

**Legal Empowerment of Tibetan
Women in Exile-India**

A Research Report

Tibetan Women's Association

2013-2014



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The 10th executive members of the Tibetan Women's Association (TWA) are proud to present the foremost research work oriented towards documenting the social and legal issues facing Tibetan women in exile India.

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Ms. Tashi Dolma
 President
 Tibetan Women's Association
 March 2014

Preface

The report on '*Legal Empowerment of Tibetan Women in Exile-India, 2013-2014*' is a result of a research study carried out by Tibetan Women's Association in 16 Tibetan settlements in India.

A quantitative survey questionnaire consisting of 50 questions targeted 502 female respondents belonging to a diverse age group, living across the length and breadth of their exile habitation in India. In-depth field interviews were conducted in the 16 settlements- with the Settlement officers, members of the Local Assembly, Camp Leaders, Leaders of Regional Tibetan Women's Association and Regional Tibetan Youth Congress, others in leadership roles, and victims of sexual harassment, gender-based discrimination and violence.

Though the sample size of 502 is barely a substantial female representation of exile populace, the survey is not all-inclusive one. But with this work, TWA hopes to open the doors of dialogue and discussion on the social and legal imperatives facing women in exile.

The report also provides a premier study of the social and gender status of Tibetan women living in exile India and their awareness of the Indian laws and acts that safeguard their rights. TWA aims to create

a close and sustained network between the Tibetan community and the Indian legal bodies and custodians of Indian law -lawyers, women rights activists, social activists and members of the police force.

Through this report TWA intends to press cases and avenues for further advancement of focused programs in alleviating the social and gender status of Tibetan women and increasing their level of awareness of the legal measures and provisions. It is also intended to positively influence the Central Tibetan Administration (CTA) in its future formulation of policies and programs focused on achieving Gender and Women Empowerment in the Tibetan community in exile.

Chapter 1

Introduction and Rationale:

The Tibetan Women's Association (TWA) started as a political organization on March 12, 1959 in the aftermath of the National Tibetan Uprising of March 10, 1959 in Tibet. In exile India, it was reinstated on September 10, 1984 and albeit it was re-established primarily as a political organization, but over the last few decades, it was realized that a Women's organization carried an imperative of catering to the social needs of women. Therefore, over the last two decades since its re-inception, TWA has essentially become a 'Socio-Political Non Governmental Organization (NGO).'

During the annual general meetings of TWA's members from across the globe, it was discussed that in the midst of carrying on with the political struggle, it was essential to strengthen the social foundations of exile community which can be achieved by addressing the social and gender issues and constraints that Tibetan women in exile face.

Therefore in 2004, TWA conducted a massive research survey across 35 Tibetan settlements that reached out to 3000 female respondents. While the results of the survey was published in September 2005, it was later realized that the premier survey covered topics affecting Tibetan women: from women in politics, population and fertility, education, women in workforce, fertility and reproductive healthcare, but it did not do an in-depth study of topics such as gender status of women, sexual harassment, gender discrimination, gender-based violence and domestic violence.

In the year 2007, TWA embarked on the first ever ‘All India Gender Sensitization Training Program’ that covered 15 Tibetan regions spread across India. In the due course of implementing the project, TWA realized that one issue that gravely affected Tibetan women –which hitherto remained unaddressed, was that of gender discrimination and cases of gender-based violence facing Tibetan women.

Sensing the dire need, over the last five years, TWA took the responsibility of consistently following up with more advanced training programs on the following topics: Gender Sensitization, Combating Domestic Violence, Defending Women’s Human Rights under the International Human Rights Convention on Women. These training programs were widespread- ‘Pan-India–Nepal-Bhutan’ that covered 37 regional chapters of TWA in the three countries. But it was also realized that though the training programs managed to raise awareness among the

Tibetan public, but it proved to be partially successful in sensitizing both men and women to these issues. It was also increasingly challenging to prevent cases of gender discrimination and cases of gender-based violence against women.

A major boost to TWA's efforts came in the year 2008, when the Kashag (cabinet) of the Central Tibetan Administration (CTA), announced on the occasion of the 48th anniversary of Tibetan Democracy, an eight-point policy on 'Empowering Tibetan Women in Exile.' With expectations galore, TWA applauded the CTA for this new initiative and extended its support and cooperation for the same. To ensure the effective implementation of the policies, CTA constituted a 'Women's Empowerment Desk,' an undertaking of the Social and Resource Development (SARD) office of the Department of Finance. Such developments have bolstered the efforts of TWA since it represents an equal conviction from the exile Government to address the social and gender issues facing Tibetan women in exile.

Over the last 54 years of Tibetan presence in exile India, there have been cases, both reported and unreported, of discrimination and violence against Tibetan women: domestic violence, gender discrimination, gender-based violence. Two of the cases have been discussed in chapter three – '*Case Studies emerging from the Ground Observation Report.*'

One key reason why such acts have perpetrated and not lessened, is because of the lack of

a proper law enforcement to either tackle or address the issues. The Tibetan Supreme Justice Commission (one of the three pillars of the exile democracy) based in Dharamsala, India only have arbitrary rights and therefore are not in a position to address the many legal issues such as civil cases including marriage and divorce and criminal cases such as violence against women.

But the recurring cases of sexual harassment, domestic violence and sexual violence against women—of varying degrees and magnitude, and lack of a proper and concrete structural framework and institutional provision—legal, governmental, or organizational, to censure these violations is not only worsening the scenario for women victims, but if left unchecked or unresolved, will engender a socially battered community where growth and progress on all fronts of the society will be slackened.

Therefore in 2012, the Tibetan Women’s Association devised a long-standing project titled- ‘Legal Empowerment of Tibetan Women in Exile-India (LETWE-I),’ to ensure that Tibetan women in India are aware of and have access to the legal safeguard measures provided by Indian law. After availing funding from KIOS- the Finnish NGO for Human Rights, TWA implemented the project on a massive scale between the years- April 2013 to March 2014.

The project spearheaded by a ‘LETWIE-I Action Team’ was divided into two phases through a timeline of twelve months.

Phase one:

Conducted a large scale quantitative survey to study the ‘level of awareness among Tibetan women in India of the Indian legal rights, safeguard measures and provisions.’ This also included making oral interviews with respondents. An intensive two-day training was given on the topic- ‘Legal Empowerment of Tibetan Women in Exile’ covering issues such as - Legal Rights, Sexual Harassment, Gender-based Violence, Domestic Violence, Discrimination Against Women, and Reproductive Rights. Whilst the survey targeted 502 women in 16 Tibetan Settlement, the training program reached out to 1000 women in 17 Tibetan settlements mentioned below:

North Zone:

1. Sonamling Tibetan Settlement, Ladakh in Jammu and Kashmir,
2. Changthang, nomadic region in Ladakh in Jammu and Kashmir,
3. Mcleod Ganj, Dharamsala, Himachal Pradesh,
4. Norbulingka, Sidbari, Kangra Distt, Himachal Pradesh,
5. Bir, Mandi Distt, Himachal Pradesh,

East and North East Zone:

6. Rawangla, Sikkim,
7. Miao, Arunachal Pradesh,

8. Tezu, Arunachal Pradesh,
9. Tenzinghang, Arunachal Pradesh,

Central India Zone:

10. Delhi
11. Tsering Dhonden, Rajpur, Uttarkhand,
12. Deckyiling, Uttarkhand,

South India:

13. Lugsum, Bylakuppe, Karnataka State,
14. Deckyi Lharsoe, Bylakuppe, Karnataka State,
15. Rabgyeling, Hunsur, Karnataka State,
16. Doegyuling, Mundgod, Karnataka State,
17. Dhondeling, Kollegal, Karnataka State.

TWA deliberately excluded Nepal and Bhutan considering the fact that the Indian Laws and Acts don't apply to Nepal and Bhutan.

The Indian Laws and Acts introduced during the training are as follows:

INDIAN CONSTITUTION

Constitutional provisions on fundamental rights for non-citizen.

Article 21- Right to life, Article 14 – Right to Equality etc.

INDIAN PENAL CODE, 1860

Sections relating to aggressions and violence against women.

Section 375: Rape, Section 354A: Sexual Harassment, Section 354C: Voyeurism, etc.

CRIMINAL PROCEDURE CODE, 1973

Basic procedure:

Guidelines to be followed before Arrest

Guidelines to be followed during Arrest

Guidelines to be followed after Arrest

Guidelines on Arrest of Women

Guidelines on Arrest of Children

FOREIGNERS REGISTRATION ACT

Registration Certificate (R.C).

Identity Certificate (I.C)

Exit Permit, etc.

INDIAN LAWS RELATING TO PROTECTION OF WOMEN'S RIGHTS

Domestic Violence Act 2005

Sexual harassment of Women at workplace bill, 2012

Special Marriage Act 1955

Hindu Marriage Act 1955

The Special Marriage Act 1954

Maternity Benefits Act 1961

Indecent representation of Women (Prohibition) Act 1986

The Medical termination of pregnancy Act, 1971

Phase two:

Interpreting the survey results and discussing the issues and seeking sustainable and legal solutions to the problems. This was done through the organizing of a two-day symposium on 'LETWIE-I' in New Delhi, a gathering of over 50 people- legal experts, law students, women activists, grassroots leaders, stakeholders, representatives of civil society and institutions. The action plan and recommendations that arose from the symposium is included in chapter five of the book.

An academic production using both quantitative and qualitative research methods to compile a research report on the ‘LETWIE-I’ is the highlight of the project. Also a documentary film projecting the yearlong project provides a good audio-visual presentation on TWA’s premier project on gender and legal empowerment of Tibetan women in exile.

TWA’s ‘LETWIE-I’ is a direct outreach program and essentially an educational and empowerment campaign focused on educating Tibetan women in exile on their legal rights and safeguard measures. Through intensive education awareness campaigning, TWA intends to close the gaps and inform communities on human rights, women’s rights, legal rights, the significance of gender empowerment in the Tibetan Community in exile. The ‘LETWIE-I’ is a step towards achieving the goal and in ensuring a way-forward in the wider spectrum of ensuring social and legal empowerment of Tibetan Women in exile.

“When women thrive, all of society benefits, and succeeding generations are given a better start in life.”

-Kofi Annan, former General
Secretary of the United Nations

Chapter 2

Interpretation of Quantitative Survey results:

The quantitative survey conducted by Tibetan Women's Association is a part of the research study made for the 'Legal Empowerment of Tibetan Women in Exile-India, 2013-2014.' The survey spanning across the length and breadth of India, reached out to 502 female participants in the following listed 16 Tibetan settlements.

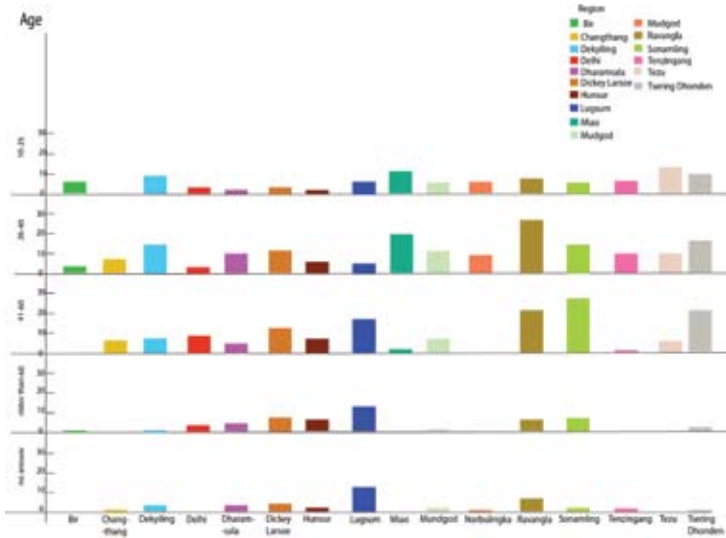
North Zone: Sonamling Tibetan Settlement and Changthang, in Ladakh, Jammu and Kashmir. Dharamsala, Norbulingka and Bir in Himachal Pradesh. East and North East Zone: Rawangla in Sikkim, Miao, Tezu and Tenzinghang in Arunachal Pradesh. Central India Zone: Delhi, Tsering Dhondup in Rajpur and Deckyiling both in Uttarkhand. South India: Lugsum and Deckyi Lharsoe in Bylakuppe, Hunsur and Mundgod in Karnataka.

