

Training manual for Delhi police officers

Train the trainer programme:

***Improving access to
justice for
women & girl victims of
violence***

Acknowledgments

The Helena Kennedy Centre for International Justice would like to thank the National Law University Delhi for assisting with organising this programme. The National Law University has been an invaluable partner in this project.

The Helena Kennedy Centre for International Justice would like to thank the British High Commission India for providing funding for the project and its continuous support.

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Contributors

Chapter 1

Introduction to violence against women & girls

1.1. Introduction

This training manual will provide a range of information and knowledge about violence against women and girls in India. The purpose of the manual is to provide a toolkit for police officers, in how they can most appropriately and effectively deal with women and girl victims of violence. Your practice in handling these victims is vital to securing justice for these women and girls.

The 1948 Universal Declaration of Human Rights, and the 1979 Convention on the Elimination of all Forms of Violence against Women (CEDAW) entrenched the idea of equality between men and women. Both of these international laws have embedded the principle that all lives matter and all human beings have rights. The language of the Universal Declaration of Human Rights is clear:

“All human beings” & “everyone”

However, achieving and maintaining equality for women and girls is a difficult endeavour and in many countries men and women are not treated in the same way. Unfortunately, there are still laws, cultures, practices or religions that systematically discriminate against women and girls. This form of discrimination is extensive and includes (but not limited too):

- Exclusion from political participation and public life
- Limited access to education & employment
- Segregation in their daily lives
- Various forms of sexual & physical violence (including rape in armed conflict to being beaten in their homes)
- Denial of equal divorce or inheritance rights
- Being killed for having sex before marriage
- Forced marriage
- Assaulted for not conforming to gender norms
- Sold into forced labour or prostitution
- Mutilated and killed to maintain the honour of men



Violence against women (VAW) or sexual and gender-based violence (SGBV) is a global issue of pandemic proportions. All societies are tackling violence against women and girls. Unfortunately, this is also a problem in India.

There are many organisations and governments who are working hard to change this situation and eradicate violence against women and girls. Police agencies all over the world and also in India are implementing strategies to respect, promote and protect the basic human rights of women and girls. It is important for police to realise that men and women should be treated equally and with the same dignity and respect. In achieving this, police officers must recognise the specific measures they need to implement to ensure equal treatment of women and girls. Equal treatment means understanding and respecting the precise and unique needs of women in comparison to men.

1.2. Overview of the extent of violence against women and girls



Globally, at least one in every three women around the world has been beaten, coerced into sex, or otherwise abused in her lifetime – with the abuser usually someone known to her. (See the report of the UN Secretary-General entitled “In-depth study on all forms of violence against women” A/61/122/Add.1 and Add.1/Corr.1.)

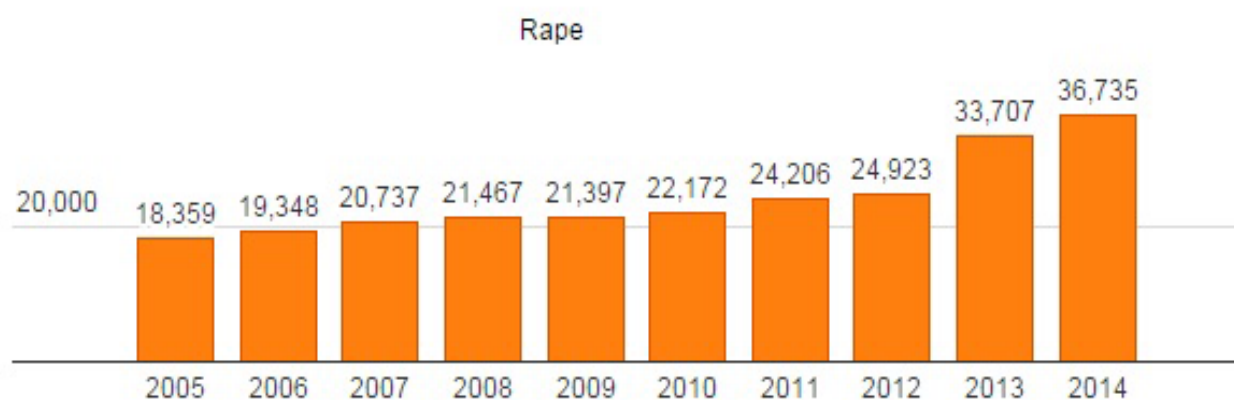
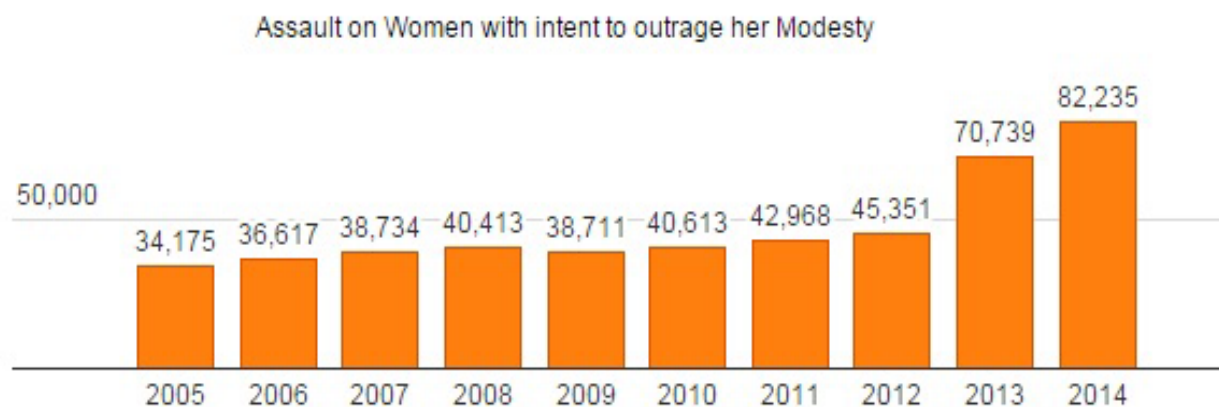
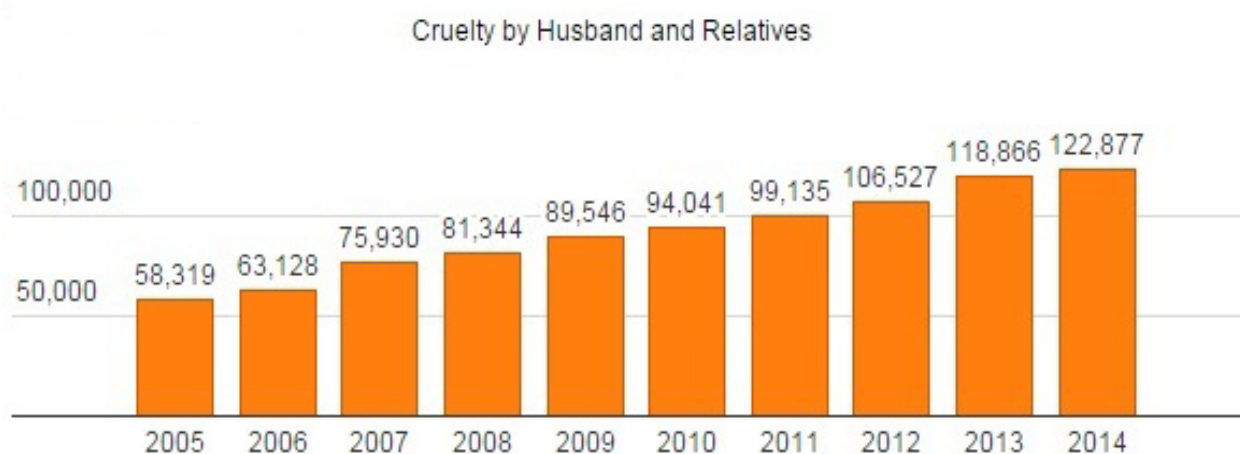
The National Crime Records Bureau for India has documented 2.24 million crimes against women (between 2005 to 2014). These are recorded crime statistics, which only represent the minority of cases. The figure does not include those crimes, which are unreported to the police. Many victims do not come forward to the police. The statistics only show a fraction of the extent of violence against women.

Crimes against women are reported every two minutes in India

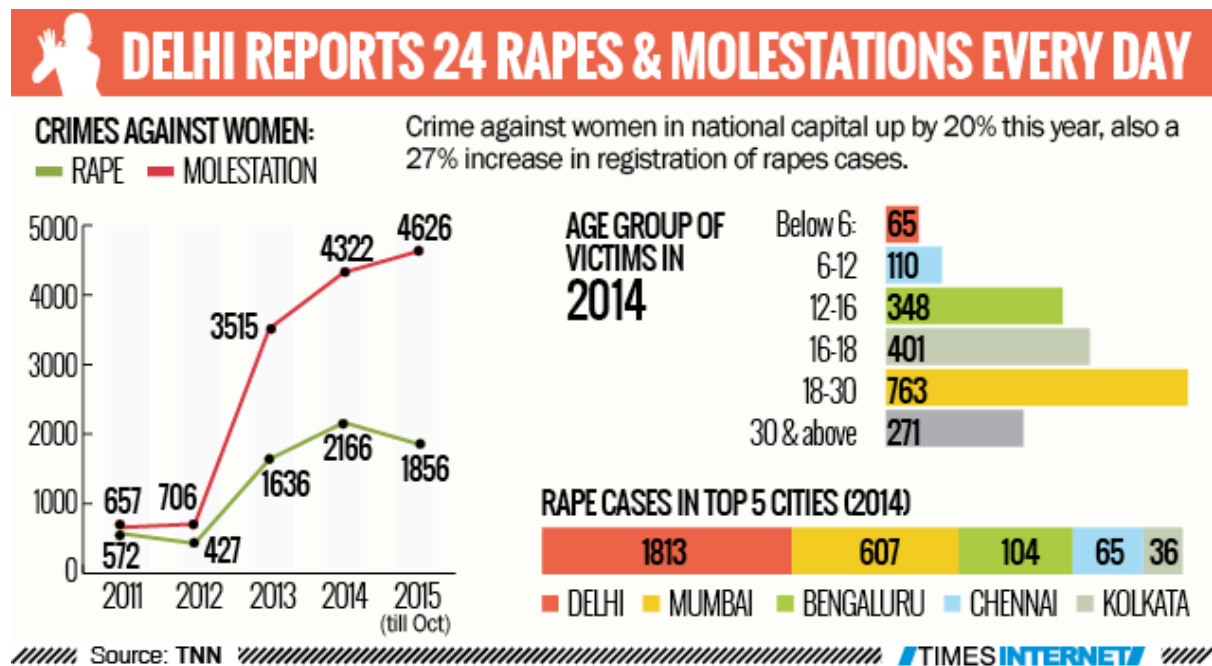
The three major crimes against women are:

1. Cruelty by husbands and relatives
2. Assault on women with intent to outrage her modesty
3. Rape

Major Crimes Against Women * Figures represent cases reported.



Delhi in particular has seen an increase in statistics of violence against women and girls. This increase in part may be due to the work of police officers, NGOs and other stakeholders in working to ensure justice for victims.



1.3. Defining violence against women & girls or gender-based violence

There are different definitions of violence against women and girls.

The **Convention on the Elimination of All forms of Discrimination against Women (CEDAW)** defines Gender Based violence as:

"Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."

"Violence that is directed at a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts and other deprivations of liberty...."

Violence against women can be physical, sexual, psychological, or economic, and includes battery, sexual abuse, marital rape, harmful traditional practices, non-spousal rape and

violence, sexual harassment, stalking, forced prostitution, trafficking in women, female genital mutilation, and exploitation-related violence. Violence against women, in all its forms, violates and impairs or nullifies the enjoyment by women and girls of their fundamental human rights and freedoms.

1.4. Identifying forms of violence against women & girls

Violent practices against women and girls take different forms of expression. Women and girls of all ages can be victims. No woman or girl is immune from the threats of violence. Violence can be physical, psychological and sexual. There are other forms of abuse such as financial or economical as well as harmful traditional and cultural practices that can also be regarded as gender-based violence.

A key dynamic regarding violence against women and girls is recognition of their vulnerability and subordination, which places them in high-risk situations where they are more likely to be victimised.

<i>Forms of gender-based violence</i>			
Sexual	Physical	Psychological	Economic
<ul style="list-style-type: none"> ○ Rape ○ Indecent Assault ○ Sexual harassment (including in public places) ○ Forced marriage ○ Sexual exploitation ○ Incest 	<ul style="list-style-type: none"> ○ Assault ○ Battery ○ Wounding ○ Restraint ○ Murder ○ Acid attacks ○ Torture ○ Trafficking 	<ul style="list-style-type: none"> ○ Verbal abuse ○ Humiliation ○ Threats ○ Controlling behaviour ○ Cyber bullying, harassment or stalking ○ Exposure to pornography 	<ul style="list-style-type: none"> ○ Deprivation of money or basic necessities ○ Stealing or taking money ○ Controlling work options ○ Limiting access to education ○ Dowry (leads to physical attacks)

See appendix 1 for more information on forms of violence.

1.4.1 Sexual Violence

Sexual violence is any unwanted act of a sexual nature – it is when a sexual act is committed without the person's consent. Sexual violence is a violation of the victim's personal boundaries and an act undertaken to cause great harm whilst gaining power over an individual. Sexual violence includes child sexual abuse, which is any sexual act involving children under the age of 18, regardless of whether the child consented.

Sexual violence can include the following:

- Coercion → Forcing
- Manipulation → Tricking
- Pressure → Intimidating
- Violence → Harming



1.4.2 Physical violence or abuse

Physical violence directed towards women and girls includes an unlawful act, omission or behavior, which can result in death or permanent disability. Physical violence is the use of deliberate force to cause discomfort and pain to the victim.

Physical violence and abuse include:

- Slapping, punching, hitting, kicking, shoving, scratching, biting or throwing objects.
- Threatening or attacking the victim with a weapon
- Deprivation of liberty i.e. locking the victim in or out of his/her residence or abandoning him/her in a dangerous place
- Refusing to help the victim when he/she is injured, sick, or pregnant
- Neglect
- Medication abuse: inappropriate use of medicines

Since the severity of injuries may vary from one person to another, each case is treated according to its own merit.

1.4.3. Psychological, emotional and verbal abuse

Psychological, violence and abuse is any conduct that makes another person feel constantly unhappy, humiliated, ridiculed, afraid, depressed or to feel inadequate or worthless.

Forms of abuse includes:

- Name calling; ridicule and humiliation in front of others
- Shouting
- Excessive jealousy and attempts to control a woman's life, time, her activities,
- Blaming relationship / family problems on the other person
- Destroying possessions
- Forbidding individual to dress in a certain way
- Intimidation causing fear of abuser

- Persistent threats and harassment (of abandonment, deportation to loss of family & friends)
- Stalking
- Threats of suicide
- Use of undue pressure to act in a certain way or do things e.g. signing documents
- Control & coercion - abusers will try to limit their partner from visiting or talking to supporters so that the partner becomes isolated from friends and relatives and the abuser maintains control.

1.4.4. Financial or economic or material abuse

Financial abuse is the use of control over finances to dominate another person. Examples of financial, economic or material abuse are when the perpetrator does any of the following:

- Refusing to share the decision-making about money with his partner
- Forbids their partner to work
- Prevents their partner from going to work,
- Confiscates their partner's earnings, or withholds shared earnings
- Forced financial dependence
- Denial of a separate bank account
- Denial of access to the family bank account
- Not fulfilling maintenance obligations
- Refusal to share information about a joint financial situation
- Taking or destroying possessions
- Expecting someone to account for every rupee they spend or do more with money than is possible.

1.4.5. Spiritual / religious violence & abuse

Spiritual / religious violence or abuse occurs when someone uses a person's beliefs to manipulate, dominate or control them.

