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Familial Ideology and
Cultural Narratives in Sri Lanka

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Chulani Kodikara

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Acronyms and Abbreviations

Convention for the Elimination of All Forms of Discrimination against Women	CEDAW
Centre for Women's Research	CENWOR
Children and Women Bureau Desks	CWBD
Domestic Violence Task Force	DVTF
Demographic and Health Survey of the Department of Census and Statistics	DHS
Government of Sri Lanka	GoSL
International Centre for Ethnic Studies	ICES
Janatha Vimukthi Peramuna	JVP
Jathika Hela Urumaya	JHU
National Committee for Women	NCW
National Child Protection Authority	NCPA
Non Governmental Organisation	NGO
Prevention of Domestic Violence Act No 34 of 2005	PDVA
Sri Lanka Freedom Party	SLFP
Women in Need	WIN
Women and Media Collective	WMC
United National Party	UNP
United People's Freedom Alliance	UPFA

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Introduction

In the 1990s, domestic violence represents a convoluted, contradictory discourse that incorporates the contested terrains of sex, love, violence, law and truth. This discourse is a feminist victory, on one side, as it has urged social recognition of women's oppression and developed material resources and institutions specifically addressed to the problem. It is simultaneously a feminist nightmare, as it has absorbed grassroots struggles in the machinery of social engineering and mass mediation, re-inscribing patterns of race, class and gender domination. It is a political and discursive space in which emancipatory ideals collide with repressive mechanisms of social control; the legal, familial and social scientific establishment (Ferraro 1996: 77).

Domestic violence discourse is a 'place of struggle', which shapes experiences and subjectivity (hooks 1989: 28). ...[t]he discourse contains contradictory impulses. It challenges male dominance in its most cherished location, the home. It provides a language for locating in the larger sphere of culture the pain experienced within one's sphere of intimacy, building a bridge to cross over from isolation to community (Ferraro 1996: 79).

In August 2005, the Sri Lankan Parliament unanimously passed the Prevention of Domestic Violence Act No 34 (PDVA), marking the culmination of a legal advocacy process initiated by a coalition of women's NGOs in 1999. The unanimous vote, however masked deep hostility and anxieties expressed by a number of Members of Parliament (MPs), about the need for such an Act, its 'western', NGO origins antithetical to Sri Lankan culture and its negative impact on the family. The Act, as eventually passed, fell short of the expectations of women's organisations, particularly as it failed to recognize gender as a structure of power that distinguishes women's and girls' experience of domestic violence, from that of men and boys. It is nevertheless a significant departure from the *status quo* pertaining to familial violence, which, as this paper demonstrates, has opened up 'a discursive space of struggle' over the meaning of such violence as well as new possibilities of resistance against such violence.

More than six years after the enactment of the PDVA, the official discourse surrounding it remains ambivalent and contradictory. On the one hand, the government presents the Act, at least in transnational forums where the government's human rights record is under intense scrutiny, as a major breakthrough for women's rights. On the other hand, questions about the wisdom of passing the Act and the need for it continue to be raised at the national level, including at the highest levels of the Sri Lankan Government. Drawing from the work of Foucault and feminist post-structuralist thought, this paper charts the official and unofficial discourses surrounding domestic violence prior to, during and after the passage of the PDVA in Parliament, in order to understand the construction of such violence across these different discourses. Part 1 lays down the theoretical framework of the paper, outlining the relevance of Foucault and discourse theory in particular to understanding the narratives around domestic

violence. Part 2 charts the history of the making of the PDVA as a highly politicized discursive activity involving the state and other actors in contestation over various possible meanings of the problem the proposed Act was seeking to address. This section also explores in detail the extent to which the PDVA departed from the proposals put forward by women's organisations. Part 3 maps competing present-day discourses on domestic violence in Sri Lanka; a dominant discourse that is attempting to trivialise and condone domestic violence, and an alternative or reverse discourse of women's organisations as well as women victim-survivors that highlight the pain and trauma of domestic violence as well as the many ways in which the latter try to make their lives free of such violence.

This paper draws from the findings of a quantitative mapping of domestic violence services conducted by the International Centre for Ethnic Studies (ICES) between 2009-2011, which included meetings with a range of experts including activists, lawyers, and public officials. In addition, it draws on in-depth interviews with Prof. Savitri Goonesekere¹ and Kumudini Samuel², women's rights activists intimately acquainted with the history and substance of the PDVA, and, a telephone interview with Dhara Wijyatilleke, former Secretary to the Ministry of Justice, Government of Sri Lanka, who played a pivotal role in steering the Act through Parliament. Finally, the paper relies on the Parliamentary debates on the PDVA reported in the Hansard and builds on secondary research focusing on domestic violence in Sri Lanka and elsewhere.

Part 1: Discourse, subjectivity and domestic violence

According to Foucault (1995, 1992, 1991 1980, 1972) we learn how to write, speak, think, and behave through discursive practices that shape our minds, bodies and emotions. Power and knowledge interplay in the formation of these discourses. Thus discourse is more than just linguistic; it is language in action. Discourse is not what is said (or unsaid) but what constrains or enables what can be said (Mc Houll and Grace 1993, Bachchi and Eveline 2010: 5). For Foucault, discourses are 'practices that systematically form the objects of which they speak' (Foucault 1995: 49). Mills further elaborates that discourses are not concrete objects that can be analyzed in their own right; instead, a discourse is productive in that it constantly produces the objects of its knowledge (1997: 17). Discourse, then is not simply the means by which a human subject, existing prior to the discourse, expresses herself or accomplishes something. Rather, the discursive conditions (rules and criteria) set up specific places or positions which form the subject and in which the subject participates in their own formation (Jones 2010: 20 – 21).

Foucault suggests that there are a multitude of alternative versions of phenomena, made available through language. This means that, surrounding any one object, event or person there may be many competing discourses, which are vying for the status of truth at any given point of time in history. Foucault also argues that some discourses have greater status than others and therefore a tendency to dominate the public sphere. These tend to be institutionally sanctioned and reinforce established

1 Former Vice Chancellor, University of Colombo, and also a former member of the UN CEDAW Committee from 1999 – 2002.

2 Former Executive Director, Women and Media Collective.

economic, legal, familial, religious or educational norms (Bachchi and Eveline 2010: 5) As van Dijk further points out while most people will exercise control over their daily conversations with family members, friends, or colleagues, they rarely make a contribution to public discourse. In contrast members of powerful social groups and institutions, and especially their leaders (the elites), have more or less exclusive access to, and control over public discourse (1993). These discourses are thus also the means through which individuals and groups convince others to consent to a certain ordering of society (Cooper 2003). Such a view, as Bacchi and Eveline further point out, directs attention to the institutional mechanisms that allows some knowledge to become dominant in the struggle for control over discourses (2010).

Thus the different meanings of domestic violence circulating in society will provide different possibilities for being or different subject positions for the women and men involved, which has implications for the process of reproducing or contesting existing power relations. However, the concern with 'normality' and 'acceptability' within society will lead most women to accept without question the subject positions offered by dominant discourses (Weedon 1997: 89). If women see violence as a natural part of married life or blame themselves for provoking the violence, it is unlikely that it will be perceived as intolerable behaviour or illegitimate power. In effect, it is unlikely to be considered 'domestic violence'. The point is that the way in which problems such as domestic violence are discursively produced have material or lived effects (Bachchi and Eveline 2010: 149).

Nevertheless, for Foucault, discourse is an asset by nature, for even though some discourses will gain more prominence and status they can never eliminate what he refers to as 'subjugated knowledges' (Bachchi and Eveline 2010: 5) i.e. ways of thinking and doing that have been eclipsed, devalued, or rendered invisible within the dominant apparatus of power/ knowledge. From the point of view of this paper, these can be considered the self-knowledge held by women victim-survivors about themselves and the knowledge of those who support them, which often diverge, contradict and challenge official narratives of domestic violence.

Part II: A brief history of the PDVA

Within the international context, domestic violence was constructed as a critical issue by feminist activists in the early 1970s, active in the second wave of the women's movement following the political upheaval of the 1960s and the creation of forums and language for public discussion of issues previously considered 'private'. The feminist analysis emphasized that domestic violence was not simply an individual or isolated problem but part of a socio-political problem rooted in unequal power relations between men and women (Dobash and Dobash 1992).

It took another 20 years before it became part of the international liberal human rights discourse of violence against women. In 1992, General Recommendation 19 adopted by the Committee for the Elimination of All Forms of Discrimination against Women (CEDAW Committee) recognized that

family violence is one of the most insidious forms of violence against women.³ The 1996 report of Radhika Coomaraswamy, the United Nations Special Rapporteur on Violence against Women was dedicated to the issue of domestic violence. Coomaraswamy defined domestic violence 'as that which occurs within the private sphere, generally between individuals who are related through intimacy, blood or law', and as 'nearly always a gender specific crime perpetrated by men against women despite the gender neutrality of the term' (Coomaraswamy 1996). She also highlighted the duty of States to ensure that there exists no impunity for the perpetrators of such violence:

In the case of intimate violence, male supremacy, ideology and conditions, rather than a distinct, consciously coordinated military establishment, confer upon men the sense of entitlement, if not the duty, to chastise their wives. Wife-beating is, therefore, not an individual, isolated, or aberrant act, but a social license, a duty or sign of masculinity, deeply ingrained in culture, widely practised, denied and completely or largely immune from legal sanction'. It is, therefore, argued that the role of State inaction in the perpetuation of the violence combined with the gender-specific nature of domestic violence require that domestic violence be classified and treated as a human rights concern rather than as a mere domestic criminal justice concern (Coomaraswamy 1996: 9).

