

ASSURANCE PAPERS A Strategy of the Special Cell

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January 2016

Introduction

The advent of written communication was a distinctive stage in human evolution. In the Indian subcontinent, oral forms of communication prevailed and writing was restricted to the privileged. The caste system and gender posed a barrier to access to writing.¹ Writing thus became an act, and a symbol, of power, concentrated in the hands of the elite. Further, women historically have been excluded from naming culture's values, thus making 'man made' language difficult for women to use to articulate their experiences. Writing, thus is a deeply political act, and as Bhabha, points out "...in its broadest sense is, closely linked to the acquisition of agency".²

In 1984, the first Special Cell was instituted at the Officer of Commissioner of Police, Mumbai, for trained social workers to provide psycho-socio-legal service for survivors of violence. Over the course of the work of the Cells, survivors expressed a desire to get an assurance, in writing, from the perpetrator of violence, detailing what had been promised verbally by the perpetrator over the course of the intervention. A written assurance provides the survivors of violence with consultability, accuracy and reliability of the assurances that are made by the perpetrator.

Objectives

- To understand if the strategy of writing Assurance Papers, which was developed after women survivors of violence began to demand a written assurance for the violence to stop, is at all detrimental to the client and her access to rights;
- To understand the range of problems for which this strategy is currently used;
- To understand if the language used in the papers renders a disadvantage to the woman;
- To assess the quality of the assurance papers (language and its implications), for it to be used in the courts.

Methodology

The first 18 Special Cells to be established in Maharashtra, located in the district headquarters of Amravati, Aurangabad, Dhule, Jalgaon, Nasik, Nanded, Nagpur, Osmanabad, Parbhani, Pune, Sangli, Thane, Wardha, Yavatmal, as well as the Special Cells from Mumbai (C.P. Office, Dadar, Kandivali and C.B.D. Belapur) were selected for this research. Data from 2006 to 2011 was used (as certain Cells were established only post-2006). Assurance papers were selected using random sampling, and 424 were selected and analysed quantitatively as well as qualitatively, to analyse both the language and content of the documents.

Findings

The extent and nature of use

Thirty years after the establishment of the Special Cell, and the introduction of assurance papers as one of its strategies, assurance papers are now written in 21.2% of the cases that are registered at the Special Cell.

Who are the assurance givers?

50% of the assurance papers are written by women's husbands. A change from the time when the assurance paper strategy started is the fact that today assurance papers are also written by women, the clients of the Special Cell (34% of cases with assurance papers).

What is an Assurance Paper?

- Women survivors of violence wanted a *commitment* from the perpetrators of violence in a *place of authority*, witnessed by their families on a neutral ground with support for non-violence.
- Assurance Papers are *written statements* by the aggressor (or at times the woman herself), signed by the aggressor, *acknowledging the violence* perpetrated and *assuring the end of violence*, through mutually determined measures.
- They are usually written at the end of the intervention of the Special Cell i.e. after conducting individual meetings and joint meeting. It is solely the woman's decision to get the assurance papers written.
- Assurance Papers are *not written on stamp paper nor are they signed by the social worker at the Cell, or any lawyers, but by the client and perpetrator themselves*. They are not legal/contractual documents.
- A recent Bombay High Court Judgement (Dr Jaya Sagde vs. State of Maharashtra 2015), ruled that *violating the terms of the assurance papers would be grounds on which a Domestic Incidence Report (DIR) could be filed under the Protection of Women from Domestic Violence Act 2006 (PWDVA)*. Thus Assurance Papers are crucial documents, and must be drafted and filed with great care.

Table 1: Assurance papers written by

Written by	Frequency	Percentage
Woman's husband	349	50
Woman's natal family	4	1
Woman's marital family	19	2.8
Other members of the community	9	1.3
Man	27	3.9
Man and woman	47	6.8
Woman	235	

Content of Assurances

Currently, assurance papers are used largely when the couple has decided to reconcile (47.9%), and sometimes when the couple has decided to separate (4.1%) and divorce (2.5%). Even when they do decide to separate or divorce, non-violence is still a central theme in the assurance paper. A majority of the assurances are made against physical violence (34.5%), followed by ending mental violence (24.7%). Very few assurance papers mention sexual violence (1.3%). This reflects the reluctance of men to acknowledge sexual violence in writing.

