

# Can Police Reform Husbands?

## -The Crimes Against Women Cell, Delhi

*This article by Ruth Vanita is partly based on interviews conducted by Abha Thapalyal and Prabha Rani, with complainants, respondents and staff of the Cell, and partly on personal observations and conversations at the Cell. A summary of 20 complaints followed up appears on page 18\*. We would like to thank all the staff of the Cell for their kind cooperation and help extended to us.*

The Crimes Against Women Cell, located at the police headquarters, Indraprastha Estate, Delhi, was set up in 1983 as the Anti Dowry Cell. It seems to have been set up in response to the protests organised by women's groups in urban areas, many of which indicted the police for colluding with wife batterers and murderers, and demands voiced in the press that government take action against dowry.

Mrs Kanwaljit Deol, who headed the Cell from its inception until very recently, told us that it was set up at the behest of Mr Ved Marwah, the police commissioner, to look into cases of women in distress, and that, at its inception, there was no written statement of its aims. It was conceived of as a model to be duplicated elsewhere. It has recently set up four branches in the four zones of Delhi.

In October 1986, a standing order detailing the Cell's special area of functioning was passed. According to this order, every police station is supposed to inform the Cell of all cases of crimes against women registered with them. The Cell may choose to investigate any of these.

The Cell must investigate all cases of

murder of women where the murder is related to the victim being a woman, and all cases of rape. Thus all rape cases and wife murder cases should automatically be transferred to the Cell by Delhi police stations. When the Cell chooses to investigate any other case, the police station is to hand over all papers and proceedings to the Cell, to avoid duplication of work. The Cell is also to maintain statistics of crimes against women.

However, in reality, the basis on which the Cell chooses to investigate particular cases seems to depend largely on which petitioners get to know of the existence of the Cell and approach it personally. When a woman feels dissatisfied with the functioning of the local police station and proceeds to the Cell, the Cell may choose to investigate her case if it agrees with her assessment that the local police is not taking sufficient action.

As there is some lack of clarity as to whether the Cell has primarily a supervisory or an independent investigative role, many women also approach the Cell directly without going first to the local police station. Many also go both to the local police station and to the Cell

simultaneously, without waiting to see whether the local police will in fact take action or not.

It is noteworthy that most of the officials at the Cell do not seem to have read this standing order. When we asked some of them about it, they said we would have to give a written application in order to see it. Finally, an ACP who had preserved it produced it on the request of Mrs Deol, and gave us a copy. The current head of the Cell also asked her for a copy of it at that point.

### **Expectations Of Complainants**

The overwhelming majority of crimes reported to the Cell relate to matrimonial violence and maltreatment. Most of these complainants come to the Cell only after the families have tried all other means of negotiation, such as intervention by relatives and community elders. Usually, they continue these other means simultaneously with the Cell's proceedings. If any other means works first, they stop pursuing the case at the Cell.

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\*All names of complainants throughout have been changed, to protect their identity

Their special expectation from the Cell seems to be that since the staff here are police personnel, they can force the husband and his family to behave reasonably. Most complainants we talked to voiced the belief that the police can enforce whatever it wants.

Parallel to the belief that a man beats his wife to correct her faults, runs the belief that an erring man can be reformed by a higher authority. While most complainants do not want the police actually to use strong arm methods against the recalcitrant husband, they would like some kind of pressure to be brought to bear on him.

As Mrs Deol said : "When a woman comes to us and says her husband beats her, she does not want us to lock him up. She wants the man to be advised, to be warned, to be threatened."