The report, which was accompanied by model legislation on the subject, recommended that national governments should undertake legal reform to address the problem in accordance with the model proposed.⁴ While there were already a number of countries which had legislated on the issue of domestic violence prior to the report (South Africa 1993, Malaysia 1994, Australia 1994, United States of America 1994, New Zealand 1995), the report inspired legal reform in a number of other countries such as Turkey (1998), Antigua and Barbados (1999) Philippines (2004), India (2005), and Fiji (2006). While this explosion of domestic violence law reform around the world is testimony to the currency of the international discourse on domestic violence since the 1990s, many of these processes were marked by deep controversies and struggles over the meanings of key concepts between the state, women's movements and other actors, which were very specific to the context in each of these countries. For instance, Rajan documents the disputed formation of domestic violence legislation in India, where a right of residence became one of the major points of contention between women's organisations and the state (2005). The process of legal reform was similarly contentious in Sri Lanka.

While the PDVA in Sri Lanka has to be seen as part of these international discourses and developments, it was simultaneously a response to an issue, with which women's organisations had been grappling for decades and had made very little headway. The inadequacy of both the criminal and civil law to respond to the problem of domestic violence had emerged as a critical area of concern for feminist activists in Sri Lanka by this time. Although domestic violence per se was not a crime in Sri Lanka, and acts of violence and aggression within the home including spousal violence could be prosecuted under

3 The CEDAW which was adopted in 1979 does not contain an explicit reference to violence against women, including domestic violence. This omission was addressed by General Recommendation 19 adopted by the CEDAW Committee.

4 See report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights Resolution 1995/85: A Framework for Model Legislation on Domestic Violence, E/CN.4/1996/53/Add.2, 2 February 1996.

Chapter XVI of the Penal Code of 1883 titled 'Offences Affecting the Human Body or Offences Affecting Life', police inaction in these cases had been frustrating women's organisations for decades. The government had introduced significant amendments to the Penal Code in 1995 and also set up a number of Children and Women Bureau Desks in police stations between 1993 and 1996, staffed by female police personnel, to facilitate treatment of complaints of violence against women. However, these Desks were often inadequately staffed, poorly resourced and more likely to take up cases of child abuse than violence against women (CENWOR 1997).⁵ Moreover, there was also no discernible change in the response of the police to domestic violence complaints. They continued to ignore the gravity of such complaints, treating domestic violence essentially as a private matter in which their interference wasn't warranted (Wijayatilleke and Gunaratne n.d. 28). Historically police practice was to 'warn and discharge' the perpetrators. In close-knit communities and small villages where there were higher levels of 'male collusion', these warnings were almost meaningless.

Under General Law, applicable to Sinhalese and Tamils, a battered wife could separate from her husband and claim support for herself in a maintenance action, on the ground that she could not resume cohabitation. She could also obtain a restraining order or injunction for domestic violence and initiate matrimonial proceedings for judicial separation on grounds of cruelty. A court decree for judicial separation could later be converted into a divorce. A woman could also maintain an action for a divorce on the ground of malicious desertion, by proving that cohabitation was impossible because of habitual cruelty on the husband's part. However, all these remedies entailed long drawn out and adversarial court proceedings and women rarely took this path (Goonesekere 1990: 175-176).⁶ Similarly, under Muslim personal law, while cruelty could be a ground for a *Fasakh* divorce, and the procedure followed in the Quazi Courts was less cumbersome, anecdotal evidence suggests that few women exercised this option.⁷ Indeed, Sri Lanka is reported to have one of the lowest divorce rates in the world.⁸

It was in this context that women's organisations attempted to shift the discourse on domestic violence and push for new legislation. The first discussions began at the International Centre for Ethnic Studies (ICES) where a group of experts and activists were constituted as a Domestic Violence Task Force (DVTF) under the guidance of Radhika Coomaraswamy. The DVTF developed a number of papers on various topics which initiated the discussion on a possible law on domestic violence, but it was the Women and Media Collective (WMC) which then took the lead to draft a new law on domestic

5 The first Children and Women Bureau Desk was in fact established in 1979 on the premise that crimes against women and children are best handled by women in the Police Force. While the functions of the Bureau were to assist and protect both women and children, its focus appears to have been largely on child abuse and family conflict rather than on women as victims of violence (CENWOR 1997). For a discussion of the Children and Women Bureau Desks established in 1993 and later expanded see Goonesekere and Gunaratne (1998: 79-82).

6 Also Interview with Savitri Goonesekere.

7 Under Muslim Law, a wife can obtain a *Fasakh* divorce on the ground of an act or omission amounting to 'fault' of the husband. The law does not define the concept of fault, and whether or not a husband is guilty of fault will depend on the circumstances of each case. Quazi Courts comprise 'a male Muslim of good character with the power to administer Muslim law in Sri Lanka. Appeal from Quazi courts lie to a Board of Quazis and thereafter to the Court of Appeal and the Supreme Court.

8 http://www.nationmaster.com/graph/peo_div_rat-people-divorce-rate.

violence in 1999. WMC was also influenced by a report that they had compiled, the previous year, on acts of violence against women reported in the press, which found that incidents of domestic violence including assault, grievous hurt, sexual assault and even murder of women were alarmingly high (Samuel 1999). Once a first draft of the law was ready, WMC initiated discussions on the draft, with a number of organisations. As Kumidini Samuel of the Women and Media Collective recalls:

We went to different constituencies. Our first stop was with community-based groups, who were members of networks such as Mothers and Daughters of Lanka and the Sri Lanka Women's NGO Forum. Apart from these groups, we were clear that we needed to work with other allies. So we had meetings with members of the bar, with the media, with health professionals and with academics. The health sector was very supportive. I remember having really good meetings with fairly senior medical professionals. ... I remember being taken aback by the number of people and the profile of the people who came for some of the meetings and then feeling quite daunted by the fact that you had to present the draft, talk about it and ask for their support. We, of course, also had extensive discussions with other women's organisations such as Women In Need (WIN) and Centre for Women's Research (CENWOR). There were some detractors and not everybody was first convinced of the need for an Act, but mostly the response was overwhelmingly positive.

Following these discussions, the draft bill was further refined particularly with inputs from CENWOR. By March 2001, a final version of the draft bill was ready. Women's organisations also raised this issue in a Shadow Report, coordinated by CENWOR, submitted to the Committee for the Elimination of All Forms of Discrimination Against Women (CEDAW) prior to consideration of Sri Lanka's 3rd and 4th report under CEDAW in January 2001. Consequently, the Committee not only took it up during the constructive dialogue with the GoSL⁹, but went on to express its concern over the lack of systematic data and the absence of specific legislation to combat domestic violence despite its high incidence. It then specifically called on the GoSL to enact legislation on domestic violence as quickly as possible.

On the return of the government delegation from New York, there was a commitment and a willingness, at least on the part of some officials, and particularly from Dhara Wijayatilake, the Secretary to the Ministry of Justice at the time, to begin implementation of some of the recommendations of the CEDAW Committee. A discriminatory provision in the Citizenship Act (1948), which prevented a married Sri Lankan woman from passing nationality on to her children, where her husband was not a Sri Lankan citizen, received the immediate attention of the Ministry of Justice¹⁰ and was amended in 2003. Domestic violence law reform followed. While women's organisations were informed and consulted, in the official narrative of the history of the PDVA, the fact that an NGO draft was already

9 See Committee on the Elimination of Discrimination against Women, Twenty-sixth Session, Summary record of the 545th meeting held at UN Headquarters, New York, on Monday, 28 January 2002, CEDAW/C/SR. 545, Committee on the Elimination of Discrimination against Women, Combined third and fourth periodic report :Sri Lanka. 30/01/2002. CEDAW/C/2002/1/CRP.3/Add.5. (Concluding Observations/Comments) Twenty-sixth Session, 14 January-1 February 2002.

10 See Goonsekere, Savitri 1997 Nationality and Women's Human Rights: The Asia Pacific Experience. In *Advancing Human Rights of Women*, ed. A. Byrmen, J. Connors and Lum bik, 86–100. London, Commonwealth Secretariat, which had highlighted the discrimination suffered by Sri Lankan women married to foreign spouses.

available in the public domain is not acknowledged. It was the GoSL draft bill, which was finally placed before Parliament in 2005 and then subsequently passed. Samuel states:

Women and Media Collective, together with other women's organisations engaged with the Ministry for over two years to shape the form and content of the Act. However, in the end, the final bill that was approved by Cabinet and placed in Parliament was shaped by the Justice Ministry officials according to their own convictions about what was needed but also what was possible, given the political mood and context of that time. If they believed that something was not necessary or not possible, it did not get in.

It should be noted that Dhara Wijayatilake and Lalitha Dissanayake, Secretary of the Ministry of Women's Affairs who presented the GoSL's report before the CEDAW Committee, had both worked on gender issues, and the latter had also been a member of the National Committee for Women. Both believed in the need for legal reform. Besides their personal commitment, which was critical to the legal reform process, they also had the necessary leverage within the political and bureaucratic set-up to persuade the Ministry of Justice to place the reforms before Cabinet.

The Parliamentary debate

The PDV Bill was introduced in Parliament in February 2005. During the second and third reading of the bill, it became a lightning rod for conflicting understandings of the phenomenon of domestic violence and the appropriate responses to it with a number of MPs speaking strongly in support of it, and as many speaking against it.

