

**WOMEN-LED**

**COMMUNITY-BASED ALTERNATIVE RESPONSES TO**

**VIOLENCE AGAINST WOMEN**

*AN ANNOTATED BIBLIOGRAPHY OF INDIAN AND INTERNATIONAL  
LITERATURE*

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**SOCIETY FOR WOMEN'S ACTIONS AND TRAINING  
INITIATIVES**

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## SOCIETY FOR WOMEN'S ACTIONS AND TRAINING INITIATIVES

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*Society For Women's Action And Training Initiatives- SWATI, works for the social and economic empowerment of women in Surendranagar, Mehsana, and Patan districts of Gujarat. We support and manage large-scale women's collectives consisting of several villages in order to build women's leadership at the grassroots level and help women gain control over resources. SWATI has taken up the issue of violence against women and systematically built up a facilitative environment of awareness and support at the village levels, and professional as well as institutional support mechanisms at the organizational level. Working with local women's collectives we developed Mahila Nyaya Panch (women justice committees): structured paralegal platforms for handling issues of violence and exploitation. These committees are administered by local women who are trained and equipped with a gender just approach. SWATI also works to promote the use and implementation of the Right to Information Act (2005), women's health, food security, and women's right to land and property.*

## Background

Violence against women is on the rise, but so is the number of responses to VAW from the government, NGO's, and women at the grassroots. The traditional manner in which women's grievances were (and often still are) dealt with was through the *jati panchayats*, or caste assemblies. These extra-legal platforms for community justice are a form of non-violent internal conflict resolution that have functioned for hundreds of years. Unfortunately, *jati panchayats* often have an anti-woman bias that makes them less than ideal for handling cases of violence against women. The past half century has seen a number of legal reforms that opened up the formal justice system to cases of VAW, as well as a corresponding proliferation of NGOs providing services to support women as they navigate through this system. Despite these encouraging developments, the legal reforms cannot reach every woman in India. Poor, illiterate or semi-literate rural women are particularly marginalized from the formal justice system for a number of reasons, including cost, lack of community and family support, lack of legal awareness, and the difficulty of navigating a complex legal system.

As a result, women's groups around the country have pioneered a third way to pursue gender justice: extra-legal mechanisms like the *jati panchayats* run by local women trained with a women's rights perspective on violence against women. These extra-legal mechanisms, which grew out of the rural women's movement over twenty years ago, are known by various names around the country, including Mahila Nyaya Samiti, Nari Adalat, Mahila Panchayat, Shaliahi, and Sahara Sangh. They are a symbol of the movement to empower rural women and challenge exploitative social and cultural systems. They simultaneously do the ideological work of social transformation and the urgent work of meeting the needs of women who experience violent circumstances.

In order to solidify Mahila Nyaya Panchs – Women governed justice committees-women's courts as a legitimate extra-legal gender justice mechanism and to promote the replication of these mechanisms in communities across the country, SWATI seeks to develop a resource that consolidates the work that has been done by women's organization around the county over the past twenty years in developing the ideology and methodology of the women's courts. This project aims to increase the legitimacy of women's courts by standardizing documentation, promoting up-to-date training in women's rights and legal education, and legitimising the relationship between women's courts and the formal legal system. Furthermore, rather than having to reinvent the wheel, this resource will make it possible for new organizers seeking to establish alternative justice mechanisms for gender justice in their communities to build from the

wealth of knowledge and experience that already exists within the women's movement. This annotated bibliography is the first step toward the development of such a resource. By aggregating the literature documenting and evaluating state responses to gender violence in India as well as resources about the concrete experiences of alternative justice models for gender violence developed in communities in India and internationally, we seek to sketch the contours of an empowering and transformative model of community response to gender violence.

The literature is organized into Indian and International sections. The Indian section is further divided into: Basic/Informational Resources in which government agencies or NGOs provide brief overviews of the programs they operate; Books, Articles and Reports that discuss or critique formal responses to gender violence; and Scholarly Research describing and evaluating community-based alternative justice systems addressing gender violence in India. The International section is organized by country. Most of the resources come from English-speaking countries with indigenous populations and investigate the use of traditional justice mechanisms in response to gender violence in indigenous communities, though there are some resources from the U.S. that consider informal responses to gender violence in "mainstream" society (rather than only in indigenous communities). By examining international resources, we hope to identify common and diverse strands of thought and purpose and see whether a pattern emerges that can link the Indian and international experiences. Though we believe in the need to develop mechanisms that address all forms of gender violence in the broadest possible sense, much of the literature we reviewed addressed more limited forms of violence. In India, most literature related to responses to domestic or marital violence, while some of the international literature directly addressed only sexual assault.

## INDIAN RESOURCES

### **Basic/Informational Resources: brief overview of logistical operation and goals of the gender violence response system**

Action India. "Mahila Panchayat Program." Action India website. <http://actionindiaworld.org/pages/programs-campaigns/women-law-and-social-change/mahila-panchayat-program.php>.

Overview of women's courts in Delhi provided by the NGO (Action India) running the program focusing on success of gender just practices. Started in 1993 and scaled up and institutionalized with State support in 2000. Program was initiated for the purpose of unbiased dispute resolution with a gender perspective, with the broader goal of developing indigenous leadership in marginalized communities in order to organize and make demands. Website details process of handling a case, institutional linkages and partnerships, and support activities. Focuses on the success of the program in empowering individual women (self-confidence, decision-making), raising awareness of structural violence and gendered power relations, and changing consciousness about gender. Also provides quantitative data. No discussion of the impact of institutionalization on functioning of the program or of the types of resolutions given.

Delhi Commission for Women, Delhi Government a. "Sahyogini." Delhi Commission for Women website. <http://dcw.delhigovt.nic.in/Sahyogini%201.htm>

Provides basic information about the functioning of Sahyogini, a family counseling unit run by DCW, in which a "panel of Members and Legal Advisors" hold counseling sessions for "disputing parties". Information is limited to statistics, basic logistical overview, and listing of the kinds of cases handled (marital conflict and sexual harassment in workplace).

Delhi Commission for Women, Delhi Government b. "Mahila Panchayats." Delhi Commission for Women website. [http://www.delhi.gov.in/wps/wcm/connect/lib\\_dcw/DCW/Home/Projects/Mahila+Panchayats](http://www.delhi.gov.in/wps/wcm/connect/lib_dcw/DCW/Home/Projects/Mahila+Panchayats).

Provides basic information about MPs, which "offer crisis intervention and legal aid at the community level and help tackle local level legal disputes

and assist in reduction and reconciliation of violence against women.” Provides general information about how the program started, how members are trained, what kind of cases they deal with. 44 MPs were established by 2002; MPs are not currently in operation.

Mishra, Chitra. (2009). “Women Safety in Delhi.” Centre for Civil Society, Working Paper No. 232. <http://www.ccs.in/ccsindia/downloads/intern-papers-09/women-safety-in-delhi-232.pdf>

Report on general status of safety of women in Delhi written by student intern, seeking to document the range of services available to combat and respond to violence against women in the city. Provides the responses to a questionnaire administered to Delhi Commission for Women, including limited information about Sahyogini, a family counseling unit run by a panel of members and legal advisors to bring “disputing parties” to reconciliation; has powers of a Civil Court. DCW was started in order to provide recommendations for legal amendment based on the grassroots needs of women, but has evolved to provide direct services. Impact is not discussed.

National Commission for Women a. “Parivarik Mahila Lok Adalat (PMLA): An Alternative Justice Delivery System.” National Commission for Women website. [http://ncw.nic.in/frmRes\\_PMLA.aspx](http://ncw.nic.in/frmRes_PMLA.aspx).

