

Sponsored by
National Commission for Women

Marital Cruelty and 498A:
A Study on Legal Redressal for Victims in Two States
Project Director: Kirti Singh, Advocate
Project Coordinator: Akhila Singh

Indian School of Women's Studies and Development
2253 E, Shadi Khampur, New Ranjit Nagar, New Delhi-110008

CONTENTS

Acknowledgments

Chapter 1	<p>Introduction</p> <p><i>Definition and Explanation of IPC Section 498 A</i></p> <p><i>Context</i></p> <p><i>Response of the Government</i></p> <p><i>Need for the Study</i></p> <p><i>Objective</i></p> <p><i>Design of the Study</i></p>
Chapter 2	<p>Review of Literature</p> <p><i>Experience of Physical, Emotional or Sexual Spousal Violence</i></p> <p><i>Comparative Data</i></p>
Chapter 3	<p>Introduction and Background Information of Respondents</p> <p><i>Age, Residential Status, Religion, Caste, Education, Income and Employment</i></p>
Chapter 4	<p>Facts Related to Marriage</p> <p><i>Age at Marriage, Type of Marriage, Economic Status of Marital Home, Size of Marital Home, Time of Cruelty, Nature of Abuse, Reason of Abuse, Complicity of Relatives, Means of Support, Source of Complaint, Status of Children, Maintenance and Cases Filed by Husbands</i></p>

- Chapter 5 Details of Case
Action Taken on FIR, Persons Arrested, Court Case, Nature of Case, Account of Things Given, Legal Aid, Experience with Police, Experience with Judiciary, Awareness About Section 498 A, Awareness about Other Laws, Court Orders, Execution of Court Orders, Other Pending Cases and Settlement
- Chapter 6 Responses from Police and Judiciary
- Chapter 7 Conclusion and Recommendations

Acknowledgments

We thank the National Commission for Women (NCW) for facilitating this study and for providing financial help for it.

This study would not have been possible without the active participation of members of the All India Democratic Women's Association, who helped in carrying out the survey in Haryana and Tamil Nadu. In Tamil Nadu and Haryana, the survey was carried out under the coordination of M.Girija and Savita. We are grateful to Dr Indu Agnihotri for helping us in preparing the questionnaire for the survey. We also thank Dr Abhay Kumar for analysing the data that we collected and for preparing the charts and the tables.

The inputs and advice by Prof. Malini Bhattacharya, former Director of ISWSD in helping to prepare the questionnaire, in supervising the survey and in helping to prepare the report were invaluable.

Chapter 1

Introduction

This study aims to understand the access to justice and the justice delivery system from the perspective of victims of marital violence especially in the context of recent debates around Section 498 A of the Indian Penal Code.

As is widely recognised violence against women is one of the most pervasive forms of human rights abuse in the world. Women and girls, in all societies, to a greater or lesser degree are subjected to physical, sexual and psychological violence. The violence cuts across lines of class, caste, religion, region, sexual orientation, ethnicity and culture. In early 1990s, WHO had prophetically declared, “Violence against women causes more deaths and disability than many diseases put together and violence against women is a common phenomenon in Indian society”¹.

The overall cases of crime against women have increased to 2,95,896 in 2013 from 2,28,650 in 2011². The proportion of crimes committed against women towards total IPC crimes has increased continually and has reached 11.2 % during 2013. In India 22 women were killed each day in dowry related murders in 2007³. Dowry deaths have increased to 8083 in 2013 from 4648 in 2008. In merely three years the cases of cruelty by husband and relatives have increased to 1,18,866 in 2013 from 99,135 in 2010.

The National Crime Bureau figures reveal that the incidents of cruelty against a wife have continuously increased from 2002 to 2013 and accounted for a large

¹ WHO: Violence against women :A Priority Health Issue, 1997

² National Crime Records Bureau : Crimes in India, 2013

³ UNIFEM Factsheet: Violence Against Women Worldwide

share of the total crime against women.

According to the NCRB records of 2013, in comparison to 28579 reported cases of cruelty by husband and relatives in 1995, the cases have increased to 1,18,866 by 2013. This is, by any standard a significant increase. However, the conviction rate in cases of cruelty by husband and relatives has gone down from 20.2 in 2011 to 16.0 in 2013. Unfortunately, the conviction rate is the least in cases of cruelty if this is compared with various crimes committed against women.

Definition and Explanation of IPC Section 498 A

Matrimonial cruelty in India is defined in Chapter XX A 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 wilful 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 wilful 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.

According to the National Family Health Survey 2007, one third of women in the age of 15-49 have experienced physical abuse, one in ten women has experienced sexual abuse, nearly two of every five women have experienced some form of sexual or physical violence from their husband and only one in four abused women seeks help to end the violence they have experienced.

The Indian state has taken various initiatives in the form of policy, legislation and institutional mechanisms to address the issue of violence against women. Violence against women was given top priority in the Tenth Five Year Plan. Again, the Eleventh Five Year Plan has included violence against women as one of the three aspects relating to the problems of women besides women's economic empowerment and women's health. Elimination of discrimination and

all forms of violence against women and the girl child is one of the objectives of 'National Policy for Empowerment of Women, 2001'⁴.

In addition, India has ratified various international Conventions and Human Rights Treaties . Key among them are the ratification of the Convention on Elimination of All Forms of Discrimination Against Women in 1993, the UN Declaration on Elimination of Violence Against Women, the Beijing Declaration and the Platform for Action in 1995.

As has often been pointed out, the Indian Constitution not only guarantees equality to women vide Articles 14, 15 and 16, but also empowers the state to adopt measures of positive discrimination in favour of women in order to achieve gender equality. Yet, crimes against women in the country continue to be on the increase. This ,not only has grave implications for the health and well being of a woman but it has also been pointed out that in India, one incident of violence translates into losing seven working days for women⁵.

Context

Violence within the matrimonial relationships is all about power dominance and control. The purpose is to gain or maintain power over the victim by hurting or harming her physically and /or mentally. Violence within marriages cuts across barriers of wealth, education levels, social backgrounds, religion and profession⁶. As many as 70 % of married women in India between the ages of 15 and 49 are victims of beating, rape or coerced sex⁷.

⁴ National Policy for the Empowerment of Women, Goals and Objectives

⁵ United Nations Population Fund report, 2005

⁶ A Study of 498 A in Tamil Nadu by Ekta Resource Centre for Women

⁷ Two third married Indian women victims of domestic violence: UN report, PTI, October 13, 2005

Internationally, the proportion of women who had ever experienced physical or sexual violence or both by an intimate partner ranged from 15 % to 71 % in different countries. Between 4 % to 12 % women report being physically abused during pregnancy⁸.

In India, dowry related violence on women by their husband and his relatives often culminating in continuous harassment, killing or suicide was on an alarming rise in 70s and 80s. Due to the seriousness of the issue and demands by the women's movement to change the laws relating to dowry a Joint Parliamentary Committee was constituted to locate the causes of the failure of Dowry Prohibition Act 1961 and further suggest effective measures to eradicate dowry. The committee located several impediments such as the narrow definition of dowry, procedural lapses in filing cases and lack of deterrent punishment against the offenders. It also recommended that the cruel treatment to a married woman for demanding and procuring dowry must be made punishable and stringent punishment was required to deal with the offenders.

Based on committee's recommendations, comments received from the state governments and most of all on sustained campaigns of women's organisations Section 498 A IPC was introduced in the year 1983. After a long struggle by the women's movement for the first time, violence against women within marriages was made a criminal offence which was cognizable, non-bailable and non-compoundable.⁹

Several amendments were made in the IPC 1860, the Code of Criminal

⁸ UNFPA State of World Population Report 2003

⁹ A Study of 498 A in Tamil Nadu by Ekta Resource Centre for Women

procedure 1973 and the Evidence Act 1872. Apart from the introduction of Section 498 A in 1983, Section 174, 175 and 176 were amended in the Code of Criminal Procedure (CrPC) directing post-mortem and inquiry in cases of unnatural death of a woman within 7 years of marriage in order to determine the cause of death. Section 113A was added to the Evidence Act 1872 in 1983 stating that if a woman had committed suicide within 7 years of her marriage and her husband or his relatives had subjected her to cruelty the court will presume that such suicide had been abetted by her husband or such relative of her husband.