The age group of the survey respondents ranged between 10-25 years and 60 years and above.

The questions initially included in the questionnaire were 50 and covered a wide range of topics and issues affecting the targeted respondents and they were later condensed and scaled down to 17 questions that are interpreted in this report. The interpreted questions cover six key areas: Demographics, Level of Education, Martial Status, Legal Documentation, Awareness of Legal Measures Protecting Women, and Attitude towards Institutional Support Mechanisms for Women.

DEMOGRAPHIC DETAILS

1. AGE

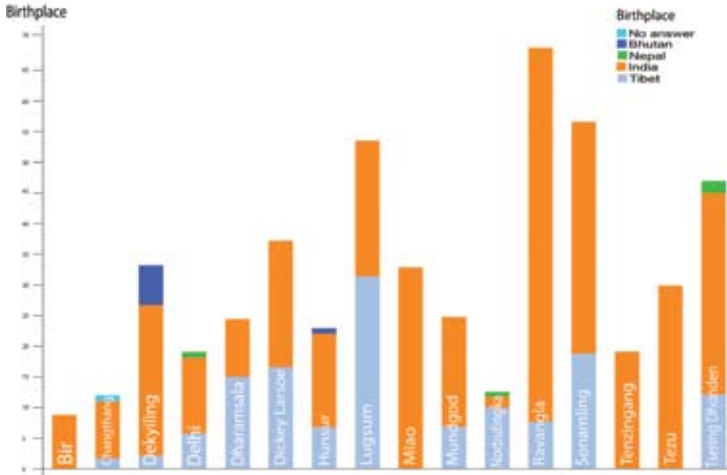


This graph shows that survey respondents are from diverse age groups.

Despite the fact that the Tibetan settlements have higher concentration of senior citizens, there is a poor turnout of elderly women (60 and above). Changthang, Miao, Norbulingka and Tenzingang have had 0% of respondent belong to the age group (60 and above). The highest turnout of this age group is recorded in Hunsur and stands at a low 23%.

There is also a low presence of young respondents. Bir has had the highest number of respondents (63%) between the age group of 10-25 with Miao recording the highest number of respondents (61%) between the age group of 26-40. Few key reasons for the low turnout of young respondents to the survey could be – a) School children and college attendees do not necessarily live in the settlements. b) Lack of employment opportunities in the settlements could be a primary reason for the many young, educated and professional women not to reside in their respective settlements.

2. BIRTHPLACE



In this graph, the colors-orange represents the number of respondents born in India, sky blue represents those

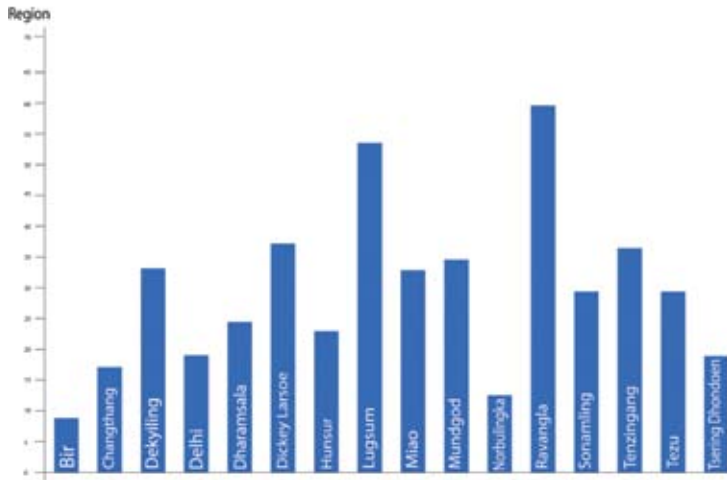
born in Tibet, green represents ones born in Nepal and purple represents the ones born in Bhutan.

It can be derived that majority of the respondents were born in India. 349 of the 502 respondents are born in India, 138 are born in Tibet, 8 are born in Bhutan and 5 are born in Nepal.

The highest turnout of the age groups as seen in Graph 2 are between 26-40 and 41-60. One possible reason could be because most of these settlements are largely populated with second generation Tibetans born in India. This can again be connected with Graph 2 results where the least turnout is of the age group was <60 who are born in Tibet. Since there were very limited number of respondents who were born in Nepal and Bhutan, it can be derived that they donot live in the above-mentioned settlements.

Miao, Tenzingang and Tezu in Arunachal Pradesh didn't have any respondents who were born in Tibet. Norbulingka had the highest number of respondents (77%) who were born in Tibet followed by Dharamshala (63%).

3. REGION



The survey was carried out in 16 Tibetan settlements spread across India. The settlements were chosen to ensure a substantial representation of the exile community. Some of these settlements have had cases of gender-based crimes against women and are more susceptible to gender-based violence and discrimination against women.

For instance, Tenzingang witnessed the assault of a woman for committing adultery in the year 2011 and last summer, a case of child molestation was reported in Munggod.

Some of the targeted settlements have a higher concentration of Tibetan population - Dharamsala,

Bylakuppe, and Mungod have a larger Tibetan population. Wherein in places like Sikkim, Shimla and Darjeeling, the Tibetan population is interspersed with the local Indian populace, and this makes it difficult in implementing effective programs.

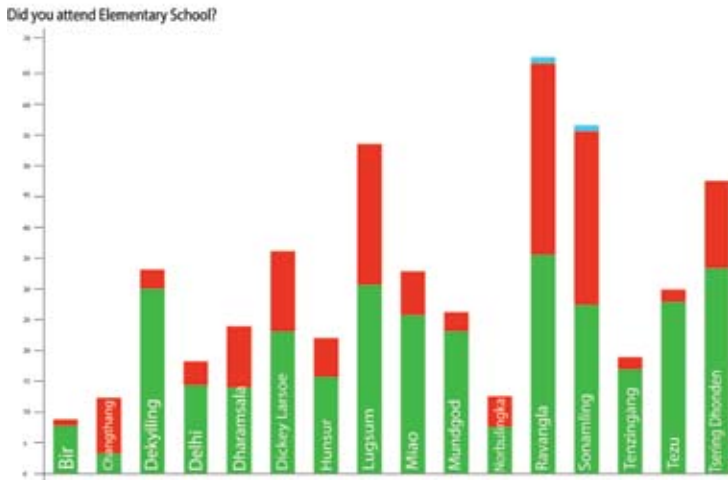
The highest turnout of the participants for the survey is recorded in the following regions: Rawangla -68, Sonamling -57 and Lugsam -54. Whereas the lowest turnouts are in the following regions: Bir 9, Changthang 12 and Norbulingka 13.

It could be noted that places like Delhi that has a considerable number of Tibetan residents have not responded to the survey. This could be because of public apathy to such survey and empowerment programs.

Another reason or a general low turnout could be that the general publics have an aversion to taking part in field surveys for fear of losing their confidentiality. Another deterring factor could be the illiteracy rate in the targeted regions.

LEVEL OF EDUCATION

4. DID YOU ATTEND ELEMENTARY SCHOOL?



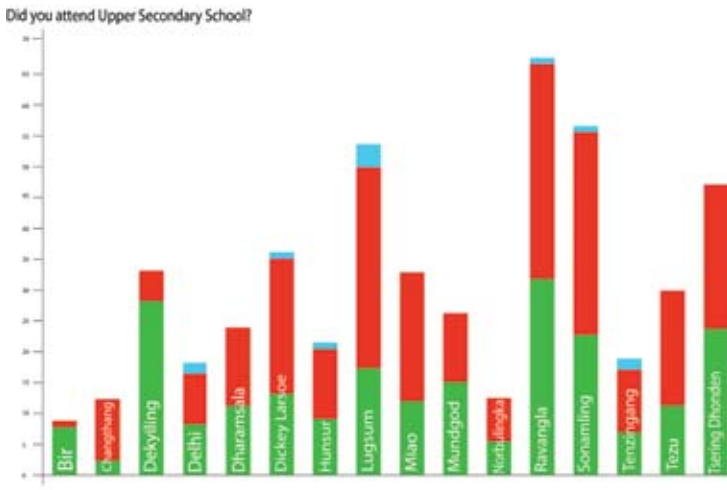
In this graph, the green color indicate yes to the question and red color indicate no to the question and blue color indicate no response to the question on whether the respondents have attended elementary school.

It is interesting to note that more than 50% of the total respondents have attended the elementary

school while 32% of them have not attended one. Only 0.5% of the respondents, as shown in blue color did not answer the question.

Among the targeted regions, Tezu has recorded highest percentage (93%) of respondents having attended elementary school and Changthang in Ladakh, a nomadic region has recorded a low 25% of the respondents having attended elementary school.

5. DID YOU ATTEND SENIOR SECONDARY SCHOOL?



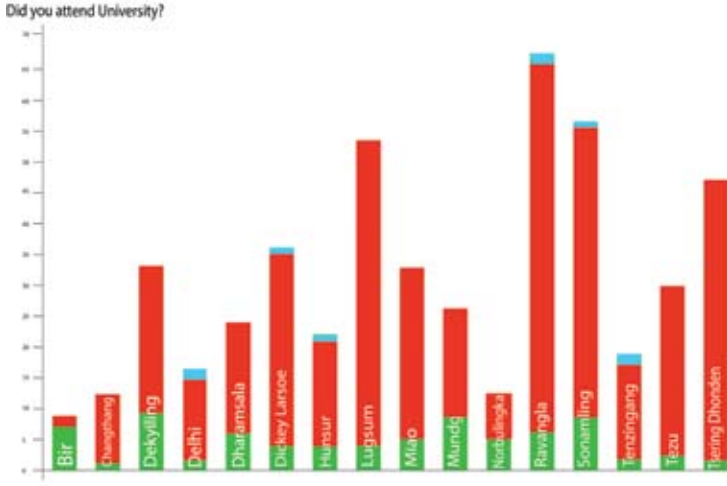
In this graph, the green color represents yes and red color represents no and the blue color suggests no response.

Taking on from the previous graph wherein 50% of respondents have attended elementary schools, in this finding only 45% of them have attended senior secondary school. While 52% of the respondents did not attend the senior secondary school, 3% did not respond to the question.

Bir has recorded the highest number of respondents (89%) having attended senior secondary school.

In the previous graph, Tezu showed the highest percentage of respondents (93%) having attended elementary school, but the number dropped drastically to 37% for the question on attending senior secondary school. Most of the settlements in northeast region have recorded a less than 50% of the respondents having attended senior secondary school: Ravangla 46%, Tenzingang 37%, Tezu 37% and Miao 37%.

6. DID YOU ATTEND UNIVERSITY?



The green color represents yes, red color represents no to the question and the blue color suggests no response.