## Family Bargains

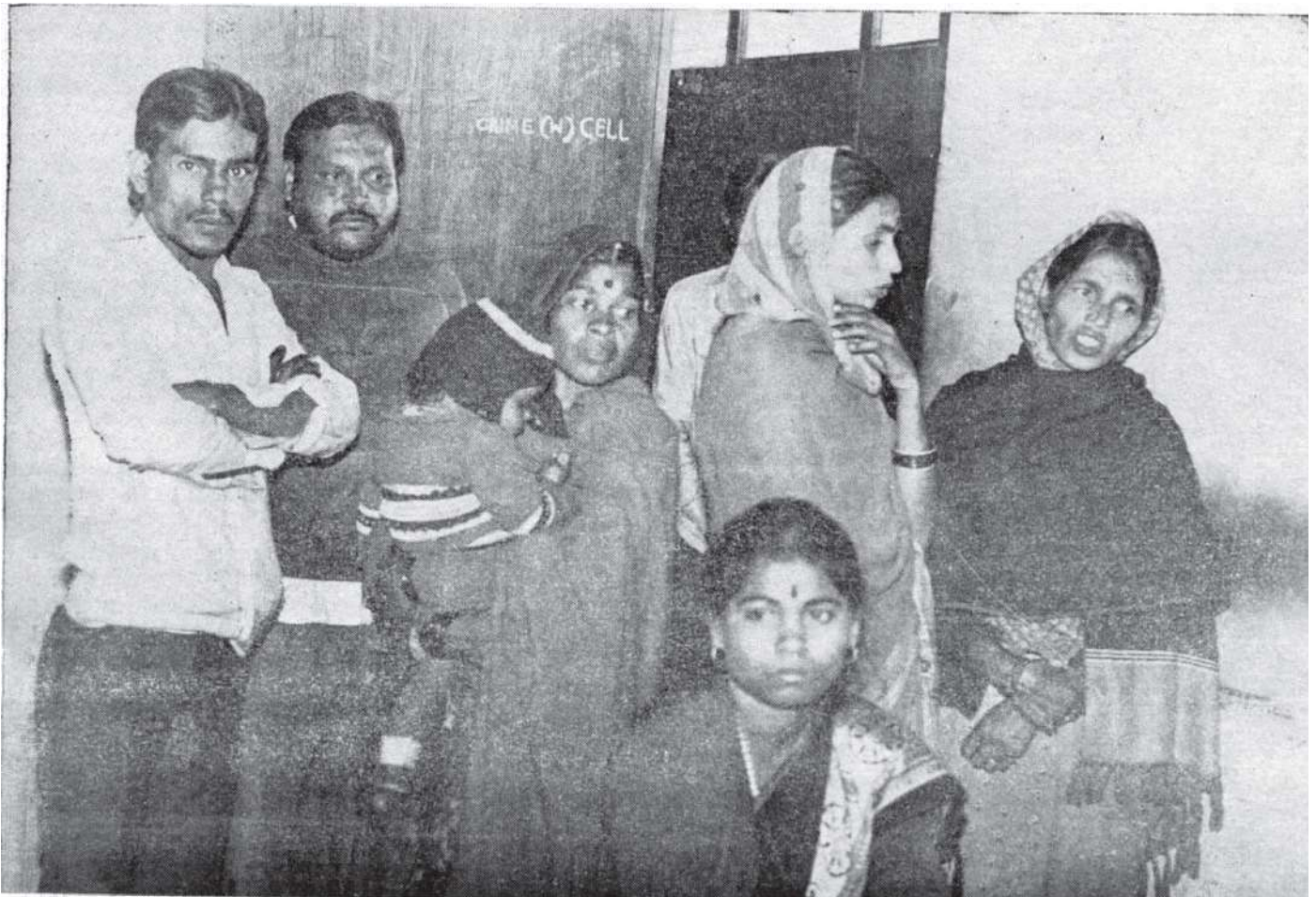
Most of the families who approach the Cell seem to be from the lower middle class (petty trader, shopkeeper, clerical jobs) although there are some from the middle, upper middle, and labouring classes as well, and some from the peasantry in areas around Delhi.

Most of the women in our sample and, from our observations, most who come to the Cell, are not educated beyond school level. Few have any professional training and very few are employed in any remunerative job. Almost all of these women were married off by their families who perceived the marriage as "settling" the woman, that is, providing her food, shelter and clothing for life. The dowry was seen as an investment in this settlement. Hence the despair and outrage felt by the family

when she is thrown out by her husband and in-laws minus the dowry.

Most of the women had returned to their parents only when actually physically thrown out by their husbands. Many had refrained from telling their parents about violence inflicted on them until it became absolutely intolerable. As Karuna put it : "I could have answered back when my in-laws taunted me. But my parents had taught me that a woman is one who remains silent. I came out from there only when the waters rose above my head."

The Cell thus ends up negotiating a deal between two families. The vast majority of women complainants come to the Cell with members of their natal families usually father or brothers. Almost never does a woman come alone. When the husband is summoned, he too almost always comes



Outside the cell, awaiting their turn

with family members. If the couple was living in a joint family, the Cell also summons the husband's family members.

The woman's family is in a weaker position because they are asking the husband's family for something — generally either to take the wife back, or to return her dowry. In the former case, they are generally more desperate. Well aware of this desperation, the husband and his family can afford to bully and humiliate the wife and her family.