Several MPs both from the ruling party and the opposition endorsed the bill, congratulating W.D.J. Senewiratne, the Minister of Justice and Judicial Reforms who introduced it. Wiswa Warnapala, Deputy Minister of Foreign Affairs, for instance stated that domestic violence is "a matter against which legislation is necessary" and welcomed the bill as an important piece of legislation which is, "socially relevant".¹¹ G.L. Peiris, MP, (presently Minister of External Affairs, but then in the opposition), referred to the bill as a "very timely and beneficial piece of legislation." He went on to say that, "There is certainly a dire need for this in the legal system of our country" and that the "Minister has responded to a national priority in formulating this legislation".¹²

A number of other MPs acknowledged the seriousness of the problem, sometimes sharing anecdotes about domestic violence to emphasize their point. Tissa Vitharana, Minister for Science and Technology, shared his own personal knowledge of the existence of domestic violence:

I was living with my family in summit flats. I must say that I was very surprised to find that these incidents of domestic violence, as I mentioned, which were repetitive problems, which were sustained problems, were occurring in the houses of people who held quite high office in our administrative structure. If I had not

¹¹ Hansard, 22 February 2005. p.1026.

¹² Hansard, 22 February 2005. p.1035.

actually witnessed them [. . .] I would have assumed that this is not a very big problem. By virtue of the fact that I was a doctor and having had contacts with hospitals, I have an idea of the magnitude of this problem. I think it is an extremely severe problem and we have to take suitable action to relieve the suffering of the people who are affected by domestic violence throughout our country in every social class.¹³

Sarathchandra Rajakaruna, MP:

I know of an incident – the husband used to come home drunk everyday and harass his wife. When this woman could not bear it any longer, she committed suicide. . . . This incident was never investigated. There are many cases like this. The root cause is alcohol or ignorance or the perception that women occupy a lower status in our society than men. [. . .] Husbands don't like when their wives are cleverer, they don't like to empower them.¹⁴

There were however several speakers, who expressed reservations arguing that the specificities of the Sri Lankan context required a different response to domestic violence.¹⁵ During the second reading of the Bill, Sujata Alahakoon, MP said:

This word domestic violence is *too heavy for our society* (my emphasis). This is the reason for it. We are not a western county. When we hear the word domestic violence it inspires fear in us about the most important institution, the *most noble institution* (my emphasis) and at the same time the institution which ensures the continuity of our society – *the family* (my emphasis). There is violence everywhere – in our schools, in our universities, even in this institution (parliament). . . . The solution to this problem is not to take these disputes to the police or to the courts. But to another proximate social unit – then we will be able to protect our society. If we are able to address this problem through an open and amicable dialogue, it is my belief that it would be better.¹⁶

Joseph Micheal Perera, MP commenced his speech saying that, “[t]he issues mentioned in this bill are very serious issues” but that there are “ways to address some of these issues in our culture”. He went on:

Particularly within the Catholic community, when such incidents occur, there are forums where these problems can be solved. We are able to amicably discuss and solve problems. We have saved many families which might have got destroyed. Even in the Buddhist community I know that this happens. Although this bill has been accepted and adopted in many countries our social context is very different. *In this country, the tie between husband and wife is very strong* (my emphasis).¹⁷

Jeyraj Fernandopulle, MP went on to add:

Let us imagine that the husband comes home and scolds his wife. He doesn't beat her, but only scolds her. Then the wife goes to the police and makes a complaint. The police use this law to get a protection order. Then the court will separate the husband and wife for one year....

13 Hansard, 9 August 2005. p.253.

14 Hansard, 9 August 2005. p. 257. Translated from Sinhala by the author.

15 Mobilising children's welfare to undermine women's rights is not an uncommon strategy –for instance, in connection with reasons advanced to prohibit women with children under five from traveling abroad for work.

16 Hansard, 22 February 2005. p.1022. Translated from Sinhala by the author.

17 Hansard, 22 February 2005. p.1069. Translated from Sinhala by the author.

What happens to the children? [. . .] What happens to the *future of these children?* (emphasis added). Can that child go to school? [. . .] Who will maintain the child? This will destroy our families. NGOs in this country undertake various research studies. They do studies with one or two families and produce reports and want to show impacts [. . .] Why should we bow under pressure from such organisations. Just because there are such laws in other parts of the world, why should we change our systems? Do we want to strengthen our families or destroy them?¹⁸

Those who spoke in support and those who opposed the bill cut across party, ethnic and gender lines. Not all members of the ruling United People's Freedom Alliance (UPFA), spoke in support of the bill, with the Catholic and Buddhist lobby within the UPFA finding common ground in opposing it. The most strident detractors of the bill were however from the two small parties, the *Janatha Vimukthi Peramuna* (JVP) and the *Jathika Hela Uramaya* (JHU).¹⁹ In contrast, all Members of Parliament from the main opposition United National Party (UNP), who intervened, spoke in support. This included a number of women MPs of the UNP. However, the UNP allowed its Members to vote according to their conscience with respect to the Bill, implying that this was not a matter worthy of party policy or interest. One of the strongest voices against the bill came from JVP woman MP, Sujata Alahakoon, while a number of women from the ruling Alliance preferred not to express any opinion. Those who opposed the bill on the ground that domestic violence is not a matter for judicial intervention appealed to family values, children's welfare, Buddhist culture, the catholic tradition, the western /NGO origins of the bill as well as local cultural narratives that trivialise and dismiss domestic violence. Evident in these arguments were a hostility to change and a strong impulse to maintain the status quo. Some of these themes are taken up further on in this paper.

The Parliamentary Consultative Committee process

The lack of consensus with reference to the provisions of the bill, following its second reading, particularly within the Sri Lanka Freedom Party (SLFP), the main constituent party of the ruling Alliance, caused the vote on the bill to be postponed. Following the postponement, the Ministry of Justice was asked to convene a Joint Consultative Committee of Parliament to discuss these concerns and propose amendments. The Ministry then sought a compromise solution and suggested that Magistrate Court proceedings should be replaced completely with the concept of mediation, i.e. that domestic violence complaints should be mediated through family counsellors. This was despite substantial evidence from around the world that mediation does not address the problem of violence, particularly between intimate partners (see p. 20). Women's organisations were also invited to present their views on the proposed changes to the Bill.

In Foucault's analysis while every discursive terrain is characterized by both power and knowledge,

¹⁸ Hansard, 22 February 2005. p.1074. Translated from Sinhala by the author.

¹⁹ The JVP and the JHU espouse a Sinhala Buddhist nationalist ideology coupled with an anti-western and anti-NGO stance. The UPFA following a change in leadership in 2005 also retreated back into a Sinhala nationalist ideology of the same ilk. Given the current configuration of power within parliament and the ideological position of this regime, the PDVA, if placed in parliament today, would most probably be defeated.

where some discourses are more powerful than others, it is also characterized by shifting power relations between the various different discourses (Weedon 1997: 104-106). In the case of the PDVA in Sri Lanka, the discourse of women's organisations and the liberal human rights discourse of violence against women had sufficient power to influence the bureaucracy to initiate reforms relating to domestic violence, but during the Parliamentary debate this discourse came under intense scrutiny and attack. The consultative committee process provided an opportunity that would not have been otherwise available for women's organisations to challenge the meaning and power of these opposing discourses.

Savitri Goonesekere recalls her response to the proposed amendment at that time:

The NGOs were told to discuss the issue and come back and agree to this compromise. We then had a meeting with the National Committee for Women (NCW). I was against what I saw as a major change in the legislation. I said 'you cannot mediate violence'. We had enough examples, such as the case of Nayana Priyanthi²⁰ where this woman had gone to the police many times and they did nothing. Eventually the husband and the mother-in-law stuffed rags into her mouth and set her on fire and she died. Women's groups had collectively asked for explanations from the police at the time, and raised this issue. How could we now support mediation? I said violence must be recognized as a crime against bodily integrity which the state has an obligation to prevent. This (mediation) will only reinforce police inaction, which is to say to the woman 'go back to your husband'. Mediation would simply legalize what the police is doing. I suggested that rather than compromise on our stand, we should provide the Committee with some hard evidence from people outside women's groups. We contacted Dr. Lakshman Senanayake and Prof. Harendra de Silva, who was the Chairperson of the National Child Protection Authority (NCPA) at the time. They had both worked on the issue of domestic violence and child abuse. We went before the Committee with Lakshman and Harendra and they presented their data. I recall Lakshman saying this is not a case of a man throwing a cup of tea at his wife, because it is not hot enough. We are talking about pathological abuse. Broken teeth. Broken bones. Their representations were very powerful. We immediately sensed that the MPs present, who had objected earlier had nothing more to say against the bill. We left with the impression that we had won their support.²¹

In his representation to the Committee, Dr. Lakshman Senanayake, a Gynaecologist with long years of experience, spoke about the number of pregnant women who come before him with physical injuries due to domestic violence and the impact of such violence on the health of the mother as well as the foetus. In his submission, Prof. Harendra de Silva reminded the Parliamentarians present about the resistance to the establishment of the NCPA and the magnitude of the problem of child abuse that was uncovered consequent to its establishment.

Following this meeting, CENWOR drafted a brief and simple flyer, which they were able to send to offices of all Parliamentarians. As a result of the NGO intervention at the Consultative Committee meeting, the Magistrate Court procedure was left untouched and the idea of replacing it with mediation was dropped. However, the Ministry, as a concession to those who had expressed concerns regarding

20 See Daily News article dated 19 February 1996 reproduced in Goonesekere and Guneratne 1998: 219-220.

21 Interview with Savitri Goonesekere.

the impact of the Act on the family, agreed to add a clause which empowered Magistrates Court to order a social worker or family counsellor to counsel the two parties following the issuance of an Interim Protection Order [see sec 5 (2) (a)]. This also helped shift the balance of opinion in favour of the bill.