Basic information about PMLA provided by NCW to guide institutional actors through the process of replicating the model in their communities; framed as mechanisms for fast and cheap dispensation of justice to women with auxiliary goal of empowering the public (“especially women”) as active participants in justice delivery mechanism. Seen as a way to “gear up” the community for running Lok Adalats that can handle a broader range of local disputes. Dealing with gender *violence* is not mentioned at all. Mutually amicable counseling and “patient listening” are emphasized.

National Commission for Women b. “Working of Family Courts in India.” National Commission for Women website.

Document about the shortcomings of Family Courts and detailing a gender sensitization workshop carried out for Family Court staff that was organized in response to those shortcomings.

Stree Aadhar Kendra. "Projects." Stree Aadhar Kendra: Continuous Action for Equality, NGO website. <http://www.streeadharkendra.org/projects.htm>.

Very brief description of family counseling services offered by NGO in Maharashtra: "Aid is provided to the victims in a variety of ways including proactive and reactive home visits, meetings with both the parties - the oppressor and oppressed, intervention of community elders and leaders, interaction with police machinery etc. The primary attempt of the exercise is to effect a reconciliation and prevent further violence. Legal action is the last step and used only if all other techniques prove fruitless. Trained and gender sensitive lawyers work with SAK on the cases that come to the centre. In the past SAK has organised Lok Adalats (people's courts) to ensure that the cases of women in distress (alimony, child support, share of property and other civil matters) get speedy justice."

"West Bengal Commission for Women." West Bengal Commission for Women Website. <http://www.wbcw.org/index.php/parivarik-mahila-lok-adalat/introduction>.

Contains information about various programs offered for women. Situates Paribarik Mahila Lok Adalats in a process of devolution of judicial responsibility to local communities in order to help women access speedy redressal of cases, but does not mention violence specifically. Gender violence falls under the domain of the "pre-litigation and counseling cell" (dowry-related crimes, murder/unnatural death, physical and mental torture, rape/molestation, sexual harassment, etc). Provides statistical information on types of cases received and progress of cases; most are resolved or dealt with out of formal court. Provides referrals to services for survivors of domestic violence.

### **Books, articles and reports: discussing or critiquing legal/formal responses to domestic violence**

Agnes, F. (2006). "Making Laws Work for Women: The Potential of Existing Laws against Domestic Violence." *Manushi*, No. 156. Available at: <http://www.manushi.in/docs/15Making%20Laws%20work%20for%20women.pdf>

Author shares experience working at a women's resource center in Mumbai for 15 years. Dispossession from home is most common manifestation of violence, and article discusses successful legal strategies used by activists to secure a woman's right to reside in the matrimonial home. Author argues that activists need to develop infrastructure of legal expertise and support in order to take advantage of current laws.

Agnes, F. (2004). "Introduction." *Women and Law in India*. Oxford University Press, New Delhi.

Nuanced critique of the way the formal legal system handles cases involving women's rights. Essay explores the complex relationship between notions of patriarchy, sexuality, and property, and the manner in which they are normalized and essentialized through state interventions; examines restitution of conjugal rights, remarriage of widows, state policies regulating property and inheritance, and notions of morality and maintenance in contemporary matrimonial litigations (i.e. domestic violence). Problematizes the way the formalized mandate for monogamous marriages in the law (which came about due to liberal claims of modernity and secular marriages and was supported by the women's movement) in practice hurts the many women whose relationships fall outside of that category (marriages and divorces not legally recorded, polygamy, husband hiding previous marriage, etc). Critiques the way the women's movement agitations around Shah Bano case played into the hands of communal campaigns; identifies a binary of mainstream Indian feminists/Muslim victims in contemporary Indian feminist legal discourse.

Agnes, F. (1995). *State, Gender, and the Rhetoric of Law Reform*. RCWS Gender Series. Ed.

Meera Kosambi. *Gender and Law: Book 2*.

Review and critique of recent legal enactments addressing violence against women, including rape, dowry, domestic violence, prostitution, indecent representation of women, sati, and sex determination tests. Asserts that the widely publicized cases of rape and dowry in India in the 1980's led to advocacy and the development of laws specifically targeted toward these forms of gender violence, effectively "putting dowry violence on a pedestal" in legal language and practice, at the cost of recognizing and legitimizing the general violence faced by women of every class, community and religion. Limitations with law: does not protect woman's



right to matrimonial home or provide shelter. Critiques the laws (existing in 1995) as sexist and protectionist rather than empowering; penalizing rather than creating alternatives; generally weary of expanding state power in the name of protecting women.

Agnes, F. (1991). "A Toothless Tiger: A Critique of the Family Courts." *Manushi*.

No. 66: 9-15. [http://www.manushi-india.org/pdfs\\_issues/PDF%20files%2066/a\\_toothless\\_tiger.pdf](http://www.manushi-india.org/pdfs_issues/PDF%20files%2066/a_toothless_tiger.pdf)

Article written by lawyer criticizing the legal language and practice of the Family Courts. Family Courts were created in response to a demand by women's organizations for "laws and procedures to ensure women's economic rights within marriage and make divorce proceedings speedy, less expensive and less traumatic for women." Instead, Family Courts have been designed to preserve the institution of marriage; Act stipulates that judges should be people committed to the need to protect and preserve institution of marriage. Provides summaries of court cases from her experience demonstrating the inability of illiterate/semi-literate women to navigate court processes without assistance (note: most women do not have lawyers/advocates). Marriage counselors have lots of investigative powers but cannot introduce findings in court (due to confidentiality) because their task is reconciliation. Provides examples of how judges and counselors biased against women during every step of the process.

Bush, Diane Mitsch. (1992). "Women's Movements and State Policy Reform Aimed at Domestic Violence against Women: A Comparison of the Consequences of Movement Mobilization in the U.S. and India." *Gender and Society*, 6(4), pp. 587-608.

Comparative study of social movement mobilization and political/judicial reforms around domestic violence in U.S. and India. Analysis of Indian movement essentially reports the continued emphasis on family reconciliation rather than women's rights in the institutionalized responses to DV; critiques "protective policy" which reinforces the private-public divide and strengthens traditional gendered relations of power by making men protectors of women. Finds that gender neutrality of state responses to movements prevents researchers from critically examining outcomes of social movement mobilization, and that institutionalization of women's movement demands and organization may diminish the capacity

of such movements to control social construction of domestic violence against women by providing protection without empowerment.

Gangoli, Geetanjali. (2007). *Indian Feminisms: Law, Patriarchies, and Domestic Violence in India*. Ashgate Publishers.

Within a theoretical framework that critiques citizenship and rights-based approaches to addressing domestic violence, the author seeks to investigate the viability of Indian feminist engagement with the law and legal strategies especially given the challenges posed by politics of caste, communalism, and globalization. "Indian feminism" is understood as poly vocal and multifarious but willing to work together. Author intends to demonstrate that "Indian feminisms" have coped well with challenges; argues that given the opposition of communities and globalized Indian economy to women's issues, secular law and citizenship rights cannot be abandoned as a crucial arena of action.

Jaising, Indira. (2009). "Bringing Rights Home: Review of the Campaign for a Law on Domestic Violence." *Economic and Political Weekly*. Vol XLIV, No. 44.

