



WOMEN VICTIMS IN THE CRIMINAL JUSTICE SYSTEM

Arts

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ABSTRACT

Cruelty is one of the genuine sorts of social insidiousness since ages. Cruelty can be both mental and in addition physical cruelty which is being rehearsed in various modes in general public in various conditions. Cruelty by Husband or relative of husband of a woman is harassment of a woman with a view to coerce her or any related persons to meet any unlawful demand for any property or any valuable security. This research study of the **status of women victims in the criminal justice system: suggestions for enhancing support systems focusing women victims** has consciously addressed issues related to research design and attempted to develop a suitable methodology to study Women Victims in the Criminal Justice System.

KEYWORDS

Women, Cruelty, Domestic Violence, Cruelty, Sec 498a Ipc, Criminal Justice System.

INTRODUCTION

Alongside this international context, women's rights groups in India had also been agitating for legal reform to recognize and redress domestic violence. Though the Constitution of India recognizes women's equality and right against non-discrimination, these rights were not directly applicable within the "private" sphere of the home. Matrimonial laws did provide for cruelty as a ground for divorce, separation and maintenance. However, this was wholly inadequate to redress domestic violence. A big lacuna in the law was that upon seeking legal redress, a woman could be thrown out of her matrimonial home. She had no right to reside in either her matrimonial home or her natal home. This was a significant barrier to accessing legal remedies. Added to this was the practice of providing minimal monetary maintenance which was, more often than not, wholly inadequate to meet daily needs. (Indira Jaising, Domestic Violence and the Law, 2002).

There was however, no punitive sanction against domestic violence. In the 1970s and early 1980s women's rights groups mobilized public and political opinion on addressing violence against women as a criminal act. (TISS, Shades of Courage, 1999). This resulted in two amendments to criminal laws in the 1980s. In 1983, Section 498A was added to the Indian Penal Code which criminalized "cruelty" by the husband and his relatives against the wife. In 1986, Section 304B was added to the Indian Penal Code, by which "dowry deaths" were criminalized. Alongside these amendments procedural changes were made to Section 113A of the Indian Evidence Act and Section 198A of the Criminal Procedure Code.

Section 498A states as follows: 498A.

Husband or relative of husband of a woman subjecting her to cruelty—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation - For the purpose of this section, "cruelty" means-

- any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of woman; or
- harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

As is evident from above, Section 498A was confined to domestic violence against a married woman by her husband and in-laws. It defined cruelty to include not only physical but also mental abuse. Additionally, Section 498A was not confined to cruelty in the context of demands for dowry. Explanation (a) to Section 498A clarifies that cruelty includes any willful conduct which is likely to drive a woman to commit suicide or to cause grave injury or danger to the life, limb or physical or mental health of a woman.

Section 498A was made cognizable, non-compoundable and non-

bailable. The offence under the section was non-compoundable in recognition of the fact that a married woman generally has lesser economic resources and bargaining power as compared to her marital family. Therefore, she is vulnerable to being coerced into compounding these offences and thereby letting perpetrators of domestic violence get away with their criminal acts. (Law Commission of India, 243rd Report, 2012)

IPC	Evidence Act	Criminal Procedure Code
<ul style="list-style-type: none"> Section 498A: Husband or relative of husband of a woman subjecting her to cruelty Section 304B: Dowry Death 	<ul style="list-style-type: none"> Section 113A: Presumption as to abetment of suicide by a married woman Section 113B: Presumption as to dowry death 	<ul style="list-style-type: none"> Section 198A: Prosecution of offences under section 498A of the Indian Penal Code

Figure 1: Criminal Law Amendments to Specifically Address Domestic Violence

DEFINITION OF TERMS

Victims 'a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged' - **The Code of Criminal Procedure, 1974, India**

Access to Justice is defined as 'the ability of people to seek and obtain a remedy through formal and informal institutions of justice, and in conformity with human rights standards,' and it also seen as fundamental to the protection of human rights

- **United Nations Development Programme, 2004**

EXPLANATION OF IPC SECTION 498

A Matrimonial cruelty in India is defined in Chapter XXA of IPC under Section 498 A as:

Husband or relative of husband of a woman subjecting her to cruelty. Whoever being the husband or the relative of the husband of a woman, subjects her to cruelty shall be punished with imprisonment for a term, which may extend to three years and shall also be liable to a fine. Explanation – for the purpose of this section, "cruelty" means: (a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demands for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

Cruelty has deliberately been defined in the Indian Penal Code in two ways. In part (a) of Section 498 A cruelty has been defined as "any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb, or health (whether mental or physical) of the woman." Secondly in part "b" it has also been defined as "harassment of the woman" to coerce her

or any person related to her "to meet any unlawful demand for any property or valuable security". This sub-section further states that harassment "on account of failure" by a woman to meet the demand of dowry will also be punishable. The offence was made punishable with imprisonment up to 3 years and with fine. The offence was also made cognizable, if reported by the victim or any person related to her or by notified public servants. It was further made non-bailable and non-compoundable.