Spiritual violence includes, but is not limited to:

- Not allowing the person to follow their preferred spiritual or religious tradition
- Forcing a spiritual or religious path or practice on another person
- Belittling or ridiculing a person's spiritual or religious tradition, beliefs or practices
- Using one's own beliefs, rituals or practices to manipulate, dominate or control a person

1.4.6. Cultural violence & abuse

Cultural violence occurs when a person is harmed as a result of practices that are part of their culture, religion or tradition.

Cultural violence includes a range of acts committed to redeem and protect a family's "honour". Honour crimes are a form of domestic violence and abuse perpetrated as a consequence of the victim's perceived wrong doing, and them not having adhered to the cultural rules and norms.

Women tend to be the victims of honour crimes where they may physically harmed, shunned, maimed or killed for:

- Falling in love with the "wrong" person
- Refusal to marry
- Seeking divorce
- Allegations and rumors concerning the victim
- Infidelity; committing adultery
- Being raped
- Homosexuality
- Practicing witchcraft
- Disability / mental illness
- Being old

Forms of cultural violence include:

- Lynching or stoning
- Banishment
- Abandonment of an older person at hospital by family
- Female circumcision
- Rape-marriage
- Sexual slavery
- Murder

1.5. Life phases of violence against women and girls

Throughout the span of their lives, including before they are born, women and girls face a wide variety of forms of violence.¹ Some of the forms are subtle or hidden, some very overt. In each form, a woman is a victim, and each requires some specialized response and prevention measure.

¹ Adapted by Heise, L. (1994). *Violence against Women: The Hidden Health Burden*. World Bank Discussion Paper. Washington. D.C.

Life Phases	Type of Violence
Pre-birth	<ul style="list-style-type: none"> ○ Battering during pregnancy ○ Denial of medical services or food ○ Coerced pregnancy (rape during war, during riots, caste rapes) ○ Sex-selective abortion (e.g.: abortion of a female foetus) ○ Infanticide (killing of a newborn girl child)
Infancy	<ul style="list-style-type: none"> ○ Differential access to food and medical care for girl infants (death from malnutrition) ○ Emotional and physical abuse of females ○ Female infanticide ○ Trafficking
Childhood	<ul style="list-style-type: none"> ○ Child marriages ○ Commercial sexual exploitation ○ Differential access to food, medical care, and education ○ Female Genital Mutilation, and other forms of harmful traditional practices ○ Honour Killings ○ Incest ○ Sexual abuse ○ Trafficking
Adolescence	<ul style="list-style-type: none"> ○ Acid crimes ○ Dating and courtship violence ○ Female genital mutilation and other forms of harmful traditional practices ○ Forced marriage ○ Commercial sexual exploitation ○ Honour crimes & killings ○ Rape ○ Sexual abuse in the place of learning, workplace or public places ○ Sexual harassment ○ Trafficking ○ Dowry attacks ○ Cyber harassment & stalking ○ Exposure to pornography
Reproductive/ Adult Period	<ul style="list-style-type: none"> ○ Abuse of women by intimate partners ○ Abuse of women by strangers ○ Acid crimes ○ Dowry harassment and murders ○ Economic abuse ○ Femicide ○ Forced marriage

	<ul style="list-style-type: none"> ○ Commercial sexual exploitation ○ Honour crimes, killings and other forms of harmful traditional practices ○ Marital rape ○ Partner and pre-partner homicide ○ Psychological abuse ○ Rape ○ Sexual abuse in the workplace ○ Sexual harassment ○ Stalking ○ Trafficking
Old Age	<ul style="list-style-type: none"> ○ Abuse of widows and elderly women ○ Denial of shelter or food ○ Loss of economic control ○ Widowhood rituals ○ Destruction of personal effects ○ Forced homelessness ○ Seen as a burden
Cross-Cutting Ages	<ul style="list-style-type: none"> ○ Emotional and physical abuse of females ○ Female infanticide ○ Female Genital Mutilation and other forms of harmful traditional practices ○ Commercial sexual exploitation ○ Honour Killings ○ Psychological Abuse ○ Rape ○ Sexual harassment and abuse

1.6. Situations where women and girls are extremely vulnerable (root causes of violence against women and girls)

There are situations where women and girls are extremely vulnerable. They are:

- During conflict or post conflict periods and in transitional societies
- Living in temporary settlements, homelessness and poverty
- When women and girls are trafficked or smuggled to other countries
- Commercial and sexual exploitation of women and girls
- Violence perpetrated by people in a position of authority or by the state
- Traditional and cultural pressure
- Crimes against young girls

- Abuse of elderly women
- Domestic violence
- Using public transport, especially at night
- Abuse relatives (both male & female)
- When a female is alone (either at home or in public)

1.6.1. Violence against women and girls in conflict, post-conflict and transitional societies

Women and girls face a tremendous risk of targeted violence in conflict, post-conflict and transitional states. Women may experience victimisation in their home country during, or after a conflict, in their homes or as ‘internally displaced persons’, or while refugees in another country.

According to the UN Secretary-General’s 2006 study, “Ending Violence against Women: From Words to Action”;

“During armed conflict, women experience all forms of physical, sexual and psychological violence perpetrated by both State and non-State actors”.

These forms include:

- Murder & unlawful killings
- Torture and other cruel, inhuman or degrading treatment or punishment
- Abductions
- Maiming and mutilation
- Forced recruitment of women combatants
- Rape, sexual slavery, sexual exploitation
- Involuntary disappearance
- Arbitrary detention
- Forced marriage
- Forced prostitution
- Forced abortion to forced pregnancy and forced sterilization

Sexual violence has been used during conflict for many reasons, including a form of torture, to inflict injury, to extract information, to degrade and intimidate and to destroy communities.

Rape of women has been used to humiliate opponents, to drive communities and groups off land and to willfully spread HIV and other sexually-transmitted diseases. In some conflicts, rape has been used as a tool for ethnic cleansing.

1.6.2. Trafficking and migrant smuggling of women and girls

Human trafficking and exploitation is on the increase all over the world, and this creates a new challenge to police officers everywhere. During trafficking and smuggling, women and girls are extremely vulnerable to violence. Appendix 2 provides more details on human trafficking and definitions.

Trafficking of women and girls takes various forms, the most common include:

- Women and girls who are trafficked into forced labour, migrant work or to work in domestic, agricultural or manufacturing industries
- Sexual exploitation such as prostitution or pornography
- Servile marriage in the form of mail order brides
- Debt bondage

Some of the most common types of abuses suffered by these trafficked victims include:

- Long working hours
- No time off
- No protection under a country's labour laws
- Illegal confinement
- Debt bondage
- Sexual assault
- Physical abuse
- Torture
- Psychological abuse
- Denial of food
- Non-payment of wages or reduced wages
- No contact with family



Trafficking is still a relatively new field of study in police agencies all over the world and more work is needed in this area.

Some of the most important aspects for police are to:

- *Treat victims of trafficking as victims.* This is especially difficult when women were forced into prostitution and prostitution may be against the law. In cases of trafficking, these women are the victims who are being abused by unscrupulous perpetrators.
- Treat victims with compassion and respect.

1.6.3. Commercial sexual exploitation of women and girls

Contrary to rape and sexual abuse, commercial sexual exploitation involves crimes for a profit. This can include forced acts such as prostitution or participation in the creation of pornography. The woman or girl participates out of fear: fear of physical abuse if they refuse, denial of shelter or food, violence towards their families or in some cases, fear of being murdered. These women and girls also fear arrest, imprisonment or deportation by official bodies. It is important to recognise the array of fears that these victims will have.



<https://www.youtube.com/watch?v=CwzoUnj0Cxc>

1.6.4. Violence perpetrated by persons in positions of authority or by the State

The State - either through its agents or public policy can perpetrate physical, sexual and psychological violence against women and girls. This violence may take place in police stations, during custody, in prisons, border posts, healthcare centres or other contexts. The violence may be in the form of rape, sexual harassment, physical assault or some other

forms of degradation. The key dynamic is one of power as someone in a position of authority often inflicts the violence. It is sometimes very difficult to stand up against someone in a position of authority when they commit violence against women and girls (or gender-based violence).

1.6.5. Harmful traditional & cultural practices

Today, in many regions of the world, there are still cultures that engage in harmful traditional and practices involving women and girls. These may be based on tradition or religion and are often locally viewed as acceptable cultural practices. It is extremely difficult for women and girls to say no to some of these practices due to pressure from within the family.

Such practices include:

- Child marriages
- Son preference
- Widow inheritance
- Sex selective abortions
- Practice of dowry
- Female genital mutilation
 - (Circumcision – removal of the hood or foreskin of the clitoris; excision – removal of the whole of the clitoris together with the labia minora; infibulation.
 - (Paranoiac circumcision); Removal of the entire external genitalia and binding the vagina to leave just a tiny orifice for the expulsion of waste after scar tissue has formed.)
- Forced virginity testing
- Forced wife inheritance
- Forced child marriages
- Honour killings

1.6.6. Crimes against young girls

By virtue of their dependency on others and lack of development, young girls are particularly vulnerable to physical violence and exploitation. Forms of crimes against young girls include:

- Not providing enough food, clothing, shelter or health care
- Leaving the child alone without proper supervision or care
- Rape or other forms sexual abuse
- Physical abuse
- Commercial sexual exploitation

- Slavery
- Trafficking
- Pregnancy

These crimes are often shielded from public view and hidden in homes, brothels, massage parlours and guesthouses.

Some young girls face repeated sexual abuse, often over a period of years, at the hands of close relatives and persons in authority, e.g. priests or teachers. Due to shame, stigma or threats of violence if they speak out, many such young girls experience incredible emotional trauma that can last a lifetime.

Children forced to work as prostitutes may find themselves trafficked to a continent far away, never to see their home or family again. They face a high risk of physical violence, and the increased risk of exposure to HIV/AIDS.



1.6.7. Abuse of elderly women

Like children, many elderly women are dependent on care-givers either in institutions or in a family setting. Elderly women need assistance with their care, shelter, feeding and protection. But they can also suffer from abuse perpetrated by these care givers. Those who suffer some form of illness or mental dementia have even less of a voice, and thus are even more vulnerable.



1.6.8. Domestic violence

Domestic violence is a global issue. The problem for the police is that it happens within an environment where many societies view the relationship between husband and wife or partners as a private matter. Police are sometimes reluctant to act and this creates a problem for the victims. Domestic abuse includes various forms of physical, emotional and sexual violence.

Women who are victims of domestic violence are mostly denied equality before the law and this reinforces their subordinate social status. Men use domestic violence to diminish women's autonomy and sense of self-worth. States that fail to prevent and prosecute domestic violence treat women as second-class citizens and send a clear message that the violence against them is of no concern to the broader society.

**It is important to realise that domestic violence is a crime and that police should investigate it as a crime.
Appropriate legislation should be promulgated to deal with it.**

1.7. The impact of sexual and gender-based violence (SGBV)

Sexual and gender-based violence is a form of discrimination that seriously inhibits women and girls ability to enjoy rights and freedoms on a basis of equality with men. Such violence violates core rights of women and girls that are protected under national and international laws, such as the right to life and to bodily integrity.

SGBV can have *devastating physical, psychological and social effects* on the victim. In the long term, SGBV has far reaching consequences on the community and the country as a whole. In order to better respond to SGBV and adequately protect its victims, police and other service providers should be able to understand the effects and consequences of SGBV.

Effects of SGBV	
Physical Effects	<ul style="list-style-type: none">○ Victims of SGBV may report a wide range of physical injuries as a result of the assault (e.g. wounds, damage to sexual organs)○ In extreme cases, SGBV leads to death○ Victims of sexual violence are highly exposed to sexually transmitted infections (STIs) including HIV-AIDS, as well as to reproductive health consequences (unwanted pregnancies, unsafe abortions)

Psychological effects	<ul style="list-style-type: none"> ○ SGBV has overwhelming effects on the mind and the soul of the victim ○ Most victims go through trauma and distress, and experience feelings such as fear, anger, shame, self-blame, which in the long term lead to depression, low-self-esteem and suicidal thoughts
Social Effects	<ul style="list-style-type: none"> ○ SGBV can contribute to marital and family difficulties and impact on women's ability to care for and nurture their children ○ Many victims experience stigma, blame, and rejection by their family and community ○ Often victims continue to suffer in silence to avoid the consequences of reporting what has happened to them ○ Feelings of abandonment & loneliness
Impact of SGBV on the community	<p>In addition to the consequences suffered by the victim, SGBV imposes also large economic and social costs on the community and the country as a whole:</p> <ul style="list-style-type: none"> ○ Prevents women from full participation in society, employment or other income generating activities and the full development of their potentials ○ Strain on the health facilities of the country ○ Strain on the law enforcement and justice system ○ Diminished sense of security in the community ○ Perpetuation of poverty and underdevelopment

Although culture is often used to justify the use of violence towards women, the right to be free from abuse is a fundamental and universal human right.

1.8. Why do women & girls not report violence?

It is often difficult for women and girls to report violence, pursue legal action or end the relationship. There are numerous reasons why women and girls do not report violence:

- Fear for their safety or that of their children / siblings
- Fear that their children will be apprehended or taken away by the husband or partner if it is alleged she is in some way an unfit mother
- Influence of extended family or children
- Emotional attachment and loyalty to the abuser
- Low self esteem and self-blame
- Economic dependency on the abuser

- Religious values or pressure from prevailing cultural or traditional practices
- Shame and stigma felt by the victim
- Fear of the unknown – “where will I go? what will I do?”
- For immigrant women, fear of deportation
- Social isolation and lack of a sound support system
- Authorities denying, minimising, or rationalising the severity of the violence
- Lack of trust in the criminal justice system
- Lack of legal information about the victim’s rights
- The subordinated role of women in society
- Power and control in patriarchal societies

Activity: Reflections & Self-Evaluation

What do you see as being equality for men and women?

Explain what is meant by violence against women and girls

Identify the forms of violence against women and girls

Provide five (5) examples where women and girls are most vulnerable to violence

What traditions and practices hinder your work as a police officer when dealing with female victims?

What is the impact of violence on the victim and on society?

Why do you think women and girls do not want to report violence to the police?

What are the key social issues and problems that you need to consider as a police officer when dealing with violence against women and girls?

Chapter 2

Legal framework: international and national norms and standards

2.1. Introduction

This chapter will look at the international and national legal framework for the promotion and protection of the rights of women and girls, and the principles that deal with violence against them. These principles are based on the protection of human rights. Human rights are the basic rights and freedoms that belong to every person in the world. Human rights are based on values like dignity, fairness, equality, respect and independence.

Fundamental human rights do not depend on gender, race, religion, culture, caste, class or status. However, in many countries, many of these factors play a role in determining who is afforded their human rights and who is denied them. A woman or girl is as much entitled to live free from harm as a man. In the context of violence against women, both the victim and the offender have rights. In many countries, the lack of respect for the rights of the offender is an issue, just as is the lack of respect for the rights of victims.



2.2. International norms and standards applicable to violence against women and girls

India has signed and ratified many of the United Nations conventions and treaties. This is a commitment by the government to implement the standards and practices set out in the articles of these international instruments.

National Human Rights Commission of India (NHRC) was set up as an independent body in 1993 and is responsible for the protection and promotion of human rights. The commission came into effect as a consequence of India's Protection of Human Rights Act of 1993. Around 14 States across India has set up their own Human Rights Commissions to deal with violations within their States.

2.2.1. International instruments

The following International instruments are applicable when dealing with rights of women and dealing with violence against women.

United Nations instruments and standards that refer specifically to the protection of women's (and children's) rights and protection from violence and other harms, and to the Model Strategies, include:

- The United Nations Charter (1945)
- Universal Declaration of Human Rights (UDHR) (1948)
- International Covenant on Civil and Political Rights (ICCPR) (1966)
- Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT)(1984)
- UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)
- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
- International Covenant on Civil and Political Rights and Optional Protocols thereto.
- International Covenant on Economic, Social and Cultural Rights
- Convention on the Elimination of All Forms of Discrimination against Women and Optional Protocol thereto
- Convention on the Rights of the Child
- Convention on the Political Rights of Women
- Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Building on the above is the Platform for Action adopted by the Fourth World Conference on Women, in which three strategic objectives were established for Member States, critical to tackling violence against women:

1. Take integrated measures to prevent and eliminate violence against women;
2. Study the causes and consequences of violence against women and the effectiveness of preventive measures;
3. Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.

