A Difficult Match

Women's Actions and Legal Institutions in the Face of Domestic Violence

Over the last two decades, the discourse on domestic violence has steadily moved into the legal/institutional domain. Originating in the debates within the women's movements on structural inequalities in the family, where women's struggles had a certain centrality, it has become a legal/governmental category. Emblematic of most feminist initiatives about women's lives in our country, this shift is beset with its own dilemmas and impasses. While naming, categorising, enumerating and measuring violence as well as efforts to make them legally recognisable are imperative to any feminist politics, they also generate their own effects. These effects, while resulting in some well-needed institutional solutions, also bring in their wake, certain conceptual rigidities. There is a need to pay attention to these effects while rethinking the familiar demands in the arena of domestic violence: foolproof laws, sensitive institutions and better awareness among women.

A Suneetha, Vasudha Nagaraj

Over the last decade, academic and activist attention on the responses of various public institutions to domestic violence[1] has increased in India. Along with legal institutions family counselling centres and hospitals are also being drawn into the debate. Several studies [Dave and Solanki (2001); Vimochana (2000); Vindhya (2000); Mitra (2000); Elizabeth (1999); RCWS (1999); Hakkina Sangha (1999); Jaswal (1999); ICEN (1999); and APCLC (1991)] concur on the general ineffectiveness of these institutions in responding to women's concerns. While agreeing with this position, in this paper, we argue that women's interface with the institutions in the context of domestic violence needs to be complicated further. Framing the issue only in terms of failure/inadequacy, at its best, presents a linear/one-dimensional picture of women, violence, institutions and their transactions. It is our contention that such a framework conceives of women, the violence they face, the institutions that they reach out to and the complex negotiations that they undertake at these sites, in ahistorical and essentialist modes. There is a need to problematise such a framework in order to disrupt the by now familiar demands in the arena of domestic violence: foolproof laws, sensitive institutions and better awareness among women. Such a move would enable us: first, to rethink policy initiatives; second, throw new light on women's actions in the context of this violence. Women's actions, we argue, 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.

We lay out our argument in four sections. The first section gives the background in terms of the emergence of domestic violence as a public issue in India. The second section charts the empiricist-legal discourse of domestic violence through an examination of the categories of victim – women, violence and institutions. The third section illustrates these problems by focusing on one particular site – women police stations in Hyderabad city. In the final section, we argue that the narratives of victimhood, cast in the mould of citizenship need to be re-thought and that feminist politics needs to acknowledge the problematic actions of women struggling with domestic violence.

Background

Domestic Violence as a Public Issue in India

Domestic violence is one of the central issues for contemporary women's movement in India. At various moments in the last two decades, it has been understood as dowry-violence, wife-beating and/or a human rights violation. These different concepts coexist in everyday politics, inspiring diverse modes of activism. They span local, national and international arenas allowing for trafficking in ideas, strategies and mechanisms to address domestic violence. There are three important moments that are crucial for a historical understanding of the conceptual shifts around this violence.

During the first phase, dowry was the dominant paradigm for understanding violence in the family. The public discourse was dominated by analyses of dowry, its patterns, spread, effects, impact etc. As many critics [Kishwar 1988; Agnes 1992] pointed out, this emphasis helped to shift the focus away from the power relations in the family. "Dowry" an external agent coming through "modern desires and consumerist values" was relatively easier to believe than critiques of the family itself. By the early 1990s the focus on "dowry violence" gave way to the broader notion of "wife-beating" or "domestic violence" as a result of the increasing realisation that women are subjected to numerous forms of abuse in families. Campaigns for changes in law were important site for articulating this shift. During this phase, the issue began to appear in different quarters: such as development NGOs, gender training programmes, human rights activism, counselling centres, workshops on health,

microcredit programmes, etc. Towards the late 1990s it took shape as a development issue. We begin to see statistical surveys about the prevalence and trends in domestic violence as well as effects and costs of such violence for the economy and the state.[2]

One of the well-argued positions linking domestic violence to development [ICRW 1999] makes a case for seeing this violence as an obstacle in the realisation of women's rights, their participation in the economy/market as workers and consumers and their ability to be the managers of the household. The impact of violence is demonstrated by calculating its health costs on the economy and the household. This position seeks to contrast women's changing roles (as required by the current state and the market) and the "backward pull" of the family. It contends that if the state and the market want the women to be productive and active individuals, it is imperative that they address this issue – the costs are too high at the individual household level as well as the macroeconomic level. This analysis, attractive to many, pushes for more governmental responsibility in terms of strengthening the existing institutional mechanisms and involving NGOs in the ambit of this activity. Active collaboration between the government and NGOs is constantly being stressed at this moment. In fact, the NGOs are urged to think on the lines of the government agencies – treating domestic violence as a crime. Not only the non-governmental organisations but families and friends of women are being hailed as a more plausible controlling mechanism for "reducing this violence". This shift cannot be understood as a historical progression of women's issues from private to public. Rather, it needs to be seen in the context where "women" have moved from being an oppressed category to a "to-be-empowered category" – visible in the incorporation of "gender" in development programmes, media and governance debates [John 1996; Tharu and Niranjana 1998].