Thereafter in 1986 certain other amendments were made in the Indian Penal Code and in the Dowry Prohibition Act. The offence of dowry death was introduced in Section 304 B of the IPC. An amendment was made in the Indian Evidence Act with the insertion of a new Section 113 B which raised a presumption that if a person had subjected a woman to cruelty or harassment in connection with a demand for dowry soon before her death he would be presumed to have caused the death.

These slew of amendments resulted in several complaints being filed by women across the board and within all castes and communities throughout the country as shown by the NCRB figures. As Section 498 A was cognizable the police were sometimes forced to register FIRs and make arrests. However, in some cities like Delhi special Crime Against Women Cells were opened for the express purpose of counselling women prior to registering a complaint. Though some cases were solved by these cells, women mostly complained that they were being pressurized to settle cases and not register FIRs.

However, ever since its enactment, IPC Section 498 A has been subjected to a

systematic and sustained attack by select sections of society. 'Association for Victims of 498 A', 'Save the family', 'Save the Indian Family', '498 A Survival Guide', 'Misuse 498A' are some the groups engaged in lobbying against the 498 A on the ground and on the internet. They allege that the provisions under the section are used to 'victimize' husbands and do not conform with the Indian family system. It is also being claimed that educated and aware women are misusing 498 A to 'blackmail' the in-laws¹⁰.

However according to womens organization and others dealing with the issue of domestic violence the NCRB statistics represent just the tip of the iceberg. The percentage of women who face daily harassment and cruelty in their homes and other forms of domestic violence are far greater. Also, women generally are not aware that this law exists for their protection. Human Rights Watch reports that police, including those at Crimes Against Women (CAW) Cells and other special departments, fail to inform women who are victims of domestic violence and other crimes of their right to have an FIR registered under section 498A.¹¹ Even when complaints are registered, proper investigation and gathering of evidence etc is not carried out in several cases by the police. Gender bias against the women victims of violence and a stereotypical approach which naturalizes domestic and dowry related violence have been reported by many women .Furthermore, lengthy trials inhibit access to justice.

Response of the Government

The Ministry of Home of the Government of India constituted a “Committee on

¹⁰ Petition submitted by one Dr Anupama Singh before the Rajya Sabha seeking amendments to IPC Section 498A

¹¹

Broken System: Dysfunction, Abuse and Impunity in the Indian Police. Human Rights Watch. 2009.

reform of Criminal Justice System” to make a comprehensive examination of all the functionaries of the Criminal Justice System, the fundamental principles and the relevant laws under the Dr Justice V.S.Malimath, former Chief Justice of Karnataka and Kerala High Courts¹².

The Malimath committee reported that “there is a general complaint that section 498A of the IPC regarding cruelty by the husband or his relatives is subjected to gross misuse and many times operates against the interest of the wife herself. This offence is non-bailable and non-compoundable. Hence husband and other members of the family are arrested and can be behind the bars which may result in husband losing his job. Even if the wife is willing to condone and forgive the lapse of the husband and live in matrimony, this provision comes in the way of spouses returning to the matrimonial home. This hardship can be avoided by making the offence bailable and compoundable”¹³. However, the study doesn't give reference to any evidence of misuse of the Section in its report.

Some states like the government of Andhra Pradesh vide Code of Criminal Procedure (Andhra Pradesh Amendment) Act 2003 have amended Sec 498 A to make it compoundable. Recently, the Ministry of Home Affairs has written to all state governments that arrest for an alleged offence under Section 498 A should be the “last resort”. The recent recommendations of the Law Commission also suggest that the section could be made compoundable.¹⁴ Some Courts have also suggested that the offence be made bailable. This year itself the Supreme Court in Arnesh Kumar Vs State of Bihar gave directions to

¹² The Committee on Reforms of Criminal Justice System was constituted by then Home Minister L.K.Advani and submitted its recommendations in March 2003

¹³ Malimath Committee Recommendations, Ministry of Home Affairs 2003

¹⁴ Summary recommendations, Law Commission of India- Report 243 on Section 498A IPC- August 2012

the state governments to instruct the police authorities and magistrates to ensure that no arrests are made under the section without thorough investigation.¹⁵

Need for the Study

Women's organisations and others working on the ground are not in agreement with the recommendations above. They have been reporting that even after years of enactment of the Section 498 registration of complaints for this cognizable offence is still a struggle for the victim. Even when the victim is successful in taking the case to the court, the conviction rate in offences under 498 A is very poor and often the integrity of the victim is at stake.

According to women's organizations and others, making Section 498 A bailable would mean that no person can at all, at any stage, be arrested by the police without an order of a magistrate. They point out that the violence which is perpetrated may be serious like persistent battering and require an offender to be jailed immediately. They also point out that only non serious offences, usually punishable by up to two years of imprisonment are bailable under the Indian Penal Code. Making Sec 498-A bailable would be suggesting that violence within the home on women is not serious, and no action should be taken by the police to even separate the violent husband from the woman who is getting battered.

Women's organisations and some experts are also apprehensive that if Sec. 498A is made compoundable it will only result in the women facing yet more pressure to compromise. Lawyers working in the area have also pointed out that

¹⁵ Arnesh Kumar Vs State (2014(3)ACR2670(SC)) dated 02.07.14

if a settlement is reached in a dispute between the husband and wife the case can be easily quashed or the case falls through if the wife herself does not give evidence incourt against the husband.

The Malimath Committee and other recommendations need to be tested against the concrete experience of battered/harassed women and the observations of organisations actually working with such cases. Certain steps had already been taken by the government but there was a need to find out whether women confronted with domestic violence will be able to get justice with the proposed modifications in the law. There may be cases of misuse as every law can and does get misused. However, it was felt that to prevent such misuse it may not be necessary to change the law. Ways of better implementation of the law may be explored in order to deal with the problem of misuse.

In the given context, it was imperative that a larger study is taken up to assess the importance of Section 498 A for women facing abuse and assault, physically and mentally, in marriage and also to formulate ways of better implementation of the law. Very few large and intensive case studies on the subject have been done to collate the experience of victims or their representatives. This is why we took up this study in 2 states from different regions of India.

Objective

Indian School of Women's Studies and Development (ISWSD) undertook this intensive study of IPC Section 498 A with the objective of making an indepth study of selective cases of marital violence coming under Section 498 A. As the above submission shows, there is a lot of controversy about the

implementation of this section in the IPC and proposals to water-down the provisions. However, since there has been little proper analysis of the conditions under which 498 A becomes necessary and of the difficulties that are faced by battered women who can not get the benefit of this provision it seems to us that before any changes are made in the Section it was absolutely essential to make such an analysis. Having a real understanding of the importance of this provision on the ground was the primary objective of our study. We also aimed at evolving some concrete recommendations for effective implementation of Section 498 A to ensure justice to victims of domestic violence and for prevention of misuse.

Design of the Study

This is an exploratory study which was undertaken in two states of Haryana and Tamil Nadu where field surveyors interviewed 150 and 250 victims of matrimonial violence respectively. While the focus of the study was on researching cases which were registered under IPC Section 498 A, a sizable number of interviews were done with victims who had still not taken recourse to legal remedies. This was done to understand the hurdles which come in the way of a victim's access to legal justice system.

A comprehensive questionnaire was prepared centrally after which it was modified through consultation with state partners. This included queries related to different parameters of the cases. Evidence was taken both on the basis of individual interviews and group discussions through trained field workers.

There were some special case studies and although our main focus was on victim's evidence, some interviews were also taken of the police personnel and lawyers. Data collected from the filed were processed and analyzed centrally.

In Tamil Nadu the respondents interviewed during the survey were spread around 27 districts that are Chennai, Thiruvallur, Pondicherry, Coimbatore, Tiruppur, Nilgiris, Cuddalore, Vizhuppuram, Dharmapuri, Erode, Salem, Dindigul, Madurai, Sivagangai, Theni, Thiruvannamalai, Kancheepuram, Kumari, Karur, Nagai, Perambur, Thanjavur, Thiruvarur, Trichy, Tirunelveli, Tuticorin and Virudhunagar. In Haryana the survey covered total eight districts that are Bhiwani, Gurgaon, Hisar, Sirsa, Rohtak, Kaithal, Panipat and Jind.

Total 398 surveys were received out of which 150 were from Haryana and 248 from Tamil Nadu. The source of almost 23.1 % of the cases is women's organisations and 22.5 % of the cases have been taken from Protection Officers. Source of 49.5 % of the cases is Police Stations. Out of these 93.9 % of the respondents are still alive and 6.1 % cases are of women who are dead. In Tamil Nadu 7.4 % cases are of victims who have died. In Haryana 4.1 % of the cases are of women who are dead.