Within these objectives, the Platform for Action sets out a series of specific actions to be taken by States, including:

- Implementation of international human rights instruments

- Adoption and periodic review of legislation on violence against women, access to justice and effective remedies
- Policies and programmes to protect and support women victims of violence; and awareness-raising and education.

In addition to the above list, there are several other United Nations instruments and standards that relate to the protection of women, children and vulnerable groups, including:

- Declaration on the Elimination of Violence against Women
- International Convention on the Elimination of All Forms of Racial Discrimination
- International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty
- Beijing Platform for Action
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime
- Rome Statute of the International Criminal Court
- Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949⁴² (Fourth Geneva Convention)
- Code of Conduct for Law Enforcement Officials
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty
- Guidelines for Action on Children in the Criminal Justice System
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
- Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Organizations such as the United Nations Children's Fund have also made international declarations; the Economic and Social Council has passed resolutions; the International Labour Organization has adopted conventions; and the Office of the United Nations High Commissioner for Human Rights has set up programmes, all in some way relating to the protection of the rights of women and girls, and protecting them from harm.

2.2.2. Rights of women and state obligations within UN laws and standards

While United Nations instruments generally define rights for all persons, there are many specific examples of language focusing on women and girls.

Article 3 of the Declaration on the Elimination of Violence against Women states that:

- Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economical, social, cultural, civil or any other field.

- These rights include the right to life, the right to equality, the right to liberty and security of person, the right to equal protection under the law and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Article 4 of the Declaration sets forth that:

- States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligation with respect to its elimination
- States should pursue by all appropriate means and without delay a policy of eliminating violence against women.

To that end, States should, among other things:

- Refrain from engaging in violence against women
- Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons
- Consider the possibility of developing national plans of action to promote the protection of women against any form of violence, or to include provisions for that purpose in plans already existing, taking into account, as appropriate, such cooperation as can be provided by NGOs, particularly those concerned with the issue of violence against women
- Develop preventive approaches that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices and other interventions
- Work to ensure that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child-care and maintenance, treatment, counselling and health and social services, facilities and programmes
- Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women.
- Promote research, collect data and compile statistics, especially concerning domestic violence, relating to the prevalence of different forms of violence against women and encourage research on the effectiveness of measures implemented to prevent and redress violence against women, those statistics and findings of the research to be made public
- Adopt measures directed towards the elimination of violence against women who are especially vulnerable to violence
- Recognize the important role of the women's movement and NGOs worldwide in raising awareness and alleviating the problem of violence against women
- Facilitate and enhance the work of the women's movement and NGOs and cooperate with them at the local, national and regional levels

2.2.3. International standards and practices applicable to police when dealing with violence against women and girls

Listed below are some of the international human rights standards and practices applicable when dealing with violence against women and girls:

- Police shall exercise due diligence to prevent, investigate and make arrests for all acts of violence against women, whether perpetrated by public officials or private persons, in the home, the community and in official institutions
- Police shall take rigorous official action to prevent the victimisation of women, and shall ensure that re-victimisation does not occur as a result of the omissions of police or gender-insensitive enforcement practices
- Violence against women is a crime and must be treated as such, including when it occurs within the family
- Victims of domestic violence are often afraid of reprisals should they press charges, and therefore the treatment of the crime may require special measures including protection against further victimization, referral to shelters and for specialized medical care
- Police officers must refrain from viewing the issue of domestic violence as a private family matter. The police officers are required to act upon a complaint of domestic violence as with any other crime occurring within their jurisdiction
- There should be room for using alternative dispute resolution methods, depending on the nature of the case

It is important that police do not view domestic violence as a private or family matter. Police should deal with domestic violence as with any other crime. All cases of domestic violence should be investigated in a proper and professional way. Police should also deal with all the cases of domestic violence in a compassionate way, supporting the victims.

2.3. National legal framework



Additionally, India has a plethora of legal framework that seeks to protect women and girl victims of violence (see appendix 3 for further details).

- The Constitution of India Art 14 and 15

- Domestic Violence Act 2005
- Dowry Prohibition Act
- Juvenile Justice Act
- Prevention of Sexual Offences Act
- Child Marriage Act
- Sharda Act
- Child Labour Abolition Act
- POCSO Act
- Criminal Law Amendment Act
- Immoral Trafficking Act
- PCPND Act

Activity: Reflections & Self-Evaluation

Why do you think it is important to know the international standards and practices that deal with the police response to violence against women and girls?

Name at least five international human rights instruments that mention or deal with violence against women and girls.

Discuss the international standards and practices applicable to the police when dealing with violence against women and girls.

Name the national legislation/s that deals with violence against women and girls.

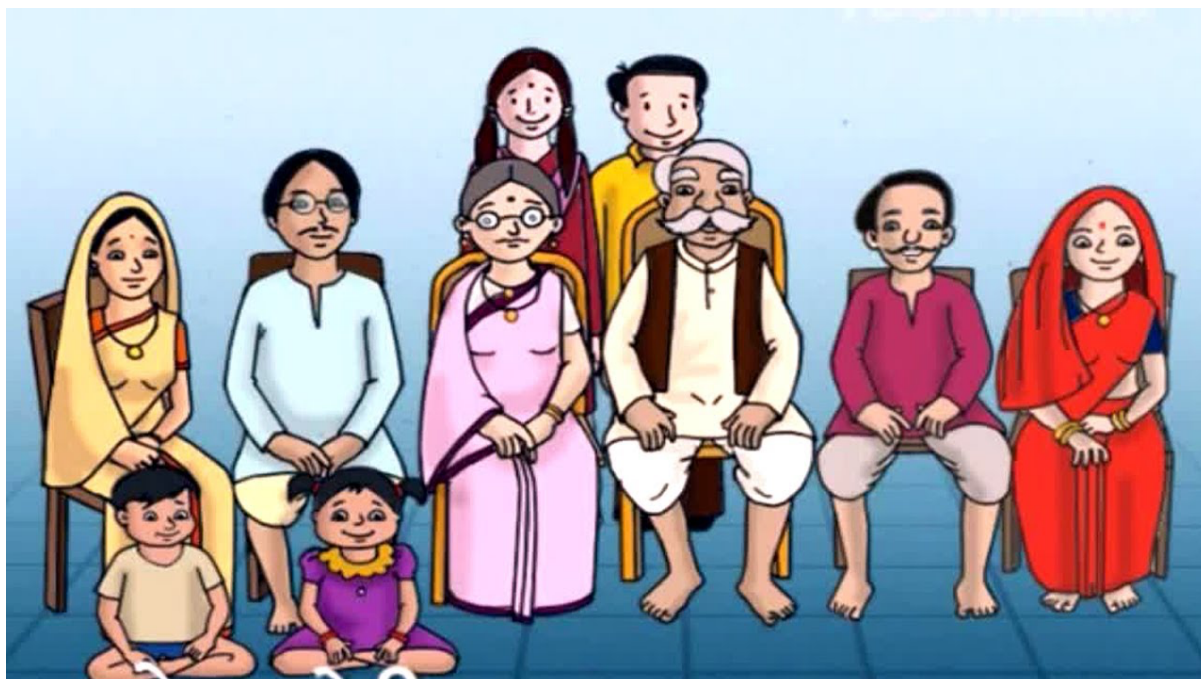
Chapter 3

First response of police in dealing with cases of violence against women & girls

3.1. Introduction

In India police officials are normally the first to respond to a complaint of violence against women and girls. This response may be via the telephone or in person. It is important that police deal with these cases in a professional manner as with any other crime. However, for this to be delivered it is important for the police to be mindful of the huge sensitivities surrounding violence against women and girls. Police officials can better address the cycle of violence before they encounter such cases, if they are prepared and understand what is meant by violence against women and girls. Crucial to this process is the ability to recognise, support, and work with the victims of violence.

A good way to deal with victims is to think how you would like your own mother, wife or daughter to be treated if they were the victims of violence.



In this chapter we will discuss appropriate responses of police when dealing with complaints of violence against women and girls.

3.2. General duties of the police

Although police have to take special measures when dealing with violence against women and girls it is important to realise that police also have certain general duties such as:

- Serving the community in a professional way by protecting all persons from unlawful acts
- Serving the community without affording preferential treatment to any group or individual or discriminating against any group or individuals
- Being attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public
- Preventing crime, maintaining public order and enforcing laws
- Respecting and protecting human dignity and maintaining and upholding human rights of all persons including women and girls
- Effectively investigating all alleged incidents of violence against women and girls
- Conducting all investigations in a manner that respects the rights and needs of each victim
- Taking action to support and protect all victims of crime
- Taking action to protect victims from secondary victimisation
- Informing victims of their rights

If police fail to act in accordance with these simple rules there may be several negative consequences, including disciplinary action being taken against individual officers, loss of community respect, no support and cooperation from the public, a general community loss of faith in, and respect for the police and the larger criminal justice system, and secondary victimisation.



3.3. Initial response to violence against women and girls by the police

In many cases of violence police officials are called to the crime scene. It is important to analyse the distress in order to decide how to respond to the complaint. For example if it is a serious crime such as assault or rape police action will be different from for example verbal abuse. Here are a few guidelines that can assist first responder police to deal with complaints of violence against women and girls.

3.3.1. First response at the crime scene

- Respond to all alleged incidents immediately
- Quickly separate the parties involved (the victim and the abuser)
- Identify and secure any weapons that may be on hand, so as to protect all person's present

- If present, isolate, search and effect arrest of the perpetrator – have him removed from the scene
- Arrange medical treatment for any injured persons
- Take steps to ensure the safety of the victim and witnesses, including any children who may be present
- Ensure that all victims at the crime scene are provided with appropriate support, including referrals to appropriate agencies as required. Support and referrals should be provided to all victims and witnesses, both children and adults
- Ascertain the initial facts of what occurred. Identify the offence and record the information
- Do not mediate the situation
- Make arrests if you must but the role of law enforcement is to enforce the law, not to mediate or pass judgement
- You might risk contaminating the process or otherwise reduce the credibility of the case if you try to mediate
- Identify and collect all potential evidence at the scene of crime. Record the information (take notes)
- Gather and preserve evidence in accordance with the police investigative procedures, which should include making detailed notes of the actions and utterances of the parties; and a detailed occurrence report regardless of whether any charges were laid or an offence was alleged
- Note the observations of the victim and maintain the integrity and condition of the crime scene and take names of people present including medical personnel
- In order to best secure and protect the crime scene, the officer must establish elements of crime through asking general questions, and preserve evidence
- Ascertain if language is a barrier, and arrange to provide a translator when necessary. Children or family members should not be used as interpreters
- Conduct an initial interview with the victim. An in-depth interview may take place later, including a formal written statement
- Let the victim talk, uninterrupted if necessary
- Interview all witnesses and collect written statements as necessary
- Arrange for any required follow-up/secondary investigation (i.e. forensics, medical examination)
- Ensure the victim's immediate removal from harm and access to a place of safety, to medical and psychological assessment and treatment, social assistance and independent advice. These are essential components and should be provided wherever available.
- Contact other appropriate service providers if available to assist with care and support of the victim. (Close co-operation between law enforcement officials and victims' assistance agencies that are equipped to deliver specialised assistance to victims of violence against women is important.) It is therefore important to have the names and contact details of all the relevant supporting organisations such as shelters, medical support, psychological support services, welfare support services, NGO's or other role players who can assist in supporting victims.



- Document the investigation process, in a formal report
- Police should act tactfully, respectfully and show empathy to the survivor, and prevent secondary victimisation
- Once you have contacted the proper specialists, made an arrest and your report is finished, your role in the process is complete until the trial.

If you do not follow the proper procedures, you may compromise the case against the abuser. If you do not take special care with the victim, you may be violating her human rights. In all cases, law enforcement should call for specialised support particularly if the officers concerned are not trained to work with victims.

3.3.2. Police officials' response at the police station (victim friendly officer)

- Allow the victim time to make her statement
- Interview the victim in private
- You should ask the victim if she would be more comfortable talking to a man or woman, inform the victim of each stage of the process and do not leave the victim alone
- Conduct detailed interviews with all victims and witnesses
- Assist the victim with a personal safety plan
- Interview the offender, or alleged offender at the police station
- Complete a detailed occurrence report for every case of violence reported, regardless of whether any charges were laid, and that information should be recorded in detail for future reference
- Ensure that the victim is assisted to go through all legal processes necessary to bring the perpetrator to justice, e.g. medical assessment, explanation of the rights of the victim

The following table summarises the main tasks and the steps required to complete them:

<i>Immediate Needs of Victims</i>	
<i>Safety</i>	Remove from immediate harm, re-locate in a place of safety i.e. police station, police premises, victim shelter, hospital, etc.
<i>Health</i>	Seek medical help to obtain examination for physical injury, symptoms of illness or malnutrition and sexual health screening
<i>Counselling</i>	Initial assessment of trauma and provision of psychological counselling and support
<i>Advice</i>	Explanation of legal options and responsibilities and rights of access to temporary residency visas and repatriation support
<i>Assistance</i>	Information on social, financial and welfare assistance measures
<i>NB: Your job is to provide access to assistance, not to provide it</i>	

The first of these needs is a matter of law enforcement duty and is not dependent on issues such as availability or co-operation with other partners. As soon as a victim of violence has been identified, that victim should be removed from the harmful and abusive situation to ensure their safety.

As a police officer, you are not responsible for the psycho-medical response to the victims. *As a police officer you are responsible for ensuring their safety.* There are professionals who know how to treat victims of trauma. Your goal is to minimise as best you can, the affects of trauma on the victim at the crime scene and during their time at the police station. This is your legal as well as human obligation. The key question is: how can you do this without compromising your role as law enforcement?



3.3.3. Dealing with offenders

- All persons arrested for violent incidents against women and girls should be immediately taken to the police station for questioning, unless they require medical attention. This makes the perpetrator realise the seriousness of their action.
- The police should ensure that if bail is granted, the conditions should not allow the perpetrator to remain at the same premises with the victim and/or witnesses.
- The breach of bail conditions constitutes an offence and may result in the bail being revoked. Additional conditions may include not possessing weapons, abstaining from alcohol, or reporting to the police or a public prosecutor under conditions laid-down and explained to the perpetrator.
- It is important to bear in mind that the effectiveness of victim protection measures will be increased if due consideration is given to their safety.

In instances where perpetrators are released, they should be advised of the application of measures to guarantee the safety of victims and their children, including compliance with protection orders, and the legal consequences of non-compliance.

It is also important that perpetrators are counselled or referred to appropriate services to assist with their behavioural needs, which may help prevent future reoffending and victimisation.

There are organisations specialising in providing support for male abusers and it's worthwhile for police officers to know what is available in their respective localities. Some of these services may offer a range of support from treatment for alcohol and drug dependency or for mental health problems to behavioural problems, anger management, self-control and conflict resolution.

Police, and court officials, need to monitor and evaluate the effectiveness of any orders designed to protect victims and witnesses. This includes police monitoring offender adherence to all elements of court orders.

Regardless of age, class, caste, religion and status in society, the police have a duty to ensure all victims are dealt with in a respectful, fair and dignified manner.

*If a close female family member was a victim of a crime how would **YOU** feel about them seeking help from **YOUR** police station?*

*How would **YOU** want them to be treated by your fellow officers?*

Do you feel they would be treated with respect, dignity and care?

Activity: Reflections & Self-Evaluation

Name five general duties of police officials when dealing with the public.

Discuss the actions police have to take when responding to a complaint of violence against a woman or girl at the crime scene.