The Parliamentary debate and subsequent negotiations over the provisions of the PDVA thus became sites of discursive struggle over competing understandings of the phenomenon of domestic violence and the appropriate responses to it, involving the bureaucracy, politicians and women's organisations based on different knowledge claims. Some Parliamentarians sought to construct the problem as a normal part of married life within Sri Lankan culture, which did not require a legal response or judicial intervention. The bureaucracy constructed domestic violence as a generalized and gender-blind offence against the body drawing on ideas of formal equality and the favourable human development indicators enjoyed by Sri Lankan women. Women's organisations, on the other hand, constructed the problem of domestic violence as an expression of patriarchal power and gendered impunity, drawing on a feminist and liberal human rights analysis of the problem. Nevertheless, during the Consultative Committee process, they made a strategic shift in their own discourse appropriating particularly the language relating to children's welfare and women's health to counter the opposition to the PDVA. The success of the strategy adopted by women's organisations to present the health consequences of domestic violence as well as its negative impact on children highlights that a health or children's welfare approach to women's rights issues may succeed where a feminist or women's human rights approach fails.

Convergences and divergences

Domestic violence legislation, in most contexts, represents a radical departure from the prevailing *status quo* and assumptions about family harmony. As Rajan points out:

This is a law [...] that creates divisions within the family; pits rights against naked power; counters violence by a legal protection order (a piece of paper, a threat of arrest, a form of surveillance); checks patriarchal privilege by imposing the law as limit, rule, restraint, protocol or pedagogic instruction about behaviour; undermines the autonomous regime of the patriarchal household operating as a regime with its own rules, regulations, forms of control, surveillance, obedience, hierarchies, contempt and punishment by bringing it within the overarching regime of a single, uniform formal legal system;

Yet as she and also other writers have further pointed out, negotiations with the state for legal reform inevitably leads to trade offs, complicities and compromises (Rajan 2005, De Alwis 2007). This section explores in detail the convergences and divergences as well as shifts in positions of women's organisations as well as the state in the process of legislating the PDVA.

1. Gender Specific v Gender Neutral Law: Firstly, the PDVA is framed in gender-neutral terms whereas the NGO draft was grounded in an analysis that the preponderance of domestic violence tends to be between men and women in intimate relationships and women are more often than not

the victims. A Preamble to the NGO draft therefore explicitly recognized domestic violence not only as a 'serious social evil' but also a violation of human rights, particularly of women and girls who are the majority of the victims.²² The Ministry, in its draft of the bill dropped the Preamble, arguing that in a country where women enjoyed strong human development indicators, a gender specific domestic violence law would be difficult to defend and might even be struck down for violation of Article 12(1) of the Constitution (i.e. the equality clause), on the basis that it violates the right to equality. This argument was made despite the fact that Art 12(4) of the Constitution recognizes that special provision can be made by law for the advancement of women, children or disabled persons. In terms of the PDVA '*any person*' in respect of whom an act of domestic violence has been, is, or is likely to be committed can make an application to the Magistrate's Court for a protection order.²³ This change was conceded by many of the women's organisations involved, as they then began to re-conceptualize it in terms of the human right to personal security and bodily integrity in the family. Goonesekere points to the strategic advantages of such an approach:

Feminist ideology was very important in the early decades and helped us highlight the dimension of institutional discrimination against women. However, a human rights approach i.e. domestic violence as an infringement of the right to personal and bodily security rather than just a denial of equality because of patriarchy, could catalyse more support for eliminating it. I think our PDVA reflects that approach. That is also why we were able to undermine the stereotypical male response. I believe that this is the only way in which to strategise against the new campaign on 'Sri Lankan family values'.²⁴

However, not all analysts of the PDVA share this view. Rose Wijeyesekera, in a paper presented at the 12th CENWOR National Convention, argued that the underlying premise of the Act that women, men and children in a domestic environment are equal and can therefore be guaranteed equal rights and equal opportunities, undermines the PDVA due to its failure to recognize the entrenched nature of patriarchal power in Sri Lanka (2010). While the full implications of a gender neutral domestic violence protection law in the Sri Lankan context is yet to be studied, what is interesting is that despite its 'degendering', in the popular imagination, the PDVA is still widely considered a law which seeks to protect women from men.

2. Strengthening both the criminal and the civil law versus introducing a purely civil remedy: When women's organisations began discussing the question of draft legislation on domestic violence, initial debates focused on the merits of strengthening existing provisions in the Penal Code through suitable amendments versus enacting a separate law that combined both civil and criminal remedies. In keeping with the recommendation by the UN Special Rapporteur on Violence against Women that ideal legislation with regard to domestic violence would be one that combines both criminal and civil remedies, the NGO draft prepared by women's groups combined both civil and criminal remedies drawing from UN model legislation, the South African Domestic Violence Act of

²² See Preamble, Domestic Violence Act, Draft, 22nd March 2001, (draft law produced by a coalition of women's groups headed by the Women and Media Collective published in Perera-Rajasingham, Kois and de Alwis (2007).

²³ Sec.2 of the PDVA.

²⁴ Interview with Savitri Goonesekere.

1998 and a draft domestic violence law produced by women's groups in India (Gomez 2001a).

The PDVA however focuses exclusively on a civil remedy. The thinking within the Ministry of Justice was that existing provisions relating to crimes against the body in the Penal Code though not specific to violence within the family or the home could be used to prosecute such violence, and a law that duplicated women's recourse to a criminal remedy was unnecessary and would only 'devalue' existing legal provisions. However, there was an understanding that the criminal response to domestic violence needed to be strengthened (particularly in relation to types of violence) and that this would be undertaken at a later date.²⁵ These amendments are yet to see the light of day.

3. Competing definitions of violence: One of the key differences between the NGO draft and the PDVA relates to the definition of violence. The NGO draft had an elaborate definition of domestic violence, which included physical, sexual, emotional, verbal as well as economic abuse (Sec 3 of draft dated March 22nd 2001). Activists strongly argued that Magistrates who would be implementing the PDVA should be given a clear definition. But the Ministry wanted a definition that was linked to the Penal Code and narrower in scope than the NGO draft.

The PDVA defines domestic violence as acts of *physical violence*, which constitute offences already recognized under Chapter XVI of the Penal Code. This comprises 69 offences against the human body such as hurt, grievous hurt, wrongful restraint, wrongful confinement, rape, grave sexual abuse as well as extortion, and intimidation making up a total of 71 penal code offences (Schedule 1 of the PDVA). After much debate, *emotional abuse* (defined as a pattern of cruel, inhuman, degrading or humiliating conduct of a serious nature directed towards an aggrieved person - Sec. 23[9b] of the PDVA) was added as a ground for a Protection Order. Offences against the human body not recognized in the Penal Code are not identified under the PDVA as forms of violence. Consequently, whether marital rape and sexual abuse between spouses are covered by the Act remains a question, although it has been argued that the Act allows for a broader interpretation that encompasses sexual violence (Wijeyesekera 2010).

4. Counselling: The PDVA in Sec. 12 (1) (c) provides for mandatory counselling, psychotherapy or other forms of rehabilitative therapy for the respondent and the aggrieved person. This provision was included in the Act, just prior to its passage, as a compromise solution following concerns expressed by JVP and JHU members during the second reading of the bill. While the NGO bill referred to the responsibility of the state to provide certain services such as counselling and shelters and also allocation of resources for such purpose, it did not prescribe mandatory counselling for both parties. In fact counselling in family courts has generally meant 'mediation' or bringing about reconciliation, which in turn often translates into pressure on the wife to 'adjust' to her situation. The question also remains whether this provision has smuggled in through the back door the agenda of preserving the family at any cost?

²⁵ Interviews with Dhara Wijayatilake, Savitri Goonesekere and Kumudini Samuel.

5. Locus standi (legal standing): In terms of sec 2(1) of the PDVA, the following persons can make an application to the Magistrate's Court for a Protection Order: 1) An aggrieved person defined as 'a person, in respect of whom an act of domestic violence has been or is likely to be committed; 2) Where the aggrieved person is a child, a parent, guardian, a person with whom the child resides, or a person authorized in writing by the National Child Protection Authority, on behalf of such child; or 3) by a police officer on behalf of an 'aggrieved person'.

In contrast to sec 2(1) of the PDVA, Sec 5(1) of the NGO draft had recognized the *locus standi* of several other persons, such as social workers, counsellors, and women's organisations or groups, to bring an application on behalf of an applicant. Before the bill became law, women's organisations attempted to lobby the United National Front (UNF) government of the time to at least recognize the *locus standi* of women's organisations in such cases. After much delay, cabinet approval was granted for the bill without accommodating this demand, due to a perception that it would be harder to get it passed in Parliament, due to prevailing anti-NGO sentiments. However, Parliament was dissolved in December 2003 and the bill was only presented in Parliament after a new UPFA government came to power in 2004.²⁶ Given the number of cases being dealt with by women's organisations (see below), this lack of recognition of *locus standi* of women's organisations does not appear to have unduly hampered them. Analysing 37 cases filed under the PDVA by Women in Need, Wijayatilake also argues that the role played by WIN demonstrates that there is indeed no disadvantage due to NGOs not being permitted to file applications under their names (2009: 55). Many women's organisations are however not aware of the role that they can play to support the filing of cases by women.

6. Privacy: One provision, which in retrospect has emerged as one of the most problematic sections in the Act is the provision on privacy, which was admittedly also in the NGO draft. Section 20 of the PDVA states that, 'any person who prints or publishes:-

- (a) The name or any matter which may make known the identity of an applicant or a respondent in an application under the Act; or
- (b) Any matter other than a judgement of the Supreme Court or Court of Appeal, in relation to any proceeding under this Act, in any Court shall be punished with imprisonment of either description for a term which may extend to two years or to a fine or to both such imprisonment and fine'.

