

CRIMES AGAINST WOMEN CELLS - THE DELHI POLICE EXPERIENCE

*By Ms. Kanwaljit Deol**



I. INTRODUCTION

A steep decline is evident in the male female ratio in India over the last century. It has declined from 972 females for every 1000 males in 1901 to 927 per thousand in 1991. The northern states show even poorer ratios than the national average. Along with some other countries in South Asia, India must hold itself accountable for its missing women.

From cradle to grave there is a systematic discrimination against women. Nutrition, health care, education are all withheld or provided grudgingly to daughters. Son preference is expressed in deep rooted cultural mores: blessings and rituals at a marriage, foods prescribed for pregnant women, condolences at the birth of a girl child.

Violent crimes against women are both a continuation of the systematic discrimination against women and its results. The violator feels his acts are socially sanctioned; the evidence is manifest in all that he has witnessed since childhood. Women must be kept in their place, else some great calamity may befall society.

The falling sex ratio should be of grave concern to law enforcement and criminal justice agencies.

In simple terms who will the extra men find to marry, start a family with, or harass in a domestic relationship? Will it not lead to greater street crimes, more harassment of women in public places, more rape, and more violence in marriage as husbands strive to keep control of the increasingly rare commodity that they have managed to secure?

Looked at in this context an emergency response from law enforcement is almost mandatory. The experience of the Delhi Police that this paper elaborates is one response that has met with some success. There have been many course corrections along the way and it is clear that the way ahead may call for many more.

II. ESTABLISHMENT

The Crimes Against Women Cell was set up in 1983 at a central level in the Delhi Police. It was the first police response meant specifically for women in India; and most likely anywhere in the world.

For hitherto, crimes, or other forms of harassment faced by women were handled by the normal police stations along with other crime and law and order issues.

The need for a gender-specific police response had been felt for some time earlier due to the following reasons:

- (i) The status of women was low and there was little inclination among them to take their problems to police stations staffed largely by male police officers.
- (ii) There were specific problems that women faced due to their low social status which could not receive adequate attention from a largely overworked and understaffed police force.
- (iii) It was being recognized that a more sympathetic response was needed in this area than it was receiving.
- (iv) The sensitiveness of the average police officer when dealing with a harassed and frightened woman left much to be desired.

* Joint Commissioner of Police, Delhi Police, India.

III. THE INSTITUTION OF DOWRY

Women's organizations in Delhi had been lobbying for a more humane approach to crimes against women for some time and had even taken their protests to the streets on several occasions. In particular the pernicious influence of Dowry had been receiving vociferous condemnation from these non-governmental groups and considerable media support had also been built up.

Dowry demands start at the time a marriage is being fixed up. Parents with sons regard them as a sort of investment from the time of their birth and are hopeful that their boy will bring a rich dowry that will raise the standard of living of the entire family. Equally, parents with daughters tend to regard them as a disability and start to collect and save for their marriages from their infancy itself. In North India, in particular, dowry can be considered as a major reason for son preference and evil practices such as female infanticide, and in more modern times female foeticide, can be blamed largely on this retrograde social institution.

Once a marriage is performed the problem of dowry is not over, for demands on the bride's family may continue in various socially sanctioned forms. Thus, the bride's family may be required to bring gifts for the groom and his family at all major festivals such as *Diwali*, and at landmark family events such as the birth of a child to the couple, a marriage of a sister-in-law of the bride, or even the death of the father-in-law. The continuing comfort and status of a woman in her bridal home could often depend on the diligence and generosity with which her parents meet these periodic social obligations and many a woman would complain of frequent taunts and threats of divorce when her family had not been able to satisfy the needs of a particular occasion. There were also complaints that, when these threats did not succeed, the groom and his family were capable of taking the extreme step of doing away with the bride altogether so that another bride and another dowry could be arranged. The death would be made to look like an accident and the most commonly reviled form of such murder was by burning, given that the woman's responsibilities in the kitchen could offer many opportunities for such accidents.

IV. THE POLITICAL WILL

How true such allegations were is debatable, but these bride-burning cases, as they came to be called in the seventies and eighties, rallied many organizations and women's groups to the cause. All such incidents received sensational media attention. It is this concerted action and the public outcry that was generated that was largely responsible for creating the necessary political will to set up a specialized unit to look into cases of dowry harassment and death. The first such unit set up in Delhi in 1982 was initially named the Anti-Dowry Cell. However it was some time before the necessary resources could be placed at the disposal of the police.