The steady move of domestic violence discourse into the legal/institutional domain over the last two decades can be gathered from the above discussion. Originating in the women's movement's debates on the structural inequalities in the family where women's struggles had a certain centrality, it has moved to more of a legal/governmental category. This move, emblematic of most feminist initiatives about women's lives in our country, is beset with its own dilemmas and impasses. While naming, categorising, enumerating and measuring violence as well as efforts to make them legally recognisable are imperative to any feminist politics, they also generate their own effects. These effects, while resulting in some well-needed institutional solutions, also bring in their wake, certain conceptual rigidities. What does it mean to work with an analysis that focuses on the empirical category of "violence"?

Empiricist Legal Discourse on Domestic Violence

The contemporary discourse on domestic violence can be best examined by looking at the range of studies that investigate the responses of institutions to domestic violence. One can identify three sets of studies that examined the responses: first, and the most popular analysis of judgments in cases of domestic violence [APCLC (1991); Vindhya (2002); Elizabeth (1999); Singh (2002)]; second, analysis of the functioning of legal institutions set up for this purpose such as women's police stations [Dave and Solanki (2001); Vimochana (2000); Mitra (2000)]; and welfare institutions such as family counselling centres [Mitra (2000)]. All these studies investigate how institutions interpret women's experiences of violence and their ability to respond to them. Some of the well known and widely commented upon findings of these studies are: tardy investigations, low rate of convictions, corruption, lack of infrastructure, insensitive personnel and patriarchal attitudes – that obstruct individual women's attempts to counter "violence". The mandate is to show ways of improving institutional responses.

Violence as a Category

Much of the initial theorising in the area was in terms of "breaking the silence" around violence. It was concerned with naming the experiences of women as abusive. While experiential accounts and case studies were the predominant descriptive models, analytically "structural violence [Krishnaraj 1991] came up as an important model for understanding this violence. In this perspective, violence is seen as the maintenance mechanism of an unequal structure.

> ...(v)iolence would include, apart from brutalisation of the individual or group through physical injury, threats of coercion, subtle acts of disciplining aimed at pressurising the individual or group to act in a manner conducive to the wishes of the dominant group as well as exploitation, discrimination, upholding of an unequal social and economic structure and the creation of an atmosphere of terror, a situation of threat and reprisal.

Violence is understood as an outcome of the unequal structures of patriarchal families that gets expressed in a variety of ways, including physical tortures of the body. Such an explanation does not see violence as "an excess or an abuse of familial power", but as a necessary aspect in maintaining power relations within the family. Concentrating on abuse or excess (violence) without addressing the familial contexts easily merges with the liberal notion of violence. The model of structural violence on the other hand served to problematise the entire domain of familial relations. However, this perspective was marginal. In contrast, it was the liberal understanding of violence that dominated most analyses. This becomes quite clear when we examine the trajectory of violence as a category.

One of the first analytical reports on domestic violence in India [Agnes 1988] understands violence as physical and sets out to identify certain factors as *causes* of this violence: arguments over money, jealousy and suspicion, instigation by in-laws, housework, alcohol, woman's desire to work or woman's self-esteem, disputes over children, extra-marital affairs of the husband. Identification of causes and reasons became a regular feature later.[3] By late 1990s, however, the reasons and the context for the violence have begun to take a back seat. One sees the emergence of empirical and concrete categories such as verbal, emotional, mental, physical, economic and sexual violence. A certain familiarity begins to surround it, making it self-explanatory and obvious. A good example of this shift can be found in the range of record studies conducted by the International Council for Research on Women where "domestic violence is operationally defined as verbal, physical and emotional abuse against adult women in the family setting" [ICRW 2000]. Dave and Solanki adopt the following definition.