Discuss the actions police have to take when responding to a complaint of violence against a woman or girl at the police station.

Name the main tasks of a police officer when dealing with a women or girl victim of violence.

Explain the response of police officers when dealing with perpetrators of violence against women & girls.

Name at least 5 basic human rights of any offender of crime.

What organisations and services are available locally to assist offenders and victims?

Chapter 4

Investigating violence against women and girls

4.1. Introduction

Appropriately investigating violence against women and girls is vital to improving their access to justice. A lawful and ethical investigation can protect the rights of victims of violence, as well as ensure the right to a fair trial. Police officers play a critical role in the judicial process through investigation and gathering of evidence that can lead to the conviction and punishment of those who are found guilty of crime. A proper investigation is therefore one of the most important tools to solving a crime. The focus of any investigation should be to discover the truth and ensure justice is administered. It is a fact-finding mission that starts with an investigation of the scene of the crime, as well as the sites where traces may have been left of the crime, for the purpose of gathering material evidence in relation to the crime committed.

This chapter is not a guideline on investigation of crime but an outline of some of the important aspects and human rights issues applicable to the investigation of crime.



4.2. The purpose of investigation of crime

The most important purpose of investigation of crime is to discover the truth. The most basic right applicable here is the right of every victim that the crime should be properly investigated and it also includes the right of the suspect to be presumed innocent until proven guilty in a fair trial and in a competent court of law. A fair investigation process will lay the basis for a fair trial. Investigations should be competent, thorough, prompt and impartial.

Therefore, the purpose of an investigation is to:

- Determine whether an offence has been committed, or to disprove an allegation of an offence
- Discover cause, manner, location of the scene and time of the crime
- Identify victims and witnesses
- Gather, record and preserve evidence of any kind that may be relevant
- Prove the identity of the suspect or person(s) responsible
- Where appropriate, formulate the grounds to lay a charge
- Document the investigation, collect evidence, and prepare to present evidence during trial
- Prevent further trauma to the victim, and those that may be affected, such as children or any other family members
- Identify and apprehend perpetrators

4.3. United Nations standards and practices applicable to investigation of crime

Although there are no specific international instruments that deal with the investigation of crime, there are some instruments that are relevant to the topic. During investigations including the interviewing of witnesses, victims and suspects, personal searches, searches of vehicles and premises, and the interception of correspondence and communications, the following rights should be respected and protected:



- The right to security of the person
- The right to a fair trial
- The right to be presumed innocent until proven guilty in a fair trial
- The right not to be subjected to arbitrary interference with his or her privacy, family, home or correspondence
- The right not to be subjected to unlawful attacks on his or her honour or reputation
- The right not to be pressured, physically or mentally, on suspects, witnesses or victims in attempts to obtain information
- Torture and other inhuman or degrading treatment is absolutely prohibited
- Victims and witnesses are to be treated with compassion and consideration
- Confidentiality and care in the handling of sensitive information is to be exercised at all times
- No one shall be compelled to confess or to testify against himself or herself
- Investigations shall be conducted lawfully and with due cause
- Neither arbitrary, nor unduly intrusive, investigatory activities shall be permitted
- Investigations shall be competent, thorough, prompt and impartial
- Investigations shall serve to identify victims; recover evidence; discover witnesses; discover cause, manner, location and time of crime; and identify and apprehend perpetrators

- Crime scenes shall be carefully processed, and evidence carefully collected and preserved

4.4. The rights of different groups of people during the investigation of crime

There are normally three groups of people involved during the investigation of crime. They are victims, witnesses and suspects.

4.4.1. The rights of victims and witnesses

One of the fundamental rights of a victim is that the alleged crime should be properly investigated. *Victims should be treated with dignity and respect*, as victims and witnesses and not as perpetrators.

Witnesses normally play a very important role in solving crime. It is important for police to realise that people who are witnesses should be dealt with as witnesses and not as perpetrators. Witnesses are there to assist the police in finding out the truth and secure justice for the victim.

Witnesses may also be shocked by the crime that happened and may need support to enable the police or other support services to deal with the crime, for example if they witnessed a serious violent crime. The witness to a crime may often be a victim of the crime.

When interviewing witnesses, they should be treated with dignity and respect. Unlike suspects, witnesses do not have the right to remain silent and they have an obligation to assist the police in solving crime.

When witnesses are to give evidence in court it is important that they should be briefed about the legal procedures, and before giving evidence on what will be expected of them.

Victims and witnesses have basic human rights during investigation of crime. Some of these rights are:

- **The right to security of the person**

Witnesses have the right to be protected against reprisals from suspected criminals and their associates. The Delhi Witness Programme 2015 (see appendix 4 for more information) provides measure to protect the identity of witnesses. It is important that the witness programme is used especially in cases of serious crimes where their lives may be in danger if they testify against suspects. The privacy and safety of witnesses is imperative.

- **Dignity and respect**

Every person that the police deal with should be treated with dignity and respect. This is the essence of professional behaviour.

- **Victims and witnesses should be treated with compassion and consideration**

Police officers should deal with witnesses in such a way so as not to cause unnecessary discomfort and inconvenience. There should be no emotional, physical or mental pressure exerted on suspects, witnesses or victims in attempts to obtain information.

- **Right to be informed of their role in the legal proceedings**

Police officers should carefully explain to witnesses their role in formal proceedings, as well as the scope, timing and progress of proceedings to ensure unnecessary inconvenience to the witness.

4.4.2. *The rights of suspects*

The important thing to remember when dealing with suspects of crime is the fact that during the investigation stage of the legal process they are only suspects and that they have the right to be presumed innocent. All suspects have basic human rights that should be respected by police officers. Offenders, as well as victims, are guaranteed certain rights.

Police are normally required by law to inform persons arrested of the reason for their arrest, their right to legal counsel and their right to silence, and this should be done immediately upon arrest or detention.

Here are some of the basic rights of suspected criminals.

- **The right to security of the person**

Every person has the right to security. Police officers should ensure the safety of suspects, especially when they are in their custody. Police officers should also ensure that they do not abuse their powers when dealing with suspects.

- **Presumption of innocence**

Every suspected criminal has the basic right to be presumed innocent until proven guilty in a court of law following a fair and just legal process. Police should therefore ensure that they treat these persons as suspects awaiting trial, who have not yet been found guilty in a court. The role of police officers is to discover the truth and not to judge suspected criminals.

- **Dignity and respect**

Every suspected criminal is still a human being and should be treated in a professional manner, with respect and with due regard to their dignity. No one shall be subjected to unlawful attacks on their honour or reputation.

- **The right to privacy and confidentiality**

Article 17.1 of the ICCPR (International Covenant on Civil and Political Rights) states that:

“No one shall be subjected to arbitrary or unlawful interference with his [or her] privacy, family home or correspondence, nor to unlawful attacks on his [or her] honour and reputation.”

Every person has a basic right to privacy, however, if there is a reasonable suspicion that a person has committed a crime, this right can be limited in order to carry out a thorough investigation. Almost every investigation conducted by law enforcement officials for the prevention or detection of crime leads to situations in which actions taken result in an invasion of the private sphere of individuals. Information gathered should be kept confidential.

- **Right to a fair trial**

Article 14.1 of the ICCPR states that:

“...In the determination of any criminal charge against him [or her], or of his [or her] rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law...”

The right to a fair trial starts at the moment of arrest and detention. The manner in which police officers investigate crime has a huge impact on the right to a fair trial. Unlawful investigative methods will impact on the right to a fair trial, and could result in an unsuccessful prosecution and termination of the trial.

Everyone charged with a criminal offence has a primary, unrestricted right to be present at the trial and to defend themselves or to choose to have a defence counsel instead.

- **Right to be informed of the charge**

The person who is arrested and detained has the right to be informed promptly of the nature and cause of the charge against them and in a language that they understand.

- **Right to be tried without undue delay**

Every suspect has the right to be tried within a reasonable time frame and without undue delay

- **The right not to incriminate themselves or the right to remain silent**

Every suspect has the right not to be compelled to testify against him or herself or to confess guilt. No physical, emotional or mental pressure shall be exerted on suspects, witnesses or victims in attempts to obtain information. This right is closely linked to the right not to be tortured.

- **Right not to be tortured**

Torture and other inhuman or degrading treatment is absolutely prohibited. Police officers can never justify committing one crime in order to solve another one. The right not to be tortured is closely linked to the right against self-incrimination and will be discussed in more detail in this chapter. The right to be protected from undue violence perpetrated by the state i.e. abusive police practices, impacts on the right to a fair trial and may result in an unsuccessful prosecution of the case.

- **Only lawful investigatory activities shall be conducted**

Police should always ensure that they act in a lawful manner when conducting an investigation following the prescribed procedures. Neither arbitrary, nor unduly intrusive, investigatory activities shall be permitted

- **The right to access legal counsel**

An individual accused of a crime has the right to a legal practitioner and guidance. They also have the right to choose their own legal practitioner at their own expense.

- **The right to apply for bail**

Persons accused of a crime have the right to apply for bail when they appear in court for the first time.

- **The right to medical attention**

If medical attention is needed the accused person has the right to be visited by a medical practitioner either assigned by the State or by the accused's own choice.

4.5. Investigation of crime and collecting evidence



The investigation of a crime is a process, and briefly comprises the following:

- Identification of the problem e.g. is it a crime or a social welfare matter or both?
- Contacting other State or community organisations such as social welfare departments or organisations and school aid services
- Obtaining relevant statements from the victim and all other witnesses
- Crime scenes should be carefully processed, and evidence carefully collected and preserved, following the practices laid down in relevant legislation
- Utilisation of all possible investigation aids i.e. fingerprint or DNA expert
- Systematically collecting all relevant evidence whilst remaining respectful of the dignity of the victim
- Forwarding of evidence to a forensic laboratory - where applicable
- Taking statements from victims and witnesses
- Assisting the victim to obtain a medical examination
- Photographing of external injuries
- Tracing of the alleged perpetrator
- Compiling the docket for presentation before the court.
- Preparation and provision of support to the witness during the court procedures.
- Keeping the victim informed of the progress and outcome of the case

The investigating officer should always:

- Act in a lawful and ethical manner when investigating crime
- Act in a professional, impartial and objective manner

- Be diligent in the collection of physical and scientific evidence and recording of statements
- At all times treat all parties involved with respect and dignity
- At all times respect and protect the rights of all parties involved, including the offender
- If an offence is identified the investigating officer should have sufficient evidence to prove the case in court
- Take steps to address the safety needs of all parties involved

In some countries police agencies have access to more sophisticated methods and equipment to investigate and discover evidence than others. The basic human rights that are applicable to investigation of crime are the same no matter where you work or what methods you use to collect evidence and to detect crime.

Confidentiality and care in the handling of sensitive information are to be exercised at all times.

4.6. Methods to ensure that human rights are respected and protected during investigations

The personal attitude of police officers involved in the investigation of crime and their individual standard of behaviour is one of the most important safeguards to ensure respect for human rights. There are usually some mechanisms of internal monitoring and supervision to ensure that police officers respect and protect the rights of persons under investigation.

Some of the methods of ensuring human rights are respected during an investigation are:

- Standardised procedures for the recording of information during investigations
- When in doubt about the legality of an investigatory activity, inquire with superiors, where possible, before proceeding
- Treat all suspects as innocent persons, politely, respectfully and professionally
- Keep a detailed record of all interviews conducted
- Enrol in in-service training to sharpen investigation skills
- Always advise the victim, witness or suspect of their rights before interviewing
- Before proceeding to any investigatory action, ask yourself:
 - Is it legal?
 - Will it hold up in court?
 - Is it necessary?
 - Is it unduly intrusive?
- Never seek or rely on a confession as the basis for a case. Rather, the purpose of investigation should be to secure independent evidence

- Seek a warrant, or court order, whenever possible, before conducting searches. Searches without a warrant should be the exception, carried out only when reasonable and with due cause
- Know the community to which you are assigned
- Develop proactive strategies for preventing crime, including thorough awareness of risks existing in your community

Activity: Reflections & Self-Evaluation

What is the purpose of an investigation of crime?

What is the role of police officers in the prevention and detection of violence against women & girls?

Name three basic human rights of persons under investigation?

Name three responsibilities of police officers during investigation of crime?

What are the rights of a suspect under interrogation?

What is meant by the presumption of innocence?

What is the significance of the presumption of innocence for an investigation?

What is mean by the right to a fair trial?

What is mean by the right not to incriminate oneself?

Why is crime scene management important for police officers?

What are the basic human rights of persons under investigation?

How should victims of crime be treated?

Chapter 5

Investigating violence against women & girls: interviewing victims, witnesses and suspects

5.1. Introduction

Investigative interviewing is the major fact-finding method police officers have at their disposal when investigating crime. The ultimate objective of all police interviews is to obtain accurate, relevant and complete accounts from the persons who are interviewed. The interview is central to many aspects of police work and can involve four quite distinct groups of people:

- complainants
- victims
- suspects
- witnesses

With such a diverse range of persons, interviews will differ greatly in terms of purpose, scope and subject matter. However, all categories of interview will share the common objective of gathering information and can be expected to focus upon descriptions of events or behaviour. In this chapter we will briefly deal with interviewing the different groups of people involved in the crime of violence against women and girls.

5.2. The value of victims as witnesses

In any criminal investigation, the co-operation and testimony of the victim of the crime will always be of great importance. Therefore, it is vital to ensure the appropriate and respectful co-operation of the victim and any witnesses. This is crucial to securing justice.

Having identified the value of victims as witnesses, it becomes necessary to identify the key issues that will need to be addressed to secure their co-operation and the best practice that should govern this process.