There was already a Dowry Prohibition Act in existence since 1963, that banned the demanding, giving and taking of dowry, but it was largely without teeth, and has remained more on paper than in practice. The act exempts gifts given at a wedding from the definition of dowry and requires that all gifts must be registered. However in a country where it is not mandatory to register marriages, there is little sense in requiring that marriage gifts be registered. Both the giver and taker of dowry being proscribed effectively ensures that there will hardly ever be a complainant. Dowry prohibition officers, empowered with initiating *suo moto* action, are mandated to be notified in each district but most states have either not notified the same or have loaded the task on to some already overworked official of the administration. That the act is hardly ever used is an example of how laws enacted for largely cosmetic reasons, without social involvement and consultation, can remain dead letters.

The first Anti-Dowry Cell was a lean unit, set up by the Delhi Police from within its own resources, headed by a part-time Deputy Commissioner of Police who held substantive charge of another unit. The experience of the unit was however to prove invaluable in assessing the need for changes both in the legal and investigative framework.

The officers of the Cell visited the scene of every case in which a married woman had been burnt and found that very few, if any, were outright murders for dowry. Rather, there were an inordinate number of suicides by women who had been married only a few years and the method of choice was usually burning with the help of kerosene oil, which was in common use in kitchens around the country.

Investigations revealed the reasons for these suicides to be harassment within the bridal home usually for material demands which could not be met by the bride's family, aka, dowry.

The social system frowned on a bride leaving her husband and becoming, afresh, a burden on her parents, but in the economics of that era women would rarely have much option, as there were few educated working women of independent means among the lower and middle classes. Traditionally a girl child would be considered as 'paraya dhan', another's assets, in her parents' home. Once they had arranged a suitable match for her with an adequate dowry she was only supposed to ever leave her husband's home when carried to her funeral pyre. Thus suicide was sometimes the only honourable way out.

The Indian Penal Code of 1862 contains a provision for abetment to suicide, section 306 IPC, but it was not easy to prosecute the members of the grooms' family for abetment if no overt act to aid the suicide had been committed. There were judgements at that time to the effect that, unless the accused had handed the kerosene and matchbox to the victim saying "You should burn yourself", he or she could not be held as abettor. The police were hard pressed, therefore, to find the method by which responsibility for these deaths could be determined in a way that could lead to prosecution.

Moreover, as it became increasingly clear, there were many forms of domestic abuse which might not end in the death of the wife and might not strictly arise out of demands for dowry. It was also the experience of the Cell that women complainants and victims needed specialized attention for offences other than dowry harassment and domestic violence, for example rape and sexual abuse. It also became increasingly evident that the traditional police response of registration of an offence, investigation, arrest and prosecution left something to be desired in many instances where women did not want to send their abusive husbands to jail, but only wanted them to stop the abuse.

V. LEGAL CHANGES

The experiences of the Cell outlined above were to have a direct contribution in engendering several legal changes between 1983 and 86 and even thereafter. Most important of these was a new provision, section 498 -A, that was added to the Indian Penal Code. Aiming at domestic violence and harassment for dowry, this provision defines cruelty, physical or mental, within a marriage. Investigation by police with powers of arrest is incorporated and responsibility can extend to the husband, his parents or other relatives. The offence is punishable with up to two years imprisonment.

In addition the laws relating to rape were made more stringent with custodial and minor rapes giving rise to presumptions against the accused and resulting in harsher penalties.

Some time later a section on Dowry Death was added. Section 304B IPC made the unnatural death of any woman within seven years of her marriage a subject of investigation by the police and prosecutable if it was found that the death was attributable to harassment for dowry by her husband or his family. Such a death was also made enquirable by an executive magistrate by introducing changes in the Indian Criminal Procedure Code. It was thereby ensured that no such death would be filed as an accident or suicide without a detailed enquiry.