A similar provision on privacy was present in the NGO draft to the effect that:

²⁶ When the PDV bill was first sent for Cabinet approval, Sri Lanka had the unusual situation of having an Executive President from the UPFA and a parliament controlled by a United National Front (UNF) government led by the United National Party. Cabinet approval at this stage was greatly delayed due to the time taken to consider objections by those who complained that NGOs were not included among those that could file objections (Wijayatilake 2009:54). When Cabinet approval was eventually obtained for the bill from the UNF Cabinet, the President dissolved Parliament and called for fresh elections, (due to disagreements relating to the peace process with the LTTE). In Parliamentary elections held subsequently, the UNF lost and a new UPFA government was returned. The Ministry of Justice then again sent the bill for cabinet approval which was obtained and the bill finally presented in parliament in February 2005.

No person shall publish in any manner any information which might, directly or indirectly reveal the identity of any party to the proceedings [. . .] unless it is the publication of a bona fide law report which does not mention the names or reveal the identities of the parties to the proceedings or of any witness at such proceedings.²⁷

Domestic violence legislation will inevitably generate tensions around the question of privacy because such legislation challenges the very notion that domestic violence is a private matter. The intention of this provision in the NGO draft was to protect the privacy of the victim-survivor and create a space where she could speak candidly and without fear about her experience of violence, much in the same way that the privacy of victims of sexual abuse are protected through proceedings held *in camera*. The intervention of G.L Peiris, M.P on the question of privacy, during the second reading of the bill in Parliament can however be read as an attempt to promote the culture of silence surrounding domestic violence albeit on grounds of 'protecting' women. He argued:

In formulating and implementing legislation of this kind, I would respectfully suggest that the cultural context is an overriding importance, the cultural context of the country. That is why when I was the Minister of Justice, I consistently advised the Law Commission that it is not satisfactory simply to borrow salutations which have worked successfully in other countries because the culture is different. We want particularly in matters dealing with domestic violence, the relationship between husband and wife, custody of children, intestate succession in this range of matters, we have to consider the cultural context of the country. If that is the case, Mr. Deputy Speaker, it is absolutely necessary to make provision in this law for certain prohibitions with regard to publicity. It is absolutely necessary to protect the identity of the women or the child. Otherwise, there is a danger of ostracism in our society, a social stigma will attach to a person who achieve some kind of notoriety as a result of court proceedings. It is therefore necessary to protect the vulnerable person who is the focus of this entire legislation by putting into the law prohibitions with regard to publicity.²⁸

Given the pervasive silence surrounding domestic violence, narratives of violence before the judiciary as well as authoritative judgements of the court on this issue, have been recognized as playing an important role in breaking the silence surrounding violence and challenging the patriarchal structures that perpetuate such violence (Fenton 1999). As Goonesekere also points out:

In a sense the whole idea of having a court procedure was that there should be publicity against the perpetrator of this violence. You are taking this incident out of the private space on the ground that violence is unacceptable as violence in the community. . . . The whole purpose of having a non-mediated, non-private process is that this is an issue that should be in the public space. There is a naming and shaming aspect to it. Because, if this woman is willing to go to court, and allege domestic violence, then why have this concept of privacy which is not there in general for any other legal proceedings in this country. The privacy concept could have been accommodated but with a more carefully drafted provision that would have balanced the interests of the aggrieved person and the need to undermine the culture of silence on the perpetrators violence.²⁹

27 Secs 18(1) – (3) Domestic Violence Act, Draft, 22 March 2001.

28 Hansard, 22 February 2005. p.1040.

29 Interview with Savitri Goonesekere.

In a recent case a husband named as a respondent under the PDVA filed charges against a journalist whose report in the Sunday Times identified him by name; the paper subsequently published an apology, expressing its sincere regrets 'if any pain of mind was caused by the publication of this news item'.³⁰ While the principle of privacy is undoubtedly important, in the cultural context of Sri Lanka, which is biased against the woman and which invariably indulges in naming, shaming and bashing the woman victim-survivor, echoing Goonesekere above, it is important to reflect on whether privacy as currently enshrined in the Act has a chilling effect on public discourse, affecting not only the right to free speech of victim-survivors but also the work of the media and civil society organisations. Public discussion of individual cases can open up avenues for wider debate and an overly restrictive reading of privacy might only serve to perpetuate the culture of silence that surrounds domestic violence. It is therefore critical to monitor the use of this provision and whether it indeed ensures an effective balance between the rights of the parties directly involved and the range of actors that might use the Act as well as the 'complexities and paradoxes' that arise while speaking publicly about domestic violence.

7. Provision of support services: The lack of support services for women victim-survivors of domestic violence and particularly the lack of state funded services is a recurring theme in the literature on domestic violence in Sri Lanka (Guneratne 2001, Jaywardena 1995), which was taken up by WMC and other organisations during drafting of the NGO bill. In keeping with the United Nations Declaration on the Elimination of Violence against Women,³¹ which calls on states to make provision for support services such as shelters, legal and psychological counselling in addition to enacting appropriate laws and procedures to ensure redress to victims of violence, the NGO draft bill emphasized the need to ensure that the state commits adequate resources for the provision of such services. No provision to this effect was included in the PDVA (Satkunanathan 2005).

8. Duty of disclosure: During the second reading of the bill in Parliament, G.L. Peiris, MP raised a question relating to the duty of disclosure of certain persons such as doctors, lawyers, and priests who become aware of incidents of domestic violence. He proposed that a compulsory duty be placed on such persons to disclose information shared with them relating to incidents of domestic violence.³² However, this suggestion was also not taken up in the final Act.

9. The Protection Order: There was general consensus between women's organisations and the Ministry of Justice on the issue of the Protection Order. The Protection Order forms the corner stone of both the NGO draft and the PDVA, by recognizing the power of the court to give a wide range of orders following the invocation of its jurisdiction under the Act. The Magistrate Court is empowered to issue an Interim Protection Order valid for 14 days upon application by a plaintiff without the burden of having to prove her case. A Protection Order (PO) valid for a period of 12 months can then be sought on the basis of evidence presented in court. A PO can bar the aggressor from entering

³⁰ See Sunday Times of 27 October 2007 and 6 July 2008.

³¹ A/RES/48/104 of 20th December 1993.

³² Hansard, 22 February 2005, p. 1042.

the victim's residence and committing further acts of violence among other prohibitions. In imposing prohibitions, the Court is required to balance the accommodation needs of the victim and the children and any hardship that may be caused to the aggressor.

This is one of the most radical provisions in the entire Act even though in Sri Lanka it inspired little comment or controversy, perhaps due to bilateral and matrilineal inheritance patterns which ensures that a large number of women own their matrimonial home and also ample judicial precedents, to the effect that a married woman has a right to live in the matrimonial home whether she owns it or not if the marriage has broken down and the husband leaves her.³³ In contrast in India, where relatively fewer women own the property that they live in, the Act merely provides that a woman has the right to continue to share the residence with her husband whether or not she has a legal right in such property (Rajan 2005).

While the women's movement can be considered to have secured a victory with the enactment of the PDVA, the State for its part ensured that the Act itself was based on a construction of violence quite different from the discourse of the women's movement. In Foucauldian terms, the Act reflects these competing power-knowledge claims. The power of the state was exercised not by excluding the demands raised by the women's movement from institutionalized channels of official discourse but rather by co-opting and diluting them. While this does undoubtedly raise concerns that the ultimate effect may be to deaden the impact of women's organisations and their demands (Bush 1992), discursive power works in complex ways. Particularly, as I argue in the next section of this paper, the [mis]understanding that the Act is intended specifically to protect women from spousal violence has given rise to a backlash and a political counter-movement that is seeking to construct domestic violence as a normal part of women's lives, while diverting attention from men's responsibility and the cultural and structural factors that foster domestic violence.

Part III: The PDVA in 2011

If legislative debate is understood as a discursive site, where different understandings and meanings of the problem being addressed compete for dominance, the passage of a law itself can be seen as an attempt to fix meaning and constitute new subjectivities, although this will always remain an unfinished task. In this section, I examine the current discourse surrounding domestic violence and the PDVA and the extent to which victim-survivors of domestic violence have identified with the subject position of an 'affected party' produced by the PDVA.

Despite the fact that the PDVA was constructed as a gender-neutral law within Parliament, more than six years after its passage, in the imagination of the public as well as many politicians and public officials, it continues to be seen as a law intended to protect women from their spouses. This slippage in understanding has given rise to highly ambiguous and openly contradictory official public discourse about the Act. In transnational forums where Sri Lanka's human rights record is under intense

³³ Canekaratne v Canekaratne 1961 66 NLR 380, Alwis v Kulatunga 1970 73 NLR 337.

scrutiny and criticism, the Act is showcased by the government as proof of its commitment to human rights. When Sri Lanka presented its 5th, 6th and 7th combined report to the CEDAW Committee in January 2011, the PDVA formed a major focus of the report. More recently, in May 2011, Sri Lanka's envoy Sugeeshwara Gunaratna told the UN Human Rights Council that the Act was a sign of the government's commitment to '[t]o strengthen the substantive procedure in the laws of Sri Lanka' and that 'awareness and training programs for vulnerable groups as well as for law enforcement officials, medical, judicial and social workers have been undertaken'.³⁴

Yet within the country questions about the wisdom of passing the Act and the need for such an Act continue to be raised intermittently, including by the country's President. The sanctity of the family unit and Sri Lanka's age old culture continue to be deployed in these discourses. For instance, at a Women's Day celebration held in his constituency, Hambantota, in 2010, the President said:

We have introduced laws to bring relief to women. Sometimes I wonder whether these laws are excessive. Some laws from the west have been introduced in Sri Lanka. At first glance they seem very attractive. But Sri Lankan women occupy a high status based on our culture which is 2500 years old. . . and under current legal regulations, our cultural values are being weakened, while the legal bond has been strengthened.³⁵

On another occasion, addressing a gathering at his official residence to mark 'Prisoners Welfare Day', in the midst of commenting on the practice of lower court judges sending minor offenders to remand custody without using existing legislation, which provides for community service, the President made a sudden shift in the topic of conversation to the PDVA. According to the newspaper report, he suggested that new laws are preventing reconciliation among husband and wife and contributing to a sharp increase in the number of divorce cases filed in towns such as Embilipitiya, exceeding even the number of criminal cases filed in these areas.³⁶ The actual number of cases filed under the PDVA as shown further below does not however support this.

