such as water, electricity and heating, as well as access to education, employment and health facilities.
15. Provide permanent 24-hour shelters for homeless women, especially victims of VAW/GBV, single women, women with children, women with mental illness, women with disabilities.
16. Provide information on the nearest hospital, police station, ration shop, and all other available government schemes and services to women victims of VAW/GBV. Likewise, with existing Homeless Resource Centres as well as Gender Resource Centres.
17. Set up a *24 hour emergency response system*, including a helpline and nodal point for women victims of VAW/GBV, particularly the homeless. Hospital facilities (including beds in private hospitals) should be made available; Community Health Departments of hospitals need to also ensure that services are provided.

### **NCW, MWCD**

1. The NCW should play a pivotal role in bringing amendments to existing laws in context of VAW/GBV in public spaces, for example, acid throwing.
2. Discuss sexuality—its images, its stereotypes, questioning them and remapping them—more openly in training sessions with different government officials, grass-root level workers, students and teachers.
3. Develop/support sex education training manuals for various stakeholders.
4. Facilitate/support gender and sexuality trainings with different stakeholders.
5. Work closely with Parliament and various government agencies particularly the police, and in partnership with civil society including media, residents associations, educational institutions, women's organisations/feminist movement, NGOs, etc.
6. Regularly provide information on VAW/GBV and actions taken to respond to them.
7. Undertake social audits of the police, judiciary, NGOs working with women and the media to track their effectiveness and to make them accountable.
8. Study the impact of law to inform actions for legal and policy reforms and/or ensure their implementation.

### **Health Department**

1. Conduct widespread awareness campaign in educational institutions, media, police personnel and primary health centres regarding the first aid to be administered in case of acid attacks. Proper first aid would prevent further damage to the body parts.
2. To ensure gender-sensitive response and provide medical aid to victims of VAW/GBV. Paramedics and other medical professionals should be trained in treating acid burn cases, etc.

### **Police**

1. The need for ongoing human rights education and training on women's rights and gender sensitisation for the police, bureaucracy and judges.
2. The need for a nation-wide, large-scale campaign on awareness of women's rights—protected and guaranteed by the Constitution of India, national laws (Domestic Violence Act) and international law (CEDAW, etc.)—using posters, billboards, pamphlets, TV, radio, telephones.

3. Adopt gender-sensitive, accessible and improved complaints procedures through training and reform. For example, develop guidelines in handling cases of VAW/GBV.
4. Work in partnership with NGOs, media and civil society in tackling VAW/GBV.
5. The police should take the initiative to file criminal cases against the accused in cases of VAW/GBV, for example, in cases of 'honour' killing, acid attacks, DV, etc. They should be encouraged to file cases *suo motu*.
6. The police should react quickly in the case of stalking, as also cases of eve-teasing and other cases of VAW/GBV.
7. Maintain accurate reports and documentations on VAW/GBV and subsequent action taken.
8. Study best practices of well run police stations which deal crimes against women with due diligence and replicate the experience.
9. Make people aware of police helplines and other support services.

#### **UN Agencies, Bilateral and Multi-lateral Organisations**

1. Support initiatives for governments to implement international commitments to respond to VAW/GBV.
2. International agencies must move beyond news conferences and invest in the media to provide gender-sensitive and accurate information.
3. UN/international agencies need to work closely with the media to develop guidelines on how gender violence is reported along with a commitment that corrective action will be taken in case of violations.
4. Support continuing gender and sexuality trainings with different stakeholders.

#### **Civil Society**

1. Educate the people at large on root causes of VAW/GBV including the dynamics of internal wars.
2. Document violence against women in the northeast region by looking at the various dimensions of violence against women including VAW/GBV in areas of conflict.
3. Widely disseminate information on the Women's Convention and other human rights documents through workshops/training on women's conventions and human rights and media.

4. Strengthen the network for women's groups working on violence against women and human rights at national and international levels.
5. Prepare shadow report on the Women's Convention and other Human Rights treaties.
6. Call for demilitarization of conflict zones.
7. Call for adherence by state and non-state groups to both human rights and international humanitarian law, including CEDAW, the United Nations Security Council Resolution 1325, etc.
8. Discuss sexuality—its images, its stereotypes, questioning them and remapping them—more openly through media, educational institutions, etc.
9. Undertake ongoing gender and sexuality trainings with different stakeholders.
10. Develop training manuals for police, lawyers, counsellors, and NGO personnel.
11. Use RTI to access information on VAW/GBV cases and actions taken by government, etc., to respond to them.