VI. CRIMES AGAINST WOMEN CELL

The Cell itself was re-christened as the "Crimes against Women Cell" to reflect the enhanced field of its activities. In 1986 separate cells on similar lines were set up in each of the nine districts of Delhi. Most importantly, the central Crimes against Women Cell was provided with enhanced manpower, infrastructure and responsibilities. Counselling of families became an essential part of the functioning of these cells. Although this was informal at first, and resented by many as not a police role, it is now a sanctioned activity with staff being trained for the purpose and receiving support from social workers and recognized non-governmental agencies.

Other cities and states in India have set up similar units within their police forces with some southern states experimenting with all-woman police stations to provide a more enabling environment for women complainants.

A. Overview of Activities

Counselling as a Police Role

Counselling is the first response of the Crimes against Women Cells in domestic matters. Many families in India still continue to live as joint families and counselling often involves other members of the family besides the immediate protagonists. The aim of counselling continues to be to remove irritants in the marriage, to prevent abuse or to ensure that there is no further abuse, and to secure the position of the woman in the marriage.

There has been criticism of this approach from several quarters. Some women's groups in particular were opposed to the police taking on the role of counsellors on the following grounds:

- (i) That the police are not trained for the job and have no experience of counselling.
- (ii) That there is a traditional patriarchal mind set displayed in trying to keep the marriage intact even when the woman is patently unhappy in it.
- (iii) That there is no guarantee that the woman will not be harassed even after the Crime against Women Cell has closed the case. In fact intervention by police may be ham-handed and result in increased abuse.

Over the years the police have responded to this criticism by ensuring better training, posting more women officers into the cells, and involving social workers and NGO's to assist in counselling and follow-up. In any case, the police resort to counselling in several routine and on-street situations, and, therefore, cannot be said to be new to the experience. The same argument applies to criticism from within police circles that the cells may be overstepping the role of the police. The early fear that it would be difficult to stabilize a marriage once a complainant has brought her husband and his family before the police has also been seen to be largely unfounded. Credit for this must go to the officers of the cell for handling matters before them with sensitiveness and restraint. Out of the 8310 complaints brought before the central Crimes Against Women Cell in 2004 almost 2000 have ended in settlements or compromise.

A secondary object of counselling is to ensure that, if a marriage has to be terminated, it does not end to the detriment of the woman's rights. Usually being in a weaker economic position than her husband the woman is likely to end up deprived or inadequately compensated in a civil divorce action.

The Supreme Court of India, in a celebrated judgement, has defined the gifts a woman receives at her marriage from her own and her in-laws family and from other relatives and friends as her 'Istridhan'. In other words these are her personal assets over which only she has absolute rights. If the marriage is to be terminated, the officers of the Cells try to ensure that she is either given her complete istridhan, or is adequately compensated for the same. As failure to do so would invite criminal action under section 406 IPC for criminal misappropriation, most husbands would prefer to return all such gifts. In Indian society, these gifts would generally comprise amounts of gold and precious jewellery of considerable value and in previous times the husband's family routinely kept the entire lot. Other concomitants of divorce such as maintenance and custody can also be worked out between the couple keeping the needs of the woman in mind so that a petition can then be filed in the court for granting divorce by mutual consent, which is quick and largely painless.

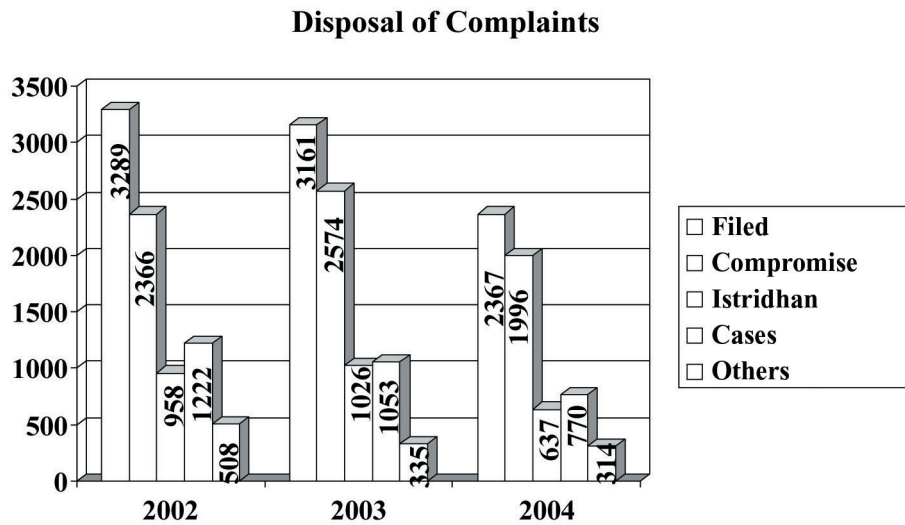
If the couple is unable to conclude the matter in the ways mentioned above over a period of three months or so, the position is assessed as per the law and a criminal case registered under the relevant sections for harassment, violence, misappropriation, etc. with a charge sheet being filed after investigation. The Crimes Against Women Cells are not notified as police stations and the cases are registered by the police stations of jurisdiction. Usually these police stations carry out further investigations, although some important cases may be investigated by small investigative units attached to the cells themselves.