> (It) refers to any act of violence against women by the husbands or in-laws. Physical violence is defined as any act intended to harm or injure or inflict pain on the woman. Sexual violence can also be termed as physical violence. It refers to any act of non-consensual sexual activity. It can range from unwanted sexual attention to rape. Mental violence is any behaviour or lack of it by the husband

and the in-laws intended to undermine the woman's self-confidence or lead to a lowered or negative self-esteem [Dave and Solanki 2001: 40].

Laying out this empirical basis also had an important implication of making it accessible to legal and other institutional interventions. This move is an inevitable fallout of the nature of activism in this area with its predominant focus on law. In fact, sometimes, it becomes difficult to distinguish academic descriptions from legal ones. For instance, the above-mentioned ICRW record studies sought to interpret the data on violence in the following manner.

> The data shed light on the women reporting violence (such as their age, duration of marriage, education, work status and relationship to the perpetrator), as well as on the incidents of violence (such as the frequency of violence, nature of the attack, precipitating factors or reasons given, type of injury and/or type of weapon) (ibid: 3).

As is evident, this interpretation hinges heavily on legal descriptions of "crime" – perpetrator, attack, frequency, precipitating factors, injury, type of weapon. What is interesting is the unstated agreement about "what constitutes violence". Violence, in this framework, becomes an act or an event, divorced from the context of lived familial relations.[4] What are the implications of importing structural violence [Poonacha 1991] or gendered exploitation in the family to empirical and legal categories of violence? Embedding violence in the legal realm leads to the following consequences: of taking violence as "objective" – that can be clearly read through the evidence of individual behaviour; of imposing a "uniform" meaning on experiences of violence and emphasising legal/institutional remedies for domestic violence. They also lead to a predetermined understanding of women and their actions in the face of violence.

Victim-Women as a Category

Speaking out against women's unnatural deaths in the family not only meant breaking the barriers of privacy, but also exposing them as forced suicides or murders. That the woman did not provoke it had to be established in the face of the dominant societal commonsense which either denied the presence of such violence or blamed women for it. Feminists sought to establish the grounds for political action by arguing that neither family, nor law and civil society responded to women's repeated pleas. While the initial protests centred on making the deaths of women cognisable to law, the scenario soon began to include survivors. A common narrative that was heard from women ran along the following lines:

> I was 12 or 13 when I was married...don't remember exactly when. He beat me from the very beginning. He used to drink, come home and beat me. He used to burn me too – and kick me mercilessly. I suffered very badly.... He beat me brutally…[Kumar 1993].

Women's vulnerability arising out of powerlessness and lack of alternatives became the axes around which theorising and mobilisation occurred in this phase.

> Combined with a lack of alternatives in a married woman's life, her inaccessibility to her natal home, her resourcelessness and inability to face the world outside the four walls of the home with the concept of 'pativrata' or the supreme duty of wife towards her husband and the sum total is such a grim situation that death may well be preferable [Gandhi and Shah 1992].

The political movement that established this discourse had several important effects: new laws and institutions; reportage in the media; resource centres for women; feminist self-help groups. Theoretically, central to this process was the figure of the "victim-woman" whose rights were being articulated. As Ratna Kapur comments,

> The violence against women campaign has been overwhelmingly successful in translating very specific violations experienced by individual women into human rights discourse. VAW discourse has succeeded partly because of its appeal to the victim-subject. In the context of law and human rights, it is invariably the abject victim-subject who seeks rights, primarily because she is the one who has had the worst happen to her [Kapur 2005].

The figure of the victim-woman enabled the possibility of constituting a shared location from which women from varied backgrounds could speak about their experiences thus forging a commonality of experience. The various public hearings and conferences that served as a location for such a community, as Ratna Kapur comments, had a powerful impact on the popular imagination (ibid). What remained invisible in the process of forging the figure of the victim-woman, however, is the figure of "empowered woman" as the desired goal. While the former carried the attributes of innocence, dutifulness and obedience, the latter would mean autonomy, freedom and rights. Both are extremely problematic figures, not merely because they are taken as mutually exclusive but because they both share and depend on an emancipatory ideal of liberal discourse. As such, this dyad imposes a limitation on the manner in which women's actions in the face of domestic violence are analysed.

What happens when women begin to inhabit this victim position and act? The apparent incongruence between the inhabited position and her actions is what, for instance, the bogey of "misuse of S 498A" raises.[5] Women filing complaints under this section have been accused of abusing and misusing the scope of this law – by bringing complaints that are frivolous, exaggerated, driven by material interests and vengeance. It is easy to dismiss this as a backlash, but, in an oblique manner, it foregrounds the problematic of victim – women's agency – how to make sense of victim women's actions in the face of domestic violence. It would be useful to revisit the much-documented complaints that women bring to institutions and ways in which they have been interpreted.