### **Media**

1. Sensitise the media on gender issues particularly VAW/GBV in public spaces, appropriate laws, etc., through workshops, documentations, etc.
2. Use social networking sites such as Facebook to create more awareness about how to address violence.
3. Ensure that commercial television enterprises not to glorify male chauvinistic tendencies.
4. Push for implementation of media code of conduct (guidelines for reporting on gender violence).
5. Build partnerships with both the police and the civil society so that a dialogue can begin to address gender violence in public spaces.
6. Have regular programmes on TV, radio on gender issues.
7. Engage the top management as well as reporters on the ground to ensure gender-sensitive reporting and programming.
8. Training for journalist on gender issues through interactive methods such as workshops, field trips and meetings.

9. Using the media—street theatres, posters and film clippings to discuss myths and realities of sexuality.
10. Campaign to reform both substantive and enforceable components of laws on sexual violence.

### **Women's Organisations/Feminist Movement**

1. Use Women's Safety Audit Tool with communities and women in particular to draw attention to and document issues on VAW/GBV in public spaces.
2. *Work with authorities and the private sector to ensure gender sensitive planning and design of public spaces towards making cities/localities safer.*
3. Ensure provision of infrastructure and services that will ensure safety and comfort for women, for example, signages that makes it easier to know where you are and get your bearings; visibility enhanced through lighting field of vision and absence of hiding places; prompt official assistance; urban spaces that are hospitable, well maintained and suited to women's needs, etc.
4. Radicalise the demand for greater access to public space by focusing beyond safety but also on 'comfort'.
5. Educate the people at large on root causes of VAW/GBV, including dynamics of internal wars.
6. Build solidarity among all women groups working on VAW/GBV in public spaces in India, Asia and world.
7. Strengthen understanding of a more inclusive citizenship, promote debate and dialogue across stakeholders.
8. Partnership with media, range of stakeholders and government on gender issues generally and VAW/GBV in public spaces
9. Discuss sexuality—its images, its stereotypes, questioning them and remapping them—more openly in training sessions with different government officials, grass-root level workers, students and teachers.
10. Work closely with educational institutions to develop sex education training manuals for schools and colleges.
11. Undertake continuous gender and sexuality trainings with different stakeholders.

12. Develop training manuals for police, lawyers, counsellors, and NGO personnel.
13. Use the media—street theatres, posters and film clippings—to discuss myths and realities of sexuality.
14. Push for passage of pending bills on anti-sexual harassment, anti-communal violence bill, etc.

### **Educational institutions**

- 1) Ensure that gender-sensitivity is part of the curriculum in school and colleges; provide inputs on women's rights and gender equality.
- 2) Impart gender-sensitisation to teachers and administrators of educational institutions.
- 3) Facilitate discussion/dialogue with boys and girls, men and women on VAW/GBV in public spaces, at home, at school and the workplace and ensure proper understanding on gender issues.
- 4) Discuss sexuality—its images, its stereotypes, questioning them and remapping them—more openly with students and teachers.
- 5) Develop sex education training manuals for schools and colleges.
- 6) In social science/development/gender studies courses:
  - ❑ Formulate clear framework and indices for costing effects/losses associated with VAW/GBV; likewise for unpaid work;
  - ❑ undertake evidence based/action-oriented research on VAW/GBV;
  - ❑ undertake monitoring and evaluation and formulate appropriate gender responsive m/e indicators.
- 7) Engage law schools to incorporate research in the curriculum, for example (field) projects to assess which courts are functioning well, how many cases actually get convictions and how many get adjourned. Compilation of such data can impact policy. It will also help strengthen the information system.

### **Family**

- 1) Gender-sensitisation of both boys and girls from the start, ensuring gender equality at home and non-discrimination of girls, provide equal opportunities.



- 2) Create an enabling environment for girls to make choices and participate in decision making and range of activities outside the home.
- 3) Imparting gender sensitivity to boys and men in the family, instilling supportive role in combating VAW/GBV wherever it occurs.
- 4) Break the silence by bringing into open issues of VAW/GBV, reporting to authorities and demanding for appropriate action by law enforcers.

## **2. RESPONSE FROM THE GOVERNMENT**

A representative each from the NCW and MWCD, on behalf of the Government of India, promised to look into recommendations seriously, acknowledging how these recommendations could improve the interventions of the government towards women's empowerment and gender equality. They have categorically condemned cases of VAW/GBV, enjoining everyone to break the culture of silence on these issues and persevere on working with the government and all stakeholders for solutions to the issues.

They noted the need to strengthen mechanisms to respond to VAW/GBV and to work closely with various government agencies, the police, the Parliament. Likewise, they recognise the need for the government, in particular the NCW and MWCD, to be more accessible to women especially those most vulnerable to VAW/GBV.