Needless to state, in matters where prima facie criminal cases are made out or overt violence is evident, the above process is short-circuited and a criminal case registered at the outset. The wishes of the victim may not be respected in such cases, although it is usual to first make intensive efforts to secure her consent for prosecution.

Although no systematic evaluation is available, the process of dealing with domestic discord outlined above has stood the test of time and overcome most of the criticism directed against it. It has been upheld by

several courts and has been widely duplicated all over the country. In the conditions prevailing in India, it can be said to be the most suitable way of dealing with domestic discord. It ensures, for instance, that husbands and family members will appear when they are summoned by the police cells, which they may not do if called by counselling services or other social service groups. It facilitates a conclusion in the woman's favour without resort to lengthy court procedures that, due to the time involved if nothing else, are always against the interests of the woman. Most importantly, it strikes a balance between unnecessarily criminalizing the domestic arena on the one hand, and totally screening it from intervention on the other.

An overview of the handling of complaints by the Cell over the last three years is offered as an illustration below:



B. Other Activities of the Cell

Although a large part of their time is taken up with domestic cases, the cells also act on complaints of sexual harassment, sexual abuse, molestation, rape, and other gender related crimes. Investigation of selected cases is taken up by the officers of the Cell, while the progress of other cases registered by them is monitored in the police stations where they are under investigation. The central Cell monitors the functioning of the district cells through periodic evaluations and meetings although these cells are operationally under the control of the supervisors of the districts where they are located. Women complainants have a choice of approaching either the central Cell or one nearer to their homes at the district centres.

The Crimes Against Women Cell has also developed as a hub for providing non-police services to women complainants. Through liaison with psychological and legal counselling services they are in a position to provide counselling and free legal advice to needy complainants with the help of reputed NGOs. Organisations such as Swanchetan, a psychological victim counselling service, and Lawyer's Collective, an NGO that advises on both civil and criminal legal matters, hold weekly sittings in the premises of the Cell. The Cell also forwards appropriate cases to Rescue shelters and Short Stay Homes run by the Government and by non-governmental agencies.

C. Crisis Intervention Centres

The need for a multi professional approach to victims of crime has been recognized from the very inception of the Cell. It has been formalized some years ago by setting up Crisis Intervention Centres in all the nine districts to deal with cases of rape and sexual abuse. As soon as a case of this nature is reported, a representative of non-governmental social organizations is associated to assist in the medical examination of the victim and to provide assistance in treatment for trauma, counselling and rehabilitation. The investigating officer remains in touch with this representative who also provides the necessary support to

the victim right throughout the trial of the case. The Crisis Intervention Centres have been set up with the cooperation of the Delhi State Commission for Women and associate social workers, doctors, lawyers, psychologists and prosecutors with their functioning.

As far as possible, cases of rape and sexual abuse are assigned to women investigating officers and women prosecutors. Three special courts headed by women judges have also been set up to give speedy attention to these cases, as long delays in prosecution can inflict further trauma on the victims and dissuade them from testifying in court. The experiment has met with some success in several high profile cases. However, there is scope for improving and systematizing the process of consultation and providing incentives to voluntary workers who have to diligently stay the course through sometimes lengthy legal procedures. Moreover, although women victims are definitely more comfortable with women investigators, prosecutors and judges, in the long term the need is to ensure sensitization of the large number of men involved in these professions, rather than limiting the dealing of such cases to women alone.