Description of the evolution of the current domestic violence law. Feminist legal (rights-based) perspective and critique of the PWDVA, the process by which the legislation developed, and the way the law is implemented; asserts that legal reforms lead to changes in social norms. Issues: codification of the gender of the victim and the perpetrator, inadequacies of the cruelty/dowry death discourse, exceptionalism of domestic violence as a crime, and relationship between legal language and practice in patriarchal society. Describes the process by which the legislation developed: input from lawyers and women's groups; debates over definitions provisions; passage and final form of the bill, including discussion of strengths and weaknesses, and analysis of how the law is being implemented. Critical of the tendency to refer DV cases to reconciliatory counseling, but optimistic that the Act if used correctly will provide adequate recourse to women through "rule of law and respect for rights".

Kathuria, Poonam. (2004). "Ensuring Gender Justice." *Seminar: India 2003*, no. 533. <http://www.india-seminar.com/2004/533.htm>.

Article written by executive director of NGO that supports Mahila Nyaya Samitis (Women's Justice Committees) in Gujarat analyzing the role of the nyaya samitis in seeking redressal for women and their potential as an alternative to the caste panchayat and the formal justice system of the Indian state. Frames the need for nyaya samitis based on the inaccessibility and inadequacies of the formal legal system and case studies demonstrating the anti-woman bias of the village/caste panchayats. Benefits of the Nyaya Samitis, which are run by collectives of local women: combine sensitivity to women's issues and a feminist understanding of violence with an intuitive cultural sense of the beliefs, values, and normative codes of the area; give women a sense of legal rights and an understanding of the legal system; bring VAW into the public sphere and use community pressure to end violent behavior; leads to transformation of community norms; flexibility in the negotiation process and openness to renegotiation; inexpensive and accessible.

Kishwar, Madhu Purnima. (2006). "Well Intentioned but Over Ambitious: A Review of the New Domestic Violence Act." *Manushi*, No. 156.

Argues that prior to the domestic violence act, there were civil law recourses for domestic violence victims; difficulties stemmed from tardiness of court procedures and judicial biases. Criticizes law for being overly ambitious in trying to address all forms of domestic violence, portraying all women as good and honest victims, and view formal institutions as being able to right all wrongs. Positives: expanding the discourse beyond "dowry deaths"; imprisonment no longer a first step remedy; easier for women to get emergency relief; recognition of live-in relationships. Details provisions and definitions of the law: who are the beneficiaries; definition of abuse; no eviction or harassment; inclusion of live-in relationships; lack of safeguards against abuse of the law; implementation machinery. Asserts that the law will be misused.

Kishwar, Madhu. "Laws Against Domestic Violence: Underused or Abused?" *Manushi*, No. 120.

Describes the hurdles that victims and their families faced in approaching the police and formal justice system with complaints of abuse and murder; this led to advocacy for more stringent laws. Author argues that DV law focused on increasing stringency of laws and neglected enforcement aspects: DV victims fail to obtain necessary relief and the laws lend themselves to abuse. Rise in the number of complaints by in-laws and

husbands about the misuse and abuse of the law. Similar to her article above.

Kothari, Jayna. (2005). "Criminal Law on Domestic Violence: Promises and Limits." *Economic and Political Weekly*, pp. 4843-4849.

Examines what the task of criminal law should be regarding domestic violence and examines how successful it is in carrying out that task. Places criminalization of DV in a history of feminist activism following the Mathuri rape case, but social norms lag behind legal reforms which lead to underuse. Critiques of the law: protection for married women, vague definition of cruelty; allegations of misuse. Draws on examples of best practices in the U.S. Suggests a new "victim empowerment model" of policing, which includes a new definition of "cruelty", a social service network for women, and pro-arrest policies, making up a holistic coordinated legal approach.

Mehra and Sharma. (2010). "Negotiating Gender Justice, Contesting Discrimination: Mapping Strategies that Intersect Culture, Women, and Human Rights." *Partners for Law in Development*.

Documents strategic use of cultural and religious identities by women's groups working for gender equality/justice (family law, land rights, discrimination, etc) to contest socio-economic inequalities, and relates these strategies to human rights discourse. Study conducted in light of the developing notion of Cultural Rights in the UN, in order to identify engagements with culture that advance women's rights. Study links external political context to specific religious/cultural strategies. Includes case study of Shalishi in Bangladesh and family law in Muslim communities in India.

Menon, Nivedita. (2004). *Recovering Subversion: Feminist Politics Beyond the Law*. University of Illinois Press.

Author writes from a feminist political perspective: deep theoretical examination of the relationship between law and feminist politics by examining the contemporary Indian women's movement (the issues of abortion, sexual violence and Parliamentary quotas for women) with comparisons to France and the United States. She argues that the intersection of feminist politics, law, and the state is often paradoxical and

severely distorts important ethical and emancipatory impulses of feminism; the “making public” of women’s oppression in the sense of demanding legislative action not only has not achieved the purpose of ending or controlling social practices inimical to women, but rather, has tended to reinforce existing stereotypes and beliefs. Urges feminists to recognize the limits of “rights discourse” and pleads for a politics that goes beyond its boundaries.

Phadke, Shilpa. (2003). “Thirty Years On: Women’s Studies Reflects on the Women’s Movement.” *Economic and Political Weekly*, pp. 4567-4576.

Drawing on reflective literature produced by the Women’s Movement over the years, author narrates the history of major developments in the Indian feminist movement (rape, dowry-violence, sex-determination tests, and sexual harassment) and legal interventions on women’s issues (domestic violence, sexual assault), mentioning issues raised, critiques of campaigns, and effects/outcomes. Discussion of the challenge posed by the intersections of gender issues with religious/identity politics (Shah Bano case, Roop Kanwar sati), and corresponding allegations that the women’s movement’s is Western-influenced and elitist, and the emergence of Hindu right-wing women’s groups; calls for feminists to add direct attention toward and build bridges across religion and caste, rather than focusing only on gender and class. Discussion of the increasing attention paid to female sexuality, both by feminists and by right-wingers. Recurring themes: construction of the subject ‘woman’, victimhood and agency, “Indian ness” of the women’s movement, sexual autonomy and freedom of expression, linkages with other movements, connecting with larger audience. Suggests feminist engagement with the market as well as recreating spaces and building bridges in order to reassert the women’s movement.

Suneetha and Nagaraj. (2010). “Dealing with Domestic Violence towards Complicating the Rights Discourse.” *Indian Journal of Gender Studies*, 17(3), pp. 451-478.

Authors critique the dominant framework for approaching domestic violence (the language of rights and empowerment in which domestic violence is seen as the condition that needs to be overcome) and critically consider what the “right against violence” means. Examine women’s

interface with public institutions in the context of domestic violence in order to problematizes the idea that women can actualize their “rights against violence” once law and institutions are set in place. Findings: the family and community resources women need to mobilise in order to actualise their right against violence acts as a counter-force to the individuating tendency of law; institutionalisation of the right against violence has led to women being subject to governmental mode of power; and the actual deployment of this right in everyday activism as a political goal could be more useful and empowering than using it as a guarantee against violence.

Suneetha and Nagaraj. (2006). “A Difficult Match.” *Economic and Political Weekly*. pp. 4355-4362.

Reflection and critique of feminist political strategy/discourse in the arena of domestic violence in order to understand why current interventions are “inadequate”. Authors ask: what conceptual rigidities result from the tendency toward naming, categorizing, enumerating, and measuring domestic violence and the efforts to make it legally recognizable? Commonly proffered “solutions” of developing foolproof laws, sensitive institutions, and better awareness among women will not work; must problematize the individualist rights and citizenship framework. Argue that women’s actions “often spill over the limited scope of the legal rights framework, appealing for an opening of the realm of conjugality and remind ourselves of the structural nature of this violence.” Disjuncture between “what women want” and discourse of women’s emancipation; if women only “become” citizens and take advantage of “rights” through public rejection of patriarchal subjugation, how do we understand the women who choose not to do so? Suggests including various forms of collective responses to DV in the mainstream discourse, rather than advocating only individualized solutions.