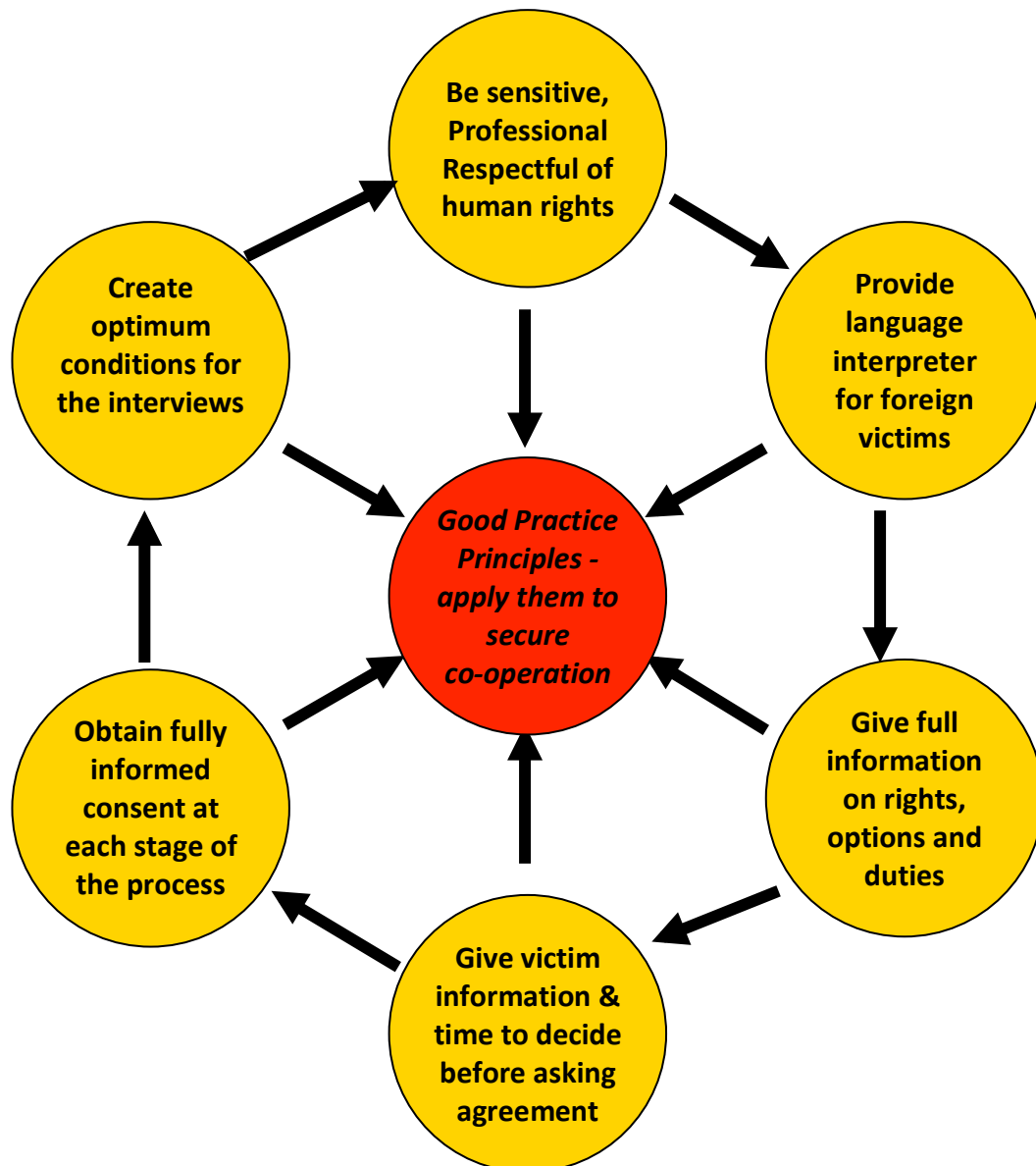
Always remember the following key points:

- *Nobody knows the case history better and in more detail than the victim that has suffered it*
- *The victim co-operating as a witness is the highest quality evidential witness available to the prosecution*

- *Without the victim as a witness, it is impossible to convict the perpetrator.*

5.3. Converting victims into witnesses - best practice principles

Investigators should apply the following best practice principles in seeking the co-operation of a victim to act as a witness and provide an evidential statement:



- The duty of the police officer is to treat victims sensitively, professionally and with full respect to their human rights
- The victim must be given full information concerning their rights, options and responsibilities as a witness - prior to being asked to agree to co-operate

- Informed consent should be a core principle in ensuring good co-operation with the victim in the criminal justice system
- Where needed an interpreter in the first language of the victim will be provided
- The objective is to create the optimum conditions within which the victim can provide their evidence and give their testimony in a manner that minimises the inevitable stress that the process will entail.
- The police officer should embrace this philosophy not only as a matter of humanitarian and professional duty but also as a matter of best practice. Hence, this will maximise the potential of the victim to provide an evidential statement and give their account during a trial process and thereby convict the perpetrators of their suffering.

REMEMBER: All victims should be treated fairly and justly regardless of their caste, religion, class and status in society.

5.4. Using the PEACE model to conduct an interview of witnesses and victims

The PEACE model is a good method to use when conducting interviews. PEACE stands for:

P	Preparation and planning
E	Engage and explain
A	Account
C	Closure
E	Evaluate

These elements of the PEACE model are briefly described below:

Planning and Preparation	
P	<ul style="list-style-type: none"> ○ Understanding the purpose of the interview ○ Defining the aims and objectives of the interview ○ Understanding and recognising the points to prove ○ How will the interview assist the investigation? ○ What is known about the interviewee and what needs to be established? ○ What are the legal requirements for this interview? ○ What offences are being investigated and what are the points to prove.

	<p>Not only the one behind the reason for arrest, but other possible ones.</p> <ul style="list-style-type: none"> ○ What practical arrangements need to be made for this interview e.g.: <ul style="list-style-type: none"> ▪ Do you need to visit the scene of the crime? ▪ Do you need to search any premises? ▪ Where will the interview take place? ▪ How many interviewers are necessary? ▪ What role will each interviewer take? ▪ When will the interview take place? ▪ What equipment do you need and does it work? ▪ Do you need any exhibits/property? ▪ Do you need an interpreter? ○ What has been disclosed pre-interview? ○ Preparing the mechanics of the interview (Arrange interview room, stationery, exhibits, location, recording equipment e.g. video recorder or tape recorder, etc) ○ Prepare you questions. ○ Make sure there are refreshments and a toilet available
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	Engage and Explain
E	<ul style="list-style-type: none"> ○ An introduction appropriate to the circumstances of the interview ○ First impressions are important ○ It is desirable that a proper relationship is formed between the interviewer and interviewee. This requires, for example, that the officer develops an awareness of, and is able to respond to, the welfare needs of the interviewee and any particular fears and expectations ○ The engage phase is followed by the explanation phase in which the officer should outline the reasons for the interview and explain what kinds of action will be followed during the interview, particularly the routines ○ Give common courtesy and treat every person with dignity and respect ○ Make the person comfortable ○ Establish what the interviewee would like to be called ○ Reassure interviewee that they are a witness not a suspect ○ Consider welfare and refreshment

	Account, Clarification and Challenge
A	<ul style="list-style-type: none"> ○ This term describes the stage in which the interviewee's recollection of the events of interest is obtained. ○ There are two accepted approaches of inducing recollection known as: <ul style="list-style-type: none"> ○ The cognitive approach and ○ The conversation management approach:

	<ul style="list-style-type: none"> ▪ The <i>conversation management</i> approach is when the interviewee is first asked to say what happened and the officer then subdivides the account into a number of individual parts which are enquired about in turn for further details ▪ With the <i>cognitive method</i>, the interviewee is asked to think back and mentally relive the event, initially with minimal interference from the interviewing officer. This is termed free recall. The officer does not interrupt, makes effective use of pauses and avoids leading questions. The interviewee is then encouraged to recall the event again using a different chronological order, or from a different perspective.
C	Closure
	<p>Be prepared for the closure. Closure should also include elements such as:</p> <ul style="list-style-type: none"> ○ Summary ○ Check comprehension, e.g. has the interviewee understood the questions? ○ Invite questions or feedback ○ Give appreciation for their hard work ○ Indicate the value you place on their assistance ○ Consider victim and witness care <p>It is crucial that the officer responsible always ensures that there is a planned closure, rather than an impromptu end, to the interview</p>

	Evaluation
E	<p>After each interview is completed, the event and the material that came from it should be fully evaluated:</p> <ul style="list-style-type: none"> ○ Evaluate information obtained ○ Consider whether the objectives of the interview were achieved ○ Evaluate the whole investigation in the light of information obtained ○ Decide whether any further interview is required or whether other inquiries need to be made as corroboration, confirmation or as preparation for further investigation ○ An important element of the evaluation is to put the interview in the context of the whole investigation and to review the information obtained along with that already available. Consideration should be given to the following: <ul style="list-style-type: none"> ○ The points to prove of any offence ○ Evidence of a defence to the offence ○ What other areas need to be addressed during the investigation ○ Evaluate interviewer's performance

5.5. Conducting the initial evidence interview

The method of taking the statement can be broken down into five components:

- *Interview conditions*
- *Personnel required*
- *Conduct - introduction - explanation*
- *Content of the interview*
- *Closing the interview*

5.6. Interview conditions

As far as possible, ensure the following:

- Conduct the interview in a private and safe place. It is important that the victim feels safe and have privacy i.e. they are not overheard
- Make sure that the room is clean, tidy and presents a professional image
- Prevent interruptions by placing a large “Do Not Disturb” sign on the door
- Ensure that refreshments and toilet facilities are accessible
- Make sure that there are adequate supplies of materials to record the statement
- Switch off any mobile phones
- Remember that the victim may still be any one of the following - suspicious, confused, distrustful, fearful, in pain or traumatised
- Reassure the victim about the process of the interview

5.7. Interview personnel

- Keep the numbers of police officers present to a minimum - there should not be more than two officers present in the room
- Select two police interviewers to carry out the following tasks:
 - First interviewer only to ask the questions - this prevents confusion
 - Second interviewer to ensure the “do not harm” principle i.e. to monitor the condition of the victim to make sure that they do not become too distressed

- If the victim is a female, the interviewers should, if available, be female officers; if not available, male interviewers should avoid asking any questions concerning incidents of sexual abuse or of a personally sensitive nature. These should be kept until a female interviewer is available.
- If the victim is a child, the interviewers should be female if they are available
- If the victim is a child it is important to secure the services of an independent adult person to protect their rights; if the parents or other adult family members are unavailable, it is vital that the child is provided a suitable guardian
- Secure an interpreter if the victim does not speak the local language
- If an official interpreter is not immediately available, seek the services of a trustworthy adult that speaks the victim's language; ensure that this person is not associated to the crime, the victim, witnesses or perpetrator/s in anyway
- If the services of either a psychological and/or legal counsellor are readily available, arrange for their attendance at the interview, provided that the victim agrees
- Explain the purpose of the interview to them and instruct them not to participate in the interview or interrupt the questioning unless (a) the psychological counsellor is of the opinion that the victim is becoming too stressed or (b) the legal counsellor is of the opinion that the legal rights of the victim are not being observed

5.8. Conduct - introduction - explanation

5.8.1. Conduct

- The success of the interview will be influenced by the attitude, words and actions of the interviewers
- Do not display a judgemental attitude; remember that the individual is the victim of a serious crime and will have suffered significant abuse - try to understand what they have gone through
- Only use appropriate language - do not use profane or difficult terms
- Be professional, respectful and reassuring
- Be patient and try to develop a degree of rapport and trust

5.8.2. Introduction

It is important to explain to the victim what is going on and who is present at the interview. The more the victim understands what is happening and why, the more likely they will be to respond to the questions. Therefore, do the following:

- Introduce each person present in the room
- Explain the reason for their presence during the interview
- Sit the victim down
- Ensure that the victim feels safe and comfortable in the environment
- Ensure that the victim is feeling well enough to answer the questions (If the victim states they are not feeling well enough, arrange for a medical examination before continuing)
- Inform the victim of the availability of refreshments and toilet facilities
- Check and confirm that the individual is able to clearly understand the questions

5.8.3. Explanation

Briefly explain the purpose of the interview:

- To understand the outline of their account
- To find out if there are other victims still being exploited and where they are
- Explain that some of the questions may raise issues that the individual may find difficult to recall
- Tell the victim that they can take time to answer the questions
- Explain to the individual that they can also ask questions or seek clarification at any time during the interview
- Tell the victim that they can take a break at any time - they only have to ask or signal for a break
- Check and confirm that the individual has understood these points
- Ask the individual if they consent to participate in the interview. It is always best to re-confirm their consent before starting the interview.

- In the case of a child victim, consent will also have to be obtained from the independent adult person that represents the rights of the child

5.9. Content of the interview

The task of the interviewer is to obtain an outline of the victims account. The interview questions should focus upon all the elements of the crime defined as violence against women and/or girls.

5.10. Closing the interview

To avoid immediate or future problems with the relationship between the interviewer and interviewee, officers should ensure that, at the end of an interview:

- Interviewee is thanked before leaving
- Interviewee understands what has happened during the interview
- Interviewee understands what will happen in the future – it is important to clarify the next steps

5.11. Interviewing child victims

Police officers need to be very mindful of interviewing girl victims of violence and it is important they employ a specific techniques:

- Take some time to first build rapport with the child and make them feel comfortable before asking questions about the incident
- Assure the child that they are not in trouble because they are talking to the police, and that they will not get anybody in trouble
- Assure the child that police officers talk with lots of children about things like this
- Assure the child that they are not alone
- Be respectful, attentive, sympathetic, calm and patient
- Show your encouragement through body language, facial expression and voice
- Sit at their level—make eye contact
- Use their name frequently, and introduce yourself by name, not title or rank

- Keep questions short and simple, with age-appropriate language
- Never assume that the child understands the question and language that you use
- Remember that children may not be used to giving free-narrative accounts
- Conduct the interview in a place where the child feels comfortable and safe
- Police interviews with victims may be conducted in their home, at a shelter or in a hospital, or at a police station
- Police are required to conduct all interviews in a manner that respects the privacy and confidentiality of the victim
- Be aware of the cognitive and socio-emotional development of children
- Be aware that barriers such as culture, language and emotional well-being can influence effective communication, thus making it difficult to obtain important information. Display empathy during the interview and show patience and tolerance as replies are awaited.
- When interviewing children:
 - Use short and simple sentences
 - Explain terms and make sure the child has understood you correctly
 - Use open-ended questions and then ask for more details
 - Keep interviews short and have breaks
 - Remember children need more time to formulate their answers
 - Use different methods to collect information with children e.g. let the child draw what has happened on the crime scene
 - Be alert and do not be distracted
 - Be non-judgemental - it is not the police officer's duty to decide on the character or behaviour of the child
 - Open ended questions help elicit more information
 - Thoroughly consider the type of questions to be asked
- When interviewing traumatised children:
 - At the beginning of the interview you can explain to the child that you are asking questions since you need to know what happened in order to help the child and their family
 - It is important that the interviewer shows empathy towards the child but is also able to deal with the information the child tells without getting upset
 - Remember that it may take time for the child to tell what has happened, especially concerning violence they have encountered

- It may be good to introduce the topic first and let the child know that when they are ready to talk about what happened you are interested to hear, and then later come back to the topic
- Normalisation of the child's experiences is important so they understand that the same thing has happened to many other children and that help is available

5.12. Interviewing suspects

Remember, perpetrators of violence against women and girls can be anyone – doctors, lawyers, religious leaders, political leaders, police officers – anyone in the community.

Suspected and accused persons have a right to be presumed innocent until proven guilty in a court of law. Therefore, the interrogating law enforcement officials do not establish innocence or guilt through their questioning—their task is to establish facts.

Police officers may never use torture or commit a crime in order to solve another crime

5.12.1. Non-accusatory suspect interview

- Treat the suspect with respect and honour their human rights – do not abuse, withhold water, food or bathroom access, do not torture or treat them inhumanely or degrade them or detain them unlawfully
- Begin with open-ended questions and prompts to elicit a detailed narrative – the goal is to keep THEM talking and YOU listening. This is where you are most likely to find problems in the statement.
- Follow-up with specific questions:
 - *Can you describe what the victim did (use their name) that indicated consent for intercourse?*
- Ask if there is anything else they would like to add or anything you forgot to ask

5.12.2. Accusatory suspect interview

To be used when there is a clear piece of evidence that the suspect can be confronted with. For example: They claim they were working or elsewhere but you have witnesses or physical evidence to place them at the incident.

5.12.3. Recording interviews

- The duration of any interrogation of a detained person and of the intervals between interrogations, as well as the identity of the officials who conducted the

interrogations, and other persons present shall be recorded and certified in such form as may be prescribed by law

- Every interview must be clearly recorded
- Statements by the suspect that contain a confession of guilt should be taken down as far as possible in their own words
- The duration of an interview and the people present at it, as well as the length of time between two interviews, must also be clearly recorded
- It is evident that in many situations, material evidence and witness statements will be more valuable than information obtained through interrogation of a suspect

5.13. Privacy and confidentiality when dealing with violence against women & girls

Matters of a confidential nature shall be kept confidential, unless the needs of justice strictly require otherwise. Confidential materials may include all details, records, photographs and reports relating to the victims, witnesses and offenders.