D. Round the Clock Helpline

A significant service started by the Crimes against Women Cell is a 24 hour helpline that responds to callers in distress. The helpline number, 1091, is managed by the Police Control Room which receives and manages all calls for police help. A caller may directly access the helpline or be diverted from one of the general 100 services. A Women Police mobile team is available round the clock at the Crimes against Women Cell to attend to distress calls received through the helpline or directly in the Cell. The staff receives continued training in dealing with distress calls, and are equipped both to initiate criminal action and to provide counselling and other assistance. The team also provides links to emergency support services such as shelters and short stay homes, besides offering on the spot counselling and legal advice in needy cases. On an average the helpline receives 11 calls per day, with 4193 calls having been received in 2004.

Reaching out to women is not always easy. Even when women are aware of the services available, they may be reluctant to seek help or approach the police. Some may not even have access to a phone. In such cases the Cell provides an alternative through a post box number where women can send mail asking for assistance. The letters are analysed to identify the kind of assistance that is being sought. Action may then be initiated or the letters forwarded by the Cell to other concerned agencies.

E. Anti-Eve Teasing Drives

From time to time the Cell undertakes special drives against what is referred to as "Eve Teasing", but is actually a form of sexual harassment of women and girls on the street or in public transport. The officers of the Cell may concentrate on areas around women's colleges and schools or conduct surprise checks in buses, markets, cinemas, etc. Announcements are made in the buses to make the passengers aware of the special drive and to encourage complaints. At other times officers may travel in plainclothes inside buses to detect such cases or women officers may be used as decoys at public places such as bus stops or university campuses. Sometimes women students who wish to volunteer, are also co-opted for such exercises. Periodic Contact Programmes are launched in campuses and women's colleges to work out joint strategies for achieving a more secure environment for the women students. Complaint boxes have been installed in such campuses so that girls can complain anonymously if they so desire. This technique has often assisted the Cell to identify areas of the city that need its focussed attention.

F. Self-Defence Training

One of the most acclaimed projects of the Cell has been the Self Defence Training Camps launched in a major way in 2002. While the focus of such training has been school and college girls, working women and housewives have also volunteered in significant numbers for these camps. The objective of the training is to instil confidence in women and to make them think positive and act quickly in a vulnerable situation. The curriculum includes simple concepts of unarmed combat coupled with the knowledge of using common items that the woman may have on her person such as articles of clothing, bags, books, keys, etc. as defensive weapons. Each module stretches over a period of ten working days with two hours of training per day. After the training accredited non-governmental organizations are invited to interact with the trainees to inform them about their rights and make them legally aware. The programme has trained about 17,000 women so far and is continuing to perform an invaluable service in building police-community relations, and in making women more comfortable and confident in approaching the police with their problems.

VII. LESSONS BEING LEARNT

Whenever any special provisions are made in the law for a particular group or segment of society in a developing nation, initial problems take several generalised forms. Firstly, the persons who need the protection of the specific provision the most urgently often lack awareness of it or are otherwise unable or incapable of taking advantage of it. Thus the battered wife of a poor building labourer, whose likely source of such knowledge is her husband alone, will probably never find out that she is legally empowered to protest against the abuse. Despite extensive use of the media, posters and pamphlets to publicise the new provisions, the Cell found it difficult to make a dent until it roped in NGOs to start mass contact and legal literacy programmes in the poorest areas. In order to ensure better attendance such programmes were often clubbed with sessions of religious discourses or devotional songs.

Conversely, the persons who will be the first to take advantage of the special provisions will often be those who do not, in fact, have any need for the provisions. Thus women with the means to secure expensive legal advice, who may have other problems of a non-abusive nature with their marital lives, will be quick to produce excellently drafted complaints that fit into the four corners of the law and wrap into its snare the whole extended families of their husbands. Although the Cell's systems of counselling and enquiry are capable of dealing with such false complaints fairly effectively, the dangers of the law getting a bad name are quite obvious. In an essentially patriarchal society like we have in our country, there will be strong voices questioning the very basis of a law that is so amenable to misuse. Essentially such misuse arises out of the fact that the civil laws are relatively undeveloped and inefficacious in their operation, and the gap is sought to be filled by the convenience of a powerful criminal law. However, instead of calling for better civil laws, there is a tendency to focus on the misuse of the criminal law and to demand its substantive dilution.