These sentiments are widely shared, including by public servants with a mandate to protect women from violence. A very senior lawyer in a government institution interviewed for this study, even while expounding on the level of harassment experienced by women in public transport, the levels of incest and the subordination of women within the family, expressed his discomfort with the PDVA. He stated:

බැඳගන්න බෙරේ ගන්න ඕනෑ මැරෙනකං. Disagreements should be negotiated. In Sri Lanka marriage counselling is very weak. We don't have professional counsellors. We cannot emulate other foreign countries where the divorce rate is about 60% and women are becoming single mothers. I don't want liberation for our women if that is what we are going to end up with.'

34 Government enacted Prevention of Domestic Violence Act, Sunday Observer, 05 June 2011, http://www.colombopage.com/archive_11A/Jun04_1307127553CH.php

35 Lankadeepa, 10th March 2010: 5. Translated from Sinhala by the author.

36 Sandun Jayasekera, Prison Congestion a Grave Crisis Daily Mirror, 15th September 2010, <http://print.dailymirror.lk/news/front-page-news/21565-prison-congestion-a-grave-crisis-mr.html>

It comes as no surprise then that women's rights advocates and organisations supporting victim-supporters of domestic violence, including filing cases under the PDVA, are seen as promoting divorce, undermining the family, etc. Furthermore, while it is impossible for the state to police and regulate women's rights work across the island, it is nevertheless doing so where it can, notably in the North and to a lesser extent in the East of the country. There are numerous reports from the North that women's organisations are not allowed to undertake 'mobilizing and organizing' or work on issues such as domestic violence and child abuse.³⁷ Elsewhere in the country the focus is on generating and sustaining a public discourse that strongly reinforces respect for patriarchal family values and traditional gender roles.

Family values, cultural narratives and 'common sense'

In Sri Lanka, it is clear that 'the family' and 'familial ideology' has received a fresh lease of life under the *Mahinda Chinthana* of President Rajapakse's regime. The President's 2005 election manifesto, under the title 'An Affectionate Family', states:

Our society's foundation is the family in which the Mother takes the prime place. It is only through the improvement of the close and intimate family bonds that we can ensure a pleasant society. It is my belief that economic hardship and pressures erode such intimate bonds between family members. Therefore, I have prepared a plan to overcome such obstacles, relieve the sufferings of every member of the family and thereby strengthen the family, economically (Rajapakse 2005: 5).

. . . The woman provides a solid foundation to the family as well as to the society. She devotes her life to raise children, manage the family budget and ensure peace in the family. Therefore, the empowerment of women leads to the empowerment of the entire society . . . (Rajapakse 2005: 13).

Mahinda Chinthana is now official government policy and many of the provisions on women and the family that were part of the election manifesto have been reiterated in *Mahinda Chinthana: Vision for Future*, adopted by the Department of National Planning of the Ministry of Finance and Planning following Rajapakse's election to a second term as President in 2010 (See Department of National Planning 2010). In the conception of the family as propagated by the *Mahinda Chinthana*, the only threats to it are external such as 'economic hardships and pressures', which are to be addressed through economic remedies while the primary responsibility of upholding and protecting the family is that of the woman. Even while the *Chinthana* refers to 'women's empowerment' it is empowerment which is necessarily circumscribed by women's roles as child-rearers, managers of the family budget and custodians of domestic peace and harmony.

This ideology has begun to seep into national policy in various ways. For instance, the ruling UPFA has attempted, more than once, to introduce legislation which bans women with children under the

³⁷ On the other hand, micro-credit programmes and construction of toilets are considered acceptable. Such regulation and policing is made possible by the fact that development work is being closely monitored by the Presidential Task Force For Resettlement, Development and Security in the Northern Province, which has the final authority on all work undertaken by civil society organisations in the Northern Districts.

age of five from migrating abroad for work, arguing that the cost of a mother's prolonged absence from the home which includes children dropping out of school, juvenile delinquency, vulnerability to abuse etc. outweigh the economic benefits from her employment. Moreover, in the absence of the wife, men are said to be more vulnerable to alcohol abuse and extra-marital affairs, leading to marital disharmony and breakdown of the family (Abeysekera and Amarasuriya 2010).

In September 2007, the government closed down all abortion clinics, which had been functioning *de facto* (although abortion is a crime under the Penal Code, abortion clinics had been allowed to function and statistics indicate a high incidence of abortion, by some estimates between 125,000 and 175,000 annually³⁸, of which 86% -96% are reported to be by married women³⁹). This crack down included institutions like Marie Stopes, a well-known international reproductive health clinic functioning in several parts of the island, which had been in Sri Lanka since the late 1970s. This was one of the few centres in the country that provided emergency menstrual regulation (EMR) with proper counselling and certified medical professionals performing the procedures.⁴⁰

The emphasis on family values has intensified following the end of the thirty-year civil war in May 2009 and the related project to reconstruct national identity. As in other post-war or transitional contexts, where law and discourse about women and the family become central to national self-definition [Yuval Davies and Anthias (1989) and Moghdam (1994)], in Sri Lanka too women have become the markers of political goals and cultural identities. The manner in which family values are invoked at this moment in time may also be seen as an attempt to camouflage the brutalization of society during the war years.

Unsurprisingly, these discourses on gender relations and domestic violence have drawn heavily from patriarchal cultural narratives and local 'wisdom' that justify and legitimise them. One old proverb, particularly popular with politicians, is “ගෙදර රන්ඩුව බත ඉදෙනකං විතරයි” (Gedara Sandu Batha Idenka witharai), which translates as ‘violence in the home is only until the rice is cooked’, and which constructs domestic violence as a momentary disruption in an otherwise calm and peaceful household.⁴¹ During the second reading in Parliament, Sujata Alahakoon MP invoking the proverb said:

In a country like Sri Lanka, which is not a western country, there is an accepted saying that domestic disputes are only until the rice is cooked. This is accepted among our children, our youth, among housewives and all women. This is why our society has remained intact at least to this extent. Otherwise

38 Indralal De Silva, The Practice of Induced Abortion in Sri Lanka, Research Paper No. 137, Takemi Programme in International Health, Harvard School of Public Health 1997 in Shadowing the State through CEDAW, Women and Media Collective, 2011.

39 Women and Media Collective 2011 Shadowing the State through CEDAW: A compilation of the Sri Lanka NGO shadow report, CEDAW concluding observations and other documents, Colombo, Women and Media Collective.

40 <http://www.nation.lk/2007/12/02/eyefea6.htm>. This report alleges that the crack down came in the wake of a meeting between a prominent global pro-life organisation and First Lady, Shiranthi Rajapaksa.

41 This is of course not the only cultural justification that exists in relation to domestic violence within both Sinhala and Tamil language. Others such as ගෙදර ගිනි එළියට දමන්න හොඳ නැහැ (Gedera gini eliyata damanna hoda ne!) constructs violence as a private matter and the home or the family as a private institution and what happens within should not be disclosed in public or කන්නාවන්, බෙරයන්, වහලන් ගහන්න සුදුසු යි. (Kanthavath, vahalath, berayath gahanna sudusui) which is the Sinhala equivalent of the old English proverb, -'A woman, a dog, and a walnut tree, the more you beat 'em, the better they be, where violence is constructed as patriarchal privilege of the husband and the wife as the 'property' of the man to be treated in any way he desires.

if we run to the police or to the courts every time there is domestic violence, the family unit which sustains our society will be put into complete disrepute.⁴²

Joseph Micheal Perera MP when it came to his turn, reiterated these words:

There is a saying that domestic violence is only until the rice is cooked. But in terms of this Act, even before the rice is cooked you can take the case to court. This will lead to fundamental changes in the family. [. . .] I believe that if this bill is passed, it will pose an extremely dangerous threat to our culture.⁴³

The President also referring to this proverb during a Women's Day speech in March 2010, stated:

There is a saying that we have heard that domestic violence is only until the rice is cooked. When two people who are different to each other live together under one roof there will be problems. These problems most often will only be until the rice is cooked. Sometimes they may last longer and be reported to the police. According to the existing law, the police now have to file a case in court. Then the husband is not allowed to enter his own home. Then the rice may get cooked, but the parties have gone to court to file for divorce We end up unable to reconcile the husband and wife. We are now complicit in their separation. This is my own view.⁴⁴

In order to be effective, a discourse needs a material base in established social institutions and practices. Most discourses will therefore seek to derive their power from appeal to one source or other, whether scientific knowledge, religion, culture or plain common sense (Weedon 1997: 95-96). Proverbs such as the one quoted above derive their power from the claim to be natural, obvious, common sense and therefore true, and is a medium through which already fixed truths about the world, society and individuals are expressed sometimes in trivial terms that further satirize and reduce the issue. These supposed truths are often rhetorically reinforced by expressions such as 'it is well known that', 'we all know that', 'everybody knows that' which emphasize their obviousness and put social pressure on individuals to accept them, even though they inevitably favour the interests of one group (Weedon 1997: 74).