Women often complain about alcoholism, lack of economic support, extra-marital affairs, problems with in-laws, suspicion, sexual incompatibility. Usually, the resolutions that they seek are: separate household, better financial support for the household, ending alcoholism and the promiscuity of the husbands. These certainly give us the picture of the factors triggering violence. What gets elided in the exercise of mapping the "factors" is the sticky issue of women's desire for a better marriage, husband and family life. Whether we like it or not, central to women's negotiations seems to be the "project of reforming the husband" making him into a considerate and responsible being. This project, for them, is crucial to keeping the marriage and family going. Women's tenacity to accomplish such a task has often surprised women's groups [Vanita 1999]. How do we understand this tenacity? Can we continue with explanation that it is women's social responsibilities of "wife" and "mother" alone that guide their actions? Doesn't this explanation take us back to the dyad of victim/empowered woman?

There is another problematic assumption that underwrites interpretations of women's actions in the studies on institutional responses. Most studies assume that women "break the silence"

only when they approach these formal or public institutions. Except for a nominal acknowledgement, the attempts of women to counter violence in locations outside the law have not been considered important. For instance, Dave and Solanki, in the TISS study, document that about 50 per cent of women had already moved to their natal homes at the time of reporting to the special cell, which was crucial in enabling them to reach out to the special cell. However, except stating that the natal families' support to the women is important, the study does not probe its consequences. Studies also comment that along with the family, women approach several non-formal agencies for support. The variety of agencies that are drawn into negotiating women's complaints of violence [Mitra 2000; Pandey and Poonacha 2000] range from political parties to trade unions to local 'mahila mandals' to 'seva ashrams'. It needs to be noted here that primary arena of activity for the above agencies may at best include women's issues, but not domestic violence. If not women's insistent pleas (agency?) what has led these groups to address domestic violence?

It appears to us that when we set up the law/public institutions as the primary site of "action" for women, two processes get obscured. One, women's efforts to regain "the affective ties of the family/husband";[6] two, her actions outside the realm of law and institutions. As is evident from the above, these two processes are crucial to understand women's actions in the face of violence. Accounting for these processes needs paying critical attention to "our modern" notions of family, cruelty and interventions through law. We are not attempting a full discussion of these issues in this paper. The issue that we want to highlight here is the multiple journeys of "victim-women" to improve their familial lives alongside their contestations with familial power.

As noted earlier, the category of the "victim-woman" has enabled forging of a commonality of experience, moved the state for legislation and forced a range of institutions such as the family, the immediate community, women's organisations, legal aid facilities, political parties, lawyers, judges into the realm of negotiating domestic violence. It has also helped women in articulating their claims in the language of rights. However, the emphasis on "rights-bearing" woman, most visible in the current discourse on this issue, increasingly seems to lend itself to uncritical invocation of the category of victim-woman. This essentialised category, we think, has led to an impasse in our understanding of women's actions in the face of familial cruelty.

The discourse of domestic violence – with its emphasis on "specific behaviours or acts" and the category of victim-woman, foregrounds "law and institutions" as the desirable modes of intervention. At the same time, it also finds them lacking, patriarchal and corrupt. In a sense "institutional failure" seems to be already written in the current discourse of domestic violence!

Institutional Responses

Important demands of the women's groups addressed to the state have revolved around setting up of new institutions that would be sensitive to women and their conditions: family courts with the objective of providing scope for a non-adversarial litigation; women's police stations exclusively staffed by trained women to provide an atmosphere of sensitivity and safety for women complainants; counselling centres to promote conciliatory solutions. Efforts are also being initiated to involve the public healthcare system to address domestic violence. Many of these institutions and laws have been in operation since the last one decade. As we have elaborated earlier the setting up of these new institutional locations also led to investigations to study their accessibility and helpfulness for women.

Most studies of institutional responses conclude that they have failed women – refusals by the police to register cases and investigate seriously; courts' insistence on corroborative evidence, patriarchal understanding of cruelty and lengthy procedures; doctors' indifference to women's suffering and connivance with the marital family [Vimochana 2000]; counsellors' insensitivity. The critiques point out that underlying the working logic of these institutions is the "private" nature of the issue – that should be settled through "reconciliation", "compromise" and "adjustment". That the burden of these processes largely rests on women is the core of this criticism.