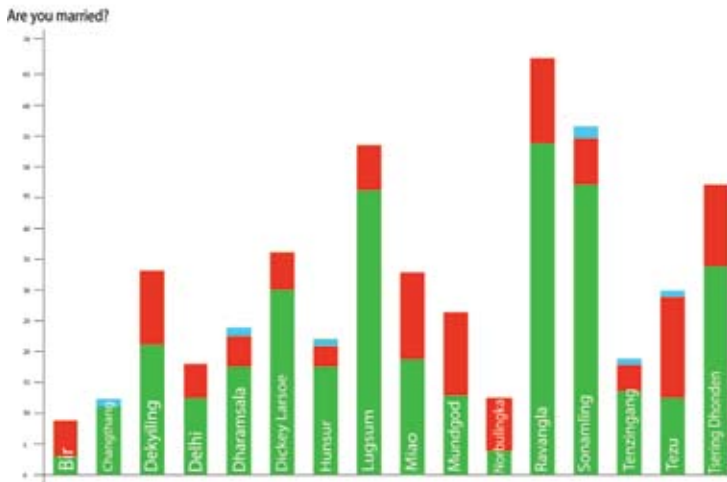
It is noteworthy that whilst more than 50% of the total respondents have attended elementary school and 45% have attended senior secondary school, only 16% of them have attended university. An overwhelming majority-81% have not attended university and 3% did not respond to the question.

Bir shows the highest number of respondents (78%) who have attended university whilst in Tsering Dhondhenling only 4% of the respondents have attended university. In both Changthang and

Ravangla, only 8% and 13% respectively have attended university. The reasons could be the geographic seclusion of these settlements and the lack of advanced and established educational institutions in their vicinity.

MARITAL STATUS

7. ARE YOU MARRIED?



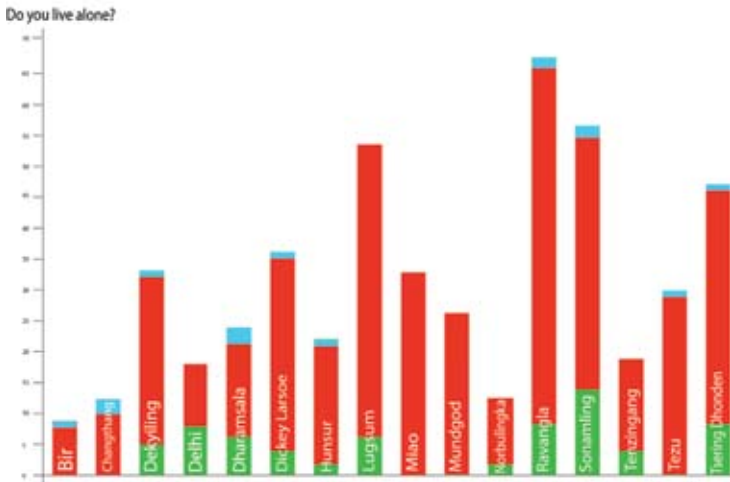
In this graph, the green color represents yes, the red color represents no, and the blue color suggests no response to the question.

It can be derived that majority of the respondents (72%) are married whilst 27% are unmarried and 1% did not respond to the question.

The established Tibetan settlements show a high number of respondents who are married. Changthang has the highest number of respondents (92%) who are married and Lugsum, Dickyi Larsoe and Hunsur recorded more than 80% of respondents as married.

Bir and Norbulinka showed the least number of respondents who are married with only 33% and 31% respectively.

8. DO YOU LIVE ALONE?



This graph reflects the number of respondents who live alone. The green color represents respondents who live alone, the red color represents respondents who live with their family, partners, friends or relatives and the blue color suggests no response.

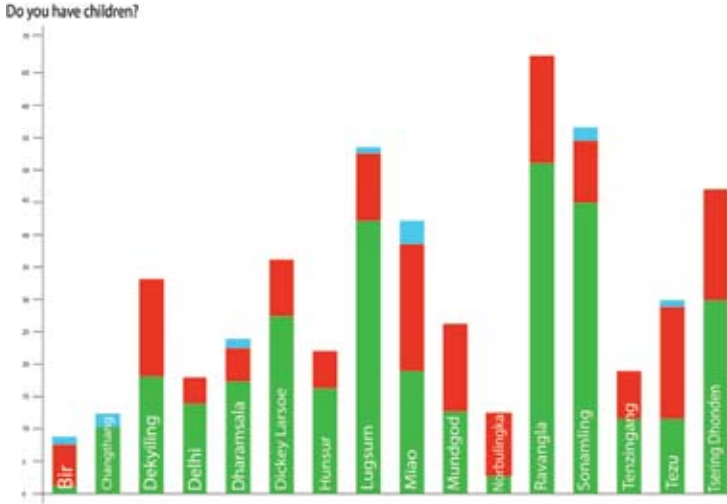
With only 13% of the total respondents are living alone, 84% live with their family. Only 3% did not respond.

Miao and Mundgod recorded the highest number of respondents (100%) who did not live alone. This is followed by Tezu (97%) and Dickyi Larsoe (94%). Delhi and Dharamsala recorded the lowest number of respondents - 44% and 25% respectively who lived alone.

One reason why Delhi and Dharamshala showed a higher number of respondents living alone could be the availability of employment opportunities in these regions. Delhi is the commercial hub for exile community and Dharamsala being the seat of the Central Tibetan Administration has more number of women living independently.

Whilst in places like Bir, Tezu, Miao and Mungod, a large number of respondents have admitted that they are not living alone but from the previous graph it could be presumed that the same number is not married. Therefore they could be living with their family or relatives. This reflects a social trait of the Tibetans who share tendency to live in joint families or in a larger group than to live alone and independently.

9. DO YOU HAVE CHILDREN?

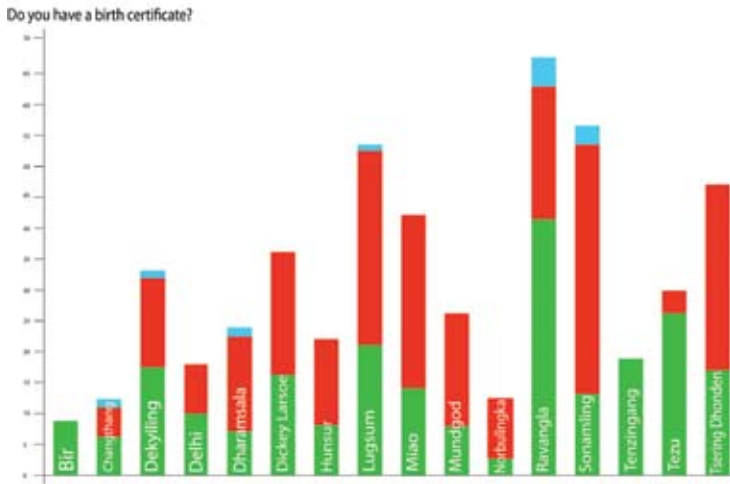


In this graph the green color shows the number of respondents who have children- 66% and the red color shows the number of respondents- 32% who do not have children. A low 2% of the respondents did not answer the question.

Changthang has recorded a highest number of respondents (83%) as having children. This could be attributed to the nomadic and traditional way of life in the region. Bir and Norbulingka showed that a small number of respondents as not having children- 22% and 23% respectively.

LEGAL DOCUMENTATION

10. DO YOU HAVE BIRTH CERTIFICATE?

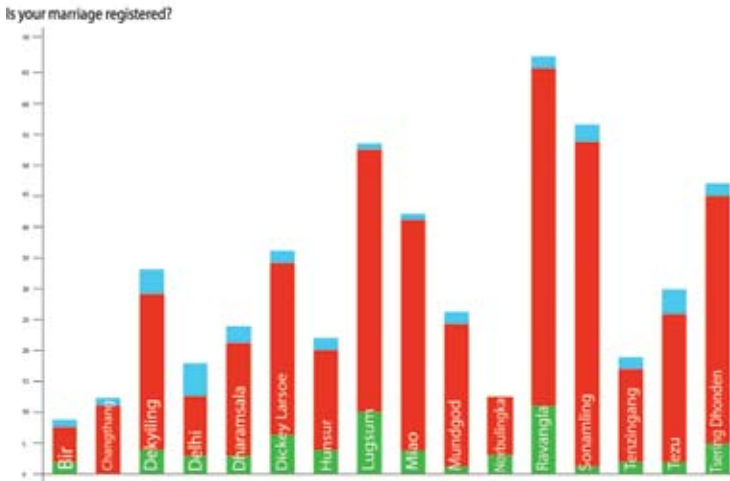


In this graph the green color shows the number of respondents possessing a birth certificate. The red color shows the respondents who do not hold a birth certificate whilst the blue color shows the number of respondents who did not provide any response.

It is interesting to note that 100% of respondents from Bir and Tenzingang have said they possess a birth certificate despite the fact both the settlements are in township areas and away from the cities.

Both Dharamshala and Norbulingka showed a very high percentage of respondents- 67% and 77% respectively, not in possession of birth certificates. This could be partly due to the fact that in both the regions there are a significant number of people who have arrived from Tibet.

11. IS YOUR MARRIAGE REGISTERED?



In this graph, the red color represents the number of respondents whose marriage is not registered and this stands at a staggering 72%. The green color shows that only 11% of the total respondents have registered their marriage while the blue color shows that 8% of the respondents did not respond to the question.

It should be noted that in Graph 7 it showed that 72% of the total respondents were married, but in this finding, of the 72%, only 11% have registered their marriage under law.

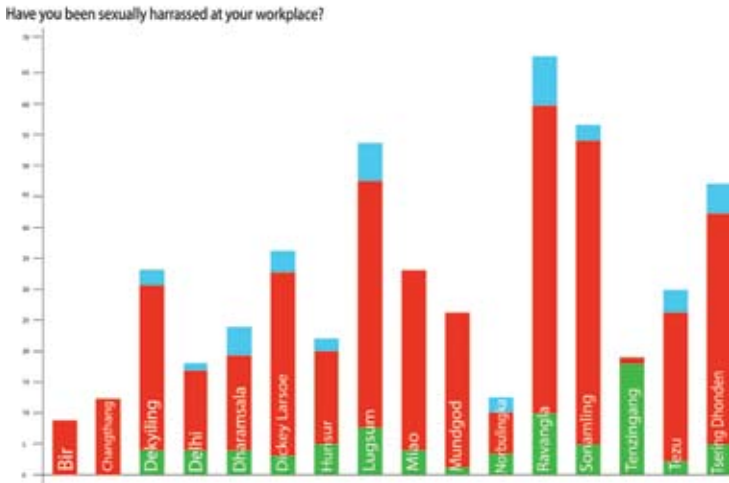
In the case of Sonamling Tibetan settlement in Ladakh, 82% of the respondents are married (refer to Graph 7). But only 2% of them have registered their marriage. Likewise, in Changthang, 92% of the respondents are married (refer to Graph 7) but not a single respondent had registered her marriage.

Of the total respondents in Norbulingka and Bir, only 23% and 22% respectively, have registered their marriage. Ironically these low numbers are the highest in this study.

Now this finding raises certain questions as to why there is dismal number of respondents whose marriage remains unregistered. One reason could be attributed to the lack of awareness and knowledge of the legal measures and procedures for registering their marriage. Another reason could be the dominance of traditional way of marriage, where the need for legal documentation and legal registration of marriage is deemed insignificant.