Chapter 2

Review of Literature

Under Article 14 the Indian Constitution guarantees equality to both women and men. The central and state governments are also empowered under Article 15 (3) to make any special provisions to enhance the status of women and children and give them substantive equality. Besides, international conventions like CEDAW, which have been ratified by India, recognize the historically marginalised status of women and hence advocate for the need to make special provisions for women to ensure their equal rights.

The UN Declaration on Elimination of Violence Against Women states that “Violence Against Women is a manifestation of historically unequal power

relations between men and women, which have led to domination over and discrimination against women by men”. It further states that “violence against women is one of the crucial social mechanisms by which women are forced into subordinate position compared with men”¹⁶. **According to the Beijing Platform for Action adopted at the Fourth United Nations World Conference on Women in 1995**, “Violence against Women is an obstacle to the achievement of the objectives of equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms. The long-standing failure to protect and promote those rights and freedoms in the case of violence against women is a matter of concern to all States and should be addressed”¹⁷.

The UN Declaration on the Elimination of Violence Against Women defines domestic violence as “physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation”¹⁸.

A study conducted in 2005 on Section 498 A by the Centre for Social Research, Delhi, concluded that nearly five crore married women in India are victims of domestic violence and merely 0.1 % (1 out of 1000) of them report their complaints. Even in the reported cases hardly any convictions take place.¹⁹

According to the National Family Health Survey -3 (2005-2006), two-thirds of

¹⁶ United Nations, Declaration on the Elimination of Violence Against Women, 1993

¹⁷ Report of the Fourth World Conference on Women, Beijing (1995), Platform for Action Chapter IV (D) Violence Against Women.

¹⁸ Article 2 (a), United Nations, Declaration on the Elimination of Violence Against Women, 1993

¹⁹ Section 498 A IPC: Used or Misused?, 2005, Centre for Social Research

currently divorced, separated, or deserted women have experienced violence at some time since age 15. Currently married women and widowed women have a much higher prevalence of violence (37 and 38 percent) than never married women or women whose *gauna* has not yet been performed (16 and 15 percent). This is not surprising since spousal violence for women age 15-49 is the most common form of domestic violence²⁰.

Experience of Physical, Emotional or Sexual Spousal Violence

State	Emotional Violence	Physical Violence	Sexual Violence	Physical or Sexual Violence	Physical/Emotional/Sexual Violence
Haryana	8.7	25.5	7.1	27.3	28
Tamil Nadu	16.8	41.9	3.2	41.9	44.1
India	15.8	35.1	10	37.2	39.7

NFHS 3 has also highlighted consistently high level of agreement with norms about wife beating among both women and men. About half of all women and men agree with at least one or more reasons for wife beating, and even among

²⁰ National Family Health Survey-3, Chapter 15 (Domestic Violence), Physical violence since age 15, 15.2.1, P- 499

the most educated, about one-third of women and men agree²¹ and thus justify this type of violence.

While the NFHS 3 indicates that around 40 % of married women in India face domestic violence of some form, the NCRB data confirms that only a miniscule number of these women register complaints.

Comparative data of NCRB on cruelty by husbands and relatives (Section 498 A IPC)

State		2013	2012	2011	2010	2009	2008	2007
Haryana	Incidence	3617	3137	2740	2720	2617	2435	2412
Tamil Nadu	Incidence	2471	1965	1812	1570	1460	1648	1976

The NCRB data proves that matrimonial cruelty/violence is one of the most common forms of violence against women. The data also proves that the incidence of matrimonial cruelty have been continuously on the rise. However, the conviction rate is still extremely low in these cases. In 2013 only 13.5 % of the accused were convicted in Haryana. In Tamil Nadu, the conviction rate for 2013 is 17.5%.

The justification which is often given by state and police for low conviction rate in cases under Section 498 A is that women “settle” these cases for their vested interest and the cases are thus false. However, a study conducted by CWDS clearly states that the reason for settling the case lies in the complex situation of women ranging from concerns for children, absence of support

²¹ National Family Health Survey-3, Gender Role Attitudes (14.4), Chapter 14 (Women's Empowerment and Demographic and Health Outcomes)

network, depletion of social, mental and financial resources to continue with the legal proceedings. A multitude of socio economic compulsions force women to quash their FIRs²².

While there are many studies which have been conducted around different aspects of violence against women, there are very few studies which have been done around the legal provisions of Section 498 A IPC. A study conducted by Tata Institute of Social Sciences in 1999 has noted that the number of cases registered under Section 498 A are miniscule compared to the prevalence of matrimonial violence. According to the study, which includes data relating to cases by eight women's organisations in Mumbai, there is no doubt that a large number of cases go unreported or do not enter within the domain of the law. The study also indicated that few women's organisations recommend recourse to Section 498 A as first resort. The CSR study on Section 498 A has also stated that the minimum period for which a woman suffered domestic violence before she made a formal complaint was three years²³.

Referring to the low rate of complaints (as low as 3 %) that get converted into criminal cases a study conducted by EKTA Resource Centre for Women in Tamil Nadu, attributes it in part to efforts made to arrive at a settlement between the parties through counselling or advice which is justified by police officers as being in the interest of the family and society in preventing a break up of marriage. The study also noted that it does not bother police officials that marital counselling is neither the primary role of the judiciary nor the role of

²² Centre for Women Development Studies, 2005, Shalu Nigam, Understanding Justice Delivery System from the Perspective of Women Litigants as Victims of Domestic Violence in India (*Specifically in context of Section 498 A IPC*), p-49.

²³ Section 498 A IPC: Used or Misused?, 2005, Centre for Social Research

the police²⁴.

The CWDS study also establishes this point. The data illustrated that cases pertaining to domestic violence are treated as private family matters by the police. The study showed that 70 % informants felt that even in cases of serious and brutal assaults, the complaints were not treated seriously. It noted “commonsense knowledge and attitude of police and other law enforcement agencies about differential rights and obligations of a wife and husband are brought to bear on deciding the legitimacy of claims. The process of law, far from trying the husbands as criminals, often normalizes the husband's violent actions”²⁵.

While mentioning Section 498 A, *Staying Alive*, a report compiled by Lawyers' Collective clearly states that criminal law by its very nature needs the state and its agencies to implement it, which means that it requires the police to act, to make an arrest, to investigate and to prosecute. “Hence, more often than not, the law was defeated by sheer inaction which soon came to be institutionalised all over the country, along with the policy of counselling, conciliation and mediation.”²⁶

National Commission for Women in its annual report of 2007-08 has noted that “the commission has perused the representations (petitions alleging misuse of Section 498 A) and feels that Section 498 A IPC and other laws such as Dowry Act and PWDVA are important legislations which provide protection and legal remedies to women and recommends that no amendments are required to

²⁴ EKTA Resource Centre for Women, 2011, A Study on 498 A in Tamil Nadu, p-103.

²⁵ Centre for Women Development Studies, 2005, Shalu Nigam, Understanding Justice Delivery System from the Perspective of Women Litigants as Victims of Domestic Violence in India (*Specifically in context of Section 498 A IPC*), p-35.

²⁶ *Staying Alive*, Lawyers Collective, 2012, Chapter 1, Introduction, Violence Against Women in India

Section 498 A²⁷.

²⁷ National Commission for Women 2007-08 Annual Report (Legal Cell) p-23, 24.

Chapter 3

Introduction and Background Information of the Respondents

Even after years of enactment of Section 498 A, registration of complaints for this cognizable offence is still a struggle for the victim. Even when the victim is successful in taking the case to the court, the conviction rate in offences under 498 A is very poor and often the integrity of the victim is at stake. The recent recommendations of the Law Commission suggest that the section could be made compoundable²⁸. Some Courts have also suggested that the offence be made bailable. Many women's organisations are not in agreement with this. According to them, making it bailable would mean that no person can at all, at any stage, be arrested by the police without an order of a magistrate²⁹.

However, since there has been little proper analysis of the conditions under which 498 A becomes necessary and of the difficulties that are faced by battered women, who cannot get the benefit of this provision, it was considered that before any changes are made in the Section it was absolutely essential to do a thorough study. The study focuses on researching cases which were registered under IPC Section 498 A. A sizable number of interviews were also done with victims who had still not taken recourse to legal remedies to understand their dilemmas and to see how accessible the legal systems are. This was also done to understand the hurdles which come in the way of a victim's access to the legal justice system.