Suneetha and Nagaraj. (2005). “Adjudicating (Un)Domestic Battles.” *Economic and Political Weekly*, 40(38), pp. 4101-4103.

Problematizes the search for solutions to dv in legislation and judicial system as individualizing the woman into a case and depoliticizing the discussion of women’s battles in the family; criticizes “women’s rights” laws passed in the last decade as regressive and narrow and victimizing rather than empowering; “women’s rights” often get interpreted in relation to their identities of wives, sisters, and mothers; lack of sensitivity

to the fact that incarceration of perpetrators may jeopardize a family's material situation; question of the political relationship between traditional community law (e.g. Islamic law) and formal institutionalized law; charts the path for a new domestic violence law; calling for a more nuanced understanding of women's strategic battles against violence and negotiations with patriarchy in formal and informal spaces, argues that women want positive, transformative things (responsible husbands, role in decision-making, self-respect, and dignified family life) that cannot be provided through retributive judicial system.

**Scholarly research studies about alternative justice systems: in which the author has conducted or bases her analysis on original research on responses to domestic violence**

Arya, Sadhna. (2010). "The National Commission for Women: Assessing Performance." New Delhi, India : Centre for Women's Development Studies.

Descriptive. Study of the evolution and functioning of the National Commission for Women (intermediary between State and civil society); specifically focusing on pre-litigation and counseling cells and parivarik mahila lok adalats in addressing domestic violence. Author approaches analysis by examining the tensions between state-led interventions and transformative women's movement projects/ideologies and by situating NCW within the evolution of India's democracy. What are the possibilities of using the NCW in a positive way? To what extent is it able to draw upon experiences and knowledge of women's movements at local levels? Indicators of effectiveness: institutional design, patterns of recruitment, quality of personnel, organizational culture, internal conflicts for distribution of power and allocation of resources within the institution, and systems of autonomy and accountability. Findings: NCW's handling of violence against women influenced heavily by legal reforms, but it does not take a proactive role in shaping legislation; inadequate involvement of women's groups; emphasizes family reconciliation in dv cases brought to the pre-litigation and counseling cell and women's courts; counseling cells are not a priority and severely limited by infrastructural and staffing constraints, inability to enforce orders, and lack of cooperation by police, judiciary, and government. Further findings also listed related to NCW's inadequate handling of sexual harassment and sexual violence.

Basu, Srimati. (2006). "Playing off courts: the Negotiation of Divorce and Violence in Plural Legal Settings in Kolkata." *Journal of Legal Pluralism*, 52.

Descriptive. Ethnographic case studies of domestic violence claims in Family Courts, Women's Grievance Cells (police), and Shalishi informal mediation/counseling programs. Highlights the way in which violence is marked as a strategy of negotiating socioeconomic and other kinship needs in marriage (the family as an institution of the State). The responses to domestic violence (civil, criminal, and community mediation) are understood as feminist and human rights interventions that often get compromised by resistance from structures through which they operate (legal, family, socioeconomic). Describes processes of community mediation program near Kolkata practicing "arbitration" by government officials, community leaders, and family members/neighbors: emphasizes family reconciliation, addresses violence directly (unlike in official legal response systems analyzed), and uses the legal threat of dv law to create a space within which socioeconomic needs can be negotiated; not expected to eliminate violence. Effect is to produce a normative gender vision in which women should be empowered within, but confined to, the traditional family structure and gender roles.

Bhatla and Rajan. (2003). "Private Concerns in Public Discourse: Women-Initiated Community Responses to Domestic Violence." *Economic and Political Weekly*. pp. 1658-1664.

Descriptive. Participatory research study exploring dynamics of women-led innovative community-based responses to domestic violence in West Bengal, Gujarat, Uttar Pradesh: documentation of how responses emerged, how they operate, and how successfully they address the needs of women survivors. Authors use human rights framework; see these systems as opportunities for democratic forms of dispute resolution integrating feminist analyses and transformative justice; they evolved in juxtaposition to culturally sanctioned silence on domestic violence and inadequate/insensitive formal redressal mechanisms. Describes how feminist and democratic ideology and perspective are operationalized. Findings: primary feature of programs is their ability to transform private individual cases into issues of community-wide concern/discourse (through public and participatory methods that provide an escape from kinship ties), and operationalize this transformation through democratic procedures; "feminist perspective" evident in various ways; decisions are a blend of forward movement and necessary compromise; systems do not reflect interest of any dominant group; arbitration methods have evolved



over time through discussion and reflection (e.g. use of violence during arbitration). Impact of systems: violence either ends or significantly declines after intervention; improvement in woman's self-image in nearly all cases; slowly changing norms due to the fact that activists are themselves members of the community and negotiating with patriarchy as well.

Burton, Duvvury, and Varia. (2000). "Justice, Change, and Human Rights: International Research and Responses to Domestic Violence." Promoting Women in Development, International Center for Research on Women and The Centre for Development and Population Activities.

Prescriptive. Synthesis of 11 international studies, including 8 studies from India; analysis of DV in India based on Poonacha and Pandey (2000) and Mitra (1999), which are included in this bibliography. Project seeks to link development, human rights, and domestic violence. Contains summary of key findings, lessons learned, and analysis of findings.

International Center for Research on Women. (2002). Domestic Violence in India, Number 5: Women-Initiated Community-level Responses to Domestic Violence, Summary Report of Three Studies. Washington, D.C. Accessed 30 Sept 2010 from: [www.icrw.org/docs/DVIndia\\_Report5\\_702.pdf](http://www.icrw.org/docs/DVIndia_Report5_702.pdf).

Prescriptive. Synthesizes findings of three studies, including Poonacha and Pandey (2000) and Mitra (1999), which are included in this bibliography, in order to provide reliable data to identify, replicate, expand and advocate for effective responses to domestic violence. Research project situates itself within the moral momentum against domestic violence provided by the human rights discourse infusing the international women's movement. Narrates a history of the domestic violence movement in India, as distinct but related to the feminist movement, legal reforms achieved, and the relationship between women's rights and development discourse. Evaluation of programs based on quality, impact, and sustainability of responses. Findings: effective programs combine a wide range of accessible quality services with interventions that challenge the broader social and economic context that exacerbates the gendered power imbalance; involving the community in the design and implementation of interventions are key to effectiveness and sustainability. Long list of best practices listed.

Iyengar, Sushma. (2007). "A Study of Nari Adalats (Women's Courts) and Caste Panchayats in Gujarat." Asia Pacific Gender Mainstreaming Project, Towards Inclusive Governance, United Nations Development Programme.

Descriptive/Prescriptive. Study of Nari Adalats in Gujarat, evaluating the extent to which they are practicing gender justice. NA's placed within extensive history of Indian and international women's movement and the institutionalization of alternative justice systems in India. Details procedures, practicing ideology, and limitations of NA's, as well as the way they interact with traditional Panch. NA's derive legitimacy from their community ("insider") status; limited to marital conflicts and asserting women's rights within the family; emphasis on maintaining family; use social justice to find practical and implementable solution rather than applying generic principles of justice/human rights. Often subconsciously reinforce gender/class/caste/religion inequalities. Insufficient legal knowledge leads to decisions that are often less pro-woman than the law. Social impact has been reformist, not revolutionary. Lessons Learnt: NA's need an "authorized institutional mandate" to increase their legitimacy (without becoming like Lok Adalats), as well as standardized documentation, legal education, and human rights framework

Magar, Veronica. (2003). "Empowerment approaches to gender-based violence: women's courts in Delhi slums." *Women's Studies International Forum*, 26(6), pp. 509-523.