Despite such findings, efforts to strengthen and improve institutional functioning have only increased in recent times: training programmes, refresher courses, special cells in police stations, working towards gender protocols and new laws. Important aims of these efforts are to sensitise the personnel of the institutions to the realities of women's lives, their unequal status; tighten the loopholes in law and its practice; simplify the procedures with a view to make these institutions more accessible to women. A good example of this effort is the new domestic violence law that aims to offer better protection to women by defining domestic violence exhaustively; expanding the scope of the marital relationship to include second marriages and live-in relationships.

An important assumption underlying significant streams of this activism is that better laws, institutions and improved functioning will be able to address violence more effectively. That they can offer better protection for women in the private realm and thus enable women to access their rights as citizens. As the institutions of family and kinship are already implicated in the violation of rights, it is argued that the state/law can/should be the truly neutral arbiter of women's claims for justice in the family. As Mukhopadhyay comments "In this sense, women's movement too regarded the state as the principal agent of reform and the ultimate guarantor of rights" [Mukhopadhyay 1998].

A growing body of critical scholarship on women and law has begun to question this assumption by pointing to the difficulties of realising women's claims for rights and justice [Tharu 1998; Sunder Rajan 2003; Menon 2004]. It argues that the law interprets women's experiences through the discourse of universal citizenship. Here the bearer of rights is a "reasonable man" unmarked by class, gender, caste or religion. The process of adjudication of conflicting rights-claims that purports to be neutral and objective occurs with "reasonable man" as the standard. Women's concerns and interests get framed into those of protection and regulation. Commenting upon such a transformation of women's rights-claims into those of a "largesse" of the state in the discourse around "maintenance for women", Mukhopadhyay writes,

> (W)omen, wives or victims whom the state, in offering to protect, also defines by the authority invested in the role of the protector. In the process of offering and seeking protection, an alliance is set up between the protector and the protected. This in turn, conceals the opposition between the protector and protected which is a hierarchical one…By virtue of this relationship, the

state then defines what wifehood means, and what forms of violence by the husband will be construed as cruelty or neglect, legitimising thereby her right to be maintained by him [Mukhopadhyay op cit, p 72].

Instead of acknowledging women as equal citizens, law recognises women as wives, mothers and sisters and accordingly carries out its adjudications. While the problems inherent in the rewriting of women's experiences of violence into legal/institutional languages such as protection, regulation, prevention are beginning to be acknowledged and theorised, we feel that there is a need to further complicate this position.

As we pointed out in the above section, the thrust of many women's complaints at several institutional locations is to better their familial life, which includes "reforming the husband". What do legal institutions offer to her? The best possible recourse that a police station can offer is "registration" of her complaint as a crime.[7] In the court, the available options are that of "divorce, restitution of conjugal rights, judicial separation, maintenance and custody".[8] Except the provision of "restitution of conjugal rights", law does not provide many options for women who want to stake out their claims within the existing marriage. The options available to the law, despite the authority invested with it, seems to be limited when faced with women's complaints/demands. Women's desire to "reform the husband" by keeping the marriage intact cannot be addressed within the strict boundaries of law – it seems to find a place only in the interstices of the legal process, such as the extra-legal process called "reconciliation" procedures that are widely practised, occurring in the precincts of law.

In fact, the difficulties start with the very process of writing (translating and interpreting) women's complaints into that of a particular institutional framework. Clearly the attempt is to fix women's complaints into the available category of either a complaint or a petition. But as Malavika Karlekar points out, this results in "a completely new understanding of events...often very different from the original language and intention of the author" [Karlekar et al 1995]. A certain reordering of the woman's story takes place by affirming some aspects, erasing certain "unruly" aspects and introducing those that are required by the procedures of law. As women's complaints enter the realm of the adversarial system of adjudication, they need to be written up according to the established conventions of that system. Here, the evidence and proof determine the content of one's claims and the setting up of a claim requires the telling of only that part of the story which is most favourable to oneself.[9] The woman's complaint has to be written as a story of the violation of rights of the "abject victim-woman". Other contested aspects that may reflect negatively upon the claim are required to be erased. A legal claim has to be a virtuous story, a story that reinforces the notion of the victim-subject. How this claim gets contested and adjudicated is another issue, which we are not pursuing here.