²⁸

Law Commission of India- Report 243 on Section 498A IPC- August 2012

²⁹ AIDWA response to the Law Commission questionnaire on Section 498 A

The survey examines the social, economic and legal status of women, who have either faced or are presently facing marital cruelty. It also tries to capture the experiences of these women while dealing with police and the courts. (See box 1)

The respondents are women who approached women's organisations, Protection Officers and police officials after facing some kind of violence at their marital homes.

BOX 1**Salem District, Tamil Nadu.**

The complainant is a General category Christian who has studied upto B.A.

The complainant was 23 years old when she got married on August 19, 1998. The arranged marriage took place in Erode. At the time of marriage the complainant's family gave 120 grams of gold and household articles. However, the husband's family demanded a two wheeler vehicle and they sent her back to her mother's place to bring the same. In the year 1998 with the intervention of the girl's family a compromise was arrived at.

The husband who owned an internet cafe started having an extramarital affair with his employee. When the complainant confronted her husband he started inflicting physical violence which started in April 2008. On April 13, 2008 the complainant filed a complaint with an all women police station. A compromise was arrived at again with the intervention of police. But the husband kept torturing the complainant both physically and mentally. By now the complainant had two daughters and the husband had become an alcoholic. On February 26, 2009, the husband left his wife and went missing. On March 5, 2009 the wife filed a missing person's complaint in the police station. The same month the husband appeared in

the police station with the other woman, who was given Rs 50,000 by the complainant to leave her husband and a settlement was arrived at. Even after that the husband carried on the affair with the other woman. Eventually, the husband's family also started torturing the complainant for filing a complaint against their son and also because she could not give birth to a son.

Finally, she had to move to her maternal house, where her family's income was merely Rs 24,000 per annum. On July 5, 2009 her husband got married to the other woman without getting a divorce with the complainant. Eventually the second wife delivered a son and the complainant got to know of the second marriage. She then filed a complaint with the Social Welfare Department under PWDVA. The Protection Officer made an inquiry and confirmed that her husband was in fact living with the other woman.

The husband came and threatened her in the court and said that he would burn her alive if she does not take the case back. This prompted the complainant to register a complaint in August 2012 with Mettur police station against her husband, his second wife and her in-laws under 498 A and 494 r/w 109 IPC and 506 of IPC. She has been ordered interim relief of Rs 4500 per month, but the case is still continuing.

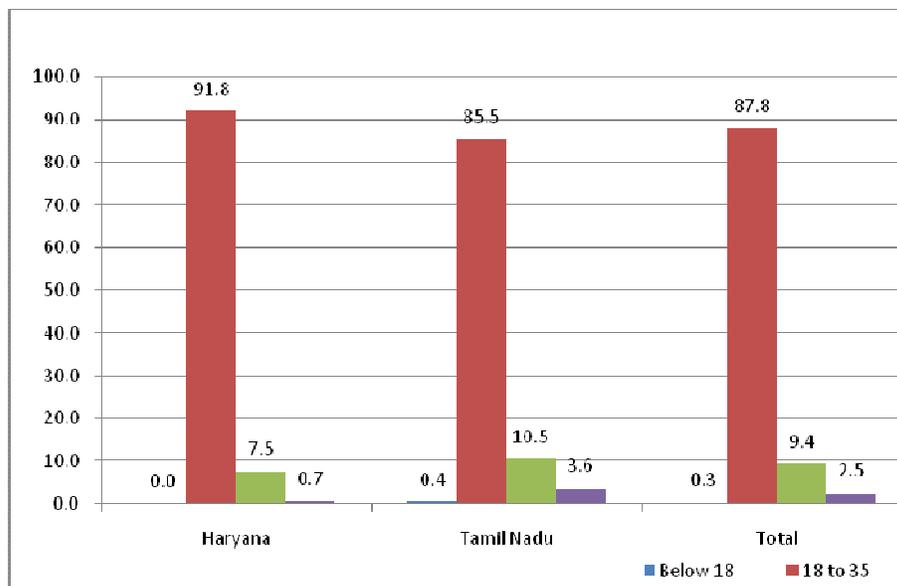
The complainant visits the court almost every week, which gives her stress . She complained against the lawyers alleging that they misbehave with her and the local police officials keep asking her for money and other favours.

She suggests that the law should be amended to ensure that women get justice quickly.

The first section of the survey tries to find out physical location of the respondents in order to have an idea of accessibility to the law under both urban and rural scenarios. The economic details of the spouse and their families have been looked into to examine the class and caste background of the respondents and their families. The survey also looks at the age and educational status of the respondents. It seeks to examine where these women, who have been subjected to violence, reside. The survey also aims at finding out the kind of employment options that were available to these women.

Age of the Respondents:

Figure 1: Percentage Distribution of the Respondents by their Age Groups



A total of 395 respondents answered this question.

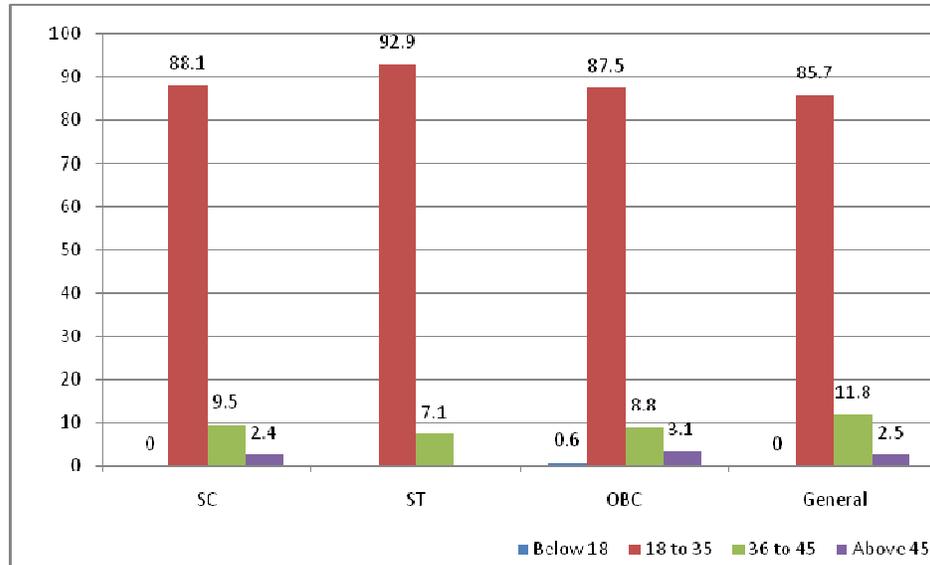
As shown in Figure 1, the maximum number of respondents--87.8 %--are in the age group of 18 to 35 years. In Haryana 91.8 % of the respondents are in the

age group of 18 to 35 years and in Tamil Nadu 85.5 % of the respondents are from this age group. Very few respondents are older than 35 years of age. Only 9.4 % of the respondents are in the age group of 36 to 45 years. The percentage for this age group is even less for Haryana --7.5 %. In Tamil Nadu 10.5 % of the respondents fall in the age group of 36 to 45 years. While 0.4 % of the respondents from Tamil Nadu (one respondent) are below the age of 18 years, none of the respondents from Haryana are below the age of 18 years. It should also be noted that only 2.5 % of the respondents are over 45 years of age. The percentage for respondents who are above the age of 45 years in Haryana is 0.7 % (one respondent) and 3.6 % (9 respondents) for Tamil Nadu. The data seems to suggest that women are subjected to cruelty fairly early in their marriage. Thus an overwhelming number of the respondents had experienced domestic violence while they were still young.

This conclusion is also in conformity with another recently conducted study on “Separated and Divorced Women in India” where it has been pointed out that the largest number of women who sought the help of women's organisations or State Women's Commissions etc were relatively young. The study which was conducted in four different parts of the country also concludes that “most of the women who approached us were divorced or separated fairly early in their lives, in their twenties or thirties”³⁰.

³⁰ Singh, Kirti, Separated and Divorced Women in India (Sage Law) 2013, Chapter 3 General Information about the Surveyees (Current age group of the surveyees), p-37.