AWARENESS ABOUT THE LEGAL MEASURES PROTECTING WOMEN

12. HAVE YOU BEEN SEXUALLY HARASSED AT YOUR WORKPLACE?



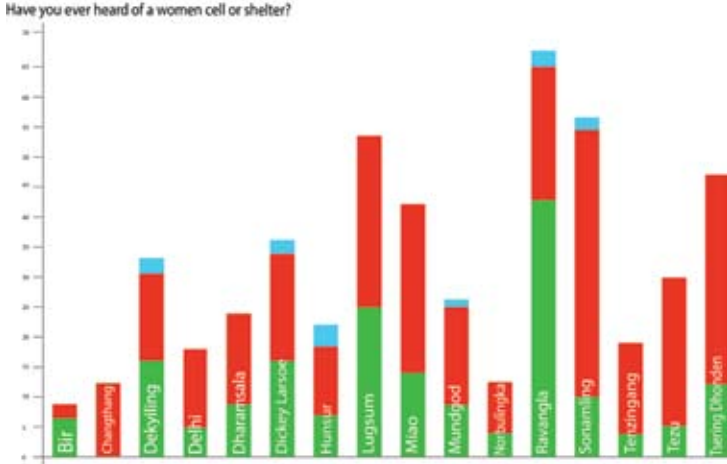
In this graph, the green color represents the number of respondents (10%) who have admitted to having experienced sexual harassment at the workplace, while an overwhelming majority (79%) as represented in red color said they have never experienced such cases and 11 % (blue color) didn't respond to the question.

In Bir and Changthang, 100% of the respondents denied experiencing sexual harassment at workplace. While 23% of total respondents from Hunsur and 22% from Delhi have admitted to having experienced sexual harassment at workplace,

With an overwhelming majority of the respondents saying ‘no’, the important question is whether the survey respondents actually understands the definition of “sexual harassment”, given the level of education (see Graph 4, 5 and 6) where 50% have attended elementary school, 45% have attended senior secondary school and 16% have attended University. The term “sexual harassment” could be either too vague or technical for the respondents. What constitutes “sexual harassment” in the strict legal sense could be beyond the understanding of many, if not all of them.

Another reason could be the characteristic traits of hesitancy, shyness and the fear of being judged harshly by the community, that could have affected an individual’s response to the question on sexual harassment. We could have expected a different result if the survey was conducted, post, an educative session on sexual harassment.

13. HAVE YOU EVER HEARD OF A WOMEN CELL OR SHELTER

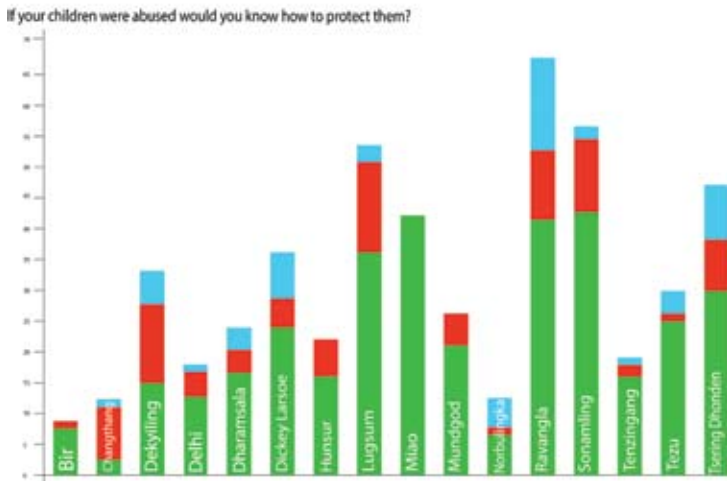


In this graph, the green color shows a low number of respondents who are aware of or have heard of a women cell or shelter wherein the orange color shows the number of respondents (more than 60%) who admitted that they are not aware of a certain women cell or shelter while a less number of respondents (blue color) did not respond to the question.

Changthang showed a dismal 0% of the respondents who are ill informed or unaware of the same. This could be due to the remote location of the region and inadequate access to mainstream society and the social measures for women in place.

Except for Bir and Rawangla, in all the other settlements, more than 60% of the respondents admitted to not having heard of a women’s cell or shelter. This sets a discouraging precedent to ensuring the successful implementation of the Indian legal safeguard measures for the Tibetan women in exile-India.

14. IF YOUR CHILDREN WERE ABUSED WOULD YOU KNOW HOW TO PROTECT THEM?



The responses in this graph are represented as ‘yes’ in green color, ‘no’ in red color and the blue color shows ‘no response’.

It is inspiring to learn that the majority (more than 60%) of the respondents have responded positively to the question and said that they would know how to protect their children if they were abused.

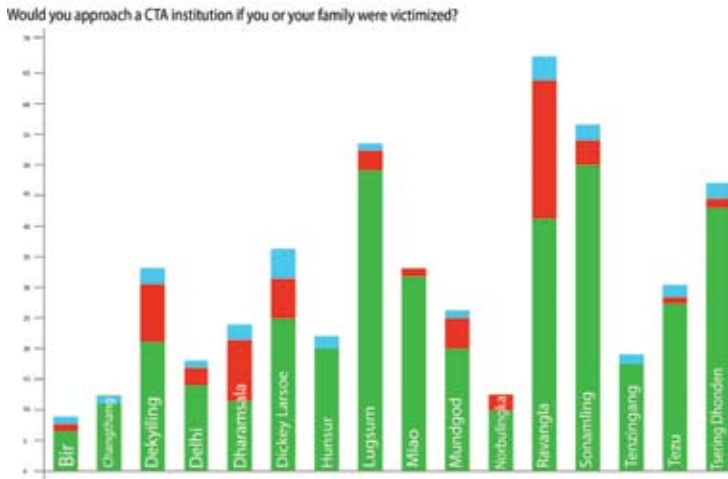
A less number of respondents in Changthang (25%) and Dickyiling (45%) said no to the question.

It could be interpreted that despite the low level of educational background of the respondents falling below 45% (refer to Graph 4 and 5), and a higher number of respondents (more than 60%) admitting that they would know how to protect an abused child, the understanding of the term 'child abuse' and 'protect' may be based purely on emotional reasoning and not necessarily at the pragmatic level and with strict understanding of the terms.

Since 66% of them have admitted to having children (refer to Graph 9), their instinctive belief of knowing to protect their child could have impacted their response. This could reveal an interesting facet of the respondents who might not be well aware or knowledgeable of the understanding and deciphering of the term 'child abuse' and 'child protection.'

ATTITUDE TOWARDS INSTITUTIONAL SUPPORT MECHANISMS FOR WOMEN

15. WOULD YOU APPROACH ANY CTA INSTITUTION IF YOU OR YOUR FAMILY WERE VICTIMIZED?



In this graph, it is encouraging to see that an overwhelming majority of the respondents responded positively saying they would approach any of the Central Tibetan Administration (CTA) institutions, if they were victimized. The graph shows 79% saying

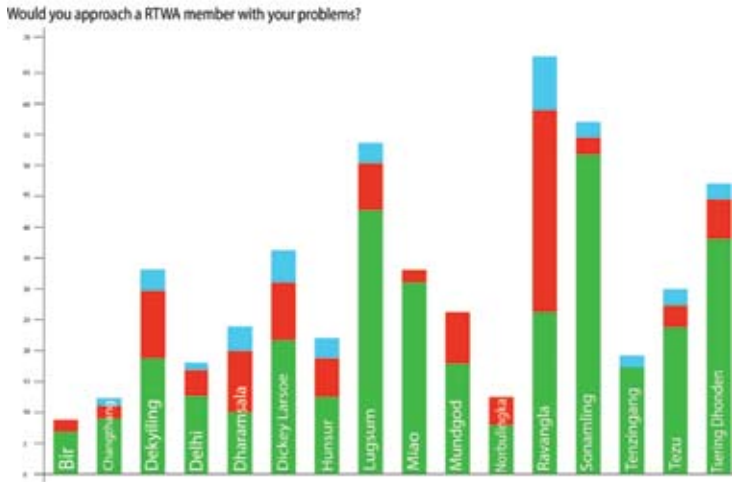
‘yes’ (green color) and only 14% saying ‘no’ (red color) to the question.

In Tenzingang, 95% of the respondents said they would approach CTA followed by Changthang (92%) and Hunsur (91%).

Ironically, only 42% of total respondents in Dharamsala, where the CTA headquarters are based at, have expressed willingness to approach CTA institutions with their problems.

This raises a vital question as to why they are hesitant despite having easy access to any institutional provision from the CTA. This could be because the respondents could have felt that their privacy would be compromised. It could also be that the respondents in Dharamsala are more confident of handling any such cases themselves rather than depending on institutional support.

16. WOULD YOU APPROACH A RTWA MEMBER WITH YOUR PROBLEM?



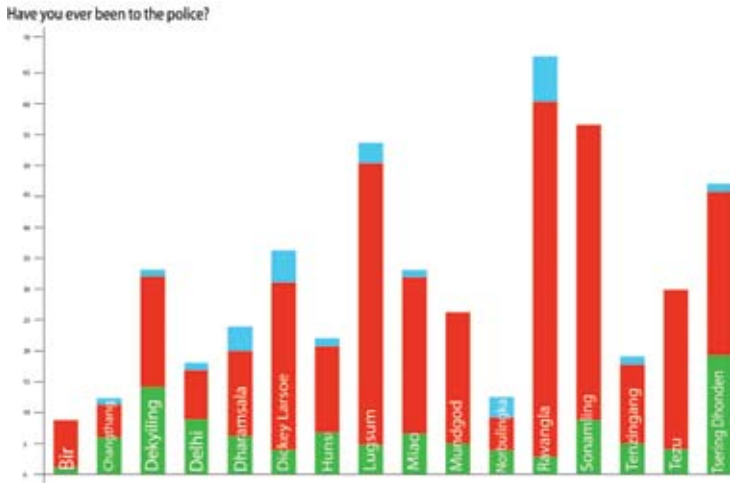
Tibetan Women’s Association has regional chapters in all the 16 settlements covered in the survey. Therefore it can be seen that a large number of respondents in these settlements have shown willingness to approach a RTWA member with their problems.

While 21% (in red color) of respondents expressed they would not approach RTWA, 9% (blue color) chose not to answer. It can be derived that except for Ravangla where only 38% admitted they would approach RTWA, the remaining settlements in north-east region: Miao- 94%, Tenzingang- 89% and Tezu- 77% have shown a higher number of respondents expressing confidence in RTWA.

A less number of respondents in Dharamshala have shown confidence in both CTA (42% - refer to Graph 15) and RTWA (40%). This could be either because of a higher sense of self-reliance of the respondents or due to lack of effective redressal mechanisms by both CTA and RTWA in the region.

One of the substantial findings in this graph is that compared to the previous graph, the level of confidence shown towards RTWA is lower (70%) as shows in green color, than in CTA (79%-refer to Graph 15). Therefore it can be concluded that a CTA supported institution to support women facing discrimination and violence, are more relied upon by the public than a one run by an NGO such as the TWA.

17. HAVE YOU EVER BEEN TO THE POLICE?



This graph reveals whether the respondents have been to the police though it does not question the purpose of the visit. Surprisingly, a large number of respondents (72%) said ‘no’ as shown in the red color and only 22% said ‘yes’ as shown in the green color. Only 6% did not respond to the question.

Except for Delhi and Changthang, in the remaining settlements, less than 40% of the total respondents have expressed that they have never approached the police with their problems. One of the possible reasons could be the general apathy towards the police force where the ‘lack of trust’ is a pressing issue.