Measures to ensure confidentiality include:

- Use of minimal invasive police investigative techniques i.e. not unnecessarily invading one's privacy (only information directly relating to the investigation is collected)
- Interview victims and witnesses in private and away from the public and perpetrator
- Avoid releasing names, addresses and other identifying information of victims and witnesses to the media without the informed consent of the victim/witness
- Medical examination of victims preferably by female medical personnel, should be done in private
- Forensic evidence collected should be kept in strict confidence and should only be used for the purpose of the crime being investigated
- Official reports, including victim and witness statements should be viewed only by justice officials directly involved in the case

Activity: Reflections & Self-Evaluation

Discuss the elements of the PEACE model when conducting an interview with a witness or suspect

Describe what the interview conditions should be like when conducting an interview

Explain the requirements of personnel when conducting an interview

Briefly explain how to conduct a basic interview with a victim of violence against women and girls

Explain what is meant with confidentiality when interviewing victims, witnesses and suspects

Chapter 6

Protecting women & girl victims of violence

6.1. Introduction

Unfortunately, women and girl victims of violence are sometimes mistreated and poorly protected by police officials. Police officials should be aware that the victim of any crime is one of the most important components of a criminal investigation. In many countries police are not provided with adequate training regarding the impact of violent crime on victims and the best methods of ensuring that they are informed of their rights and referred to essential services. Police can therefore often lack sensitivity when dealing with emotionally distraught victims. Such a response will impair victim satisfaction, undermine their confidence and their willingness to participate in the criminal justice process.

The United Nations developed a *Declaration on Principles of Justice for Victims of Crime and Abuse of Power*. This is the only international instrument offering guidance to member States on the issue of protection and redress for victims of crime and abuse of power. However, national laws may contain charters on victim/survivor's rights, and principles of restorative justice where the victim/survivor plays an important role are also to be found in many national judicial systems.

In this chapter the rights of victims of crime and the responsibilities of police officers towards victims will be discussed.



6.2. The rights of women and girl victims of violence

Women and girl victims of violence have the right to seek legal redress for what they have suffered and to be supported and assisted while they navigate through the justice system. Police and all actors in the justice system must make every effort to respect the victim's rights including:

- To be treated with compassion and respect for their dignity
- To be informed about their rights and what protections are available to them
- To be informed about their role in the judicial proceedings, on timing and progress of the proceedings, and of the disposition of their case
- To express their views and concerns whenever their interests are at stake
- To be properly assisted and supported through judicial proceedings
- To have their privacy protected
- To ensure their physical safety. Measures must be taken to minimise inconveniences to victims, protect their privacy and ensure their safety/the safety of their families from intimidation and retaliation
- To the speedy investigation and prosecution of their case. All measures must be taken to avoid unnecessary delays in investigation and prosecution
- To restitution and compensation for the damage/harm suffered
- To material, medical, psychosocial and social assistance through government or NGOs. Victims should be informed on the availability of such services
- To be received by personnel properly trained and sensitised to the needs of the victims

Victims will feel particularly vulnerable and anxious about what's happened to them. They may feel fearful about the consequences of reporting the crime.

6.3. Responsibilities of police towards victims of crime

Victims have certain basic human rights and police officers have a responsibility to uphold those rights when dealing with them:

- Police officers should always treat victims of crime with *dignity and respect* and not as if they themselves were the perpetrators
- All victims (complainants) and witnesses should be treated with compassion, courtesy, dignity and respect
- All victims should be informed in clear and understandable language of the following:
 - Their rights
 - Their role in legal proceedings
 - The scope, timing and progress of such proceedings
 - The disposition of their cases
 - All available legal, material, medical, psychological and social assistance, and if they so desire, to be put directly in contact with such assistance
- Police should inform the victim of their rights in a language that the victim understands, bearing in mind that victims may be foreign nationals
- Crisis intervention is one of the first priorities in victim support
- Police should promptly provide crisis intervention at the scene of the crime, secure emergency medical assistance, first aid, or refer the victim to an appropriate service provider
- Police should keep an updated list of contacts with all information on available services and assistance available to victims
- Police should be able to call relevant organisations to provide on-site assistance
- Victims shall have the right to be informed during every step of proceedings and of the position of their cases
- Police should provide transportation to medical services, in cases involving injury or if the crime of rape has been alleged, to assist in seeing that the victim/survivor has the necessary medical tests in order assist the prosecution of such a crime, and to the victim's residence and offer to check the security of the premises and to patrol the area

- Police should listen to the victims and at the same time allow them to air their views and feelings on all matters where their personal interests are affected, with regard to the situation
- Police should avoid creating further problems for victims whilst handling their cases
- The privacy and safety of victims shall be protected
- Information for victims of the possibility of pregnancy or infection with diseases as a result of a sexual crime, such as rape, should be available and provided by the police to the victim/survivor
- Police should immediately refer victims, verbally and or in writing, to agencies that offer emergency services, together with information on long-term services
- Police should provide victims with information regarding their rights and referrals to services that can help them to heal e.g. medical and/or counselling and support services in the community such as psychologists, welfare officers. It may assist the police to establish a violence against women hub within the police station where victims can easily access this type of information and where the relevant service providers may have a place situated within the policing district
- Police should record statements or conduct interviews in a sensitive and professional manner
- The victim's right to privacy should be respected at all times
- Bearing in mind the right to privacy, confidential information should not be shared with persons not connected to the investigation of the case
- Police should investigate cases swiftly and in a professional manner, which includes regular feedback to victims
- Police should provide advice on crime prevention
- Police should inform victims about how best to preserve relevant evidence
- Police should keep the records on victims secure, carefully protect their confidentiality and inform them of measures that are taken to these ends
- Police should ensure that the victim is occasionally contacted by telephone or in person in the hours following the initial report to check whether assistance has been sought and/or received
- Police should ensure that the property of the victim is secure so that personal safety is not compromised as a result of crime.

The police should provide the following information to victims thus guaranteeing their right to information:

- The procedure to be followed in relation to the investigation of the case
- Particulars of the investigating officer
- Regular feedback during the investigation process on the position of case. This is especially important in cases where a person is a victim of violent crime
- The date and the time of the trial of their case
- Postponement of any trial and the possible new dates
- The date on which the accused will be sentenced
- The outcome of reports received, and details of the trial and the sentence that was passed
- The place, time and from whom any exhibits belonging to the victim, may be collected
- Compensation if applicable

6.4. Ensuring victim safety

The police have a duty to ensure the victims' safety without infringing any of their rights. Thus they should:

- Respond to all calls irrespective of whether the caller is the victim or a representative. Calls should be acted upon even in cases where the family has a history of violence.
- On arrival at the scene where violence is in progress, police officers should identify themselves and interview the caller or whoever receives them, explaining the reason for their presence on the premises
- Act cautiously and avoid disclosing the individual who reported the incident since that fact could put the person at risk and this might discourage neighbours from cooperating as witnesses
- Enter the residence and check for illegal weapons, and other evidence that may be relevant if the crime goes to court

- Ask to speak to any other persons on the premises to ensure their safety
- In the event of resistance, the police may call for reinforcement and make sure the assailant is informed of the decision
- Interview neighbours, in an effort to gather evidence on what they might have heard or seen. It is important for police officers to be discreet when interviewing neighbours to avoid exposing them to violence, and infringing the survivor's rights to privacy
- When police officers manage to enter the dwelling to talk to and/or see the victim, it is important for them to make a general assessment of the risk to the victim's physical safety
- They should establish whether the victim is hurt or in a state of shock, depression, whether items of furniture or objects are broken and whether there are weapons on the premises
- Police officers should interview the victim separately from the assailant, and gather evidence in the process

6.5. Responsibilities of police towards girl (child) victims of crime



There are special measures to be taken into consideration when you work with children who are victims of crime:

- The right to protection: this includes the protection of children from secondary abuse/ victimisation, neglect, and exploitation
- The right to special care for refugee children and those who may have been tortured

- The protection of juvenile delinquents from abuse, which includes holding them in a safe area apart from adults who have been arrested
- The right to protection from participating in armed conflicts, child labour, sexual abuse, exploitation and drug abuse
- Remember that when dealing with children you should treat them as such, bearing in mind the United Nations guidelines for dealing with children, either as victims of crime or as perpetrators
- Be respectful, attentive, empathetic, calm and patient
- Conduct all interviews in a place where the child feels comfortable and safe
- Avoid divulging the identity of the child victim to those not involved in any way in the investigation of the case
- Ensure that the child victim understand in their own language the process being followed by the police
- Identify and ensure that the relevant parents, guardians, or social workers are called and are present at the police interview

6.6. Tips for police to assist victims of crime

- Be impartial, polite, respectful and helpful to all victims
- Be on time for appointments with victims
- Assist victims to lay a charge at your station regardless of the jurisdiction of the case
- Visit the scene of the crime as soon as possible
- Keep victims informed of the action you are going to take and the progress of the case
- Show empathy and be patient
- Be sensitive
- Be sure that the needs of victims are attended to
- Avoid being judgemental or making humiliating remarks



- Avoid interviewing victims in full view of the public or in a manner that will make them uncomfortable

6.7. The role of outside service providers in medical assistance

The police in every police station should identify community health services or community health care workers in its vicinity to be used when a victim needs medical attention, counselling or assistance. It is important that the police and outside service providers work together in supporting victims.

6.7.1. The role of the community health care worker

- Provide emergency health care services
- Assess immediate safety needs
- Identify suspicious physical and emotional injuries
- Examine the client
- Take adequate medical records
- Advise and refer the survivor to other support structures
- Present medical evidence in court

6.7.2. Role of the accredited health care practitioner

- Initially provide treatment, and collect medico-legal evidence that can be used in court
- Inform the victim of their rights
- Refer the victim to other resources. Note that the police may be the victim's first point of reference.

6.7.3. The role of counsellors

The goal of professional counselling is to provide the client with a safe space where she can be supported, feel protected, regain her composure, and talk about her problems in a non-judgemental setting where the listener has no personal stake in her decisions. The counsellor is only concerned with the well-being and progress of the client. In this setting, the client has the right to self-determination and the freedom to make her own choices regardless of whether the counsellor approves or disapproves of the choice. Counselling also provides a place where feelings of rage, anger, and helplessness can be safely vented and worked through outside the realm of family and friends.

6.8. Safety plans

6.8.1. The purpose and importance of safety plans

Due to the impact of power-based crimes on the victim, it is important for the police officer to carefully determine the victim's needs. Safety planning is a significant aspect of case handling and management. Inadequate preparation may result in different forms of re-victimisation and even death of a victim.

The reality of each complainant and her circumstances are important to consider. For example, take into account environmental factors:

- level of police response
- availability and proximity of support systems
- endeavour to sensitise the community and family on how to handle and ensure the safety of the survivor
- know the perpetrator's whereabouts, and the role of the relevant community organisations

6.8.2. Components of an effective safety plan

Avoid assuming that you know the full extent and impact of the violence:

- The interview may not have revealed all information
- The full scale of violence may be revealed only after a period of time, depending on individual levels of trust
- Complainants may still be suffering from the impact of abuse

Help the victim identify her own safety needs in the case of adult women and present her with additional options where applicable. In the case of a child and determine whether

they can shed light on what their safety needs are. Children require more consideration, as they may not be in a position to trust anyone. A safety plan must be drawn up by an officer who is knowledgeable, or someone qualified about legal remedies and social services available for victims of violence.

Every police station should have a readily available manual containing resource information about other service providers, including counselling services

Activity: Reflections & Self-Evaluation

Explain the role of police when dealing with women and girl victims of violence

What steps can police officials take to ensure the safety of women and girl victims of violence?

Discuss the role of outside service providers (community health workers, medical practitioners and councillors in medical assistance to victims

Why is it important for police to have a safety plan for victims of violence?

Describe the elements of a good safety plan

Chapter 7

Inter-agency collaboration and support

7.1. Introduction

Police are not in a position to deal with all the aspects of violence against women and girls. To be effective in meeting the needs of victims, offenders, and communities, police need to collaborate with key stakeholders such as the prosecution services, courts, prisons, healthcare, social service providers, NGOs, civil society, national and local government as well as local community groups and religious leaders. Each of these stakeholders can help support victims and ensure their ongoing protection. Hence, it is important that there is cooperation between these key stakeholders, which aims to support the needs of the victims and combat violence against women and girls. These stakeholders also play a role in restorative justice by helping offenders learn from their actions and successfully reintegrate into the community.

It is important for the police to work with key stakeholders to raise the status of tackling violence against women and girls as a community issue. Combating violence against women and girls is a vital area of policing.

This chapter we will discuss interagency collaboration and support.



7.2. Understanding the role of the different stakeholders

Each stakeholder has something to offer in responding to the needs to victims, witnesses and offenders. Successful co-operation between all the relevant organisations who deal with violence against women and girls requires an understanding and acceptance of the differing goals and roles of each other. It is vital that police officers understand this factor and build relationships based on trust.

A clear separation between criminal investigation on the one hand and psychological and social welfare services on the other is required.

Good cooperation does exist in many places between police and the support agencies because both sides recognise the value of the other and their mutual inter-dependency in the most appropriate treatment of victims.

7.3. Identifying other stakeholders and establishing relationships

In an effort to be proactive about prevention of violence against women and girls, the police will need to take a leading role in developing multi-disciplinary approaches that involve other players:

- Law courts
- Criminal justice agencies (outside of the police)
- Communities
- Health institutions
- Schools
- Civic groups such as temples
- Youth groups
- Women's organisations
- Local businesses
- Non-governmental organisations (NGOs) that offer counselling and/or support services
- Media

There are many stakeholders who can help prevent violence against women and girls. Many potential partners have funding that can contribute to partnerships, or are willing to provide services on a volunteer basis. The media should be a strategic partner in propagating the policy of zero-tolerance for violence against women and girls. Local media, such as national/regional newspapers and radio stations, are often eager to devote space or airtime

to community initiatives.

7.4. A partnership approach

The needs of victims and the range of support measures to address their needs are complex and resource intensive. These needs sit outside the remit or expertise of the law enforcement agencies. Therefore, in order to provide humanitarian assistance to victims of violence, it is crucial that the law enforcement agencies and the victim support agencies work in co-operation with each other.

Together, multi-agency partnerships can be formed to develop appropriate community-based intervention strategies. Within this integrated approach, further specialised training for all involved parties who deal with victims and perpetrators should be a priority. The coordinated approach must be clear about levels of intervention.

The aim of intervention is about protecting victims, helping them deal with the effects of violence, and aiding them to reintegrate into society. It should also help to stop the immediate violence and hold abusers accountable for their crimes.

However, multi-agency relationships can be a sensitive and require flexibility as well as good will on both sides. It is important that each partner understands the remit and constraints of the work they each do.

Good partnerships are based on some of the following principles:

- Police and other service providers should meet on a regular basis in order to understand each other's role in supporting the needs of victims, offenders, the communities and even the needs of the police
- A list of all the support agencies with contact numbers and contact persons should be developed and provided to all police stations, and kept up to date
- Partnerships develop cooperation protocols or guidelines that can enable the sharing of information, coordinated efforts and shared training opportunities
- Ensure that each partner has an internal coordinator who promotes the protection of women and girls, and inter-agency collaboration, which in turn is supported by a coordinator within the police
- Create a regional call centre or helpline that is available to victims, police and other service providers, that helps disseminate information on policy and protocols, and how best to access local services that support victims and professionals. All the service providers should coordinate and work together in these call centres.

- It is important that all partners recognise and acknowledge their mutual inter-dependency and the benefits available for closer co-operation
- Shared aims and objectives on dealing with violence against women and girls

From the perspective of the victim support agencies, they are reliant upon the legal powers and capacity of the law enforcement agencies for interventions to rescue victims and to investigate and prosecute the cases of violence against women.

Police officers are reliant upon victim support agencies for the delivery of the support measures that are fundamental to ensuring appropriate and humanitarian treatment. In India there are a number of governmental and non-governmental victim support agencies that provide a range of support measures for women and girl victims of violence. Some of support measures that may be available are as follows:

- Provision of shelter accommodation
- Immediate health care assessment and treatment
- Psychological assessment and counselling
- Interpretation of procedures in the first language of the victim
- Legal advice and support

7.5. Partners supporting women and girl victims of violence

The Indian Police cannot address violence against women and girls alone. The police do not have enough specialised staff or resources to do all that is required to help victims and witnesses. Hence, it is important to consider whether other government or community groups can help by providing essential services, such as counselling and other support for victims.

To ensure that victims get all the help that they need, a National Referral Protocol on Gender Based Violence should be agreed upon by the Indian Police and other stakeholders such as relevant government ministries, NGOs and others. These guidelines set out who should do what, and how everyone should cooperate.