Note was made of the need to reach the rural areas in terms of gender sensitisation and awareness raising on gender issues. Cultural practices, rituals and customary norms that violate women's rights must be challenged. They asked for proactive interventions against VAW/GBV by the public, NGOs, women's groups, media, and all those working on the ground.

Women's voice must be strengthened through collective action for which Self Help Groups and women's federations may be facilitated. Women's access to rights must be ensured and social indicators improved.

The GOI must provide compensation packages for victims of VAW/GBV and make available schemes for women from poor/disadvantaged sectors. Civil society must work in tandem with the government to ensure that government programmes are implemented accordingly and women benefit therefrom.

**ANNEX 1**  
**List of Participants**

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**ANNEX 2**  
**List of Presentations**

<b>DAY -1 26<sup>th</sup> October, 2010</b>	
<b>9.30-10.00</b>	<b>Registration</b>
<b>Inaugural Session</b>	
<b>10.00-11.00</b>	Welcome remarks and context setting- <b>Sara Pilot</b> , Chairperson, CEQUIN Address by <b>Patrice Coeur-Bizot</b> , UN RC & UNDP RR Address by <b>D.K. Sikri</b> , Secretary, MWCD Address by <b>Smt Girija Vyas</b> , Chairperson, NCW Address by Chief Guest <b>Shri Veerappa Moily</b> , Minister of Law and Justice
<b>11.00-11.15</b>	Tea break
<b>Session 1</b>	
<b>11.15-12:30</b>	<b>Panel Discussion: Laws and responses from Police and CSOs</b>  <b>Chair:</b> Kiran Bedi, IPS ret'd.  <b>Speakers:</b> Review of laws: <b>Flavia Agnes</b> , Majlis Police responses: <b>Suman Nalva</b> , Addl. DCP, SPUWC Role of Media: <b>Mohuya Choudhury</b> , NDTV  Discussion and Q&A
<b>12:30 to 01:30</b>	Lunch
<b>Session 2</b>	
<b>01:30 to 02:45</b>	<b>Panel Discussion: Understanding GBV in context of Public Spaces</b> <b>Chair:</b> Urvashi Butalia, Zubaan  <b>Speakers</b> Gendered usage of public spaces: <b>Shilpa Phadke</b> , TISS Sexuality: <b>Rukmini Sen</b> , CWDS Masculinity– its role in GBV in public spaces: <b>Sanjay Srivastava</b> , IEG  Discussion and Q&A
<b>Session 3</b>	
<b>02:45 to 04:00</b>	<b>Film Screening : The Great Indian Witch Hunt</b> <b>Discussant:</b> Sohaila Kapoor  Q&A
<b>04:00 to 04:15</b>	Tea

<b>Session 4</b>	
<b>04:15 to 05:15</b>	<p><b>Panel Discussion: Different dimensions of GBV in of Public Spaces</b>  <b>Chair: Farah Naqvi</b></p> <p><b>Speakers:</b>  Gender based violence in conflict zones: <b>Binalakshmi Nephram, CAFI</b>  Gender based violence faced by homeless women and girls: <b>Indu Prakash Singh, IGSSS, Amita Joseph, BCF</b> and <b>Shivani Chaudhry, HLRN</b></p> <p>Discussion and Q&amp;A</p>
<b>Day -2 27<sup>th</sup> October, 2010</b>	
<b>09:45 to 10:00</b>	<b>Recap of Day 1 – CEQUIN</b>
<b>Session 5</b>	
<b>10:00 to 10:45</b>	<p><b>Panel Discussion – Emerging Issues</b>  <b>Chair –Ranjana Kumari, CSR</b></p> <p>Honor killing and the role of caste panchayats: <b>Prem Chowdhry</b>  Acid throwing: <b>Keerthi Bollineni</b> , Vasavya Mahila Mandali</p>
<b>Session 6</b>	
<b>10:45 to 11.15</b>	<p><b>Panel Discussion – Measuring impact of GBV in public spaces</b>  <b>Chair: Govind Kelkar , UNIFEM</b></p> <p><b>Speaker:</b>  Cost of Violence: <b>Nandita Batla</b> , ICRW  Discussant: <b>Preet Rustagi, IHD</b></p>
<b>11:15 to 11:30</b>	Tea Break
<b>Closing Session</b>	
<b>11:30 to 12:30</b>	<p>Presentation of key issues and way forward  Address by Representative, Ministry of Women and Child Development  Address by Representative, Ministry of Home Affairs  Address by Representative, Ministry of Law and Justice  Address by Representative, National Commission for Women  Wrap up and vote of thanks</p>
<b>12:30 to 01:30</b>	Lunch

**NCW-UNDP-CEQUIN**

CONFERENCE ON

'GENDER-BASED VIOLENCE IN PUBLIC SPACES:  
CHALLENGES AND SOLUTIONS'