Additionally, the respondents might be finding the conventional and traditional way of resolving disputes as a more convenient and trustworthy approach than reporting to the police. It could also be because of social pressure to safeguard the 'honor' of the family and the society, which could be deemed threatened, with the use of public mechanisms such as the police force.

But the underlying factor could be that the respondents are ignorant or unaware of legal rights and the legal safeguard measures that is in place and applies to Indian citizens as well as non-citizens residing in India.

This presses the case for a heightened level of educational programs in the community to introduce the legal rights, provisions and procedures for Tibetan people in general and women in particular. ■

Chapter 3

Case Studies Emerging from the Ground Observation Reports:

As a part of the survey carried out in 16 regions in India, TWA's executive members and coordinator of Legal Empowerment of Tibetan Women in exile, carried out interviews with Settlement officers, members of the local assembly, camp leaders, President of Regional Tibetan Women's Association and Regional Tibetan Youth Congress, others in leadership roles, women victims of discrimination and violence. The field interview sought to understand the gender status of women in the targetted settlements and also to learn if there were any past history of cases of discrimination and violence against women, and whether the respondents have played any role in dealing with such cases.

Following are a selected few case studies. The name, age and identity of the respondents remain hidden.

Case -1: Domestic Violence

A woman in her early 40s interviewed by TWA shared her story. Her first marriage failed after her husband moved abroad and married another woman there. She has a ten year old daughter from her first marriage. The marriage was not registered. Occasionally he sends a meagre amount of money for his daughter. Few years ago she met a Tibetan man and they had a live-in relationship for three years. She recalls those years as the most miserable years of her life as she was a victim of domestic violence.

Her partner beat her up until she bled. He didn't need a reason to hit her and would do for trivial reasons like—he is feeling bored. He brought his own girlfriends home and would get violent with her and have them witness the act. He would spit- and pass sputum in her mouth. She suffered miscarriage as a result of his brutal beatings.

Even though her family and friends suggested that she leave him, but she was hesitant as her first marriage failed and she felt she could be looked down upon by the Tibetan society.

Although she is aware of the legal safeguard measures, she never gathered courage or confidence to use them. Once she mustered courage to dial #100 but since the line didn't go through she lost confidence to dial again.

After three horrendous years, she finally left him and moved to a different place. Later she realized

that she was once again pregnant with his child. While friends and family suggested that she abort the baby but she couldn't do that. She is now a mother of a son.

Her partner continue to harass her with phone calls pleading her to come back but she hasn't responded positively.

Case 2 : Divorce and Alimony not legally permissible

A woman in her 40's shared her story. Her house was rather simple and barely furnished. The settlement where they lived were in the adjoining area of an Indian military camp and this was where her husband was stationed when she initially met her. They fell in love and got married and had a baby boy. He later got transferred to a different battalion in a different State in India. He started ignoring her.

She went to the army camp office several times only to be told that they are working on it, but so far she has never heard from them.

When she approached the local Tibetan leaders they punished her husband by making him prostrate 1000 times-a way to cleanse his sin and ordered him to pay her 35,000 Indian rupees. She said it was "outrageous" as this money was suppose to last till her son turns 18 which means for another five years.

Case 3: Harassment of a young girl

This is story of a young woman who wanted to remain confidential. She introduced herself as a semi-orphan. She shared how she assisted her mother who worked as a tailor to assist with her stitching orders and how she was the most “compliant and attending daughter” which was the reason why her mother never intervened in her personal and social life. She enjoyed her social gatherings and partying with her friends.

But rumors of her alleged philandering manners spread by few young men completely shattered her. The men alleged they had physical relation with her in her drunkard state. Ever since, she was ostracized and condemned by people in her settlement. She shared how a woman can so easily be victimized and tortured be it – physically or mentally. She opined that women in our community are so vulnerable and can be easily typecast and judged. This case talks about how a modesty of a young Tibetan woman is a delicate issue and that is the reason why men encroach upon that to taint her reputation to retaliate for trivial reasons such as rejecting their romantic proposals.

On the issue of violence against women, TWA’s intervention in two cases that has come to public knowledge deserves to be recorded in this report.

Case 1: Rape of a Tibetan nun in Dharamsala

In April 2005, a Tibetan nun got raped by two local Indians (teens) within the first month of her arrival in India from Tibet. FIR was filed against the two perpetrators of sexual violence at the local police station and subsequently a case was registered in the local court.

TWA found a sponsor for the nun victim to assist her financially and offered multiple counselling sessions to help her cope with the trauma. In May 2006, the local court in Kachari passed the verdict against the two culprits. On May 20, 2006, they were sentenced to ten years in prison and were levied a fine of INR 10,000 each. The culprits continue to serve their sentence and have on repeated occasions, pleaded for forgiveness from the nun.

Case 2: Case of gender violence against a Tibetan woman in Tenzinghang.

TWA sought effective implementation of legal measures protecting Tibetan women in exile.

A resolution on ending ‘Violence against Women’ received unanimous support from the members of TPIE.

On September 30, 2011 two female members of Tibetan Parliament in Exile (TPIE) who were also members of the 9th executive body of Tibetan Women's Association (TWA), tabled a private members' resolution condemning 'Violence against Women' at the 2nd parliament session of TPIE. Prior to the parliamentary debate, TWA members held a caucus meeting among the women parliamentarians and discussed the pragmatic approach to passing of the resolution.

TWA's President Dolkar Lhamo Kirti and TWA Research and Communications Officer Dharon Sharling proposed a resolution bearing three clauses:

- 1. The members of the Tibetan Parliament in Exile should condemn in strongest terms, any form of violence against women.*
- 2. The Kashag / Executive is requested to ensure the effective enforcement of the host country's laws and acts on dealing with 'any forms of violence against women such as the recent act of violence against a Tibetan woman in Tenzinghang. To this end, the Kashag / Executive is requested to provide a directive and a proper guideline to the settlement officers in India, Nepal and Bhutan, and the overseas representatives on the effective implementation of the laws and acts protecting women's rights. This will bolster the confidence of women.*
- 3. The Kashag / Executive is requested to present a report on their plan and the guidelines to*

the Parliament by March 2012, during the 3rd Budget session of the Parliament.

After a 30 minute parliamentary debate, the resolution was passed after it gained unanimous support from the members of the legislative body.

As many may be aware, in the summer of 2011, a terrible case of gender-based violence against a woman who had committed adultery took place in Tenzinghang, a Tibetan Settlement of 800 people across four camps, 160 km from Bomdilla in Arunachal Pradesh, India. The unfortunate incident was a shocking reminder of the great and tragic disasters that can occur when people place the law in their own hands and act in the absence of proper guidelines from the Center.

The Tibetan community was naturally shocked and appalled to hear of the incident in Tenzinghang and the widespread furore lead to the dissemination of much rumor and misinformation. Two TWA representatives, Vice President Samten Choedon and Sponsorship Officer Tenzin Dickey, visited the area and spoke extensively to those involved – TWA’S final report now available on TWA’s website, which fully documents the incident and subsequent action from the Regional Tibetan Settlement Office and then TWA, should be considered authentic and authoritative.

TWA wish to sincerely thank and pay our respects to the victim of this terrible abuse, who has agreed to share her story with the world, a brave choice

that TWA do not intend to waste; this case has opened our eyes to the continuing discrimination and violence faced by Tibetan women and the imperative for a clear resolution from parliament, greater sensitivity among people and leaders in handling such cases and significantly a heightened level of awareness among the public of the legal safeguard measures available for women.

Chapter 4

Symposium Discussions: Excerpts from the speeches made during the symposium on ‘*Legal Empowerment of Tibetan Women in Exile- India.*’

A significant culmination of TWA’s yearlong project -‘Legal Empowerment of Tibetan Women in Exile-India’ (LETWIE-I) was the two-day symposium organized by TWA and held at India International Centre, New Delhi on February 3 and 4 of 2014. The symposium saw a gathering of over 50 people: legal experts, law students, women activists, grassroots leaders, stakeholders, representatives of civil society and institutions.

The opening ceremony was graced by three eminent personalities: Mr. J.M. Mukhi, Barrister and Advocate at Supreme Court of India, and legal advisor for Central Tibetan Administration (CTA), Mr. Tempa Tsering, former Minister of CTA and

incumbent representative of His Holiness the Dalai Lama in New Delhi, India and Ms. Kamla Bhasin, India's leading feminist activist and writer.

The symposium was structured around two plenary sessions, two TWA presentations made by TWA members who were part of the 'LETWIE-I' action team and two workshop sessions.

The first plenary session saw an intellectually stimulating dialogue initiated by three accomplished Indian women. Ms. Karuna Nundy, Advocate at Supreme Court of India, spoke about 'Women Security and Legal Safeguards in Indian Law and International Law. Dr. Ananya Vajpeyi, Historian and Professor, spoke about 'How Improving Rights Awareness and Legal Education Strengthens Women's Intellectual Growth in the Society,' and Ms. Jasmeen Patheja, Artist, Activist, and Feminist, spoke about 'Challenging Attitudinal Differences Towards Sexual Harassment against Women in India.' Dhardon Sharling, Creative Head of LETWIE and Member of Tibetan Parliament in exile, chaired the dialogue.

The second plenary session discussed on the social, political, legal issues affecting Tibetan women in particular. Dialogue initiators included Dr. B. Tsering, Principal, Dalai Lama Institute of Higher Education and Member of Tibetan Parliament in Exile, Ms. Tenzin Tseyang, Coordinator, Women's Empowerment Desk, SARD, CTA and Mr. Vinayak Narayan, a Tibetan-speaking Advocate based in Dharamsala. TWA'S General Secretary Nyima Lhamo moderated the discussion.

Tsering Choedon, Advocate and Program Coordinator of TWA's LETWIE presented the results of the quantitative research survey participated by 502 women in 16 settlements in India. Tsering also presided over a large group discussion on the grave social issues affecting women, such as sexual harassment, marital rape and domestic violence.

TWA's executive members who implemented the LETWIE-I project: President Tashi Dolma, Vice President Samten Choedon, General Secretary Nyima Lhamo and Joint Secretary Tsering Dolma, sat over a sharing session during which they interpreted the case studies gathered out of the in-depth field survey they conducted in 16 Tibetan settlements in India.

The workshop sessions discussed and later adopted an Action Plan at Individual level and Increasing Civic Engagement, Recommendations for Central Tibetan Administration and Next steps of Action for TWA which are presented in chapter four – 'Recommendations, Action Plan and Conclusion.'

Following are the excerpts from the speeches:

Mr. J.M. Mukhi, Barrister and Advocate at Supreme Court of India, and legal advisor for Central Tibetan Administration (CTA)

“The Tibetan spiritual leader His Holiness the Dalai Lama said that ‘character and ethical conduct begins at home.’ The Tibetan mother teaches her son that the Tibetan daughter is precious. A daughter is not a sacrificial goat but a potential goddess. A daughter uplifts and creates sunshine, so a mother should create respect and reverence for her daughter.

An Indian mother is disappointed when a daughter is born and the family consoles saying ‘Laxmi is home,’ why don’t they say ‘a Durga has come to slave the demons.’

With the use of the word ‘empowerment,’ one must understand that power comes from knowledge, from being aware of one’s rights and one’s ability to assert rights.

Tibetan women in India are governed by ‘Hindu Succession Act’, they must have a birth certificate, marriage registration certificate and a foreign registration certificate.

A legally married woman has many rights: right to maintenance, decide, abort, confined to housework/motherhood, right to separation, divorce, alimony and right to follow a career.

Physical violence against women is a matter of past. There should be no physical chastisement at home. Domestic violence shouldn't be tolerated at any degree. There is a great reluctance of married women to report cases of domestic violence and this is wrong. Things should be put in place.