Indeed, the dominant discourse on domestic violence in Sri Lanka is marked not so much by the denial of the phenomenon as much as by the tendency to domesticate and legitimise domestic violence by invoking ideas around the sanctity of the family as well as culture, common sense and local wisdom.

This is however not unique to Sri Lanka. Kapur and Cossman analysing the manner in which familial ideology has informed law and policy in India, note that, '[t]he efforts of social reformers and feminist activists to prohibit violence and oppressive practices within the family, from sati to child marriages to dowry, as well as their efforts to reform personal laws, . . . have time and again been resisted as an undue intervention into the 'private sphere' of the family' (1996: 100). Kapur and Cossman point out that in these discourses, 'the family' does not simply describe the empirical reality of kinship or household

42 Hansard, 22 February 2005, p. 1022. Translated from Sinhala by the author.

43 Hansard, 22 February 2005, p. 1069. Translated from Sinhala by the author.

44 Lankadeepa, 10th March 2010: 5. Translated from Sinhala by the author.

structures, but has an additional ideological dimension and meaning which in fact operate to naturalize and universalize certain specific relations or a particular set of kinship and household structures; particularly the patriarchal nuclear family and the sexual division of labour therein, where women are constructed as wives and mothers, primarily responsible for child rearing and domestic labour - while obscuring and legitimizing unequal power relationships within those structures (1996: 89).

Similarly, the tendency of some states to justify and condone violence against women including domestic violence, on the grounds of culture, tradition, religion etc, despite significant legal and institutional reforms have been noted at the highest level of the United Nations. The UN Secretary General's in-depth study on 'All forms of Violence against Women', released in July 2006, notes that 'cultural justifications for restricting women's human rights have been asserted by some states and by social groups within many countries claiming to defend cultural tradition and that these defences are generally voiced by political leaders or traditional authorities and not by those whose rights are actually affected' (United National Secretary General 2006). The UN Special Rapporteur on Violence against Women reiterated this in her 2007 report to the UN Human Rights Council (Erturk 2007).

Tracing the impact on women's own attitudes and subjectivities

A key argument of this paper is that familial ideology, cultural narratives, common sense etc. are discursive tactics used by powerful actors in Sri Lanka to construct domestic violence as part and parcel of family life or as a temporary aberration in otherwise peaceful households. Their purpose is to influence the way men and women think and behave in relation to the problem of domestic violence and disguise the power relations and gender inequality at its root. Ultimately they aim to prevent discussion of domestic violence both within the private and the public sphere by disciplining women's minds, bodies and emotions, persuading them to assume the subject position of an obedient and submissive wife even though it may not be in their interest to do so. This idea that women must adjust themselves to families at the expense of their own feelings and the quality of their lives seems to run deep in Sri Lankan society and are constantly propagated through institutions such as the media, education, religion and law, all contributing to its internalization by women themselves.

A number of other studies offer evidence of this internalization. In one of the earliest studies on violence against women, including domestic violence, done in Sri Lanka, amongst 40 women and 10 men in a small village called Remunagoda in the Kalutara District, Malsiri Dias found that most women not only accepted the right of their spouses to beat them in a domestic controversy, but often believed that the violence was brought about due to their 'own fault' (Dias 1989: 12). She goes on to state that stability is produced and maintained in these relationships through conformity to socially accepted rules of behaviour and that there is no effort on the part of the women to rationalize and to understand just how such acts persist in the culture and why they continue to abide by these rules. Significantly, she found that the very same group of women acted in a completely different way when it came to property disputes; seeking relief through formal institutions and not being subordinate or compliant in any way (1989: 12).

More than 20 years later, there appeared to be little change in such attitudes. According to the most recent Demographic and Health Survey (DHS) of the Department of Census and Statistics this view of violence as patriarchal privilege continues to prevail in Sri Lanka. The 2006/7 survey collected data on a number of 'new' topics including women's attitudes towards wife beating. The DHS asked nearly 15,000 women⁴⁵ whether they thought that a husband is justified in beating his wife in each of the following five scenarios: a) she burns the food; b) argues with him; c) goes out without telling him; d) neglects the children; and, e) refuses sexual relations with him. According to the findings of the survey, more than 50% of women believed that a husband is justified in beating his wife for at least one of the above reasons (2009:194). The DHS also notes the lack of significant differences in relation to these attitudes when these findings were disaggregated by age, residency etc., except for a very slight difference on account of education, although not hugely significant. Fifty eight per cent (58%) of women with no education thought that at least one of the above grounds is good enough reason for a husband to beat her, while 43% of women with Advanced Level or a higher education qualification were of the same view. The DHS thus concludes that the '[t]he overall level of acceptability of at least one reason and similar levels of acceptability in all age groups suggest that these attitudes are pervasive and trenchant' (DHS 2009: 196).

Several counsellors interviewed for this study as well as the quantitative mapping of domestic violence intervention services conducted by the ICES (Kodikara with Piyadasa 2012), confirms this finding. Fifty per cent of women's organisations (providing services for victim-survivors of domestic violence) surveyed cited social attitudes and 40.7% cited resistance on the part of women themselves as the greatest challenges to addressing the problem of domestic violence.⁴⁶

The statistics on reporting rates (Kelly 2003:3) can also be suggestive of the power of patriarchal discourses which attempt to render domestic violence invisible. A number of studies in Sri Lanka make the point that disclosure and redress are not options considered by a majority of battered women. Jayasuriya et al. in a study conducted in the Western Province found that more than half the battered women (58%) had not revealed the violence to anyone, the interview for the study being the first time they had ever talked about the violence in their lives and only 23% had accessed institutional services such as police, hospitals, courts, social services, legal aid, women's organisations and religious institutions. Reasons for not disclosing the abuse included embarrassment (43%), concern for family reputation (24%) and fear of more violence (12%) (2007: 11). Similarly, a study by CENWOR among non-poor households in six districts found that while 60.4% women had sought help of friends, family, and religious leaders to resolve domestic violence, only 42.5% had gone to the police. Those seeking other services such as counselling and legal aid were even less. Only 10.9% of women had gone for counselling and only 14.4% had taken legal action (CENWOR 2011: 42-44).

45 The DHS collected detailed information from all ever-married women aged 15-49 years. Within the households interviewed, a total of 15,068 eligible women were identified, of whom 14,692 were successfully interviewed (p. xv). The survey covers all districts except the five districts of the Northern province (p. xix).

46 See Kodikara, with Piyadasa 2012: 55

All this evidence points to what has been often described as a gender paradox in Sri Lanka where high human development indicators and a favourable physical quality of life of women exist side by side with extremely conservative socio –cultural norms that condone and justify violence against women. As Abeysekera and Amarasuriya note:

In considering the range of issues that women in Sri Lanka face, we see a complex situation, where although women have benefited from certain policy interventions which have ensured equal access to facilities, such as those in the health and education sectors, they have not been able to translate their achievements to successfully challenge traditional social and cultural norms (2010: 111).

Breaking the silence

How has the PDVA made a difference in the deep-rooted patriarchal milieu described above? To what extent is the PDVA an option for women and provided women victim-survivors with an alternative subject position to that of obedient and submissive wife?

To be clear, evidence suggests that the number of women seeking protection under the PDVA is in fact very small. The quantitative mapping of domestic violence related services conducted by ICES (Kodikara with Piyadasa 2012), spanning the years 2009-2011, reveals that of the 86 women's organisations mapped by ICES, 11 had supported the filing of 304 domestic violence cases under the PDVA between 2005 and June 2011, an average of approximately 50 cases per year. Additionally, the Children and Women Bureau Desks (CWBDs) of the Police were involved in filing 55 cases and 247 cases in 2009 and 2010 (January to September) respectively. These cases constitute less than 1% of the number of complaints of domestic violence recorded by these institutions (See statistics below). This finding confirms the analysis of Rizvina Morseth de Alwis, in an earlier ICES study, that the law, if accessed at all, is a remedy of last resort in these cases mediated by prevailing cultural and ideological norms and economic considerations (De Alwis 2007: 127). Needless to say another factor is negative attitudes within the law enforcement machinery.

However, this must not lead one to conclude that women are not seeking a response to domestic violence. The 86 women's organisations identified by the ICES mapping provide a range of support services to victim-survivors of domestic violence, including psycho-social support, legal counselling as well as shelters. According to the mapping, 35 of these organisations, which had maintained a record of the number of women victim-survivors seeking their assistance, engaged with approximately 12,000 domestic violence complaints in 2009.⁴⁷ Women in Need (WIN), a women's organisation providing support and services to women victim-survivors of domestic violence across the country, recorded nearly 3000 cases in 2009. Additionally, Children and Women Bureau Desks of Police stations recorded a total of 94,094 'family disputes' in 2009, a large proportion of which, according to sources within the Police, pertain to complaints of violence lodged by women. Data from the Children and Women

⁴⁷ This does not represent the exact number of cases received by these 35 organisations but an approximation based on the average number of cases received per year.

Bureau Desks as well as WIN, compiled over several years, indicates a steady increase in the number of complaints received by them over the years (see Tables 2 and 3). That increasing numbers of women are seeking recourse from the Children and Women Bureau Desks of the Police is a significant finding of this study, given the negative analyses of the police response to victim-survivors by feminist activists (see p.5), pointing to the need to strengthen the gender sensitivity of these institutions.