Descriptive study of women's courts run by activist slum women to interpret how women are redefining traditional understandings of female roles. Fits mahila panchayats into an "empowerment framework": change in individual consciousness leads to group empowerment leads to social transformation. Mahila Panchayats are a form of self-government evolving out of grassroots feminist activism in response to forced sterilizations; they focus attention on gender inequity (rather than on individual cases of dowry, alcoholism, etc), ensure women's economic stability, and help them reconcile families or leave husbands (as per women's wishes). Overviews processes and provides details of 16 cases (complaints and resolutions). Impact: increased legal knowledge and feelings of personal control and self-esteem; gender awareness and de-naturalization of violence among women participants, who can then act as role-models for other women in community; women become agents in developing new pro-woman understanding of gender-based violence in community by publicly and collectively challenging perpetrators.

Mitra, Nishi. (1999). "Best Practices Among Responses to Domestic Violence in Maharashtra and Madhya Pradesh." International Center for Research on Women: Washington, D.C.

Prescriptive. Study of the range of gov't and non-gov't responses to dv (including All-Women Police Stations, Family Counseling Cells, Family Courts, Lok Adalats, and Parvarik Mahila Lok Adalats, welfare and service provision, and awareness raising) in order to identify best practices and suggest criteria for evaluating effectiveness. No mention of non-institutionalized women's courts. Approaching DV as an "epidemic" of crime, and from a women's rights perspective; defines DV as physical, emotional, sexual, and financial abuse within the home. Mitra provides broad overview of the strategies, services, ideologies, and beneficiaries of different response system. Asserts that most responses are heavily influenced by the state's emphasis on family reconciliation (likely because of the lack of viable alternatives for women); anti-dv law is not often directly used but has a strong deterrent value. Mitra classifies institutionalized women's courts as judiciary interventions that lack punitive power and rely excessively on mediation counseling, which is ineffective in ending domestic violence. Sampling of best practices listed: cultural specificity in design; wide-ranging and diverse services; easy accessibility; multiple sources of funding; collaboration and coordination of services; institutionalization; including men and batterers holistic treatment of the problem; ethical/moral leadership; and community mobilization.

Poonacha and Pandey. (2000). "Responses to Domestic Violence: Government and Non-Government Action in Karnataka and Gujarat." *Economic and Political Weekly*, 35(7), pp. 566-574.

Descriptive/ Prescriptive. Authors assess the ideologies and effectiveness of 20 organizations practicing distinct forms of responses to domestic violence through in-depth case studies, from the perspective of the international women's rights movement and concurrent resistance to the criminalization of domestic violence (as a breach of the "private sphere"). Focuses solely on marital violence. Organizations examined vary in ideological approach: they include government, non-government, and feminist, and community-based, and range from: individual service provision (shelters, legal aid, counseling, skill development); gov't and ngo family counseling cells; women's police stations; women's collectives; and semi-official alternative dispute resolution. Findings include that family

counseling cells and “traditional” orgs have clear mandate to keep families together and as such disempower women; neglect of gendered power differentials in “fair” proceedings and reliance on traditional caste/family structures may lead to reinforcement of traditional inequalities and beliefs; formal public responses to dv are inadequate deterrence due to procedural failures of criminal justice system. Best practices: non-hierarchical and participatory organizational structures led by local collectives; continuous in-house staff training in counseling and gender issues; participatory and interactive strategies to extend outreach and develop self-reliance in communities; networking; research and documentation.

Talwar, Anuradha. (2003). “‘Shalishi’ in West Bengal: A community-based response to domestic violence.” *Economic and Political Weekly*, 38(17), pp. 1665-1673.

Descriptive. Study of traditional community level dispute resolution system that has been adopted by activists to address spousal violence (broadly defined), in order to determine the effectiveness in advancing gender justice within the framework of marriage and the family, assess impact, and determine strategies for improvement. Activists studied approach their work with a gender and class analysis of power relations, belief in the necessity of including men and women in the solution, critique of political party cooption of the women’s movement, and belief in participatory democracy. Author describes in great detail the processes pre-, during, and post-hearing, emphasizing large degree of flexibility in determining strategic practices on a case-by-case basis in order to ensure that individual women have needs met. Also, strong emphasis on mobilizing neighborhood support for the survivor. Working within the constraints of community norms and lack of viable economic alternatives for women, the process often works in favor of keeping family intact, which while perhaps compromising feminist notions of empowerment is possibly in line with the philosophy of transformative justice (that the perpetrator can change). Program has effectively reduced experience of physical violence and deprivation of basic needs and improved women’s self-confidence (as reported by the women). Follow-up, repeated interventions and community pressure led perpetrators to change behavior. Program has also impacted community values and beliefs about violence and gender roles.

## INTERNATIONAL

Restorative Justice Online. (2003). "Applying Restorative Justice to Domestic Violence: Web Resources." Centre for Justice and Reconciliation. <http://www.restorativejustice.org/editions/2003/September/domesticviolence>

Annotated bibliography of online resources (including links) addressing the debate about the appropriateness of restorative justice models for addressing domestic violence.

## Australia

Braithwaite, John and Heather Strang, eds. (2002). *Restorative Justice and Family Violence*. Cambridge University Press, 288 pp.

Collection of papers from Australian scholars and activists examining tensions in the application of restorative justice to family violence. Early chapters are highly prescriptive in nature without giving empirical evidence, advocating for reintegrative shaming model (Braithwaite and Strang) and restorative justice as promoting healthiest qualities in families and relationships (Pranis and Morris). Stubbs and Daly challenge restorative justice models due to concerns for women's safety, choice, autonomy, and power imbalances within the family. Pennell and Burford advocate for family conferencing, which combines feminist praxis with restorative justice based on evidence from a Family Group Decision Making Project in Newfoundland and Labrador. Coker discusses the theoretical limitations of restorative justice (lack of attention to structural power inequalities re: battered women, nor to subordinating systems that may operate in the life of the batterer). Bazemore and Earle build upon notions of transformation and restorative balance in family and community. Behrendt, Blagg, and Kelly discuss need for culturally-appropriate responses to violence in indigenous communities (recognizing roles of respected elders and community leaders; community empowerment through alternatives to marginalizing legal system). Busch discusses the limits of restorative justice model (that prior relationships should and can assist in healing, that there will be enough networks of supporters to facilitate reparation, that women are in a safe and secure enough position to engage without fear, and that there are enough people who understand the power control dynamics of domestic violence).

[Lawrie, Rowena](#) and [Matthews, Winsome](#) (2002). *Holistic Community Justice: A Proposed Response to Family Violence in Aboriginal Communities*. University of New South Wales Law Journal. 25(1), pp. 228-232.

This article discusses how the formal justice system can develop an effective response to family violence in aboriginal communities in Australia. Authors criticize current criminal justice approach for failing to meet the immediate and long-term needs of offenders *and* victims, over-criminalizing Aboriginal men, revictimizing survivors. Authors argue that the approach must be completely controlled by Aboriginal community, must deal with victims' needs in a holistic manner, and take a restorative and rehabilitative approach toward offenders, because family violence affects not only individuals but entire communities. Recommends establishment of a localized, community-controlled holistic justice and healing centre that can act as a single point of contact for victims (needs assessment, liaisoning with service providers and police, emergency shelter, financial assistance, legal aid, counseling, etc) with community healing processes determined as per local community practices and needs and alternative sentencing that addresses the causes of offending and encourages offenders to take responsibility and required participation in intensive healing program with community; makes use of community censure against offending behavior.