In order to be able to make appropriate referrals, the Indian Police should keep an updated contact list of all referral options available within their district (and State). Having knowledge about which other agencies/organisations provide services to victims can bring many advantages to the victim as well as to the work of the Indian Police.

SGBV Victim Protection Partners	
Welfare Officers	<ul style="list-style-type: none"> ○ Accompany and advise victims during the investigation and trial process ○ Transportation support for victims to attend court sessions, police stations to make statements or follow ups, hospitals for medical and other purposes ○ Provide counselling services for victims ○ Arrange for temporary shelter ○ Family tracing and reunification ○ Family mediation ○ Referral for legal, medical, educational services and provision of skills training
Medial authorities Hospitals / health centres/ Doctors/ Nurses / Psychological Service	<ul style="list-style-type: none"> ○ Free medical treatment, forensic medical exam and medical certificate, psychological service
Shelters Government and NGO shelters	<ul style="list-style-type: none"> ○ Temporary safe shelter ○ Counselling services ○ Medical treatment and medical certificates ○ Legal advice
Judiciary Lawyers and paralegals	<ul style="list-style-type: none"> ○ Advise victims of their rights and assist victims to file applications for protection orders ○ Some NGO lawyers and paralegals provide free legal advice and representation for SGBV victims
NGOs	<ul style="list-style-type: none"> ○ Provide counselling and other support services to victims
Prosecutors	<ul style="list-style-type: none"> ○ Advise on what crime, if any, should be charged ○ Prosecute serious cases in court
Protection officers	<ul style="list-style-type: none"> ○ Provide guidance on the court process
Rape Crisis Information Centres (RCIC)	<ul style="list-style-type: none"> ○ Provide access to vital information and support for rape victims
Media	<ul style="list-style-type: none"> ○ Informing and educating the public

Activity: Reflections & Self-Evaluation

Which organisations do you already work with in the area of violence against women & girls?

Discuss why it is important for police and other agencies to work together in dealing with all aspects of violence against women.

Explain how police and other agencies can cooperate in dealing with cases of violence against women.

Joint training on the role of their different roles should be provided for both police and aid agencies. Discuss how best this could be done and continued.

Chapter 8

Prevention and Proactive Policing

8.1. Introduction

Most police activities are reactive and respond to complaints. It is however important for police to also be pro-active in dealing with violence against women and girls. The police are in a unique position to not only fight crime but to educate the community and try to prevent violence before it happens. The Indian Police have an obligation to honour relevant international instruments that outlaw all forms of violence against women and girls. In addition, the police are there to protect and respect the rights of the people they deal with whilst ensuring basic human rights.



8.2. Working with communities to prevent violence against women and girls

When the police work closely with the community to prevent and investigate crime they become better placed to protect and serve. This is also beneficial to the community as they can ensure that the police act in a professional and transparent way, whilst respecting and protecting basic human rights in fulfilling their duties.

There are various ways the police can work with their communities: for example policing forums to education and outreach programmes. Police officers can perform different functions and be more pro-active in dealing with crime by:

- Helping and educating the community to understand how they can deal with violence against women and girls, and how to work together with the police to try and stop the cycle of violence in the community
- Building trust with the community by putting forward a friendly face to represent the criminal justice system
- By dealing with victims in a professional and appropriate manner while respecting

their basic human rights

- Dealing with perpetrators in a strict and professional way
- By explaining and educating the community on how the criminal justice system works when dealing with perpetrators of violence against women and girls

How the police behave in the community concerning issues surrounding violence against women and girls plays a huge role in what happens inside people's homes and on the streets. *Police officers are key role models in their community.* If a police officer on duty ignores sexual harassment on the street, or they imply to the harasser that it is safe to continue with impunity, it condones the behaviour. However, if the police officer stops and addresses the behaviour as a form of abuse against the victim and takes appropriate measures against the harasser, it will contribute to a culture of non-tolerance for such activities in the future. Other people in the community, who may have been afraid to speak out or help victims in the past, will feel able to come forward. Community members will feel more confident about coming forward if they know the criminal justice system supports them and that the police understands their victimisation.

The police are key enablers of building confidence across their community in people coming forward to report violence against women and girls.

8.3. Identifying problems in the community

It is important for police and members of the community to work together to identify core problems in their community. In doing so, they will be able to understand the causes of these problems and work together in partnership to find solutions and remedies.

8.3.1. Identifying gaps in current strategies and methods

It is important for the police to continually revisit their operational strategies to ensure that they are still relevant and effective in dealing with violence against women and girls. Practically speaking, there may be many ways in which police officers can improve on current procedures to address rising levels of violence against women and girls in their communities. Sometimes, this may mean that more victims are coming forward to report crimes against them, which is a positive outcome.

Each community will deal with violence against women and girls in its own way. However, it is important that there is constant focus and review of how the police in their community respond to violence against women and girls. For example, without education and outreach,

domestic violence is difficult to police, as it's a particularly hidden crime. In such cases, an additional strategy would be for the police to work with other stakeholders in the community to educate citizens: for example about the causes of domestic violence, signs of this being an issue to spousal homicide.

8.3.2. Identifying available resources

Resources for tackling and combating violence against women and girls are scarce. However, communities and criminal justice agencies have utilised limited resources to great effect and there is some excellent work that has been undertaken by dedicated stakeholders. A couple of examples of “low-cost” initiatives are provided below:

- The use of police statistics and data:
 - Police collate extensive information about crime – this is often done as part of their duties as an officer. However, some of this information isn't utilised: for example, some crime statistics are collected on violence against women and girls, but never analysed. One officer could be designated as part of their work to look for trends in these statistics, which may identify key trends and patterns that could inform police practice. Utilising materials and resources creatively could lead to more appropriate and focused policing of violence against women and girls.
- Professional development of police officers:
 - A skills audit of police officer may uncover a number of key attributes of individual police officers that could be utilised. For example, an officer who is experienced in public speaking may spend all of their time behind a desk. However, some of their work schedule could be rearranged so they could undertake public talks in schools about violence against women and girls.

Sometimes resources are under one's nose, and don't always mean more money or more time; but merely require a different perspective and creative approach. This can be achieved by mind mapping the issue. It is also important to work with other organisations who are able to assist the police with their resources, e.g. other criminal justice agencies, shelters, social workers, volunteers and NGOs for instance.

8.3.3. Collecting and analysing information about crime patterns

There are various ways of collecting and analysing information about crime patterns:

- Reactive approach: keeping a track of the number and type of cases, and then filing them away. New cases are simply added to the file without review.
- Proactive approach: is to look for trends on a regular basis in reported cases and

analyse the information, together with information from neighbouring districts. Trends can show where resources need to be directed and what types of crimes are troubling the community.

Even if the capability to gather and analyse large amounts of information is not present, knowing about the types of crimes in a specific area and being willing to work on solutions is a good first step.

8.4. Generating crime prevention plans

Crime prevention plans help police become part of the solution. A crime prevention plan:

- Identifies a particular problem
- Analyses the extent of the problem
- Locates resources to address the problem
- Defines a police strategy to work towards eliminating the problem

Every officer, at every level, can participate but the plans should have the backing of the station commander or officer in charge.

How to Make a Crime Prevention Plan	
1. Define the problem	<ul style="list-style-type: none">○ Make the problem something specific, such as the high rate of complaints from women about harassment in a specific neighbourhood○ The problem statement should be extremely specific, focusing on a small geographical area or a particular type of violence in a community
2. Identify gaps in the current strategy and method	<ul style="list-style-type: none">○ Do you have statistics that you are not using? Allocate some time to compiling case information to look for patterns in complaints and crimes○ Look for locations that have higher rates of crime than others, similar crimes being committed in a particular area, or resource problems such as a lack of lighting in public spaces
3. Identify available resources	<ul style="list-style-type: none">○ This doesn't necessarily imply the need for more resources, but perhaps just a re-allocation of existing ones○ Be creative: this does not necessarily mean you need more money or more time, but perhaps a different allocation of the

	existing money and time. Do people at your station have skills that are not being used? Can you re-configure your patrol routes to cover areas with higher crime rates?
4. Generate a plan	<ul style="list-style-type: none"> ○ Identify talented staff members who are being under-utilised. Set aside an hour, twice a week, to monitor crime statistics. Enlist community members or other service providers such as NGOs as volunteers. ○ State your plan in the simplest possible terms. Important components are: <ul style="list-style-type: none"> ○ Who is involved? ○ What steps will they take? ○ What resources will be used (vehicles, working hours, etc.)? ○ What is the envisaged timeframe for the plan (one month, one year)?
5. Share the plan with the relevant role players and get them on board	Communicate the strategy and ensure that everyone involved understands what is expected
6. Monitor results	Keep track of whether the strategy is helping to alleviate the problem. Consult with participating officers and the community, if appropriate, to determine whether the plan is succeeding or whether and how it might need adjustment.

8.5. Public education and outreach

Police should be involved in educating the community about violence against women and girls through training and outreach programmes.

8.5.1. Encourage people to report crimes

There are many ways to encourage crime reporting. Some districts or police stations have special toll-free hot lines to report different types of crimes.

- **Help line:** A specific phone number for women and girl victims of violence. If the help line widely available to victims, it will provide an emotionally and physically safer way for them to contact police.

Women's Helpline (all India) 1091 /1090
Child Helpline 1098

Providing more education and outreach will increase reporting because community members, including children, will begin to recognise specific officers and see them as people who empathise with their problems.

The most important aspect of encouraging people to report is for them to participate and identify with their community. Furthermore, it is important to dispel myths, not only about indifferent police services, but also about violence against women and girls. It is important to encourage neighbours and community members to call the police or to intervene when they see or hear violence around them.

8.5.2. Raising awareness about violence against women and girls

Promoting positive discourses about women and girls, and their rights is important to ensuring equality and justice for victims of violence. There are a number of ways that the police and community can raise awareness about violence against women and girls.

Police at all levels could participate in activities such as:

- International Women's Day (8 March)
- 16 Days of Action on Violence against Women and Children which is a worldwide action between 25 November and 10 December each year
- International Day of Zero Tolerance to Female Genital Mutilation (6 Feb)
- International Day of Families (15 May)
- International Day for the Elimination of Sexual Violence in Conflict (19 June)
- International Day of the Girl Child (11 Oct)
- International Day of Rural Women (15 Oct)
- International Day for the Elimination of Violence Against Women (25 Nov)
- International Human Rights Day (10 Dec)



All the above days could be utilised by the police to promote events with positive messages combating violence against women and girls. For example, public talks at schools will help children and the young people to build trust with the police when it comes to reporting crimes. It will also set an example for potential perpetrators that violence against women and girls is a punishable offence that will be prosecuted.

Neighbourhood and women's groups as well as men's forums are also good places to raise awareness. Forums and venues where communities can regularly discuss crime in their areas, allow the police to communicate trends and concerns as well as educate people. Such opportunities allow citizens to inform the police about their experiences with crime and reporting. Local media can also play an important role in this regard.

8.5.3. Establish community programmes

Community programmes that encourage citizens to work with the police on stamping out violence against women and girls are good ways to use partnerships to stop crime. The police are often understaffed and under-resourced. However, communities that have been educated about combating crimes against women and girls and have many willing participants in programmes that empower them to report violence and obtain help from the police. From the police perspective, putting an end to violence becomes easier with the help of hundreds of additional '*eyes and ears*'.

Prevention of violence towards women and girls, takes many forms and can involve many key stakeholders. Programmes can be implemented to prevent forms of violence or to prevent further victimisation and a potential escalation of force, or of communities taking the law into their own hands. For example, prevention can include:

- Mainstreaming of gender issues in national and local policy, legislative reform and institutional practices
- Promoting a culture that does not tolerate violence against women or girls
- Mobilising communities, NGOs and civil society to take coordinated action that helps prevent violence and offers support to victims and their families
- Addressing factors within the family, the community and the nation that can lead to violence, such as lack of communication and conflict-resolution skills, poverty, alcohol and drug abuse, illiteracy, homelessness, unemployment and a lack of access to police and to the justice system
- Implementing broad-based community education programmes that highlight the issues of violence, using media, government programmes, civil society, religious groups and community leaders to target both potential victims and offenders, in addition to the larger community
- Adopting police policy that directs police to always respond to an alleged act of violence towards women and girls, and to make arrests where evidence permits
- Adopting a prosecution policy that directs that all charges involving violence towards women and girls are promptly acted upon

- Consistent application of police and court policies designed to protect women and girls
- Specialised genders sensitisation training and development for justice system professionals such as police officers
- The executive and judiciary creating new public policy, in cooperation with communities, to enhance systems that respond to victims of violence
- Creation of specialised police teams that focus specifically on violence against women and girls
- Opening a neighbourhood community police station in order to make the police more accessible
- The appointment of specialised victim service workers attached to police offices
- The appointment of specialised victim service workers attached to the court
- Police and social service agencies working with victims to develop personal safety plans that help mitigate the risk of future incidents
- Police using specialised tools and training, conducting risk assessments to help determine the likelihood and potential severity of future attacks on a woman and girls who has already been a victim of violence
- Dedicated shelters for women and girls who have been attacked
- The implementation of a specialised victim examination and treatment centre, with female staff at a local hospital
- Community legal education programmes and centres that promote awareness of rights and legal remedies
- Conducting local and national surveys and reviews of existing data to identify factors that lead to violence against women and girls, and then developing public policy and strategic plans to address such factors
- Establishing standards and mechanisms for collecting relevant statistical data on violence against women and girls
- Annually monitoring crime statistics related solely to victimisation of women and girls so that policy, practice and resources can best be applied
- Working together with academic researchers on violence against women and girls

- Like many forms of cultural change, equal parts of encouragement and sanction are required
- The engagement of people and communities needs to be encouraged. There needs to be visible consequences for those who act contrary to a culture of lawfulness. This includes holding men and women who abuse women accountable for their action.

8.6. Conclusion

The effects of violence against women and girls are numerous. Research has found that it is one of the major deterrents to development in communities. Hence, there is a need to implement a range of preventative measures and actions across communities to end the violence against women and girls. The police are key to this endeavour. Public education and outreach programmes are very helpful in this regard. All police officers involved in the fight against women and girl abuse should have a keen interest and foster appreciation for the need to take preventative measures.

Reflections and Self-Evaluation

Why should police be proactive about violence against women and girls?

Describe three attainable steps you will take to improve your station's work on policing violence against women and girls. These should be things you can accomplish without higher approval.

Identify whether your police service has an internal policy on gender equality or sexual harassment. If so how does this work in practice?

Appendices

Appendix 1: Types of Violence and Abuse

Source: <http://www.gov.nl.ca/VPI/types/>

Types of Violence and Abuse		
Physical Violence Physical violence occurs when someone uses a part of their body or an object to control a person's actions.	Sexual Violence Sexual violence occurs when a person is forced to unwillingly take part in sexual activity.	Emotional Violence Emotional violence occurs when someone says or does something to make a person feel stupid or worthless.
Psychological Violence Psychological violence occurs when someone uses threats and causes fear in an individual to gain control.	Spiritual Violence Spiritual (or religious) violence occurs when someone uses an individual's spiritual beliefs to manipulate, dominate or control that person.	Cultural Violence Cultural violence occurs when an individual is harmed as a result of practices that are part of her or his culture, religion or tradition.
Verbal Abuse Verbal abuse occurs when someone uses language, whether spoken or written, to cause harm to an individual.	Financial Abuse Financial abuse occurs when someone controls an individual's financial resources without the person's consent or misuses those resources.	Neglect Neglect occurs when someone has the responsibility to provide care or assistance for an individual but does not.