It is also high time that we need an authoritative compilation or a consumer friendly handbook that defines the laws and customs applicable in pre-1959 Tibet.

The Central Tibetan Administration should bring legal aid cells with well to do qualified Tibetan lawyer who will give advice and court assistance for free. Justice should not be charged.”

Mr. Tempa Tsering, former Minister of CTA and incumbent representative of His Holiness the Dalai Lama in New Delhi, India

“I Congratulate TWA for organizing this symposium. This is an impressive gathering and the concepts, issues and ideas discussed here apply to everyone in Tibetan community.

India is the largest democracy in the world and the Central Tibetan Administration follows a democratic system.

Though I am not a legal expert but adding on what Mr. Mukhi suggested, I would like to reiterate the importance of compiling an authoritative handbook of the laws that affect Tibetan women (Indian and International law, Exile Administration law, pre-1959 customary law in Tibet. In Tibet, though there was no legal system and framework, but people and institutions followed the Buddhist principles—such as ‘Lhachoe-gewa-chu’ – (ten virtuous actions) and ‘Michoe-tsangma-chutuk’- (the sixteen human principles of moral conduct), as a guideline customary law.

The Central Tibetan Administration is governed by laws and rules and it is important for us to be aware of the Indian law, the special laws and acts that apply to Tibetans either as refugees or foreigners or permanent residents. Only in knowing these laws we can make use of it.

For the first phase of being in exile, we were new and India as a host country remained oblivious. But after 54 years in exile and when majority of Tibetans are born in India, we cannot remain ignorant of the Indian law. There are issues facing individuals and institutions and we need legal solutions. Indian laws should guide us in our everyday endeavors—even things like seeking admission into a school. Failure to abide by the Indian law is not only illegal but tarnishes the image of Tibetan and Tibetan establishments in India.

Therefore after 54 years in exile, being aware of legal procedures and abiding by the Indian law is an imperative, a compulsion and not a choice one makes.”

Ms. Kamla Bhasin, a feminist activist and a social scientist by training.

“Today’s gathering brings law and humanity together.

When we talk about gender we need to realize that gender doesn’t mean only women. It is a social construct. Gender has nothing to do with nature and biology. Gender is what society, culture, religion defined women and men as.

Empowerment comes from the word power and we empower people who have been disempowered—people whose power have been taken away by caste, race and patriarchy. Power comes from controlling resources (natural and human, intellectual, financial, inner values, control over ideology) not just who are aware and possess knowledge.

In today’s world, women do 66% of work and earn 10% income and possess 1% property. I refuse to believe that God is man. If God is man, then man is God. In most religion—man are imagined as God. Let us not forget that gender is not a new concept. Gender debate took place 2500 years ago in India.

Women's fight is at many levels—at legal level, at religion level. Women have proven that there is nothing we cannot do. It all starts in the family. Society turns men into rapists, they are not born as rapists.

The quest for gender equality is a fight for equality. Let us envision a future where men and women can work together. The quest for gender equality began since time immemorial and persists even today.

It is important for Tibetan women in India to have closer links to mainstream India and have a sense of integration.”

Dr. B Tsering, Principal of Dalai Lama Institute of Higher Education and Member of Parliament, Tibetan Parliament in Exile.

“Women should not be contend in knowing ones rights and duties but should be aware of them in legal perspective. We also need to understand how the gender stereotypes prevalent in our community become barriers towards growth and development.

The gender awareness programs are never meant to bring divisions in our society but it is aimed to strengthen the community. Gender stereotypes based on indicators like colors, habits, roles are meant to be eradicated and it's time both men and women act as real

partners helping one another in more holistic ways. It is time we have a strong and supportive civil society and one woman should inspire the other. The Tibetan community is in need of more female role models. We need more of capacity building programs, empowerment initiatives to establish a woman's presence and voice in the community."

Mr. Vinayak Sharma, an Advocate at Kangra District Court.

"One of the recurring trends among Tibetan couples is to settle for a traditional or customary way of marrying and therefore the failure to get their marriage registered. This will provide legal acceptance of one's marriage. Such legal procedure will help a couple facing divorce especially in getting the right alimony for the wife and children.

The first and the most significant step a Tibetan should take is to realize that Tibetans are equally protected like a law-abiding Indian citizen, under the Indian law and therefore has a voice in it."

**Tenzin Tseyang, Coordinator, Women's
Empowerment Desk, SARD, CTA.**

“The pressing issue in cases of violence against women is when the women chose to remain silent. The pertinent question is why women are not ready or willing to speak out and share their problems? Are the social stigmas and social pressure barring them from doing so?”

A complete understanding of woman's 'reproductive, productive and community service' is important in realizing the significant role a woman plays in society-building.

One of the ways to counter gender disparity in the Tibetan community in exile is to ensure equal representation of women at all the levels of decision-making bodies.

A major setback comes from the fact that we tend to brush gender issues and challenges under the carpet and our tendency to compromise under social pressure. This is what perpetrates discrimination and violence against women. Therefore the first step is to break the silence and speak up.”

Dr. Ananya Vajpeyi, Historian and Professor.

“When I educated myself on Tibetan women and issues facing Tibetan women, I realized that the traditional Tibetan society was similar to the Indian society. We share a common ground. Like Indian women, Tibetan women in early times were also expected to wear their hair braided, wear full sleeves and aprons.

We must know that issues of dress and appearances normally applied to women relate to issues of sexuality and control.

It is understandable that even within Tibetan culture with a heavy influence of Tibetan Buddhism, there is a religious-cultural complex amidst strong monastic traditions. But again it is remarkable that Tibetan nuns are at the forefront of political resistance.

It would be interesting to know the gender relations in the Chinese culture, which also bears influence in Tibet.

In exile, the interaction between Tibetan and Indian culture has two effects

1) India is gender unequal, is patriarchal and this has a dispiriting impact.

2) But it can be inspiring at times as there is lots to learn from this and grow from there. All symbols of

Indianness were created around women-Bharatmata. Women become repository of cultural values.

For Tibetans living as refugee, the external struggle is so powerful that adherences to internal organization has taken a backseat and likewise the question of women's rights is left at the back burner. Therefore today's symposium is remarkable attempt taken, apart from the larger political question.

Few questions that arise out of deeper contemplation are- what is your takeaway from living in India. Are you concretely connected with Indian women's organizations and legal initiatives and with policies of Indian Government?

As Tibetans, you are all working within constraints of politics and therefore to make life in exile more egalitarian and self-sustaining, it is essential for you to integrate with the mainstream Indian society.

An important aspect of exile life is to make women's voice more pertinent in political and national discourse."

Jasmeen Patheja, Artist, Activist and Feminist.

"When we think of what comes to our mind when we say-public spaces, there tend it be negative associations with it. There is fear, intimidation, and lack of privacy. Women tend to have fear based on

their relation with their city. But the presence of another woman makes you feel safer at a public space at night.

As members of the civil society, we need to create spaces for dialogue on issues affecting women in public spaces such as sexual harassment. We need to build definitions for sexual harassment through argument and counter argument.

We need to start engaging women in actions like ‘living organism’ and ‘creation of action heroes and champions’ who will embody and enact on themes like—letting women walk the way they want to. We should create step by step guide to unapologetic walking.

Whenever we do actions, it should be done with collective spirit and the element of risks involved. But that should not deter us.

In cultures like India, the word ‘sex’ and ‘sexual’ are considered taboo. Our actions should not only be interactive and informative but should create an experiential learning process.

As advocates for women’s safety, we need to create tangible actions that women can take up at individual level and at civic level as well.

It is time we come out of the web of blame game and own up for our actions.

One sensible way is to make people take pledges.”

Karuna Nundy, Advocate at Supreme Court of India.

“Patriarchy puts everyone in boxes. It takes away choices from both men and women. Often it is questioned whether patriarchy was handed down through religious teachings or were wrongly codified by men.

At a concrete level, when the question of violence within home is raised, where much happens, the pressure to keep within the home is pertinent. A level of incompetence is there even from police.

We do need to realize that even disrobing, stalking, criminal intimidation, acid attacks are considered criminal by the law. We must all realize that criminal law applies to all living in this land. How to deal with criminal law is intimidating and challenging to everyone. Women find it difficult to approach measures like the Domestic Violence Act that just not refers to physical but to economic and social cruelty for women as well.

Women tend to deal with innate sense of entitlement--- say like self-denial. We tend to live with the intention to submit our interests. For instance, in some culture, eating last is tied to the idea of honor.

Therefore, the first step to women’s legal empowerment is ensuring economic independence.

Likewise, education is vital and right to property is also essential.

It is proven that with increased levels of financial independence, a level of violence goes down.

Another tangible measure could be creation of 'Crisis Centers' - a center that provides safe houses for victims and provides access to doctors, lawyers, counselors.

We need to devise remedial measures to capacitate women and make women legally competent. Few suggestions could be – the creation of a 'Network of Paralegals and Lawyers' to ensure the effective use of law- Criminal law, Indian Penal Code relating to Rape, Sexual Assault and Sexual Harassment. Women's groups could use these measures tangibly in areas where it can be used and areas where it cannot be used, must adopt measures to use it strategically."

Conclusion

The symposium, which is a first of its kind, suggested remedial measures and way-forwards to address the social, domestic and legal issues facing Tibetan women in exile, India. The social programs and legal safe-guard measures discussed and devised were aimed to combat the discrimination, risks and violence facing women, while seeking to create a gender equal society and significantly to achieve legal empowerment for Tibetan women in exile.

Chapter 5

Recommendations, Action Plan and Conclusion

Recommendations:

At the symposium organized by TWA, the participants, resource speakers and organizers took part in group discussion, taking on from the deliberations made by the resource persons, the sharing of case studies by TWA executive members and the interpretation of quantitative survey results by LETWIE-I coordinator.

The participants presented on the discussions and later voted and adopted an action plan and a list of recommendations, oriented towards meeting the social challenges and cases of gender-based

discrimination and violence facing women in Tibetan community in exile. The adopted action plan included: action at individual level, action for civic engagement, and recommendations for Central Tibetan Administration and recommendations for Tibetan Women's Association.

Adopted Action Plan at Individual level:

- Break the silence and take stand against any form of violence.
- Make one-self legally aware.
- Empowering self and others.
- Take responsibility at grassroots level.
- Respect a woman's right to her body.

Adopted Action Plan for civic engagement:

- More legal awareness trainings and empowerment programs.
- Creating a network and work hand-in-hand with other Women's NGOs.
- Seek legal redress from Women's Groups and associate with Para-Legal Networks in India.

Recommendations for CTA:

1. To establish a Women's Commission that functions like a Ministry for Women and Child Welfare.
2. Include Gender Studies in School Curriculum at the secondary and senior secondary level in the CTA run Tibetan Schools wherein the curriculum content can be designed by the Department of Education.

Recommendations for TWA:

1. TWA to carry out outreach and training programs in Tibetan settlements and schools. TWA to make specific focus on topics of sexual harassment.
2. TWA's annual 'Fellowship Program for Advanced Studies' to include an exclusive fellowship for Gender Studies and Gynecology studies.
3. TWA's Central Office to establish a separate desk for 'Legal Empowerment of Tibetan Women in Exile' (LETWIE). Each regional chapter to have a separate portfolio for LETWIE and appoint a coordinator for LETWIE.

TWA has already begun implementing the third recommendation and has a freshly instituted desk-‘Legal Empowerment of Tibetan Women in Exile’ and a coordinator, who will oversee and manage the second year of legal empowerment programs in India.