It is important to note that this process of rewriting women's complaints into those of institutional languages is not given the attention that it demands in the contemporary discourse of domestic violence. In studies of institutional responses and the recommendations that are made, it is assumed that the complaints of women would get a direct entry into the institutions. But, as we pointed out, the conceptual registers of institutions are different from that of the women; institutions can make women's complaints "legible" only through certain established procedures, techniques and conventions. While the insensitivity of the personnel has often been delineated as an important factor in limiting access to women, the "institutional code" that underwrites it often goes unnoticed. Reading institutional records, in a way, offers only a partial understanding of women's battles at the site of the institutions, let alone in the family. Judgments giving convictions or acquittals give us the outcomes of those rarified legal battles that can pass through the sieve of the civil, criminal and the evidence laws.

Indeed, the issue of "institutional response" needs to be thought along different lines. Considering that most women would find it difficult, time-consuming and expensive to go through the rigours of a legal institution, which also makes additional demands on them to prove their credentials as wives, daughters-in-law and mothers, the question that needs to be asked is how formal institutions figure in the life of a battling woman. Though most studies interpret the response as a "failure" of the institution, we would like to foreground it as the difficulty of translating the range of women's needs and complaints into the legal/institutional realm. Perhaps, it needs to be read as a mismatch. The burgeoning activity at these institutional sites, however, indicates that women clearly wish to continue to use this space, despite the mismatch. If this is the case, how do we understand women's everyday negotiations with the institutions in a way that defies the categories of success and failure? Working against the success/failure paradigm may allow us to see women's interactions with institutions in a different light.

Let us see the lay out of the complex mediations that occur around the "crime of domestic cruelty" through a discussion of the workings of a women police station.

Mediations in the Women Police Station

The criminal procedure code (CrPC) classifies S498A as a serious offence.[10] The functioning of this law is plagued by difficulties of registering and pursuing a complaint, and the minuscule number of convictions. Not surprisingly, most studies regard these as evidence of the failure of this law. While there is no reason to disagree with this position, what we would like to argue is that this "failure" needs to be rethought – by paying critical attention not only to the organising logic of the criminal law but also the operational scope. When we examine the processes of women's complaints to the police station, these two aspects become clearly visible. The questions that arise are: How does a woman's complaint travel? Do all women seek registration of complaint? What do women seek? How do police process the complaint? The investigation that we adopted to understand the implications of these questions included detailed discussions with women who approached the police station, mediating women's access to police stations and courts and interviews with the police personnel over the last few years in Hyderabad.

What kind of expectations do women come with to the police station? Two popular assumptions underlie a police complaint: one, that every complaint should result in investigation and prosecution; two, that all women seek such a course of action for their complaint. Interestingly, neither of these assumptions is held either by the police or the women. A majority of women, in our observation, come to the police station with expectations that range from giving a sound beating to the man, a day or two in a police lock-up, a warning to the in-laws, a promise of good

behaviour. A second category of women approaches the police with a determination to end the relationship. A third category, seeks to pursue the criminal case to its logical end.

Going to the police station is most often not the woman's decision alone. The natal family and community play a significant role often seeking external help such as women's groups, lawyers, local leaders, etc. Not surprisingly, the police action on the complaint is directly dependent on the force of the natal family's connections and ranges from an arrest, warning to a compromise document, etc. Women without "empowering" attributes like education, caste, family and money face more difficulties. Here, sheer perseverance sometimes results in some action.

During the inevitable police enquiry that follows any criminal complaint, a woman's credibility is judged in terms of her efficiency in running the household, her loyalty to the marital family, and of course, her sexual behaviour. And if the police constables begin to suspect any of the above, the investigation gets stalled. Repeated visits to the police, convincing them about the genuineness of their complaints, bearing the humiliation and dismissals constitute the context in which action on complaints takes place.

All complaints of women have to go through the process called "counselling for reconciliation". It is conducted by the police officer-in-charge wherein he listens to women and their marital families and accordingly chastises either of the parties. Here too, women's credibility is judged according to the conventional notions of "good wife". Whatever may be the results of this "counseling", they are recorded on a white paper, to the effect that the differences have been resolved. Curiously, the presence of the police is not mentioned in this document. During this process, the husbands usually agree to act upon their wives complaints. The woman should go through this procedure for further follow up of her complaint.[11] It is only when the reconciliation fails, that the regular procedure of the criminal complaints begins: FIR, witness statements, arrest and remand and finally the chargesheet. With the filing of the chargesheet, the case moves to the court.

Police counselling is usually seen as "illegitimate" procedure which delays the actual case. However, many women want the police to speak to their husbands to threaten/warn them to be responsible. Often, the complaint does not go beyond the counselling sessions, arrest and the brief stay in prison, of not more than two to three days. It is this period of incarceration, potential or actual, that provides a negotiating space for women. Significantly, it is in the interstices of law, outside the strict boundaries of legal procedure that women's "hopes" seem to find place.