Appendix 2: Human Trafficking

The United Nation's Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), which supplements the United Nations Convention against Transnational Organized Crime defines trafficking in persons as follow:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payment or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in person to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in person: even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) "Child" shall mean any person under eighteen years of age

Defined in the 2000 *Palermo Protocol* against trafficking, supplementing the United Nations *Convention against Transnational Organized Crime*, it is the element of coerced consent (though the issue of 'consent' is not relevant when referring to trafficked children) which differentiates the act of trafficking from illegal immigration. The smuggling of migrants, while often undertaken in dangerous or degrading conditions, involves migrants who have consented to the smuggling. Trafficking victims, on the other hand, have either never consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers.

Smuggling is always transnational, whereas trafficking may not be. Smuggling ends when the person arrives in the destination country. Trafficking can occur regardless of whether victims are taken to another country or only moved from one place to another within the same country.

News reports on trafficking in India:

<http://www.womenundersiegeproject.org/blog/entry/silent-slaves-stories-of-human-trafficking-in-india>

<https://www.theguardian.com/global-development/2015/apr/28/child-trafficking-india-domestic-labour-chhattisgarh>

Appendix 3: India's Legal Framework

The Constitution of India

The Constitution of India is the supreme law of India. It lays down the framework defining fundamental political principles, establishes the structure, procedures, powers and duties of government institutions and sets out fundamental rights, directive principles and the duties of citizens. It is the longest written constitution of any sovereign country in the world. The nation is governed by it. B. R. Ambedkar is regarded as its chief architect.

It imparts constitutional supremacy and not parliamentary supremacy, as it is not created by the Parliament but by a constituent assembly, and adopted by its people, with a declaration in its preamble. Parliament cannot override the constitution.

It was adopted by the Constituent Assembly on 26 November 1949, and came into effect on 26 January 1950. With its adoption, the Union of India became the modern and contemporary Republic of India replacing the Government of India Act, 1935 as the country's fundamental governing document. To ensure constitutional autochthony, the framers of the constitution repealed the prior Acts of the British Parliament via Article 395 of the constitution. India celebrates its coming into force on 26 January each year, as Republic Day.

It declares India a sovereign, socialist, secular, democratic republic, assuring its citizens of justice, equality, and liberty, and endeavours to promote fraternity among them.

Article 14: Equality before Law

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India"

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

"(3) Nothing in this article shall prevent the State from making special provision for women and children."

Sources:

<https://india.gov.in/my-government/constitution-india/constitution-india-full-text>

https://india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf

The Child Labour (Prohibition and Regulation) Act, 1986

This bill intends to ban the employment of children, i.e. those who have not completed their fourteenth year, in specified occupations and processes; lay down a procedure to decide

modifications to the schedule of banned occupations or processes; regulate the conditions of work of children in employments where they are not prohibited from working; lay down enhanced penalties for employment of children in violation of the provisions of this Act, and other Acts which forbid the employment of children; to obtain uniformity in the definition of "child" in the related laws.

"No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule."

"(ii) "child" means a person who has not completed his fourteenth year of age"

"Part A - Occupations - An occupation connected with - (1) Transport of passengers goods or mails by railway; (2) Cinder picking; (3) Work in a catering establishment at a railway station; (4) Work relating to the construction of a railway station or in close proximity to or between railway lines; (5) A port authority within the limits of any port; (6) Work relating to selling of crackers and fireworks; (7) Abattoirs, slaughter houses; (8) Automobile workshop and garages; (9) Foundries; (10) Handling toxic, inflammable substances or explosives; (11) Handloom and powerloom industry; (12) Mines and collieries; (13) Plastic units and fibreglass workshops; (14) Domestic workers or servants; (15) Road side eateries, restaurants, hotels, motels, tea shops, resorts, spas or other recreational centres; (16) Driving; (17) Circus; (18) Caring of elephants."

Part B also includes an expansive list of processes that children are not permitted to be employed for including bidi-making, carpet-weaving and cloth printing.

Source: http://labour.gov.in/sites/default/files/act_3.pdf

Child Marriage Restraint Act 1929

Child Marriage Restraint Act 1929, passed on 28 September 1929 in the British India Legislature of India, fixed the age of marriage for girls at 14 years and boys at 18 years which was later amended to 18 for girls and 21 for boys. It is popularly known as the Sarda Act, after its sponsor Harbilas Sarda. It came into effect six months later on April 1, 1930 and it applies to all of British India, not just to Hindus. It was a result of social reform movement in India. The legislation was passed by the British Indian Government.

Detailed further in the Prohibition of Child Marriage Act, 2006.

Source: <http://wcdhry.gov.in/ChildRestraintAct.pdf>

The Criminal Law (Amendment) Act, 2013

The Criminal Law (Amendment) Act, 2013 is an Indian legislation passed by the Lok Sabha on 19 March 2013, and by the Rajya Sabha on 21 March 2013, which provides for amendment of Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure, 1973 on laws related to sexual offences. The Bill received Presidential assent on 2 April 2013 and came into force from 3 April 2013. It was originally an Ordinance promulgated by the President of India, Pranab Mukherjee, on 3 April 2013, in light of the protests in the 2012 Delhi gang rape case.

This new Act has expressly recognised certain acts as offences which were dealt under related laws. These new offences like, acid attack, sexual harassment, voyeurism, stalking have been incorporated into the Indian Penal Code

The most important change that has been made is the change in definition of rape under IPC. Although the Ordinance sought to change the word *rape* to sexual assault, in the Act the word 'rape' has been retained in Section 375, and was extended to include acts in addition to vaginal penetration. The definition is broadly worded with acts like penetration of penis, or any object or any part of body to any extent, into the vagina, mouth, urethra or anus of another person or making another person do so, apply of mouth or touching private parts constitutes the offence of sexual assault. The section has also clarified that penetration means "penetration to any extent", and lack of physical resistance is immaterial for constituting an offence.

A new section, 376A has been added which states that if a person committing the offence of sexual assault, "inflicts an injury which causes the death of the person or causes the person to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean the remainder of that person's natural life, or with death." In case of "gang rape", persons involved regardless of their gender shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life and shall pay compensation to the victim which shall be reasonable to meet the medical expenses and rehabilitation of the victim. The age of consent in India has been increased to 18 years, which means any sexual activity irrespective of presence of consent with a woman below the age of 18 will constitute statutory rape.

Source: <http://indiacode.nic.in/acts-in-pdf/132013.pdf>

The Dowry Prohibition Act, 1961

The Dowry Prohibition Act, 1961 consolidated the anti-dowry laws which had been passed on certain states. This legislation provides for a penalty in section 3 if any person gives, takes or abets giving or receiving of dowry.

"Definition of 'dowry'.- In this act, 'dowry' means any property or valuable security given or agreed to be given either directly or indirectly -

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;

at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies."

"Penalty for giving or taking dowry.- (1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with the fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more."

"Penalty for demanding dowry.- If any person demands directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which may extend to ten thousand rupees."

Source: <https://india.gov.in/dowry-prohibition-act-1961>

The Indecent Representation of Women (Prohibition) Act, 1986

The Indecent Representation of Women (Prohibition) Act, 1986 an Act of the Parliament of India which was enacted to prohibit indecent representation of women through advertisement or in publications, writings, paintings, figures or in any other manner.

"Definitions.- In this Act, unless the context otherwise requires,- "advertisement" includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas;

"distribution" includes distribution by way of samples whether free or otherwise;

"indecent representation of women" means the depiction in any manner of the figure of a woman; her form or body or any part thereof in such way as to have the effect of being indecent, or derogatory to, or denigrating women, or is likely to deprave, corrupt or injure the public morality or morals;

"label" means any written, marked, stamped, printed or graphic matter, affixed to, or appearing upon, any package;

"package" includes a box, a carton, tin or other container;"

"3.Prohibition of advertisements containing indecent representation of Women.- No person shall publish, or cause to be published, or arrange or take part in the publication or exhibition of, any advertisement which contains indecent representation of women in any form."

"4.Prohibition of publication or sending by post of books, pamphlets, etc; containing indecent representation of women.- No person shall produce or cause to be produced, sell , let to hire, distribute, circulate or send by post any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph , representation or figure which contains indecent representation of women in any form."

"6.Penalty.- Any person who contravenes the provisions of Sec 3 or Sec 4 shall be punishable on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and in the event of a second or subsequent conviction with imprisonment for term of not less than six months but which may extend to five years and also with a fine not less than ten thousand rupees but which may extend to one lakh rupees."

Source: <https://india.gov.in/indecent-representation-women-prohibition-act-1986>

The Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015 is the primary legal framework for juvenile justice in India. The act provides for a special approach towards the prevention and treatment of juvenile delinquency and provides a framework for the protection, treatment and rehabilitation of children in the purview of the juvenile justice system.

It aims to replace the existing Indian juvenile delinquency law, Juvenile Justice (Care and Protection of Children) Act, 2000, so that juveniles in conflict with Law in the age group of 16–18, involved in Heinous Offences, can be tried as adults. The Act came into force from 15 January 2016.

The act was updated after the infamous 2012 gang rape case since one of the accused was only a few months away from being 18.

"(12) "child" means a person who has not completed eighteen years of age;"

"(13) "child in conflict with law" means a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence;"

"(14) "child in need of care and protection" means a child— (i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or (ii) who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or (iii) who resides with a person (whether a guardian of the child or not) and such person— (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or (iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or (v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or (vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or (vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking."

Source: http://www.trackthemissingchild.gov.in/trackchild/readwrite/JJAct_2015.pdf

The Juvenile Justice (Care and Protection of Children) Amendment Act, 2011

"3. Substitution of new section for section 58.—For section 58 of the principal Act, the following section shall be substituted, namely:—'58. (1) Where it appears to the competent authority that any juvenile or child kept in a special home or an observation home or a children's home or a shelter home or in an institution in pursuance of this Act, is a mentally ill person or addicted to alcohol or other drugs which lead to behavioural changes in a person, the competent authority may order his removal to a psychiatric hospital or psychiatric nursing home in accordance with the provisions of the Mental Health Act, 1987 (14 of 1987) or the rules made thereunder.(2) In case the juvenile or child had been removed to a psychiatric hospital or psychiatric nursing home under sub-section (1), the competent authority may, on the basis of the advice given in the certificate of discharge of the psychiatric hospital or psychiatric nursing home, order to remove such juvenile or child to an Integrated Rehabilitation Centre for Addicts or similar centres maintained by the State Government for mentally ill persons (including the persons addicted to any narcotic drug or psychotropic substance) and such removal shall be only for the period required for the in-patient treatment of such juvenile or child."

Source: <http://www.indiacode.nic.in/rspaging.asp?tfnm=201112>

The Prohibition of Child Marriage Act, 2006

The object of the Act is to prohibit solemnization of child marriage and connected and incidental matters. To ensure that child marriage is eradicated from within the society, the Government of India enacted Prevention of Child marriage Act 2006 by replacing the earlier legislation of Child Marriage Restraint Act 1929. This new Act is armed with enabling provisions to prohibit for child marriage, protect and provide relief to victim and enhance punishment for those who abet, promote or solemnize such marriage. This Act also calls appointment of Child Marriage Prohibition Officer for implementing this Act.

"(a) "child" means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age;"

"(b) "child marriage" means a marriage to which either of the contracting parties is a child;"

"(c) "contracting party", in relation to a marriage, means either of the parties whose marriage is or is about to be thereby solemnised"

"(1) Every child marriage, whether solemnised before or after the commencement of this Act, shall be voidable at the option of the contracting party who was a child at the time of the marriage: Provided that a petition for annulling a child marriage by a decree of nullity may be filed in the district court only by a contracting party to the marriage who was a child at the time of the marriage. (2) If at the time of filing a petition, the petitioner is a minor, the petition may be filed through his or her guardian or next friend along with the Child Marriage Prohibition Officer."

"4. Provision for maintenance and residence to female contracting party to child marriage. - (1) While granting a decree under section 3, the district court may also make an interim or final order directing the male contracting party to the child marriage, and in case the male contracting party to such marriage is a minor, his parent or guardian to pay maintenance to the female contracting party to the marriage until her remarriage."

Source: <http://indiacode.nic.in/rspaging.asp?tfnm=200706>

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

The Act provides for a variety of offenses under which an accused can be punished. It recognizes forms of penetration other than peno-vaginal penetration and criminalizes acts

of immodesty against children too. It also provides for various procedural reforms, making the tiring process of trial in India considerably easier for children. The Act has been criticized as its provisions seem to criminalize consensual sexual intercourse between two people below the age of 18.

"2. Penetrative sexual assault. A person is said to commit "penetrative sexual assault" if (a) he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person; or (b) he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or (c) he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or (d) he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person."

Source: <http://www.indiacode.nic.in/rspaging.asp?tfnm=201232>

The Protection of Women from Domestic Violence Act 2005

The Protection of Women from Domestic Violence Act 2005 is an Act of the Parliament of India enacted to protect women from domestic violence. It was brought into force by the Indian government from 26 October 2006. The Act provides for the first time in Indian law a definition of "domestic violence", with this definition being broad and including not only physical violence, but also other forms of violence such as emotional/verbal, sexual, and economic abuse. It is a civil law meant primarily for protection orders and not meant to penalize criminally.

"An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto."

"3. Definition of domestic violence.- For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it -(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person."

" For the purposes of this section,- (i) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;"

"(ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;"

"(iii) "verbal and emotional abuse" includes-(a) insults, ridicule, humiliation, name calling and insults or ridicule especially with regard to not having a child or a male child; and(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested."

"(iv) "economic abuse" includes-(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household."

Source: <https://india.gov.in/protection-women-domestic-violence-act-2005-1>

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a legislative act that seeks to protect women from sexual harassment at their place of work. The Act came into force from 9 December 2013. This statute superseded the Vishakha Guidelines for prevention of sexual harassment introduced by the Supreme Court of India.

The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges. The Act also covers concepts of 'quid pro quo harassment' and 'hostile work environment' as forms of sexual harassment if it occurs in connection with an act or behaviour of sexual harassment. The definition of "aggrieved woman", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the

organised or unorganised sectors, public or private and covers clients, customers and domestic workers as well.

While the "workplace" in the Vishaka Guidelines is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organisations, department, office, branch unit etc. in the public and private sector, organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation. Even non-traditional workplaces which involve tele-commuting will get covered under this law.

"An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto."

"(a) "aggrieved woman" means - (i) in relation to a workplace, a woman of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;"

"(n) "sexual harassment" includes any one or more of the following unwelcome acts or behaviors (whether directly or by implication) namely: - (i) physical contact and advances; or (ii) a demand or request for sexual favours; or (iii) making sexually coloured remarks; or (iv) showing pornography; or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;"

Source: <http://indiacode.nic.in/acts-in-pdf/142013.pdf>

Appendix 4: Delhi Witness Protection Scheme 2015

Useful articles about the Delhi Witness Protection Scheme

<http://indianexpress.com/article/cities/delhi/delhi-government-notifies-witness-protection-programme/>

<https://thelogicalindian.com/news/delhi-witness-protection-scheme-2015-a-step-in-the-right-direction/>

<http://www.ndtv.com/delhi-news/delhi-government-notifies-witness-protection-policy-1202275>

Images within the manual

A range of images have been used throughout the manual and come from a range of sources:

- Times of India
- Hindustani Times
- Google Images
- Pinterest
- Flickr

Contributors

HKC ran a workshop with individuals working in the field of police and violence against women. This workshop was held from the 19-21st September, 2016 at the National Law University Delhi. The workshop was aimed at key stakeholders helping to design the training programme for police officers and lawyers in improving access to justice for women and girl victims of violence. The following individuals contributed in the workshop and assisted with the design of the training programme:

Vikash Narain Rai, Urvashi Tilak, Ankit Singh, Shikha Chhibbar, Raman Kumar, Satish Kumar, Dalip Singh, Sushma Rawat, Saroj Bala, Sanghamitra, Raj Kumar, Ravinder Kumar, Professor Raman Kumar, Suman Rishi, Udham Singh, Jasmohinder Singh, Sunil Kumar.