Conclusion:

Violence against women is an appalling human rights violation. The United Nations General Assembly describes violence against women as *‘any act of gender based violence that results in, or is likely to result in, physical, psychological, or sexual harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life’*. This violence is characterized by a concentration on the victim’s gender.

In Tibet, China’s state sponsored gender-based violence is perpetrated against Tibetan women who are coerced to undergo sterilization and those pregnant mothers forced to have abortions, sometimes as late as seven or eight months into their term. The peace-loving Buddhist nuns are tortured brutally, sexually, and without regard for the rights that are theirs as women and as human beings. The denial or suspension of these rights harm not only the victims of this violence, but hinders the greater project of global peace.

Though peace is built upon many things, a cornerstone of this goal is a consensus on the essential value of every human life. This value entails a profound respect for life: life of all kinds, shapes, and sizes. Those who have committed acts of violence against women hinder this goal of peace through open disrespect for the intrinsic value of human life.

Though TWA doesn't intend to paint a picture of a regressive Tibetan community in exile, wrought with issues of gender-based discrimination and violence against women, which truly is not the case, but certain repeated incidences of gender-based discrimination and violence against women has necessitated the importance of drawing attention to the same and the imperativeness of creating a gender sensitive society. The Central Tibetan Administration, civil society, and men and women of conscience should collectively strive towards the creation of a gender - sensitive society and make efforts towards ensuring the legal empowerment of Tibetan women in exile.

To this end, TWA's maiden project- '*Legal Empowerment of Tibetan Women in Exile-India, 2013-2014*, ' essentially aimed to enable the social status of Tibetan women in exile to match the significance and vigor underlying the tenets and maxims of Tibetan democracy in exile.

APPENDIX

PROTECTION OF WOMEN UNDER INDIAN LAW

Sexual harassment: Definition

At the International level, the United Nations General Recommendation 19 to the Convention on the Elimination of all Forms of Discrimination Against Women defines sexual harassment as including:

“Such unwelcome sexually determined behavior as physical contact and advances, sexually colored remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.”

In India, traditionally violence against the women has been understood in terms of rape, dowry harassment and outraging the modesty of women only. Until 1990's, there was no legislative framework or thinking to protect women from other forms of violence it faces. A significant change occurred in 1992 when women's groups filed Public Interest litigation before the Supreme Court of India in *Vishaka v. State of Rajasthan* (1997). The most inspiring outcome of the *Vishaka* judgment is that for the first time, the Supreme Court recognized the need to alter and differentiate systematic violence against women. The court for the first time defined sexual harassment as any unwelcome sexually determined behavior, such as:-

- Physical contact and advances involving unwelcome and explicit sexual overtures; or
- A demand or request for sexual favors; or
- Making sexually colored remarks; or
- Forcibly showing pornography; or
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.¹

However even after this judgment nothing much changed on the ground. No specific legislation was passed. In *Medha Kotwal Lele and Others V/s Union of India and Others* (2012), Medha Kotwal Lele, coordinator of Aalochana, a centre for documentation and research on women and other women's rights

1 ¹ <http://infochangeindia.org/women/analysis/a-brief-history-of-the-battle-against-sexual-harassment-at-the-workplace.html>

groups, together with others, petitioned the Court highlighting a number of individual cases of sexual harassment and arguing that the Vishaka Guidelines were not being effectively implemented. In this case the court issued several directions to states and union territories to make workplace safer for women such as to make necessary amendments in their service conduct rules etc. Revolutionary changes were made in laws relating to women after public outrage which erupted after December 16, 2012 brutal case of rape and murder of a young girl in Delhi. New laws were made and amendments of existing laws were made.

Sexual harassment at work place:

It is commonly perceived that workplace sexual harassment is limited to interactions between male bosses and a female subordinate. But in fact, sexual harassment can occur between any co-workers, including the following:

- Peer to peer harassment;
- Subordinate harassment of a supervisor;
- Men can be sexually harassed by women;
- Same sex harassment – men can harass men; women can harass women;
- Third party harassment; and
- Offenders can be supervisors, co-workers, or non-employees, such as customers, vendors, and suppliers.

*Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*²

In April 2013, India enacted its own law on sexual harassment in the workplace and it came into force from 9th December 2013.

The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges.

The Act has identified sexual harassment as a violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution. It further claims that it is the violation of the right to practice any profession or to carry on any occupation, trade or business that includes a right to a safe environment free from sexual harassment.

The Act is intended to include all women employees in its ambit, including those employed in the unorganized sector, as well as domestic workers. The definition of “aggrieved woman”, who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organized or unorganized sectors, public or private and covers clients, customers and domestic workers as well.

2 <http://pib.nic.in/newsite/erelease.aspx?relid=95069>

While the “workplace” in the Vishaka Guidelines ³ confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organizations, department, office, branch unit etc. In the public and private sector, organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation.

The Committee is required to complete the inquiry within a time period of 90 days. On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, they are mandated to take action on the report within 60 days.

Every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. The District Officer is required to constitute a Local Complaints Committee at each district, and if required at the block level.

The Complaints Committees have the powers of civil courts for gathering evidence.

3 In 1997, the Supreme Court of India in Public Interest Litigation, defined sexual harassment at workplace, preventive measures and redresses mechanism. The judgment is popularly known as Vishaka Judgment. The Supreme Court’s landmark guidelines on prevention of sexual harassment in the workplace (known as the “Vishaka Guidelines”).

The Complaints Committees are required to provide for conciliation before initiating an inquiry, if requested by the complainant.

Penalties have been prescribed for employers. Non-compliance with the provisions of the Act shall be punishable with a fine of up to ₹50,000. Repeated violations may lead to higher penalties and cancellation of license or registration to conduct business.

Protection of women against sexual harassment under Indian Penal Code: section 354 was amended and was made more stringent by criminal law amendment act 2013 which came into force on 03/02/2013. (<http://164.100.47.133/BillsPDFFiles/Notification/2013-63-gaz.pdf>)

Section 354 A deals with the definition of “sexual harassment”. It is very widely defined and criminalise acts such as; forcibly showing pornography, physical contact and advances involving unwelcome and explicit sexual overtures, requesting or demanding sexual favors, any other unwelcome physical, verbal or non-verbal conduct of sexual nature. This section further also deals with the punishment to be awarded for the offence depending upon the act in question.

According to the Criminal Law (Amendment) Ordinance, 2013 - Section 354A of Indian Penal Code deals with “Sexual Harassment”. It is punishable with rigorous imprisonment up to five years, or with fine,

or with both in case of offence described in clauses (i) & (ii). Imprisonment up to one year, or with fine, or with both in other three cases.

Assault:

Section 351 of the Indian Penal Code, 1860 defines Assault as “Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault. Explanation—“Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.”

Illustrations:

A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

A takes up a stick, saying to Z, “I will give you a beating”. Here, though the words used by A could

in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.⁴

Section 352 of the Indian Penal Code, 1860

Punishment for assault or criminal force otherwise than on grave provocation-- whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation - grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or if the provocation is given by anything done in the lawful exercise of the right of private defense. Whether the provocation was grave and sudden enough to mitigate the offence is a question of fact.⁵

4 <http://indiankanoon.org/doc/478590/>

5 <http://indiankanoon.org/doc/1672685/>

Rape:

Section 375 of the Indian Penal Code, 1860 defines Rape as:

“A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:

- First - Against her will.
- Secondly- Without her consent
- Thirdly- With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt
- Fourthly- With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married
- Fifthly- With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
- Sixthly- With or without her consent, when she is under sixteen years of age.

Explanation- Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape. Exception. - Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape. ⁶

Section 376 of the Indian Penal Code, 1860

Punishment for rape:

1. Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which case, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:
 - i. Ins. by Act 18 of 1924, s. 4.
 - ii. Subs. by Act 43 of 1983, s.
 - iii. For the heading “Of rape” and ss. 375 and 376.

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

⁶ <http://www.indiankanoon.org/doc/623254/>

2. Whoever-

A. Being a police officer commits rape-

- i. Within the limits of the police station to which he is appointed; or
- ii. In the premises of any station house whether or not situated in the police station to which he is appointed; or
- iii. On a woman in his custody or in the custody of a police officer subordinate to him; or

B. Being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or

C. Being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or

D. Being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or

- E. Commits rape on a woman knowing her to be pregnant; or
- F. Commits rape on a woman when she is under twelve years of age; or
- G. Commits gang rape, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine: Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

Explanation 1.- Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub- section.

Explanation 2. - “women’s or children’s institution” means an institution, whether called and orphanage or a home for neglected women or children or a widows’ home or by any other name, which is established and maintained for the reception and care of women or children.

Explanation 3. - “hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.⁷

⁷ <http://indiankanoon.org/doc/1279834/>

CHILD MOLESTATION

Definition: Child sexual abuse or child molestation is a form of child abuse in which an adult or older adolescent uses a child for sexual stimulation. Forms of child sexual abuse include asking or pressuring a child to engage in sexual activities (regardless of the outcome), indecent exposure (of the genitals, female nipples, etc.) to a child with intent to gratify their own sexual desires or to intimidate or groom the child, physical sexual contact with a child, or using a child to produce child pornography.⁸

Types

Child sexual abuse includes a variety of sexual offenses, including:

Sexual assault – a term defining offenses in which an adult touches a minor for the purpose of sexual gratification. For example, rape (including sodomy) and sexual penetration with an object.⁹

Sexual exploitation – a term defining offenses in which an adult victimizes a minor for advancement, sexual gratification, or profit; for example, prostituting a child,¹⁰ and creating or trafficking in child pornography.¹¹

8 http://en.wikipedia.org/wiki/Child_sexual_abuse

9 <http://www.ncjrs.gov/pdffiles1/ojjdp/187238.pdf>

10 <http://www.ncjrs.gov/html/ojjdp/203946/contents.html>

11 <http://www.ncjrs.gov/txtfiles/exploit.txt>

Sexual grooming – defines the social conduct of a potential child sex offender who seeks to make a minor more accepting of their advances, for example in an online chat room.¹²

Child sexual abuse prosecuted under the following sections of Indian Penal Code:

Section 372- Selling minor for purposes of prostitution, etc.-- Whoever sells, lets to hire, or otherwise disposes of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation I- When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

12 <http://www.zdnet.co.uk/tsearch/grooming+chatroom.htm>

Explanation II- For the purposes of this section” illicit intercourse” means sexual intercourse between persons not united by marriage, or by any union or tie which though not amounting to a marriage, is recognized by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a quasi-marital relation.¹³

Section 354- Assault or criminal force to woman with intent to outrage her modesty. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.¹⁴

Section 377-Unnatural offences-Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Explanation - penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.¹⁵

Section 511- Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment-- Whoever attempts to commit an

13 <http://indiankanoon.org/doc/1938563/>

14 <http://indiankanoon.org/doc/203036/>

15 <http://indiankanoon.org/doc/1836974/>

offence punishable by this Code with 1 [imprisonment for life] or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with 2 [imprisonment of any description provided for the offence, for a term which may extend to one- half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence], or with such fine as is provided for the offence, or with both.

The Protection of Children from Sexual Offenses Act, 2012

The objective of the law is to prevent abuse of children and to bring in a healthy environment endowed with freedom and dignity for their development.

The act seeks to strengthen the protection of children from sexual offences – such as sexual harassment and showing pornography – against children and to establish special trial courts for such offences.

The act defines a child is a “person below the age of 18 years”. The act makes no distinction between a girl and boy child and is gender neutral.