Against this background, it is useful to dwell on the recommendation for "improving the police response". For the sake of an argument, it may be useful to imagine the best possible scenario. Prompt action, unbiased inquiry, diligent investigation, professionally-trained family counsellors, speedy trials, sensitive judges who are trained into issues of familial inequality would be the necessary components of such a picture. But, women would still need to marshal evidence about their good wifely behaviour, the cruelty of the husbands, and a steady attendance in the courtroom. The belief that women's experience of violence can be imported into the realm of law with improved procedures seems difficult to hold. As we have been arguing, such a translation is fraught with more than one mismatch, the most obvious being the women's attempts to redress their situation and the law's attempts aimed at penalising the men.

It is our contention that the issue of "what is required of women" is either elided or given insufficient attention in the discourse on domestic violence. For instance, when we see how cruelty has been described in women's complaints to the police, one notices the excessive emphasis on dowry demands. During the discussions, women not only underplayed this, but also stated that they wrote it on the insistence of the relatives, lawyers and the policemen. Such an "exaggeration" has been explained away as the fallout of women's movements focus on dowry in its earlier campaigns. But it is equally plausible to see it as the inevitable result of the actual practices of the law giving weight only to those complaints that concern this exchange of property. The same could be said about the "presence of physical violence" in the complaints. Here again it is the legal recognition of "hurt to the body" that determines the construction of cruelty. It may not be entirely useful to describe such episodes as mere opportunistic uses of law. It may be better understood as the inevitable affect of law, which follows any action that the law seeks to adjudicate.

Experience in Citizenship Discourse

That women may not want to pursue the path that the law requires them to or what women's groups would suggest to them has been persistently coming up. While the law's interest lies in prosecuting and regulating the "violence" in the family, feminist politics in general insists on making women and society recognise this violence and act upon it with the objective of freeing oneself from it. As we have pointed out earlier, the law recognises it by aligning it with preexisting legal categories of violation, cruelty, abuse, hurt, injury and discrimination. Feminist interventions to a large extent have also been modelled along the lines of law. But, interventions apart, the problematic issue continues to be – women's living with 'violence'. Women have not only continued to live in "violent families" but also are not keen on breaking up from these families. This disjuncture between "what women want" and the discourse of women's emancipation is something is discussed here. Usually, the registers in which this disjuncture is read are – women's acceptance of "violence" as normal; absence of non-familial living arrangements in the society and inadequacy/failure of law and other institutions. These explanations have gained such a currency allowing for a convenient eliding of the question of what may be described as "women's desire to live in the family". One notices a certain resistance to acknowledge, let alone attempt to understand this question. This "resistance", we believe, is intricately linked to the rights discourse on domestic violence in which the women's question is largely located. Our interest lies not so much in offering a critique of or finding an alternative realm to the rights discourse but to see what the prescriptive model of a rights-bearing subject does to one's thinking about women's struggles in the family.

V Geetha's contentious argument in 'On Bodily Love and Hurt' [Geetha 1998] is one of those few attempts to understand familial violence in registers other than that of legal intervention, through an exploration of sexuality in the context of conjugal life. Based on the experiential narratives of women who came to a women's collective that the author was part of, this paper explores the difficult issue of conjugal love that survives everyday violence. She argues that women experience affection, desire and sexual love in marriage in the context of men's authority, feelings of possession and suspicion. Violence exists as inalienable aspect of women's experiences of conjugality. Women begin to "consent

to be victims, assent to be stokers of masculine egos, and persuade themselves to accept violence as an enduring aspect of sexual love and conjugal good faith..." (ibid: 324).It is because of this investment in the relationship that women are reluctant to disengage. "(W)ives do not let go, ask to go back to bad marriages, abusive homes, chiefly because, they cannot bear to think of breaking the conjugal bond" (ibid: 322).

Geetha's discussion of women's consent helps in complicating, to some extent, the narrative of victim-woman in discussions of domestic violence. That it is not merely the issues of economic and social survival that prevent women, but also "bonds of conjugal love". What is problematic for us is that, despite this complication, the victim-woman persists, now with additional feature of not being able to distinguish between "love and terror". The construction of women's subjectivity here suffers from an important methodological problem – theorising from "experiences" of women taking them as given, not reflecting enough on the mediations. This problem is not specific to her position alone but is fairly common to writings and discussions on domestic violence.