"RELATIVE OF THE HUSBAND" -MEANING

Under Section 498A, husband or the relatives of the husband of the victim are included. Generally, the relatives of the husband includes his father, mother, brother, sister, grandfather, grandmother, etc. Therefore, a person related by blood, adoption or by consanguinity to the husband will husband will be covered

SCOPE OF THE STUDY

There are many indicators of understanding the problems in the process of Criminal Justice System. The present study will focus on the perception and expectations of Victims of Domestic Violence on the process of Criminal Justice System, the effectiveness of government initiatives towards gender sensitization for all level of administration, the strengthening of the enforcing machinery of existing legislation on violence against women, and the legal literacy campaigns, efforts of social activists and social work institutions.

OBJECTIVES:

1. To understand their motivations and expectations of reporting the crime.
2. To examine the knowledge of women victims of crime on the existing support services.
3. To analyze the level of satisfaction on existing legal norms/provisions to support women victims of crime.
4. To provide suggestion for enhancing the support system focusing women victims of crime.

RESEARCH METHOD AND DESIGN

This research study has consciously addressed issues related to research design and attempted to develop a suitable methodology to study Women Victims in the Criminal Justice System. The study has been largely exploratory in nature. Quantitative method with descriptive research design was used for the study. This method enabled the researcher to gather numerical and descriptive data to assess the relationship between the variables and to produce statistical information on the status of women in the Criminal Justice System. Based on this design, the study aimed to provide suggestions to enhance support systems for women victims, who go through the process of the Criminal Justice System.

FIELD OF STUDY

Domestic violence was prevalent among all educational and socio-cultural groups (Sunny 2003). Multi-cultural populations are very common in Metropolitan cities then in other areas. The sample should include all kinds of people, which enhance the scope of the research for generalizing the study in the global wide. Therefore, the researcher has more possibility to get appropriate sample from the Chennai Metropolitan City. The Greater Chennai Police has divided the into four districts, as North, East, South, and West. The present study will confine with the population of victims of domestic violence (cruelty by husband or his relatives, under section 498A IPC) in Greater Chennai. The researcher will use appropriate methodology to prepare a list of respondents (victims of domestic violence, under section 498A) from Chennai City Police for the study.

POPULATION AND RECRUITMENT

According to the Crime in India Report, National Crime Records Bureau (NCRB), New Delhi the total number of cases registered in Greater Chennai was 221 (cruelty by husband or relatives, under section 498A IPC). The researcher chose 100 respondents through Convenience sampling of non-probability sampling procedure. Total 100 samples were chosen from Greater Chennai. The source is almost 70% of the cases are from women's organizations and 25% of the cases have been taken from advocates handling cases in Madras High Court. Source of merely 5% of the cases from other professionals.

SURVEY TOOLS

The tool used for the data collection was a structured interview schedule consisting of both open and closed ended questions which

enabled the researcher to understand the problems in the process of Criminal Justice System. The tool covered the following domains:

1. Motivations and expectations of reporting crime of the respondents.
2. Knowledge of women victims of crime on the existing support services
3. Level of satisfaction on existing legal norms
4. Suggestions for enhancing the support system focusing women victims

Table 1: Chi- Square Test to find the significant association between important variables in the study

Sl. no	Key Socio demographic variables	Chi-Square Value	p Value	Inference
1	Educational qualification of the respondents and place of complaint filed	10.094	0.929	Not Significant
2.	Caste and reasons for complaint	16.998	0.049	Significant
3	Education and reason for complaint	14.178	0.028	Significant
4	Type of marriage and reason for complaint	51.843	0.008	Significant
5	Age and nature of abuse	28.449	0.019	Significant
6	Type of marriage and nature of abuse	16.023	0.099	Significant
7	Educational qualification and the persons to whom the victims discussed about violence	284.557	0.000	Significant
8	Type of marriage and support available	17.874	0.120	Not Significant
9	Education of the respondents and experienced faced with the police	38.367	0.000	Significant
10	Education and the treatment by the police	137.336	0.000	Significant

1. EDUCATIONAL QUALIFICATION OF THE RESPONDENTS AND PLACE OF COMPLAINT FILED

- H₀: There is no significant association between Educational qualification of the respondents and place of complaint filed
H₁: There is a significant association between Educational qualification of the respondents and place of complaint filed

The data did not support the alternate hypothesis. Hence, we fail to reject the Null hypothesis and there is a no significant association between Educational qualification of the respondents and place of complaint filed

2. CASTE AND REASONS FOR COMPLAINT OF THE RESPONDENTS

- H₀: There is no significant association between Caste and reasons for complaint of the respondents
H₁: There is a significant association between Caste and reasons for complaint of the respondents

In this study, it was found that Caste and reasons for complaint of the respondents have high association. Hence, there is enough evidence to reject the Null hypothesis and it is concluded that there is a significant association between Caste and reasons for complaint of the respondents

3. EDUCATION AND REASON FOR COMPLAINT

- H₀: There is no significant association between Education and reason for complaint
H₁: There is a significant association between Education and reason for complaint

In the present study, there exists an association between Education and

reason for complaint. Statistically, there is enough evidence to reject the Null hypothesis. Hence, there is a significant association between Education and reason for complaint

4. TYPE OF MARRIAGE AND REASON FOR COMPLAINT

Ho: There is no significant association between Type of marriage and reason for complaint

Ha: There is a significant association between Type of marriage and reason for complaint

Statistically, there is enough evidence to reject the Null hypothesis and it was concluded that there is a significant association between type of marriage and reason for complaint

5. AGE AND NATURE OF ABUSE

Ho: There is no significant association between Age and nature of abuse of the respondents.