Figure 2: Age wise Percentage Distribution of Respondents by Social Groups



When we compare the age of the respondents with the social groups they belong to in Figure 2, we see that most respondents from SC, ST and OBC categories are in younger age groups than the respondents from General category. Further 0.6 % of the respondents from the OBC category were married even before they were 18 years of age and have thus faced violence before they even reached legal adulthood. There are no respondents who are below the legal age of marriage in any other category though they might have got married before 18. The percentage of respondents between the age group of 18 to 35 years is the highest in all caste groups. From the ST category, 92.9 % of the respondents are in the age group of 18 to 35 years, while 88.1% of the respondents fall in this age group from the SC group. 87.5% of OBC respondents fall in the age bracket of 18 to 35 years. In the General category 85.7 % of the respondents are from this age group. The percentage of respondents who fall in the age bracket of 36 to 45 years is small in all caste categories. While in General category this percentage is slightly higher at

11.8%, for ST its only 7. % and 9.5% of the respondents from the SC group are between the age groups of 36 to 45 years. The number of respondents over the age of 45 years were also very few. A total number of 3.1% of the respondents from OBC category and 2.5 % of respondents from General category are older than 45 years. Another 2.4% of the respondents from SC category are older than 45 years. The chart reemphasizes that cruelty and marital violence start in the first few years of marriage.

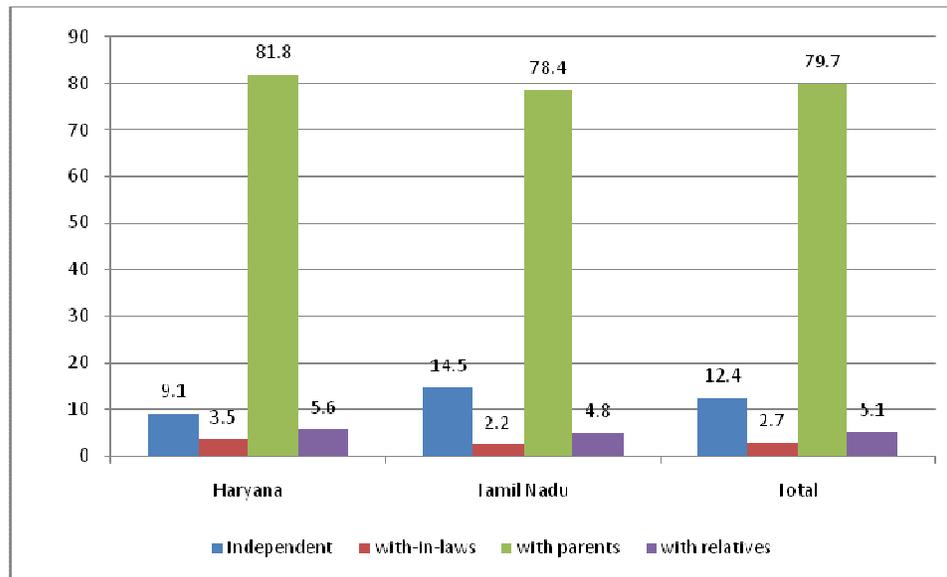
Residential Status

Figure 3: Residential status of the respondents in urban and rural

	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
Urban	73	49.0	123	50.0	196	49.6
Rural	76	51.0	123	50.0	199	50.4
Total	149	100.0	246	100.0	395	100.0

As seen in Figure 3, the respondents interviewed during the survey are almost in equal numbers from rural and urban areas. Before marriage 49.6 % of the respondents were from urban areas and 50.4 % were from rural backgrounds. In Haryana 49 % of the respondents lived in urban areas even before marriage and 51 % lived in rural areas before marriage. In Tamil Nadu 50 % of the respondents lived in urban areas before marriage and 50 % lived in rural areas before marriage. However, after and during marriage 53.4 % of the respondents were residing in urban settings and 46.6 % were living in rural areas. While in Tamil Nadu there has been movement of women from rural to urban areas after marriage in 6.7 % of the cases, in Haryana only 1% (One respondent) of the respondents had moved from urban to a rural setting after marriage.

Figure 4: Current Residential Status of Respondents by State



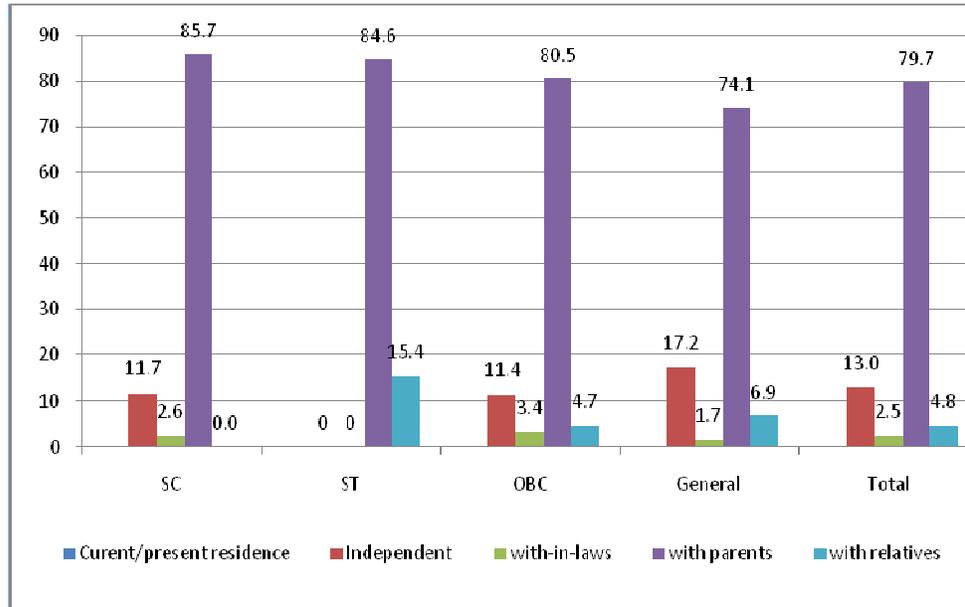
The survey also substantiates what women's organisations have been arguing that it is very difficult for the victims of matrimonial violence to walk out of the house where violence is taking place because in most cases they are economically dependent on their husbands and have no other place to live. Lawyers, who are working in the area of family law, have also reported similar observations. One of the main findings of Kirti Singh's recent study on Divorced and Separated women also confirms that these women live at the mercy of their husbands during the marriage and thereafter with their parents, brothers etc after being forced to leave their marital homes³¹.

As can be seen in Figure 4, most of the respondents of this study-- 79.7 %-- are currently residing with their parents. In Haryana this number is even higher

³¹ Singh, Kirti, Separated and Divorced Women in India (Sage Law) 2013, Chapter 3 General Information about the Surveyees (Current residential status of the surveyees), p-39.

with 81.8 % of the respondents presently living at their natal homes. In Tamil Nadu 78.4 % of the respondents are living with their parents. Another 5.1 % of the total number of the respondents are living with their relatives at present. In Haryana 5.6 % are living with the relatives and in Tamil Nadu 4.8 % are residing with their relatives. Only 12.4 % of the respondents are living independently after walking out of their marital homes. In Tamil Nadu 14.5 % of the respondents are staying independently at present, while only 9.1 % are living on their own in Haryana. This could be due to the reason that women in South feel safer living alone than in some of the North Indian states. A total of 2.7 % respondents are still living with their in-laws even after the violence has occurred. In Haryana 3.5 % respondents are still living in their marital homes and in Tamil Nadu 2.2 % are staying with the in-laws even after the violence has occurred. This proves that most women do not have any rights in their marital homes and are forced to invariably move out of the houses of their in-laws once the violence becomes intolerable.