The officials at the Cell are expected to enhance the low bargaining power of the woman's family by adding their combination of cajoling and bullying to the family's pleas and exhortations. This has some positive effects insofar as the woman feels the Cell is a place she can go to for a hearing. Although Cell officials rarely talk to a woman in private, she may feel freer to speak at the Cell than she would in an average police station.

A conscious attempt is made to create a homelike atmosphere. The officials usually work in plain clothes and the Cell appears far more informal than a police station. It is often difficult to distinguish the police officer, an elderly man or woman, from the woman's parents or in-laws.

However, this functioning of the Cell as some sort of extension of the family arena has disadvantages too. Almost all the officers we spoke to claimed they treat the women complainants as they would their daughters or sisters. We also heard them admonishing and advising women complainants in parental tones.

This treating of the complainant as a daughter involves looking at the situation as the parents of a girl in our society would look at it. Most of the officials come from class and family backgrounds similar to that of most complainants. They share with them assumptions about a woman's status, about marriage, divorce and the family.

The most important of these assumptions is that the family must be kept together at all costs. All the officers we spoke to except Mrs. Deol categorically stated that their primary aim is to bring

*The officers stated that their primary aim in all cases is to bring about a reconciliation and that they register a police case only when all attempts at reconciliation fail*

about a reconciliation between husband and wife in all cases. One said she considers it a religious duty, and feels very sad when she has to register a criminal case or refer the case to the courts for divorce. They also said their instructions were to register a police case only when all attempts at reconciliation fail.

The second shared assumption is regarding the terms of this reconciliation. Most of the officers seem to believe that divorce is a disaster and that a woman should go to great lengths to avoid it. On this question there seems to be a consensus between Cell officers, women's families and men's families as a sample of comments will make clear.

Subinspector (woman) : "I try to see that the home does not break up, otherwise ruination follows."

Subinspector (male) : "When I explain to them the difficulties of going to court they withdraw the case. I also explain to the girl that her life will be ruined. A compromise takes place."

Mother of a complainant who had been harassed for dowry, beaten and thrown out by her husband : "I told my son-in-law I was ready to eat his shit, if he would only keep my daughter. In our family, divorce is unknown. I folded my hands and asked them not to talk of divorce."

Brother of a man accused of demanding dowry : "Parents should not interfere in their children's affairs. I too have a sister. Her husband slaps her in front of us. We do not say a word. Husband and wife will come together. It is a family affair—let them settle it."

Even on the question of violence the officers do not take a clear stand that it is unjustified, whatever the circumstances. They always attempt to find out how the quarrel started and to apportion blame, even though it is the wife, not the husband, who gets battered as the result of the quarrel.

We witnessed one typical encounter. A young woman came in with her brother's wife while we were sitting with an official. She began to narrate how her husband beats her with anything that comes to hand, and rolled up her sleeves to show her bruised arms. The official asked : "Why does he beat you ?" "Bus, aise hi, it's his habit." "Phir bhi, koi karan hoga? There must be some reason, after all ?" "There's no reason. Just over anything and everything." "What things ?" "Like this time, I was busy and didn't wash the clothes at once..." Official : "I said there must be some reason."

Proceeding from the assumption that a woman must have committed some fault in order to be beaten, the officers may end up suggesting that she take a slap or two in her stride. Punita said an officer told her to come to a compromise with her husband, remarking : "A man does beat his wife. That happens from time to time."

So also, the officers, by and large, agree with the notion that women should cut themselves off from their natal families to the extent that their husbands desire.

Subinspector (male) : "After marriage, the woman has to mould herself according to the atmosphere of her husband's family. It is unrealistic for her to expect the atmosphere to be like that of her own family. It is easier to change oneself than to change so many other people in her in-laws' house...If a mother or father interferes in the married daughter's affairs, it is difficult for her to adjust."

Mother of Mira, who was burnt to death : "She told us the main cause of quarrels was his not bringing her to visit us. We said, 'Do whatever makes him happy. Be happy where you are.'"

Member of the family of a man accused

of harassing his wife for dowry : “A girl who puts the welfare of her own parents above the welfare of her in-laws cannot live in the in-laws’ house. My own wife too tried to act funny a couple of times but I put her in her place.”

All the ACPs we spoke to were of the opinion that if a man could financially support his wife and did not want her to retain her job, she should give it up in the interests of family harmony and the welfare of the children.