The act defines offences such as ‘sexual harassment’, ‘sexual assault’, ‘aggravated sexual assault’, ‘penetrative sexual assault’, etc.

Punishments covered under the Act: The law provides for stringent punishments ranging from simple imprisonment to rigorous imprisonment of varying periods, possibly with fine to be fixed by the Court.

The punishments under the act are:

- Sexual Harassment: Three years and fine
- Sexual Assault: Not less than three years which may extend to five years, and fine
- Aggravated Sexual Assault: Not less than five years which may extend to seven years, and fine
- Penetrative Sexual Assault: Not less than seven years which may extend to imprisonment for life, and fine
- Aggravated Penetrative Sexual Assault: Not less than ten years which may extend to imprisonment for life, and fine
- Use of Child for Pornographic Purposes: Five years and fine and in the event of subsequent conviction, seven years and fine. ¹⁶

Source of the law ¹⁷

- The Protection of Children from Sexual Offences Act, 2012: http://wcd.nic.in/childact/protection_of_children2012.pdf

¹⁶ <http://www.gangothri.org/?q=node/1>

¹⁷ <http://www.gangothri.org/?q=node/1>

- The Protection of Children from Sexual Offences Rules, 2012: http://wcd.nic.in/childact/protection_of_children2012.pdf
- The Notification that puts the act into force as on 12th November 2012: <http://wcd.nic.in/childact/gazettemwcd19122012.pdf>

EVE TEASING

Meaning: *The making of unwanted sexual remarks or advances by a man to a woman in a public place.*

Eve-teasing today has become pernicious, horrid and disgusting practice. The Indian Journal of Criminology and Criminalistics (January-June 1999 Edition) has categorized eve-teasing into five heads viz:

1. Verbal eve-teasing
2. Physical eve-teasing
3. Psychological harassment
4. Sexual harassment and
5. Harassment through some objects.¹⁸

Eve teasing prosecuted under the following sections of Indian Penal Code: ¹⁹

18 http://e-pao.net/epSubPageExtractor.asp?src=features.Spotlight_On_Women.Supreme_court_on_eve-teasing_of_woman_And_Its_guidelines

19 http://en.wikipedia.org/wiki/Eve_teasing

Under Indian Penal Code the term eve teasing is not used. Eve teasing can be prosecuted under the following section of the Indian Penal Code against eve-teasers:

Section 294 of the Indian Penal Code, which sentences a man found guilty of making a girl or woman the target of obscene gestures, remarks, songs or recitation to a maximum jail sentence of three months.

Section 292 of the Indian Penal Code clearly spells out that showing pornographic or obscene pictures, books or papers to a woman or girl results in a fine of Rs.2000 with two years imprisonment for first offenders. In the case of a repeated offence, the offender may have a fine of Rs.5000 with five years imprisonment imposed.

Under Section 509 of the Indian Penal Code, obscene gestures, indecent body language and negative comments directed at any woman or girl or exhibiting any object which intrudes upon the privacy of a woman, carries a penalty of imprisonment for one year or a fine or both.

The Criminal Law (Amendment) Act, 2013 introduced changes to the Indian Penal Code, making sexual harassment an expressed offence under Section 354 A, which is punishable up to three years of imprisonment and or with fine. The amendment also introduced new sections making acts like disrobing a woman without consent, stalking and sexual acts by person in authority an offence.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” came into force in India. The act provides protection for women at workplaces.

DOMESTIC VIOLENCE

Definition²⁰

Domestic violence and emotional abuse are behaviors used by one person in a relationship to control the other. Partners may be married or not married; heterosexual, gay, or lesbian; living together, separated or dating.

Examples of abuse include:

- Name-calling or put-downs
- Keeping a partner from contacting their family or friends
- Withholding money
- Stopping a partner from getting or keeping a job
- Actual or threatened physical harm
- Sexual assault
- Stalking
- Intimidation

20 <http://www.domesticviolence.org/definition/>

Violence can be criminal and includes physical assault (hitting, pushing, shoving, etc), sexual abuse (unwanted or forced sexual activity), and stalking. Although emotional, psychological and financial abuses are not criminal behaviors, they are forms of abuse and can lead to criminal violence.

Forms of domestic violence:

Physical violence:

Physical injury is the most visible form of domestic violence. The scope of physical domestic/intimate partner violence includes slapping, pushing, kicking, biting, hitting, throwing objects, strangling, beating, threatening with any form of weapon, or using a weapon.

Emotional abuse:

Emotional/psychological abuse can include harassment; threats; verbal abuse such as name-calling, degradation and blaming; stalking; and isolation.

Sexual assault:

Sexual assault is another common form of domestic violence in India. Sexual violence can include a range of forceful and non-forceful acts including unwanted kissing, touching, or fondling.

Domestic Violence Act, 2005

Domestic violence ²¹is defined under this Act as follows:

For the purposes of this Act, any conduct of the respondent shall constitute domestic violence if he-

- A. Habitually assaults or makes the life of the aggrieved person miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment; or
- B. Forces the aggrieved person to lead an immoral life; or
- C. Otherwise injures or harms the aggrieved person.

Nothing contained in clause (c) of sub-section (1) shall amount to domestic violence if the pursuit of course of conduct by the respondent was reasonable for his own protection or for the protection of his or another's property.

The salient features of the Protection from Domestic Violence Act, 2005 are as follows²²

The Act seeks to cover those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or a

21 http://en.wikipedia.org/wiki/Protection_of_Women_from_Domestic_Violence_Act_2005

22 http://en.wikipedia.org/wiki/Protection_of_Women_from_Domestic_Violence_Act_2005

relationship in the nature of marriage, or adoption; in addition relationship with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with the abuser are entitled to get legal protection under the proposed Act.

“Domestic violence” includes actual abuse or the threat of abuse that is physical, sexual, verbal, emotional and economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.

One of the most important features of the Act is the woman’s right to secure housing. The Act provides for the woman’s right to reside in the matrimonial or shared household, whether or not she has any title or rights in the household. This right is secured by a residence order, which is passed by a court. These residence orders cannot be passed against anyone who is a woman.

The other relief envisaged under the Act is that of the power of the court to pass protection orders that prevent the abuser from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequented by the abused, attempting to communicate with the abused, isolating any assets used by both the parties and causing violence to the abused, her relatives and others who provide her assistance from the domestic violence.

The draft Act provides for appointment of Protection Officers and NGOs to provide assistance to the woman with right to medical examination, legal aid, safe shelter, etc.

The Act provides for breach of protection order or interim protection order by the respondent as a cognizable and non-bailable offence punishable with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees or with both. Similarly, non-compliance or discharge of duties by the Protection Officer is also sought to be made an offence under the Act with similar punishment.

GUIDELINES TO MAKING LEGAL DOCUMENTS

BIRTH & DEATH CERTIFICATES:

When a child is born or person dies, its birth or death must be registered within 21 days.

When a child is born or a person dies at home, either of the parents or head of family of the child or of the deceased can register the birth or death with Registrar Births and deaths at Municipal council or at Village Phachayat. They need to file an affidavit along with a form available with the said officer. One can then collect the certificate after paying official fees.

If child is born or dies in Hospital it shall be duty of that institution to report the birth or death to Registrar Births and deaths at Municipal council or at Village Phachayat. The concerned individuals can collect the certificate after payment of official fees.

If birth of child or death of a person takes place at home and the same is not reported to Registrar Births and deaths at Municipal council or at Village Phachayat, within 21 days but before one year, then same can be registered after obtaining written orders from District Registrar Births and Deaths. For this applicant first needs a report from Registrar Births and deaths at Municipal council or at Village Phachayat that such birth or death is not registered with them.

In case the birth of child or death of a person takes place at home and the same is not registered within one year then the same can be registered after getting written orders from Executive Magistrate 1st Class.

MARRIAGE CERTIFICATE

For Tibetans, because of their ‘foreigners’ status, the ‘Special Marriage Act’ is the most appropriate ‘Act’ governing their matrimonial affairs.

Under the said Act, marriage can be solemnized as well as a marriage solemnized at a previous date can be registered at any point of time.

For solemnizing marriage under the Special marriage Act, an application in a prescribed format is to be made to marriage officer. Legal requirement for the marriage is that bride needs to be above 18 years of age and bridegroom needs to be above 21 years of age, they both need not to have a legal subsisting marriage at the time of solemnizing the marriage, both must not be of unsound mind, must be capable of giving valid consent. Either bride or bridegroom must show 30 days residence proof within the territorial jurisdiction of the marriage officer where marriage is to be solemnized.

A marriage solemnized at any previous date can be registered at any time under Special Marriage Act. Only additional conditions which needs for registration in additional to solemnization of marriage is both the couple needs to show 30 days residence

proof within the territorial jurisdiction of the marriage officer where marriage is to be registered. A marriage can be registered in any part of India irrespective of the place of solemnization of marriage.

GUIDELINES TO FILING A FIR

A First Information Report (FIR) is a written document prepared by police organizations when they receive information about the commission of a cognizable offense.²³ It is generally a complaint lodged with the police by the victim of a cognizable offense or by someone on his or her behalf, but anyone can make such a report either orally or in writing to the police.

It is generally a complaint lodged with the police by the victim of a cognizable offence or by someone on his/her behalf. Anyone can report the commission of a cognizable offence either orally or in writing to the police. Even a telephonic message can be treated as an FIR.

Section 154 of Criminal Procedure code defines FIR as²⁴:

-Information in cognizable cases

Every information relating to the commission of a cognizable offence, if given orally to an officer in

23 A cognizable offense is a case where a Police can arrest without warrant. All cognizable cases involve criminal offenses. Murder, Robbery, Theft, Rioting, Counterfeiting etc. are some examples of cognizable offenses

24 <http://indiankanoon.org/doc/1980578/>

charge of a police station, shall be reduced to writing by him or under his direction, and be read Over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

A copy of the information as recorded under sub- section (1) shall be given forthwith, free of cost, to the informant.

Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in subsection (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.

Procedure to File an FIR to launch criminal proceedings:

Provide detailed information about the crime to the officer in-charge at the police station.

The officer-in-charge records the information in writing (if the information is given orally) and reads it to the informant for verification and confirmation.

The informant, after verifying the details, signs on the document, following which the officer records this information in the book prescribed by the state governments. Those are unable to read or write can put their left thumb impression after verifying the correctness of the recorded information.

The informant then collects a copy of the FIR from the officer totally free of cost.

In case the officer-in-charge refuses to file a complaint, the informant can post the details to the concerned Superintendent of Police, who in turn begins the investigation himself or authorizes a junior officer to conduct the investigations.

Essential Things to Mention in an FIR

- The informant's name and address.
- Name and details of the people involved in the incident if possible but it is not necessary. It is the duty of police to do the needful. However in cases like motor accident, if number of vehicle is not mentioned then it becomes difficult to trace the vehicle.
- Time, date and exact location of the incident.
- Precise facts and details of the incident as it occurred.

Sample FIR:

FIR need not be in detail or encyclopedia of events. Police is duty bound to register FIR and its their duty to reduce in writing if complainant makes oral statement to police. Sample of FIR is as follows:

To,
The Station House Officer,
Police Station,
Dharamshala.

SUBJECT: Request to register FIR.

Sir,

It is submitted as under:

That I am resident of (complete address of complainant)

(Mention of the entire incident in detail – including place of occurrence, date, time etc. Also, details of the culprit)

It is therefore requested to you that necessary action may kindly be taken against the said person.

(Name, father's name and complete address of complainant)