Figure 5: Percentage Distribution of Respondents by Social Groups and Current Residential Status

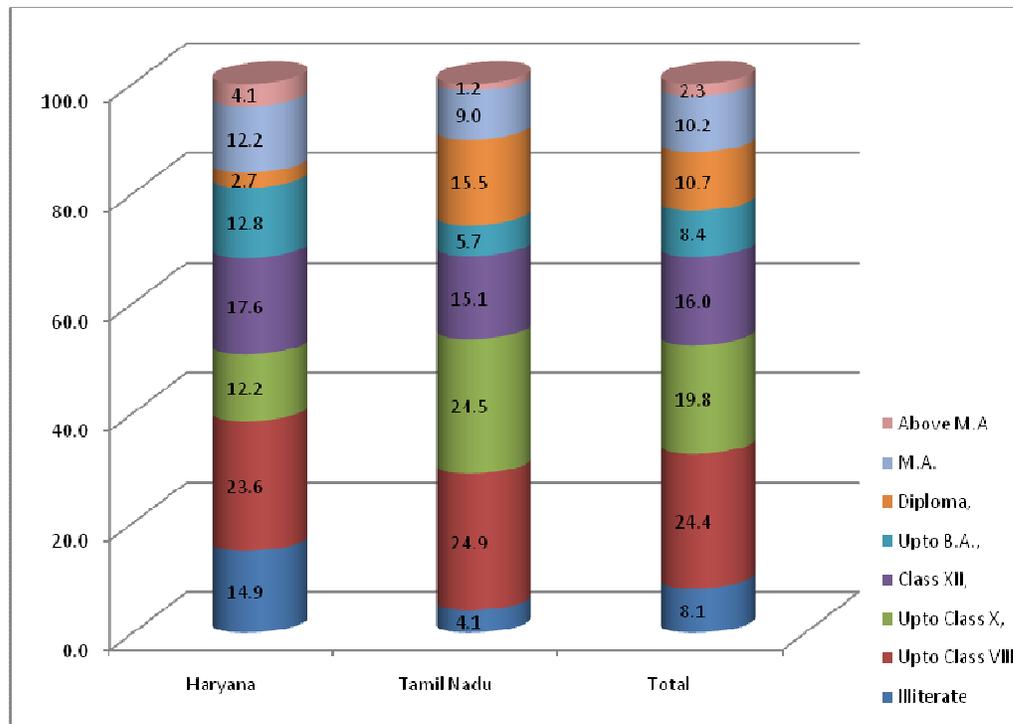


While across all social groups respondents are staying with their parents after the abuse has occurred, it can be clearly seen in Figure 5 that more respondents from general category are living independently. 17.2 % of women from the general category are living independently, which is more than any other caste group. Around 11 % of the respondents in both OBC and SC groups are living independently. It can also be seen that more women from OBC and SC category (3.4 % and 2.6 % respectively) are forced to live with their in-laws even after violence has occurred. This percentage is only 1.7 % for respondents belonging to General category. It can be seen that higher percentage of respondents from SC and ST (85.7 % and 84.6 %) categories are living with their parents. This might be due to their inability to live and work independently. This percentage is high for other caste groups also at 74.1 % for General and 80.5 % for OBC. A significant number of women from ST, OBC

and General categories are living with their relatives. This percentage is highest for ST respondents at 15.4 %. 6.9 % of General and 4.7 % of OBC respondents live with the relatives. Another 15.4 % of the ST respondents reported living with their relatives. One of the reasons for this could be to avoid the social stigma that is attached with a married women living at her natal home. Living with relatives in another village or city provides them with certain anonymity.

Education:

Figure 6: Distribution of the Respondents by their Educational Status



The survey reveals that there is a big section of girls who are still not being given the opportunity to get proper education. It can be seen in Figure 6 that access to education is still a problem for women in both urban and rural scenarios. Total 8.1 % of the respondents are illiterate. Here we can see that the

literacy rate in Tamil Nadu is considerably better than in Haryana till class X level. Beyond that the percentage of respondents who have gone for further studies is higher in Haryana than Tamil Nadu. This indicates that more number of girls who are going to school till class X are continuing their studies till higher levels. However, for Tamil Nadu there are more girls who are educated but they do not tend to continue their studies beyond local school level.

While in Haryana 14.9 % of the respondents are illiterate, in Tamil Nadu this number is much lower at 4.1 %. A big number of the respondents--24.4 %-- have studied only upto class VIII. The number of girls who reached upto class VIII level is slightly higher in Tamil Nadu with 24.9 % than Haryana where 23.6 % of the respondents have studied upto class VIII.

A total of 19.8 % of the respondents have studied upto class X. In Haryana 12.2 % of the respondents have studied till class X and in Tamil Nadu 24.5 % of the respondents have studied upto class X.

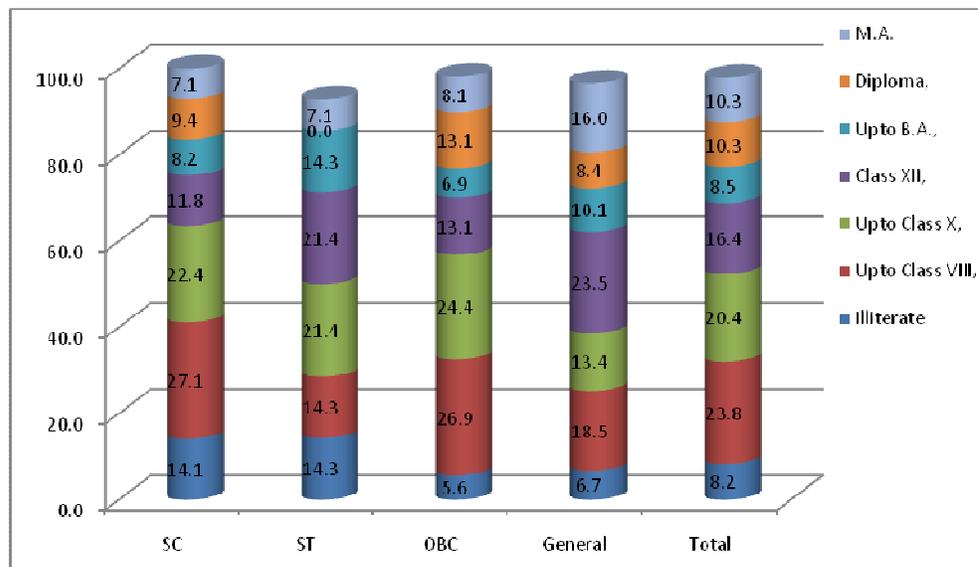
A total of 16 % of the respondents are educated till class XII level. Here there is a slightly higher percentage of respondents in Haryana who have reached this level (17.6%). In Tamil Nadu 15.1 per cent of the respondents have been to school till class XII level.

Only 8.4 % of the respondents have studied upto the B.A. level. In Haryana 12.8 % of the respondents have finished their graduation and in Tamil Nadu only 5.7 % of the respondents have completed B.A. A total of 10.7 % of the respondents have done diploma after their graduation. In Tamil Nadu 15.5 % of the respondents have done some kind of Diploma courses, while in Haryana this number is only 2.7 %. This suggests that in Tamil Nadu women are looking

at doing some skill based courses from the angle of getting some kind of employment, but this number is quite small in Haryana. This should reflect in the findings on the employment status of the respondents. A total of 10.2 % of the respondents have gone to do their post-graduate MA. In Haryana 12.2 % of the respondents have done MA while in Tamil Nadu 9 % of the respondents have reached till post graduation level. A very small number of 2.3 % of the respondents have gone on to do further studies after their MA. While in Haryana 4.1 % of the respondents have gone on to study after MA, only 1.2 % have done so in Tamil Nadu.

According to the NFHS III, 40.6 % women in India are illiterate. A total of 23 % have primary education, 14 % have secondary education, 10.4 % have higher secondary and 12 % have education for more than 12 years³².

Figure 7: Educational Level of Respondents by Caste Categories



³² National Family Health Survey III, 2005-06, Table 3.2.1: Respondent's Level of Education: Women

Education by caste: The data in Figure 7 shows that a high percentage of respondents from SC and ST categories are illiterate—14.1 % and 14.3 %. This could also be one reason for them not being able to live on their own and having to depend on their parents for sustenance after the violence. The percentage for illiterate respondents in General category is 6.7 %. It can also be seen that only a small percentage—5.6 %--of respondents from OBC category are illiterate.

The percentage of respondents who have studied upto class VIII is slightly higher for SC category at 27.1 %, followed by the OBC respondents at 26.9 %. The percentage of respondents who have studied upto class VIII for ST and General categories are 14.3 % and 18.5 % respectively. The data shows that the percentage of respondents from OBC category who have studied upto class X is slightly higher than the rest at 24.4 %. This is followed by respondents from SC category at 22.4 % and ST category at 21.4 %. 13.4 % of the respondents from General category have studied upto class X.

The percentage of respondents who have studied upto class XII is higher for General category at 23.5 %. The percentage of ST respondents who have studied upto class XII is 21.4 %. The respective percentages for respondents from OBC and SC category who have studied upto class XII are 13.1 % and 11.8 %.

14.3 % of the ST respondents have studied upto the BA level. The overall status of respondents from ST category might look better as the sample size of ST respondents is smaller than the rest (Total 14 respondents belong to the ST

category). This is followed by the percentage of respondents from the General category at 10.1 %. The percentage of respondents who have studied upto the graduation level in SC and OBC categories are 8.2 % and 6.9 % respectively.