In other words, the officers share with most of the complainant and respondent families the view that woman’s place in the family should be subordinate to man’s, and that so long as she is not treated with extreme violence or cruelty and is financially provided for, she has no serious cause for complaint.

Most women come to a public forum like the Cell only when all private means of negotiation, such as the intervention of relatives, have failed. As Mrs Deol said: “Women come to us only during the last stages. Otherwise, no one comes to the police.”

The woman, at this point, is under pressure from various quarters to submit to the husband’s terms and return to him. She needs to be told about other available options and to be reassured that these are not necessarily any less valid.

In our society, a woman has next to no space to take such a decision on her own. Her natal family’s attitude is usually the deciding factor. In our sample, all of the women who refused to return to violent husbands were those whose families concurred in this decision. All those who wished to return, and who did return, even though this meant continuing to face violence, were those whose parents were prepared to humiliate themselves to any extent and concede all the unreasonable demands of the husband if he would only agree to take her back.

In this situation, it is unlikely that a woman will be able to resist family pressure merely with the support of an agency like the Cell. Her family, not the Cell, is where

she has to live and draw everyday support if she leaves her husband.

But the Cell could at least try to act as some sort of counterweight to the culture of subservience that prevails in our society and is instilled into women in their family. Instead, the Cell staff acquiesce in the basic assumptions of this culture, and are thus not able to give a woman much advice, information, or assistance that is different from what her family would have given her.

him. It depends on how far he is willing to be reformed.”

Even more important, there is no way the Cell can ensure that the man will not go back on his promise to treat the woman properly. A man may agree to take his wife back, so as to avoid having a criminal case registered against him, but could later behave just as he had behaved earlier.

It is not possible for the Cell to give police protection to every woman whose



—Abha Thapalyal

### Informal atmosphere

#### Unwilling Husbands

However, the success or failure of the Cell’s attempts to bring about a reconciliation depends in the last analysis on the husband’s attitude. It is he who must agree to “take the wife back” and let her once more live in “his” house.

The Cell can more easily persuade a wife to give up her demands and return to her husband on his terms, because the woman’s family is likely to back them up in this. But there is no way the Cell can compel an unwilling husband to take his wife back if he absolutely refuses to do so.

Mrs. Mehra, the present head of the Cell, acknowledged this : “We try our best. But it depends on the man—if he is a drunkard and a womaniser but also has some fear of the law, he may improve. But if he fears nothing, it is difficult to change

husband physically abuses her. But the follow up of “reconciled” couples which the Cell is supposed to undertake seems to be the least efficient part of the process.

The Cell is supposed to send a summons to the reconciled couple, asking them to come together to the Cell, so that it can be ascertained that the woman is all right. But of the four cases in our sample, where the Cell had closed the file with the remark that the husband and wife had come to an amicable compromise, we found that not one had received any summons to return to the Cell for a check on the situation.

Also, a number of couples so summoned do not respond. In such a situation, the Cell should, ideally, visit their home, as it is possible the summons was never delivered to the wife by the husband. But this does not appear to be done.

Finally, even those couples who do report back do not seem to be talked to at any length. The woman is not usually talked to in private. We witnessed about five such sessions.

In one typical case, the couple was brought into the office when four other persons were present, and the ACP was in the middle of a conversation. The couple stood before the ACP who asked : "Well, is everything all right ?" The man said : "Yes" in a low voice. The wife smiled and looked down in embarrassment. The ACP glanced at the file, said to the husband : "*Theek se rakhna, haan ?*" (Keep her properly, all right) and closed the file. The whole interview took less than two minutes, and the wife did not speak a word. This was a case in which beatings and an attempt by the mother-in-law to burn the woman had been alleged, but subsequently the Cell had arranged a compromise.

### **Is This The Answer ?**

The total number of complaints received by the Cell seems to be a minute proportion of the actual incidence of crimes against women. Crimes like rape are scarcely reported at all. But even for the most frequently reported crime, domestic violence, this seems to be merely the tip of the iceberg.

The total number of complaints received in 1983 was 837; in 1984 it was 1450; in 1985, when the Anti Dowry Cell was renamed the Crimes Against Women Cell, the number increased to 2323. In 1986 the number was 3108 and from January to March 1987, it was 443. The officials at the Cell see this increase in numbers as an indicator of success. But, given that the population of Delhi is about seven million, and that cases come from surrounding areas as well, the Cell is clearly not perceived by women as an obvious answer to their problems.