Another area of concern that arises is the effective awareness and sensitization of the various elements of the criminal justice system. Police officers, lawyers, prosecutors and judges are all equally wary of a law that is moving at a faster pace than society. If they are convinced about the need for change, they can effectively pull society up by its boot straps by the sincere and judicious implementation of the law. If they are not, on the other hand, they can claim to be only products of society and focus on perceived imperfections of the law that render it unimprovable.

So far it would appear that the battle for retraining the system is being gradually won. The domestic cruelty law has been understood more widely with applicability beyond the area of dowry harassment. There have been a few carefully worded judgements that have helped to clarify its basic objectives. The police response outlined above has been supported in many judgements as being in line with these basic objectives. The difficult area of defining what constitutes criminal psychological cruelty has received considered judicial attention also, with chronic verbal abuse being classified as one such criteria. However, attention to the crucial factor of training all elements of the criminal justice system cannot be allowed to slacken.

Many police officers observe that the proactive police approach in an area which is essentially a social concern, has led to other relevant agencies taking a back seat, and that crimes against women are being viewed as basically a police problem. When, for instance, a sensational rape case leads to widespread police bashing in the media, internal debate in the police focuses on whether at all the crime was preventable by police action. The fact is that in over ninety percent of rapes the accused is known to the victim and may even be someone whom the victim holds in trust. Many of these are cases of sexual abuse of children by adult relatives. Without dwelling overmuch on fields of responsibility, one of the issues that can be flagged here is the need for institutionalizing a multidisciplinary approach so that the expertise of diverse agencies can be optimally utilized in the interest of crime prevention and victim protection.

A comprehensive Domestic Violence Bill is currently receiving attention in the country. While it can be argued that the legal provisions are already in place in the Penal Code and elsewhere, if the aim could be for the comprehensive act to focus on institutionalizing a multidisciplinary approach in the interests of the victim rather than on defining new offences, it would be a step in the right direction. At present the humbler goal appears to be to merely gather all the offences at one place. This would probably succeed in drawing greater attention to the area of domestic violence but could conversely lead to confusion for all concerned.

VIII. CONCLUSIONS

The experience of the Delhi Police is singular and unique in many ways. Yet there are examples that it can be duplicated in significantly different circumstances in the various states of the country. Law and order is a state subject in India, but national laws are applicable everywhere, although the details of their implementation may vary. The levelling factor of an all-India police service, that provides the supervisory officers for all states, is also relevant in this context.

A common strategic thread that can be noted is the launching of specific units initially from within the resources of the existing police force. Once these have met with success and public appreciation, it has not been difficult to secure sanctioned resources.

Recruitment and staff training are ongoing issues to which solutions are still in the process of being found. There is a greater need for women police officers at all ranks and several states have introduced policies which envisage that a third of their police forces will comprise women. However, most police forces are reluctant to give up posts of male police officers in exchange, and states are understandably reluctant to sanction large increases ab initio. Currently, women do not comprise more than five percent of the police forces nationwide; even if a third of all fresh recruitments were to be devoted to women it would take many years before the composition of the police forces as a whole could reflect that percentage. Added to this is the reality of many Indian women not seeing the police as an attractive career option and the consequent difficulty in finding suitable recruits.

Notwithstanding, a point made earlier in this presentation needs repetition. It is not healthy to determine that only women police officers, women lawyers, women prosecutors or women judges are required to deal with issues of domestic violence and other crimes against women. The more pressing need is rather to make the existing criminal justice system more responsive to what is essentially an exploitative situation with social, economic, political and other dimensions. Training acquires centre-stage position.

Whether training of a limited duration can actually result in attitudinal change is a debatable point. A person can be trained fairly easily to operate a space shuttle in comparison with changing an attitude that he or she has acquired over years of 'socialization'. Training is also time and resource intensive making it difficult to secure these resources without being able to demonstrate the efficacy of better training in a reasonable time frame.

Still, it is possible to end on a hopeful note because the importance of sensitization and training is gradually receiving recognition in all sectors of the criminal justice system. In a somewhat complex relationship it has been the setting up of the Crimes against Women Cells itself that has drawn attention to the inadequacies of training and helped to secure this recognition.