13.1 % of OBC respondents have done some kind of diploma. The percentage of diploma holders in SC and General category is 9.4 % and 8.4 % respectively. The data shows that though there are very few respondents who reach the post-graduate level, the percentage is highest for respondents from General category at 16 %. The respective percentages for post graduates in OBC, ST and SC categories are 8.1 %, 7.1 % and 7.1 %.

Religion:

Figure 8: Religion wise distribution of respondents

	Religion					
	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
Hindu	142	94.7	214	86.3	356	89.4
Muslim	1	0.7	14	5.6	15	3.8
Christian			20	8.1	20	5.0
Sikh	6	4.0			6	1.5
Jain	1	0.7			1	0.3
Total	150	100.0	248	100.0	398	100.0

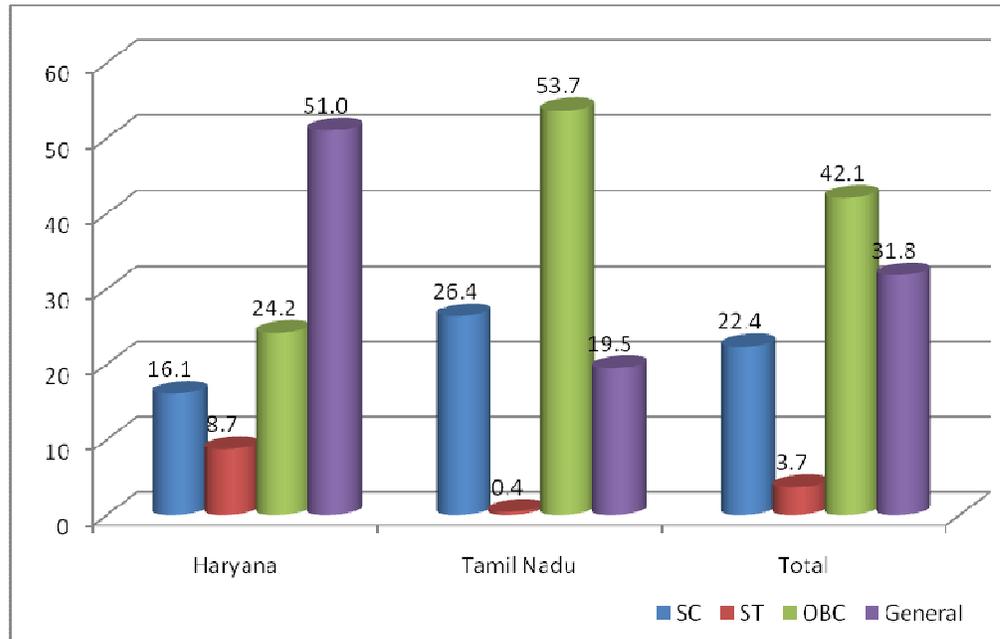
The majority of the respondents –89.4 %--are Hindu by religion. In Haryana 94.7 % of the respondents are Hindus by religion and 86.3 % of the respondents are Hindu in Tamil Nadu. A total of 3.8 % of the respondents are Muslim. In Haryana 0.7 % (one respondent) of the respondents are Muslim and in Tamil Nadu 5.6 % of the respondents are Muslims. The number of Christian respondents is 5 % (20 respondents) of the total number of respondents. While in Tamil Nadu 8.1 % of the respondents are Christians, there are no Christian respondents in Haryana. The numbers of Sikh and Jain respondents are 1.5 % and 0.3 % respectively. The percentage of Sikh and Jain respondents in Haryana is 4 % and 0.7 %. There are no Sikh and Jain respondents from Tamil Nadu.

According to the Provisional Census 2011 figures, Hindus are 80.5 %, Muslims 13.4 %, Christians 2.3 %, Sikhs 1.9 % and Jains 0.4 % of the total population of India³³. The religious composition of our respondents also somewhat reflects the Census data.

³³ Provisional Census 2011 figures.

Caste:

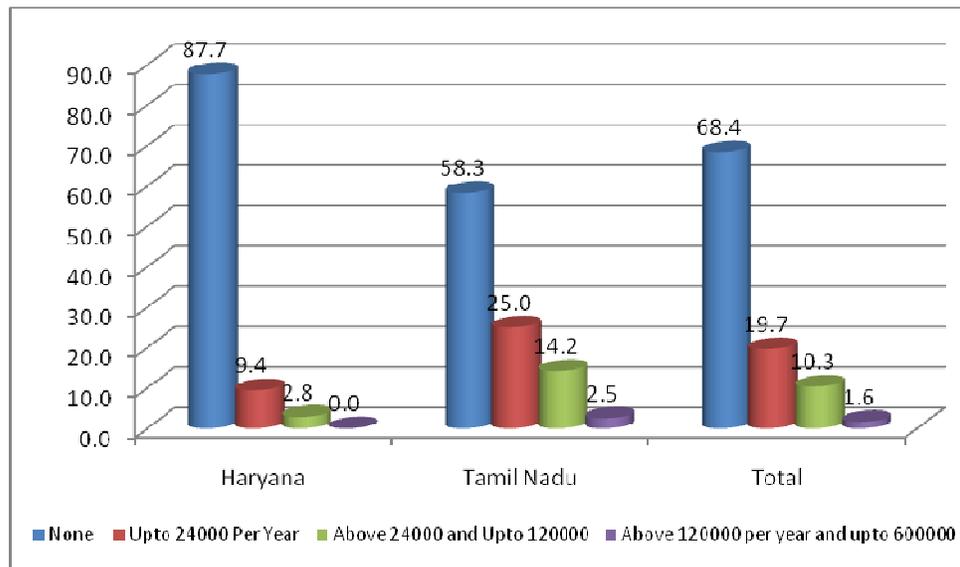
Figure 9: Distribution of the Respondents by their Caste Category



The survey shows that while a large number of our respondents belonged to the general category in Haryana, the largest number of respondents from Tamil Nadu are from the OBC category. If we take the total number of respondents, most of our respondents are from Schedule Caste and Other Backward Castes categories. There are very few respondents who fall under the Schedule Tribes category. Total 42.1 % of the respondents fall under Other Backward Castes. While in Tamil Nadu the total number of respondents falling under OBC category are more than half, in Haryana only 24.2 % of the respondents come under OBC category. There are a total of 22.4 % respondents who fall under the SC category. In Haryana 16.1 % of the respondents are SC and in Tamil Nadu 26.4 % of the respondents are SC. A total of 3.7 % of the respondents are from ST category. This percentage is 8.7 % for Haryana and 0.4 for Tamil Nadu.

Income and Occupation status of Respondents, their Husbands and Families:

Figure 10: Percentage Respondents by their Current Annual Income (in Rs)



The survey reveals that majority of the respondents depended on their husbands for sustenance. Very few of the respondents were actually engaged in some kind of paying work outside their houses. This in fact made their situation worse and made them more vulnerable. During the interviews many respondents reported that the fact that they were dependent on their husbands was keeping them from leaving the marital home even though the violence only intensified. Not having an independent source of income along with conventional social pressure were among the main reasons why most victims want to reconcile with their husbands even after facing constant violence. It is also clear from the data that even the women who were earning were in fact

getting a small amount for their salaries. The survey reveals that the majority of the respondents--68.4 %-- do not earn anything on their own. It is clear from the data that more women are engaged in salaried work in Tamil Nadu than in Haryana. This could be due to a better overall status of women in South India than in some of the Northern states.

In Tamil Nadu 58.3 % of the respondents did not have any source of income. In Haryana on the other hand, this number is much higher at 87.7 %. This is also shown by the data published by Labour Bureau. While the Unemployment Rate (per 1000) for persons of age 15 years and above according to usual principal status approach is 88 for women in Haryana, it is substantially low at only 29 in Tamil Nadu³⁴.

A total number of 19.7 % of the respondents earn only upto Rs 24,000 per year. The percentage of respondents who fall in this bracket in Tamil Nadu is 25 % and in Haryana is 9.4 %. This makes their monthly salary to be Rs 2000 or less. There are 10.3 % respondents whose annual salaries are between Rs 24,000 to Rs 1,20,000. Again the percentage of women who are earning in this bracket are much higher in Tamil Nadu than in Haryana. In Tamil Nadu 14.2 % of the respondents earn somewhere in this bracket and in Haryana only 2.8 % of the respondents fall in this category. A very small number of women who were surveyed--1.6 %--have annual income of more than Rs 1,20,000. All these women are from Tamil Nadu. None of the respondents in Haryana have salaries of more than Rs 1,20,000.