Memmott, Paul. (2002). "Community-Based Strategies for Combating Indigenous Violence." *University of New South Wales Law Journal*, 25(1), pp. 220- 227.

Author argues that community-driven programs should be used as primary method for resolving, combating, and preventing indigenous family violence, and for treating the harm and stress arising from them. Arguments for community-based responses: community ownership of solutions leads to increased effectiveness (should reflect local "commonsense"; in contrast with "colonizing" outsider policies), possibilities of "reintegrative shaming" to eradicate violent behavior, swifter/pre-emptive response to violence, belief in possibility for individual transformation. Presents a range of community-violence programs that can be incorporated into an overarching "Community Action Plan": support programs (counseling, advocacy); identity strengthening programs (sport, education, arts, cultural group therapy); behavioural reform programs (men's and women's groups); and policing programs (night patrols, wardens); shelter/protection programs (refuges, sobering-up shelters); justice programs (community justice groups);

mediation programs (community justice groups); community education programs; and composite programs. Role of government: take a regional approach to supporting and coordinating local community-based initiatives, form strategic partnerships, provide training.

## Canada

Baskin, Cyndy, (2002). "Holistic Healing and Accountability: Indigenous Restorative Justice." *Child Care in Practice*, 8(2), pp. 133-136.

Writing from an Aboriginal perspective in Canada, the author draws certain fundamental contrasts between Western-European and Aboriginal approaches to understanding and dealing with wrongdoing. For example, a Western-European approach, as seen in the dominant society and its criminal justice system in Canada, focuses on the offender and his or her individual responsibility for wrongdoing, and emphasizes punishment of the offender as the most appropriate response. An Aboriginal approach emphasizes a collective responsibility for dealing with wrongdoing and seeks healing to restore peace and balance among the community, offender, and victim. In this framework, Baskin discusses her work with Aboriginal sexual offenders using culture-based restorative justice aims and processes, such as circles.

Bushie, B. (2005). "Community Holistic Circle Healing: A Community Approach." International Institute for Restorative Justice. [http://www.iirp.org/library/vt/vt\\_bushie.html](http://www.iirp.org/library/vt/vt_bushie.html).

Author was among the founders of the community holistic circle healing response to sexual abuse; describes the process by which the program developed, details processes and specific steps of the program (series of "healing circles" in which the perpetrator is pressured to admit his actions, take responsibility, and work toward "healing" collectively with professionals, family, and community members), discusses status of the program and challenges faced in implementation of the model, and lists future activities. Program is an alternative to incarceration (only occurs after police intervention); also, only applicable to certain forms of family violence. Initiative largely led by women.

Cameron, Angela. (2005). "Restorative Justice: A Literature Review." The British Columbia Institute against Family Violence. Vancouver, Canada. [http://www.awanbc.ca/Restorative\\_Justice.pdf](http://www.awanbc.ca/Restorative_Justice.pdf).

This literature review and annotated bibliography examines whether current research shows restorative justice to be a safe, effective criminal justice response to cases of intimate partner violence in Canada. Notes that restorative justice doesn't have the social change goals of transformative justice; provides an overview of key distinctions, definitions, and characteristics on alternative/informal justice systems. Explains legal basis for individual models of restorative justice in Canada. Evaluates the effectiveness of programs based on how well they meet survivor needs (punishment and accountability; physical protection and safety; advocacy and support; resources; children's needs; autonomy and decision-making power)

Joint Subcommittee on Victim Issues. (2009). "Annotated Bibliography: Victims and Restorative Justice." Correctional Services Canada, Restorative Justice Resources website. Accessed 8 Dec 2010. <http://www.csc-scc.gc.ca/text/rj/rprts/biblio-eng.shtml#18>

Provides a comprehensive bibliography on all aspects of restorative justice, including best practices, victim involvement, victim issues, general victimology resources, issues facing restorative justice practitioners, and special applications. Seven bibliography entries pertaining to restorative justice and domestic violence and sexual assault can be found under "special applications".

## **Pakistan**

Ministry of Local Government and Rural Development, Government of Pakistan. (2010). "Gender Justice through the Musalihat Anjuman Project (GJTMAP)." <http://www.gjtmap.gov.pk/index.php>; [http://www.gjtmap.gov.pk/reports\\_documents/files/Brouchre%20english.pdf](http://www.gjtmap.gov.pk/reports_documents/files/Brouchre%20english.pdf).

Site run by Pakistani government about the UNDP initiative to "provide women victims an alternative dispute resolution" through local alternative justice mechanisms; contains project progress and review reports, meeting minutes, case studies of gender violence, and brochures on the GJTMAP project. Noted aspects of the program: efficiency, reducing formal



court caseload, quick resolution, low expense, accessibility, respect for local culture/language, accepted by the community.

Poverty Reduction Unit, UNDP Pakistan. "MDG-3: Promote Gender Equality and Empower Women." United Nations Development Group, Good Practices Database. <http://www.undg-policynet.org/ext/MDG-Good Practices/mdg3/MDG3 Pakistan Gender Justice through Musalihat Anjuman.pdf>

Brief summary document of Gender Justice through Musalihat Anjuman Project, including background information, components of program, results, key elements of success, and lessons learned. Frames GJTMAP as an initiative to counter women's lack of adequate access to justice for gender violence. Success defined by quantitative measures (low cost and aid-effectiveness, number of courts in operation, number of cases resolved, as well as sustainability (constitutional legitimacy, state financial support), clear definition of institutional roles, use of impartial arbitrators from the community.

Iqbal, Nasira. (2006). "Rules of Business for Constitution and Functioning of Musalihat Anjuman." Gender Justice through Musalihat Anjuman Project (GJTMAP). No. 00040337.

Detailed guidelines for operation of the musalihat anjuman, including sections on the processes of the Musalihat Anjuman, institutional linkages, state support mechanisms for the Musalihat Anjumans, capacity building and raising public awareness, training (methodology of the conciliation process), do's and don'ts, and guidelines for the monitoring of pilot programs.

## South Africa

Moult, Kelley. (2005). PROVIDING A SENSE OF JUSTICE - Informal mechanisms for dealing with domestic violence. *South Africa CRIME QUARTERLY*, No 12, pp. 19-24. <http://www.iss.co.za/pubs/CrimeQ/No.12/Moult.pdf>.

From an "access to justice" perspective; study based on interviews with organizations providing informal assistance to women victims of DC, such as churches, street committees, headmen, traditional healers and NGOs. These organizations recommend/provide counseling and assist women in

filing legal cases when there is evidence of physical violence; goal is reconciliation and peace; mediation/counseling usually takes place in a public form. Author argues that informal justice structures more closely meet the needs of women than the criminal justice system, in terms of the immediacy with which they resolve problems, their focus on mediation and resolution rather than arrest and punishment, and their affordability. For resolving domestic conflicts, alternative justice mechanisms seem to have much more legitimacy for those involved than the formal justice process. The mechanisms studied seem to have little impact in terms of social change or critique of patriarchy; emphasis is on individual case resolution.

## U.S.A.

Coker, Donna. (2006). "Restorative Justice, Navajo Peacemaking, and Domestic Violence." *Theoretical Criminology*, Vol. 10, pp. 67-85.