What do husbands' assure?

An end to physical violence is assured in most papers written by women's husbands (52.4%). Husbands have also assured return of streedhan (6.6%), separate accommodation for him and his wife (11.7%), that he will not consume alcohol or tobacco (11.7%), and that they will take care of their family (7.7%) and partake in household chores (7.7%). In 2.6% assurance papers, the woman's husband has mentioned that his wife will be "allowed" to go to her natal family during festivals and during emergencies.

What does the woman's marital family and natal family assure?

The marital family is also involved in perpetuating violence towards the woman. Hence, most of the papers written by the woman's marital family assure an end to violence. 31.6% papers assure an end to physical violence. 1% of all assurance papers are written by the either woman's mother, father and/or brother. These natal family members write assurance papers to assure non-violence, and a change in behavior.

What do the other members of the community assure?

Members of the community are present as witnesses to the assurance papers signed between the client and the perpetrator (5 out of 9), as well as writing assurance papers directly. 11.1% assurances are made by members of the community to end mental, verbal violence and harassment, while 22.2% have assured an end to physical violence.

What does the violated woman assure?

While the husband assures a violence-free life to his wife, the wife assures her husband that she will partake in household responsibility (13.2%), 'behave properly' (9.8%), take care of the family (6%), and take her husband's permission before visiting her natal family (2.6%).

Key Learnings

- Assurance papers are written by not only the husband/the perpetrator, but also by the other members of the family since the Special Cell works with the larger family structure, and involving them in the process of giving assurances in writing means giving them the space to reflect on their actions.
- Assurances need not only be written when a couple decides to reconcile. The strategy can also be used when the couple decides to separate or divorce, and a large proportion of the assurance papers are written to re-establish the woman's economic rights.
- Careful attention needs to be paid to the language used while writing an assurance paper because of the inherent heteronormative, patriarchal nature of language. It became evident through the study that the husbands assure that which are the woman's rights, while the wife's assurances still function within heteronormatively defined roles for women. Feminist language will further help in strengthening the psychological self of the survivor of violence.
- While many Cell workers have expressed their inhibitions in getting assurances written from the women, they have also said that they are left with no other options as the perpetrator insists on writing assurances only when she also gives assurances in writing. It is crucial that the assurances written by the woman do not go against her best interests.
- It is important that the man/husband/perpetrator of violence, acknowledges the history of violence while writing the assurance paper. Denying the presence of violence while writing an assurance paper invalidates and trivialises the clients' experience. Similarly, the language of an assurance paper should never leave a window open for future violence and must reiterate that violence is non-negotiable; and both the client and the perpetrator's assurances should be clear and specific so as to not enable later violence.
- Assurance papers may be used as proof in a court of law and hence must be carefully and strategically worded such that the language used in them should never go against the best interest of the woman.

This research on Assurance Papers has been used to develop guidelines for Assurance Papers for the Special Cells. In the recent litigation at the Bombay High Court, (Dr Jaya Sagde vs. State of Maharashtra 2015), this research was cited as an example of police-based joint counselling and social work intervention practice and used to demonstrate the value of police-based counselling services. The judgement delivered by the High Court upheld the validity of such practices.



¹ Peter van der Veer. (1994) 'Sati and Sanskrit: The Move from Orientalism to Hinduism' in *The Point of Theory* ed. Mieke Bal and Inge Boer. Amsterdam: Amsterdam University Press, 161-168.

² Gary A. Olson and L. Worshorm (1998) 'Staging the Politics of Difference: Homi Bhabha's Critical Literacy'. JAC Vol. 18, No. 3.