Ha: There is a significant association between Age and nature of abuse of the respondents.

There is sufficient evidence to reject the Null hypothesis and it is arrived that there is a significant association between Age and nature of abuse

6. TYPE OF MARRIAGE AND NATURE OF ABUSE

Ho: There is no significant association between Type of marriage and nature of abuse

Ha: There is a significant association between Type of marriage and nature of abuse

This study has found that there exists a statistically significant association between Type of marriage and nature of abuse. Thus, it provides significant reason to reject the Null hypothesis, i.e. there is a significant association between Type of marriage and nature of abuse

7. EDUCATIONAL QUALIFICATION AND THE PERSONS TO WHOM THE VICTIMS DISCUSSED ABOUT VIOLENCE

Ho: There is no significant association between Educational qualification and the persons to whom the victims discussed about violence

Ha: There is a significant association between Educational qualification and the persons to whom the victims discussed about violence

It is important to note that there is a statistically significant association existing between Educational qualification and the persons to whom the victims discussed about violence. Hence, the Null hypothesis is rejected. Thus, in this study it was found that there is a significant association between Educational qualification and the persons to whom the victims discussed about violence

8. TYPE OF MARRIAGE AND SUPPORT AVAILABLE

Ho: There is no significant association between Type of marriage and support available

Ha: There is a significant association between Type of marriage and support available

In this study, since statistically we fail to reject the Null hypothesis, there is no significant association between types of marriage and support available

9. EDUCATION OF THE RESPONDENTS AND EXPERIENCED FACED WITH THE POLICE

Ho: There is no significant association between Education of the respondents and experienced faced with the police

Ha: There is a significant association between Monthly Education of the respondents and experienced faced with the police

There is statistically significant association between Education of the respondents and experienced faced with the police. Hence, we reject the Null hypothesis and conclude that there is a significant association between Education of the respondents and experienced faced with the police

10. EDUCATION AND THE TREATMENT BY THE POLICE

Ho: There is no significant association between Education and the treatment by the police

Ha: There is a significant association between Education and the

treatment by the police

In this study it was found that there is a significant association between Education and the treatment by the police

RECOMMENDATIONS

1. The Police should be given directions to carry out the investigations in dowry-related case in a timely manner within a period of 60 days. A Standard Operating Procedure should be prescribed for cases dealing with Section 498A (cruelty to wife), dowry demand and harassment, non-return of dowry and *streedhan*, Section 304B (dowry death), and Section 302, specifically, murder related to dowry harassment.
2. The procedure must prescribe, amongst other measures, that the FIR should be registered immediately and with all the applicable sections of the Indian Penal Code and other special laws like the Dowry Prohibition Act; that the statement of the victim and her close relatives and all those whom the victim wants as her witness must be recorded by the Police; the victim's statement under Section 164, CrPC, should be recorded promptly, within 24 hours after the woman approaches the Police, and the Police should immediately recover the dowry and *streedhan*.
7. The Government should set up an adequate number of shelter homes for women who have faced violence and cannot live in their marital homes. The recommendation of the Sub-Group on the Legal Framework for Women of the 12th Five Year Plan that there should be a shelter home in each district of the country should be implemented by the Government.
8. The state should provide rehabilitation to victims of marital cruelty, who are unable to obtain legal and medical help and also for their day to day sustenance.
9. Marriage registration should be made compulsory in order to prevent child marriages.
10. Section 498A of IPC should not be diluted in any way. It should, in fact, be strengthened in the manner suggested above.
11. Gender sensitization of the Police and the Judiciary should be undertaken not in an ad-hoc manner but as regular in-house training programmes, and in the initial training programme. The various facets of violence that women face, and the various kinds of discrimination against them should be emphasized so that the seriousness of domestic violence and other forms of violence that women face within and outside the home is not routinely undermined, as it is at present.
12. More women should be recruited at all levels of the Police and Judiciary to make both more sensitive and representative.
13. Last but not the least, there is an urgent need to create awareness about the law and its implications for women and others so that those who are affected can access the law. This legal awareness can be carried out under the aegis of the Legal Services Authorities Act, 1987 by qualified personnel, both at the rural and urban level, as recommended in the Sub-Group on the Legal Framework for Women of the 12th Five Year Plan.

CONCLUSION

The research study suggests that in the present urban cities, solutions to much domestic violence must be found within the family setting and within the community setting. This research also helped to increase the understanding of the social and economic pressures that limit the power and options of women in violent relationships with husbands. Understanding both immediate predicting factors and underlying causes for disorganized victim care options.

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