Descriptive discussion of theoretical RJ model and practical application in Navajo Peacemaking processes. Author argues that RJ processes may meet feminist goals re: domestic violence (safety and empowerment of individual women as well as changing cultural and political conditions that support battering) only if those processes meet five criteria: prioritize victim safety over batterer rehabilitation; offer material as well as social supports for victims; work as part of a coordinated community response; engage normative judgments that oppose gendered domination as well as violence; and do not make forgiveness a goal of the process. Positive aspects of RJ: collective moral support for survivors and confrontation of perpetrator, offers alternative to separation-focus of legal approaches, provides space for discussion of oppression in the batterer's life, and offers alternative to potentially coercive harms of US criminal justice system (more oriented toward survivor-demands). Positive characteristics of Navajo Peacemaking: indigenous leadership designed the program and controls entry into it (in contrast with other "indigenous" programs operated by non-indigenous authorities), Navajo concepts of gender harmony provide cultural resource, and individuals may self-petition to enter process without having to engage with law enforcement or other legal processes. Limitations: coerced participation and inadequate attention to the victim's safety; lack of linkage with battered women's advocates; effectiveness depends on orientation and skill of Peacemaker (some exhibited a bias against divorce and others treated the abuse as mere 'conflict').

Creative Interventions. "*Creative Interventions Toolkit: An Invitation and Practical Guide to Community-Based Interventions to Interpersonal Violence.*" Creative Interventions Website. <http://www.creative-interventions.org/tools/>

Coalition of multicultural organizations combating violence in their communities in California are developing a toolkit (to be released soon).

Generation Five. (2007). "Toward Transformative Justice: A Liberatory Approach to Child Sexual Abuse and other forms of Intimate and Community Violence, A Call to Action for the Left and the Sexual and Domestic Violence Sectors."

Generation Five

website. [http://www.generationfive.org/downloads/G5\\_Toward\\_Transformative\\_Justice.pdf](http://www.generationfive.org/downloads/G5_Toward_Transformative_Justice.pdf).

Envisions a model of transformative justice for addressing sexual, domestic, and community violence in the face of the state's inability to provide justice on individual and collective levels. Based on a commitment to liberatory politics that creates opportunities for healing and transformation rather than retribution and punishment; address incidents of abuse while also preventing further abuse by working on social conditions that perpetuate and are perpetuated by child sexual abuse. Core principles: liberation, shifting power, safety, accountability, collective action, honoring diversity, and sustainability. Proposes a set of practices: building a collective, preparation and capacity building, naming and defining types of abuse, conducting assessment, developing a safety strategy, supporting healing and resilience, holding accountability, working for community transformation, and strengthening collective resistance.

Grauwiler and Mills. (2004). "Moving Beyond the Criminal Justice Paradigm: A Radical Restorative Justice Approach to Intimate Abuse." *Journal of Sociology and Social Welfare*, 31(1), pp. 49- 69.

This article traces the history of the development of the treatment of domestic violence as a crime in the United States and the conceptual and practical limitations of this approach in addressing this important social issue. An extensive body of research on restorative justice practice suggests that restorative approaches may contribute to reducing and preventing family violence. Drawing on restorative justice principles, an

alternative or supplement to criminal justice approaches is outlined for working with all parties involved in abusive relationships.

Incite! Women of Color Against Violence. (2003). "Community-accountability principles/concerns/strategies/models, working document." [http://www.incite-national.org/media/docs/0528\\_Incite-CommunityAccountabilityPrinciples.pdf](http://www.incite-national.org/media/docs/0528_Incite-CommunityAccountabilityPrinciples.pdf)

Development of human-rights based community accountability strategies in order to chart a path towards addressing gender violence that avoids the traps of both individualized legal/shelter responses to gender violence (which take power away from women's ability to organize collectively to stop violence and place power within the state, leading to alienation and disempowerment), and restorative justice systems which place pressure on survivors to reconcile through mediation in order to "keep the peace" regardless of their needs. Principles: collective action, prioritizing safety for survivors, self-determination, re-thinking and building community, and exposing the ineffectiveness of criminal justice system to address gender violence. Lists questions that remain to be addressed, and long list of possible strategies, and provides overviews of currently existing programs in the U.S.

Coleman, Timothy, Esteban Kelly and Em Squires. (2008). "Philly's Pissed and Philly Stands Up: Collected Materials." *In the Middle of a Whirlwind*, weblog. <http://inthemiddleofthewhirlwind.wordpress.com/philly%E2%80%99s-pissed-philly-stands-up-collected-materials/>

Contains three articles: "Shifting the Balance of Power in Our Communities", "Our Approach, Our Analysis", and "Grounding our Work". Reflective articles written by organizers involved with Philly's Pissed community response to sexual assault in radical/queer communities. Program combines direct support to survivors, community education and advocacy promoting survivor autonomy and perpetrator accountability in order to provide a community alternative to the criminal justice system (which frequently retraumatizes survivors) for dealing with instances of sexual assault. Describes ideology, processes, organizing principles, and examples of strategies. Believe in engaging the perpetrator and communities to create social change. Principles include: believe the survivor; survivor autonomy (re: how the community should respond to their incident); use of "harm-reduction" strategies to help survivors make decisions.



## **Women-led Community-based Alternative Responses to Violence against Women: Literature Review**

*March 2011, Sofia Saiyed*

Women-led community-based responses to gender violence are a promising and inspiring alternative to the formal judicial system in responding to gender violence. The purpose of this report is two fold: to synthesize literature critiquing the formal system of response to gender violence in India and to draw patterns and commonalities among alternatives to those formal systems in India and internationally.

### **Formal systems for responding to gender violence in India:**

Cases involving gender violence can go through regular civil or criminal courts, or any one of several mechanisms developed specifically by the government to address violence against women. These special mechanisms were developed concurrently with the passage of successive legal reforms criminalizing broader and broader definitions of violence against women. They were developed largely due to a sense of the exceptionality of violence against women as a crime of the “private” sphere, particularly if it occurs between a husband and a wife. Other reasons to develop special mechanisms were that many women experiencing violence are reluctant to file cases against their husbands, and feminist activists pushing for government reform argued that the traditional justice system would be unable to provide adequate relief to women experiencing violence. These special mechanisms include:

1. Family Courts (est. 1984): separate courts that integrate civil and criminal law; no lawyers (Agnes 1991; Basu 2006; Mitra 1999; Poonacha and Pandey 2000)
2. *Parivarik Mahila Lok Adalats* (est. 1987): semi-institutionalized “women’s courts” designed to devolve judicial responsibility to communities and speed up the processing of VAW cases (Arya 2010; Mitra 1999; Poonacha and Pandey 2000)
3. Family Counseling Cells: run by the Police or through public/private collaboration, focusing on reconciliation through counseling and referral services in order to avoid litigation (Arya 2010; Mitra 1999; Poonacha and Pandey 2000)
4. All Women Police Stations: investigate women’s cases, provide guidance to women, and resolve marital conflicts through counseling; primarily located in urban areas (Basu 2006; Mitra 1999; Poonacha and Pandey 2000)

Many NGOs responding to gender violence are largely guided by state policies and provide services that complement or replicate those provided by the state, for instance by running family counselling cells that are not affiliated with the police, providing counsel, emotional and/or legal support to women navigating the formal judicial system, or forming partnerships (women's cells in police stations) with local police offices.