"Experience" is a concept that has animated the field of domestic violence – as a base for theorising about women's lives. Eliciting, describing archiving experience has been an integral part of theorising and mobilising on issues of violence. However, as we pointed out in our earlier discussion of studies of institutional responses, these experiential accounts are "products" of certain institutional and historical mediations – women's collectives, courts, counselling centres and other such myriad settings. What we want to emphasise is that "experience" is a result of an encounter, of several kinds of encounters, involving the women who suffer and other interested observers/actors. More often than not, the suffering women are not only listened to but are exhorted to exercise their rights that accrue to them as citizens of the modern nation state. The narratives of suffering that are produced at these interfaces invoke anger, indignation and the will to intervene [Chakrabarty 2002:102]. The two aspects – of documenting the suffering of women and planning an intervention are not unconnected. The intricate connection that they share, but remains relatively unexamined, is the citizenship drive – that not only observes women's suffering, but requires one to free oneself from the subjection. In fact, emancipating oneself is mandatory to this discourse, what Etienne Balibar calls the political proposition of "becoming" a citizen, where "any form of subjection is incompatible with citizenship" [Balibar 1993:12].

Experience that is mobilised in domestic violence discourse, therefore, is deeply implicated in the project of "becoming a citizen". It is seen as serving as a necessary corollary to the public political campaigns for women's rights. It is not only utilised to demonstrate how women are "subjected", but to show how women are struggling, surviving and coping with the violence/suffering – as conscious beings. Not only subjection and struggle against it, but the actual conflict in every woman's mind assumes importance. Geetha's analysis is caught up in this project – how and why a suffering woman does or does not take any action against her suffering – to become a citizen-subject.

Our endeavour is not to reject the citizenship discourse in which we are deeply implicated. We are aware that modern rights and the entitlements they bring into the discourse on family are extremely important for women. What we have argued is that the contemporary discourse on domestic violence takes the project of citizenship so much for granted that it leaves very little space for understanding the conflicting, uneven, confusing, unsuccessful "becomings" of women suffering in the family. It is in this terrain that the majority of women's struggles seem to remain. More importantly, we need to recognise that "citizenship" discourse may not be the only one that they refer to. The addressees of their struggles sometimes overlap with, but are also distinct from those of institutions of law and citizenship – they may be that of kinship, extended family or community. But with our predominantly bourgeois understanding of conjugality that shapes our notions of conjugal love, violence in the family and the desirable responses to it, we foreground only individualised resolutions to violence-related issues. Would not the discourse on domestic violence be much richer if we included the varied negotiations occurring at different settings such as caste panchayats, religious organisations, political party offices, 'mahila mandals'? We hasten to add that it is a difficult project, because it requires that we be alert to the modernist biases that underlie our current perspectives and methodologies. EPW

Email: suneethaasrv@gmail.com
vasudha_n2001@yahoo.co.in

Notes

[This paper is based on the research conducted for a study on Institutional Responses to Domestic Violence at Anveshi Research Centre for Women's Studies, Hyderabad during the years 2000-03. It has enormously benefited from several discussions at the centre. We are grateful to all who have read and commented on the draft, encouraging us to develop our arguments.]

1 By domestic violence, we refer to the violence which women face in conjugal relationships.
2 NFHS (2000), International Centre for Research on Women (2000) and U Vindhya (2002).
3 Ranjana Kumari (1989), *Brides Are Not for Burning: Dowry Victims in India*, New Delhi and Ammu Abraham Case Studies from Women's Centre, Bombay in Krishnaraj (1991) also make similar distinctions between forms of abuse and reasons for this abuse.
4 On the other hand, women's articulation of violence in the anti-arrack movement serves as an interesting example of a different kind of a response – that does not foreground family, husbands or legal institutions. Violence comes out as a structural issue – linked to state policies on food, its growing dependence on revenue from liquor and skewed developmental priorities.
5 This "crime" is encapsulated in Section 498A of the Penal Code of the country, which was introduced in 1983 through an amendment in the criminal law.
6 We owe this concept to Dipesh Chakrabarthy's discussion of cruelty to widows in 'Subject of Law and Subject of Narratives' in *Habitations of Modernity – Essays in the Wake of Subaltern Studies*, Permanent Black, 2002.
7 The new domestic violence law has options that are slightly closer home.
8 The new domestic violence law provides some more options.
9 Such an erasing is made with the assumption of the legal framework that "it is for the opposite party to lead evidence on my shortcomings".
10 A serious offence means cognisable and non-compoundable. In 2001, it was made compoundable in Andhra Pradesh.
11 As one of the police officers stated "conducting reconciliation is part of the investigation of the case".

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