Table 1: Number of Domestic Violence Complaints Recorded by 35 Women's Organisations

Year	No. of Complaints of Domestic Violence 2009	Number of DV Cases filed between Oct. 2005 – June 2011	Average number of DV cases per year	DV Cases as a % of the total number of complaints
2009	12,000	304	50	0.41%

Source: Kodikara with Piyadasa 2012.

Table 2: Number of Domestic Violence Complaints Received by WIN

Year	No. of Complaints of Domestic Violence	Number of DV Cases Filed	DV Cases as a % of all Complaints
1997	791	-	-
1998	895	-	-
1999	1020	-	-
2000	1208	-	-
2010	2782	12	0.43%

Source: 1997-2000 statistics: WIN quoted in SL Shadow Report to the UN Convention on the Elimination of All Forms of Discrimination against Women prepared by CENWOR, November 2001, 2010 statistics: Database statistics 2010 and 2011, WIN.

Table 3: Family Disputes recorded by the Children and Women Bureau Desks of the Police

Year	No. of Family Disputes Recorded by the CWBDs	No of DV Cases Filed by the Police	DV Cases as a % of all Family Disputes Recorded by CWBDs
1990*	13,368	-	-
1991*	19,656	-	-
2009	94,094	55	0.06%
2010 Jan to Sept	77,733	247	0.32%

Source: 1990 & 1991 statistics: Wijayatilake (1995: 299); 2009 & 2010 statistics: Children and Women Bureau Desk, Fort

Drawing from Kristin Kelly's (2003) distinction between state and community responses to domestic violence, it could be argued that many women victim-survivors are seeking a 'community' response, which is less formal, fluid and marked by the absence of punitive sanctions backed by state power but is nonetheless materially and psychologically important for them.

While women's narratives of violence shared within the institutional spaces above has almost always remained a 'private discourse', rarely heard in the public sphere, even this appears to be changing. Take the case of Upeksha Swarnamali, a Member of Parliament, who spoke about her experience of domestic violence before Parliament in March 2011. Swarnamali, who became a household name as 'Pabha' in a popular television drama, entered Parliament on a UNP nomination in the 2010 elections securing the second highest number of preferential votes in the Gampaha district. In February 2011, the media reported that she was hospitalized after being assaulted by her husband. Later it was further reported that the husband was taken into custody and released on bail. On her recovery and return to Parliament, she spoke about her experience of domestic violence appealing to all 225 Members of Parliament that they should unite to address the problem.

After my experience of violence, I reflected on it and I tried to find out more about this. I found that 60% of Sri Lankan women are beaten and 44% of pregnant women are also beaten. These women are traumatized and suffer because of men's violence against them. I want to assist such women. I hope that all parliamentarians will join me to address this problem. Domestic violence should be eradicated from this country.

Another impassioned and powerful public account of a personal experience of abuse was posted on a blog curated by the Women and Media Collective in November 2011 to mark the annual global '16 days of activism against violence against women'. Roel Raymond, the blogger, who describes herself as a mother, lover, rock and roller, journalist, writer, model, thinker, freedom fighter, and undertaker's daughter says:

It has never been easy for me to speak of what took place during those 5 years I was married, [...] I mean to now, because I feel that my story - or some part of it may resonate with someone out there [...] I know what it is like to be beaten . . . I know what it is like to be told you don't amount to anything, that you have nothing.... I know what it is like to believe these lies. [...]

I know what it is like to stand waiting at a Police Station to make an entry (because my mother had the sense to push me to) and have the police laugh in your direction, look at you sneeringly, and make you feel like it is you who is in the wrong. [...]

I know what it is like when all the adults that surround you tell you that time will heal all wounds, or that he will change with time, or that you should be patient - when all you really want is for the abuse to stop. How many other women are in the same predicament today? How many women are being advised to be patient, to 'bow' their heads, to stay for the sake of the children? How many are being told to be careful with what they say to their husbands, to refrain from angering him, to pray, to go to church, to write in a diary, to ask forgiveness for sin, to put their lives right in the sight of God, to make pujas?

How many women are - in addition to the beating they are getting from their husbands, beating themselves up by taking blame and responsibility for a wrong that is not theirs? How many women carry this guilt with them their lifelong? [...]

Being a young single mother in this country hasn't been easy. [...] I have come to realize that the hardest thing a single woman, or a single mother faces is social stigmatization. And yet, when I wake up in the morning and I know the day is my own, that the goals I have set are my own, that all achievements are my own, that the decisions I make are my own, and that my son is my own, I am happy.⁴⁸

These two narratives offer a stark contrast to the dominant public discourse on domestic violence described in the preceding pages and maybe described as reverse discourses, wherein victim-survivors are speaking up on their own behalf (Foucault 1990). The latter narrative, in particular, highlights the physical pain and emotional trauma, the constant fear, the sense of hopelessness and isolation, the shame and the humiliation carried by the victim-survivor far beyond the act of violence. It doesn't however stop there. It also refers to 'life after domestic violence' and offers an alternative subject position to that of submissive wife; that of a happy albeit single mother.

While this discourse of the victim-survivor is clearly marginal to or in direct conflict with dominant definitions of femininity and its social constitution and regulation, Weedon argues that this resistance to dominant discourses, at the level of the individual subject is the first stage in the production of alternative forms of knowledge or where such alternatives already exist, of winning individuals over to these discourses and gradually increasing their social power (1997: 107-108). As more and more women break their silence and speak publicly about their experience of domestic violence, it will become increasingly difficult to sustain the public discourse that trivialises and justifies such violence.

Conclusion

The PDVA underlines that even a state as deeply embedded in patriarchal structures as Sri Lanka can and does respond to feminist demands for legal reform. Its negotiation was a site of struggle where differing discourses on domestic violence of women's organisations, the bureaucracy and political leaders respectively, were in competition with each other, vying for the status of truth. The process dragged domestic violence out of the confines of the home and into the public sphere. During discussions of the NGO draft, as Samuel observed:

At the community level, and everywhere we went, women would stand up and just talk about the violence they were experiencing in their homes and the need to do something about it.⁴⁹

48 See Sri Lanka 16 Days Campaign Blog at <http://srilanka16days.wordpress.com/2011/11/29/guest-post-roel-tells-her-story>. Roel Raymond blogs at <http://kataklysmichaos.tumblr.com/>. Since then an edited version of this blog was published on Groundviews which is a widely read citizens journalism website using a range of genres and media to highlight alternative perspectives on governance, human rights, art, literature, and other issues. See <http://groundviews.org/2012/01/04/violence-against-women-this-is-my-story/>. These blogs highlight the role of new media /interactive communication technologies (ICTs) in validating and giving voice to women's experiences.

49 Interview with Kumi Samuel.

Moreover, women's groups engaged health and legal professionals, academics and the media on the issue.

Six years after its enactment, the PDVA is a remedy of last resort for victim-survivors of domestic violence and not extensively used, even though an increasing number of women are breaking the silence surrounding such violence both within institutional settings and in the public sphere. Nevertheless, any analysis of the impact of the PDVA that is restricted to the number of cases filed would be missing the larger point—that the PDVA continues to be an important discursive 'space of struggle' to talk not so much about sex, love and truth as Ferraro suggests in the quote this paper opens with, but certainly about patriarchal privilege, the sanctity of the family, women's health, children's welfare and the 'meaning' of domestic violence.

As this paper has attempted to highlight, this struggle is reflected in a dominant discourse which is seeking to trivialize and condone domestic violence, while constructing the PDVA as a threat to the social order. The President, no less, has spoken his mind on the matter on more than one occasion, rendering it a matter of 'high politics'—recall his dire expressions of concern regarding the Act quoted earlier. There is no doubt that this discourse, championed by politicians and public officials, has great status given the state, institutional and media sanction behind it, which also enables them to side-line other discourses. Nevertheless, they can never entirely eliminate from the public sphere, the 'subjugated knowledges' of women victim-survivors of domestic violence and women's organisations who support them. As Kabeer points out the emergence of discourse, of opinions and arguments about what was previously unquestioned implies the co-existence of 'competing possibles' (2000: 46). The inevitable contestation between these discourses will be central to new ways of thinking and acting not just in relation to domestic violence in Sri Lanka, but to advancing women's rights and gender equality in general.

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This paper maps contemporary discourses on domestic violence in Sri Lanka, especially in connection with the Prevention of Domestic Violence Act of 2005 (PDVA). Its negotiation was a site of struggle where differing discourses on domestic violence, were in competition with each other, vying for the status of truth. While the final Act privileged a politico-bureaucratic understanding of violence rather than a feminist one, it is nevertheless a significant departure from the status quo on familial violence. More than six years after its enactment, the Act is a remedy of last resort for women victim-survivors of domestic violence. Yet, the official discourse on domestic violence still perceives it as a threat to the existing social order, echoing the resistance to it during its passage through Parliament. Arguing that this discourse is marked not so much by a denial of the prevalence of domestic violence but by the tendency to normalise and legitimise it, the paper explores how familial ideology, cultural narratives and 'common sense' are being deployed to this end. The emergence of this discourse signals the co-existence of 'competing possibles' and the PDVA continues to be an important discursive space for speaking about domestic violence in Sri Lanka, which is crucial to strengthening the voices of victim-survivors and women's rights advocacy.

This paper draws on the findings of a quantitative mapping of domestic violence services conducted by the International Centre for Ethnic Studies (ICES) between 2009-2011, which also included meetings with a range of experts including activists, lawyers, and public officials. In addition, it draws on the Parliamentary debate around the PDVA and in-depth interviews with some of the key actors who played a pivotal role in shaping and steering the PDVA through Parliament.

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