### **Benefits and limitations of formal responses to gender violence**

Legal reforms were considered essential in that they set normative standards against violent behaviour in societies that often sanction domestic violence as a husband's prerogative, and legitimize the demands of women and activists for the cessation of various forms of violence (Gangoli 2007; Jaising 2009). But while the legal reforms have been useful strategically to the movement against VAW, it is also important to realize their limitations. Foremost among those limitations is that many women are unable or unwilling to take legal action for many reasons: court processes are costly and can take months; court processes are difficult to understand and navigate, particularly for illiterate and semi-literate women; many women want to return to the marital home; women are unaware of their legal rights and the legal options available to them; the lack of socially-acceptable and economically viable alternatives for single women; the financial undesirability of sending men to jail when they are often the primary breadwinner of the family; and the fact that sending a man to jail does not necessarily result in "justice" for the woman. Furthermore, even progressive legal reform can create norms that inadvertently hurt women. For instance, the emphasis on rape and dowry early in the movement inadvertently legitimized other forms of violence as acceptable, as evidenced by instances in which women were pressured to invent dowry-related causes of the violence they experienced in order to lodge formal complaints or bring cases against their violent husbands or in-laws. As early dowry laws demonstrate, law that are too open and unspecific in their definitions are prone to misinterpretation by a legal system that is often biased against women (Jaising 2009). On the other hand, as seen in subsequent reforms to laws criminalizing gender violence, codifying every potential form of violence is an impossible task, and as such laws that attempt to do so will have a detrimental effect on women whose cases fall outside the normalized definitions of victim-woman (for instance women who have had affairs, women in polygamous relationships, and minority women) (Agnes 2004; Agnes 2005; Kishwar 2006; Kothari 2005). In that they normalized a certain "victim-woman" who deserves intervention by the state, legal reforms have also been criticized as sexist, providing protection without empowerment (Agnes

1995; Bush 1992). Indeed, when many survivors of gender violence are economically marginalized and live in traditional rural communities, laws that address only one aspect of their oppression—the violence they experience at the hands of family members— are limited in their potential to empower women.

A more fundamental critique of the legal rights-based approach to gender violence has also emerged in the past ten years. This critique problematizes the assumptions of the liberal rights discourse as well as the individualizing and depoliticising effects of codifying gender violence into the law. When women use laws to address violence, attention is focused on situational factors of the individual case (such as alcoholism, dowry demands, infidelity, and so forth) rather than on the structural critique of unequal power relations within the family or the fact that gender violence is a normalized, common occurrence rather than abnormal “deviant” behaviour. As many feminists realized even while advocating for legal reform, laws cannot create social change. Due to their assumption of (and insistence on) “free will”, legal rights also fail to recognize the way patriarchy produces certain desires (for instance, the desire to return to abusive husbands) in addition to constraining women’s autonomy (for instance, through violence). For this reason, legal rights have little to offer to the majority of women who “choose” not to report cases to the police or pursue any kind of legal action. Apart from questions of physical, financial, or linguistic accessibility, taking advantage of such rights requires women to publicly reject patriarchal subjugation, which in many women’s lived realities also means rejecting familial support systems and relationships which, though they may be violent, may also be loving (Suneetha and Nagaraj 2005; Suneetha and Nagaraj 2006; Menon 2004)

The criminalization of gender violence coupled with the frequent marginalization of actual cases of gender violence in the formal justice system led to a paradoxical situation for feminist activists who achieved the immediate goals of their campaigns (legal reform) without being able to reach a majority of the women living with violence—particularly poor and marginalized women—in a truly transformative way.



## **WOMEN'S COURTS: An Alternative approach to ending gender violence**

Women's courts, in the varied and evolving forms they take today, avoid many of the pitfalls of the formal system listed above and attempt to transform men and communities in which violence is accepted as a norm.

### *Women have the right to live free from violence*

Violent behaviour is not natural or acceptable. It cannot be rationalized or excused in any circumstance. There is nothing a woman can do to "deserve" to be abused. Gender violence is caused by unequal power relations between genders, not women's behaviour. In practice this means that when a woman makes an accusation of violence, no one asks her what she did to provoke it or "deserve" it. Violence is not condemned in some situations but excused in others. This "right" to live free from violence is enacted by the community to pressure men to change their behaviour (Suneetha and Nagaraj 2010; Incite 2003).

Comment [d1]: Principles...of MNP

### *Women-initiated*

Collectives of local women organize the community and establish and run the courts with the support of outside organizers. They are the driving force of the courts rather than just being "included" or "consulted" in a process driven by outside service-providers. Women's Courts should have formal recognition but autonomy from formal institutions, while establishing strategic linkages (with healthcare providers, police, government, judiciary, social services, etc.) as deemed appropriate by the women members based on local needs and circumstances.

### *Transformative*

Both community norms on violence against women and men within those communities who perpetrate violence can and should change in order to support women's right to live free from violence. Women's courts go beyond responding to individual cases by connecting those cases into a larger critique of the unequal

power relations between men and women that lead to gender violence and other forms of abuse (emotional, economic, etc). One way in which this principle is put into practice is in non-adversarial engagement with perpetrators of violence during the hearing process. While the formal justice system criminalizes and penalizes perpetrators of violence, women's courts seek to engage with perpetrators and change their behaviour. Perpetrators are given the opportunity to explain their story. This also provides space to understand and deal with oppression faced by the perpetrator, without excusing his violent behaviour. (ICRW 2002; Magar 2003; Talwar 2003; Mitra 1999; Coker 2006; Generation Five 2007).

### *Community-mobilization*

Incidents of violence against women require a collective response from the community. Community members are mobilized to provide support to the survivor, put social pressure on the man who caused harm to cease violent behaviour, and monitor the cases after a hearing to ensure that the woman is safe and that the man is abiding by the agreement made during the hearing. Courts use safe and accessible public spaces for open dialogues about each instance of violence that comes before the court. This principle has many implications:

- The women's court is grounded in a specific community's culture and religion. Rather than blindly applying a universal notion of justice or rights on the community, members of the court use their knowledge of local idioms, beliefs, and values strategically during the negotiation process as a moral force in support of the right to be free from violence
- The women's court is attuned to the community's informal social and political structures, recognizing and drawing upon the authority of traditional leaders (influential men, elders, caste panchayat, etc) by involving them in the process of responding to instances of violence in order to pressure men to change their behaviour and change community norms around violence
- The women's court derives authority from within the community rather than from some outside institution, and is accountable to the community. This also means that women's courts are autonomous from the state and private organizations, and that collectives of community women are the driving force of the programs. (Mitra 1999; Talwar 2003; Lawrie and Matthews 2002; Memmott 2002; Baskin 2002; Incite 2003).

### *Flexible negotiation driven by survivor needs*

Women survivors are at the centre of a democratic process to arrive at a reasonable agreement between the perpetrator of violence and the survivor of

violence. Women's courts may hold multiple hearings for the same case, and adjusts procedures as necessary and appropriate for specific cases. Research has shown that the most successful programs have leadership closest "the ground", non-hierarchical leadership, and participatory decision-making processes (Poonacha and Pandey 2000). However, the use of participatory democratic processes has the potential to result in anti-woman agreements, depending upon the prevailing community norms. For this reason, it is necessary to imbue the hearings with a pro-woman perspective—without being authoritarian. Women's needs and desires, as determined by the survivor herself, should determine the court's course of action and serve as the point from which negotiations begin. These include needs related to the cessation of violence, as well as shelter (the desire to return to her marital home, the need for temporary shelter) and socioeconomic needs (maintenance from husband, skills training in order to earn income herself). Other examples of putting this into practice include actively and intentionally advancing the woman's perspective, making use of the international women's rights discourse to advocate for women survivors, and establishing non-negotiable women's rights that group consensus cannot override. Facilitators of the hearings can ensure that women's voices are highlighted and not silenced during negotiations (Basu 2006; Bhatla and Rajan 2003; Magar 2003; Talwar 2003).