The Cell has a total staff of 65. This includes ACPs who actually handle the cases, constables and drivers who accompany them on investigations, and peons. If one divides the total number of cases by the total staff, the figure works

out to an annual average of 48 cases per staff member in the busiest year so far (1986).

It must be remembered that of this total, a number of cases are referred back to the local police station or to the social welfare or legal aid departments, and a large majority drop out of the process after lodging the complaint, or making one or two visits to the Cell.

This seems to be a not very economical way of dealing with the problem, and certainly not viable on any large scale. If the total budget of the Cell were to be divided up by the number of complaints received, each woman complainant could probably get enough money right away to set herself up separately and make it unnecessary for her to lodge a complaint at all.

This is not to suggest that doling out money by the Cell is a viable method of dealing with the problem. It is merely to indicate that the amount of money, time and energy spent in this particular way of dealing with the problem does not seem a rational use of resources.

Well intentioned though the Cell's staff is, not enough thinking has gone into considering the overall strategy of combatting crimes against women,

part of government's job and government should not pretend that it is capable of doing this job.

The Cell staff are in fact placed in a very awkward position by the uncertainty of their mandate. To take a simple example, if a woman comes to a police station after having been beaten by her husband, the police are expected to record evidence such as her statement and a medical report, and then register a complaint of assault, injury and cruelty.

If the police were to be oriented towards helping people rather than simply sticking to the letter of the law, the police could also explain to the woman her rights and the possible consequences of her registering a case, so that she should not inadvertently find herself in a position she had not bargained for.

What happens at the Cell is that, since the aim is to bring about a reconciliation, a woman who has come to complain of cruelty is usually, without any clear explanation, plunged into a process of negotiation with her husband and his family that she does not understand. This process may stretch over anything from a few weeks to several months. She does not have any idea of the Cell's procedures or of police procedures and she is not

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including whether such a Cell is the best way the police can respond to women's problems.

Mrs Deol told us that the staff she selected for the Cell were those who had no corruption charges against them. It seems unlikely that, if this criterion is used, the police force can provide enough personnel to run many such Cells.

### **Can Government Reform Husbands?**

The mentality of expecting government to solve all problems is fairly widespread in our society today, and is actively fostered by government. To reform husbands is no

adequately informed by the officials.

We witnessed a typical example. An uneducated woman had come to complain of her husband's violence. The officer asked : "Well, do you want us to take action against him ?" She spoke in Hindi but the word "against" was in English. The woman said : "You do what you think is right. I just want him to become a human being. I want to live in that house, but he should not beat me." The officer asked : "Do you want a medical examination ?"

When the woman looked bewildered, the officer said, exasperated : "Tomorrow you will come to court and withdraw the

case. So think properly before you register one.” She dismissed the woman, with orders to a junior officer to get a medical examination done and call husband and wife for a consultation.

It was not clear even to us whether by “action against him” the officer meant registration of a criminal case, or summoning of the husband for a negotiation. The latter seemed more likely as that is the normal procedure followed by the Cell.

In fact, the Cell officers are police officers, with no special powers apart from those any officer of their rank has. They are transferred to the Cell from other postings which had nothing to do with women. They suddenly find themselves acting as social workers, marriage counsellors, family elders and police officers rolled into one. Although they try their best to do a good job, and many even say they find it rewarding as they are helping women in distress, the demands made on them by the contradictory nature of their mandate and the expectations of the public are tremendous.

They have to use the threat of a criminal case to persuade husbands into a reconciliation which is what women’s families want and what the Cell has set up as its unwritten aim. However, if he is adamant, they may end up registering a criminal case. They will then have lost valuable time and also may have lost evidence due to the lapse of time. Thus, by undertaking a reconciliation process that is not a police function but which they are expected to undertake, they end up obstructing the function that they are supposed to perform as police. Further, they are expected to bring about a compromise but are not in a position to ensure that this compromise will not end in the woman’s torture or death.

Unless police functioning in general improves, the treatment of women by police cannot improve.

In the absence of any effort in that direction, what could happen and seems to be beginning to happen, is that people

get disillusioned with government’s rhetoric, and blame the Cell staff for lack of visible results.

It would be most unfortunate if the officers who are running the Cell, well intentioned as they are, become scapegoats for the government’s lack of clear thinking and of political will to reform its machinery.

If the government was really serious about making the police more responsive to women’s problems it would begin by ensuring that the police perform their minimum duty :

1. Register a first information report (FIR) as soon as any victim of assault or other crime comes in to report, regardless of whether the offender is the victim’s husband or is a stranger. To beat someone is an offence regardless of the relationship involved.

2. Give the victim a copy of the FIR, and inform her of her legal rights, for example, her right to contact the police station whenever she is abused in future, and her right to go to court for various reliefs.

3. Investigate the case immediately. Take all evidence available, particularly the medical examination of the victim. Visit the house and collect evidence if any is available there.

4. Take appropriate action, under law, against the offender. Keep the victim informed of the entire procedure and attempt to ensure her safety from reprisals by the offender.

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If the police routinely performed these ordinary procedural functions, there would be little need to set up special police cells to look into crimes against women, though crimes against women would not disappear.

The second set of changes that would make the police more effective are structural. Perhaps the basic structural change required in our country is to make it possible for people to exercise control over the police. The only way to make the police accountable to the people is for elected neighbourhood councils to have complete control over the appointment, supervision and discharge of local police. This structural change is not likely to occur in the near future but it should be kept in mind as a goal to be worked towards.

In the interim, the following measures can be taken to improve the situation :

1. Any police officer who refuses to register an FIR or who fails to investigate it when registered, or who fails to take any action when the investigation calls for action, should be suspended immediately.

2. Several police stations now have a notice informing the public that it is their right to have a FIR registered, and to receive a copy of it, and that no police officer can deny them this right. This notice should be put up in every police station. Booklets in the local languages, designed appropriately, informing women of their rights when assaulted or deprived of liberty by their family members, should be automatically given to any woman who steps into the police station.

3. Whenever it is established by investigation that a woman has been assaulted by her husband or in-laws, she should be given a protection order by the local police station. This would mean that, in future, a complaint of assault would be sufficient to warrant the prompt taking into custody of the husband or in-law concerned without prior investigation. The protection order is issued in recognition that the woman has a history of victimisation, and is in a risky situation, therefore she is entitled to quick relief and

protection prior to further investigation. (See Box)

4. The police could set up a special seven day, 24 hour, emergency phone line at a known office, along with a skeleton staff to provide immediate, on the spot, protection to any woman who is being assaulted or feels her life is in danger.

In the long run, a police force, however efficient, cannot provide a solution to the problem of women being at the receiving end of abuse.

Only a society which actively rejects subservience in the family, treats domestic violence as no less culpable than any other criminal act, ensures adequate and equal paid employment, equality in family decision making and inheritance regardless of gender, provides women with an adequate safe place to live, and places the responsibility of childcare equally on women and men, can hope to move towards eliminating domestic violence, by giving women genuine options so that they need not continue to feel they must tolerate such violence.

## **The Domestic And Matrimonial Proceedings Act, 1976**

This law, enacted in 1976, in England, gives an idea of the kind of protective legislation which can give women victims some relief.

Sections 1 (a) and (b) of the Act allow either party to a marriage to make an application to a county court which has the jurisdiction to grant an injunction restraining the other party to the marriage from molesting the applicant or any child living with the applicant.

Section 1 (c) provides for grant of an injunction restraining the other party from entering all or part of the matrimonial home or a specified area of the matrimonial home.

Section 1 (d) provides that if the applicant desires he or she can enter the matrimonial home and remain there.

Section 1 of the Act is biased in favour of the spouse who has suffered physical violence or who has been thrown out of the matrimonial home.

This Act goes a long way in balancing the injustice done to the woman by enforcing her right to enter and stay in the matrimonial home even if it belongs to her husband, and also by granting an injunction restraining her husband from

entering the matrimonial home if he has been molesting the woman or child.

### **Arrest for Breaching**

When a judge has granted an injunction under section 1 and if he is satisfied that the other party has caused actual bodily harm to the applicant or to the child, and is likely to do so again, he may attach a power of arrest to the injunction.

A constable can then arrest without a warrant if he or she suspects that a breach of injunction to which a power of arrest is attached has taken place.

### **Order Restricting Occupation**

Where either spouse is entitled to occupy the matrimonial home, he or she may make an application for an order prohibiting, suspending or restricting the other from occupying the matrimonial home.

This Act applies not only to parties to a marriage but also to a man and woman who are living with each other in the same household as husband and wife.

*(Summary of provisions of the Act reproduced from "The Lawyers", March 1987)*