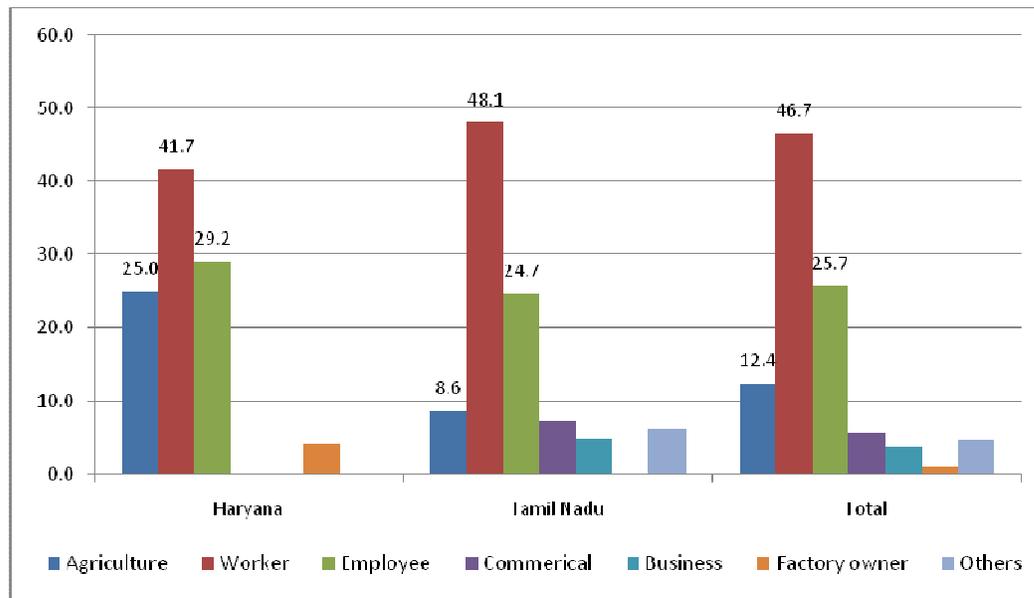
The study conducted by Kirti Singh also reveals similar results. The number of

³⁴ Table 5.2, Annexure, Report on Second Annual Employment and Unemployment Survey, 2011-12, Government of India Ministry of Labour and Employment, Labour Bureau, Chandigarh. p 10.

women who took up work outside their homes after marriage is much higher in South India than in North India. The study also reveals that many of the women who were surveyed were asked to stop working after they were married, which resulted in them being more dependent on their husbands for sustenance³⁵.

Occupation:

Figure 11: Percentage Distribution of Respondents by their Current Employment



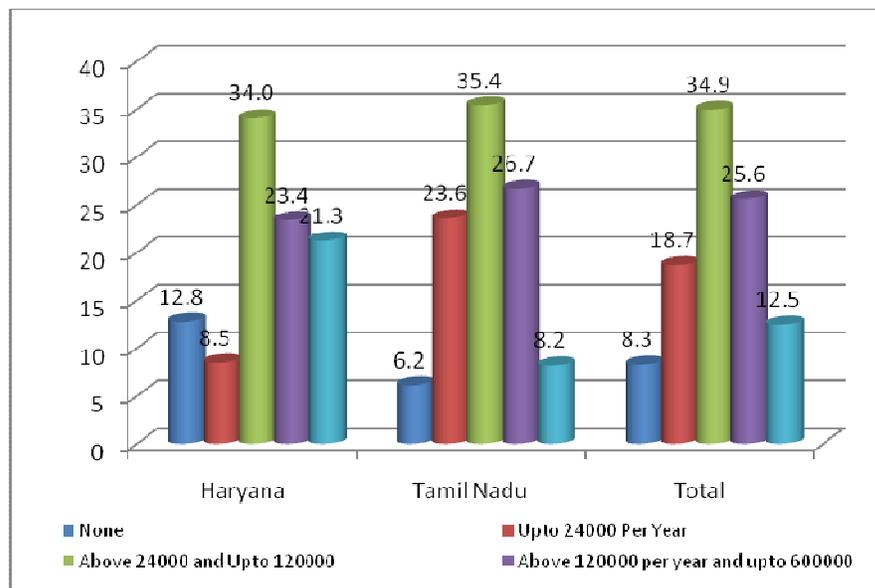
Total 46.7 % of the respondents are workers. In Tamil Nadu 48.1 % of the respondents are workers and in Haryana 41.7 % of the respondents are workers. 25.7 % of the respondents are employees. In Tamil Nadu 24.7 % of the respondents are working as employees and in Haryana 29.2 % of the respondents are employees. Total 12.4 % of the respondents are working in the

³⁵ Singh, Kirti, Separated and Divorced Women in India (Sage Law) 2013, Chapter 4 Work Status and Earning Capacity (Employment and work status), p-88-89.

agricultural sector. While in Haryana 25 % of the respondents are working in the agricultural sector, in Tamil Nadu this percentage is 8.6 %. Total 5.7 % of the respondents are involved in commercial work and 3.8 % have their businesses. None of the respondents in Haryana are either involved in commercial or business work. Total 1 % (one respondent from Haryana) have their own factory.

Income of husbands:

Figure 12: Current Annual Income of the Husband (in Rs.)



A stark contrast can be seen in the income of the husbands of the respondents in Figure 12. Only 8.3 % of the husbands do not have any income. This percentage is 6.2 % for Tamil Nadu and 12.8 % for Haryana. The fact that more people in Haryana are not employed could be because some of these people might be involved in agriculture. Total 18.7 % of the husbands of respondents

are earning upto Rs 24,000 annually. In Tamil Nadu 23.6 % of the husbands make less than Rs 24,000 in a year and in Haryana 8.5 % of the husbands of respondents earn upto Rs 24,000. Total 34.9 % of the husbands of respondents earn between Rs 24,000 to Rs 1,20,000 in a year. This percentage is 35.4 % for Tamil Nadu and 34 % for Haryana. 25.6 % of the husbands of respondents earn between Rs 1,20,000 to 6,00,000. This percentage is 26.7 % for Tamil Nadu and 23.4 % for Haryana. Total 12.6 % of the respondents have reported that their husbands make more than 6,00,000 annually. Strangely this percentage is more for the respondents from Haryana at 21.3 %, while only 8.2 % of the respondents from Tamil Nadu have reported that their husbands make more than 6,00,000 annually.

Occupation of the husbands:

Figure 13: Occupation wise distribution of respondents' husbands

	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
Agriculture	9	13.2	9	7.2	18	9.3
Worker	26	38.2	38	30.4	64	33.2
Employee	24	35.3	31	24.8	55	28.5
Service			8	6.4	8	4.1
Commerical			11	8.8	11	5.7
Business	5	7.4	7	5.6	12	6.2
Factory owner	1	1.5	1	0.8	2	1.0
Others	3	4.4	20	16.0	23	11.9
Total	68	100.0	125	100.0	193	100.0

Total 33.2 % of the husbands of respondents are workers. In Tamil Nadu 30.4 % of the husbands are workers and in Haryana 38.2 % of the husbands of respondents are workers. Total 28.5 % are working as employees. In Tamil Nadu 24.8 % of the husbands of respondents are employees and in Haryana 35.3 % of the husbands are employees. 9.3 % of the respondents have reported that their husbands are involved in agricultural activity. While 7.2 % of the

husbands in Tamil Nadu work in the agricultural sector, 13.2 % of them do agricultural work in Haryana. Total 4.1 % of the husbands are involved in service. Only respondents from Tamil Nadu have reported that their husbands are involved in service. Total 5.7 % of the husbands are involved in commercial activity. All these are husbands of the respondents from Tamil Nadu. Total 6.2 % of the husbands of respondents are running their own businesses. In Tamil Nadu 5.6 % of the respondents have said their husbands work in their own businesses and in Haryana 7.4 % of the respondents have their own businesses. Total 1 % of the husbands are owners of factories.

The results shown by our survey seems to be confirming with the statistics released by Labour Bureau, according to which female LFPR (Labour Force Participation Ratio) is considerably lower than that of men. At all India level, female LFPR is estimated to be 25.4 % as compared to 77.4 % in male category on the basis of UPS (Usual Principal Status) approach³⁶.

³⁶ Report on Second Annual Employment and Unemployment Survey, 2011-12, Government of India Ministry of Labour and Employment, Labour Bureau, Chandigarh. Executive Summary, p iii.

Parents of the respondents:

Figure 14: Occupation wise distribution of parents/guardians of respondents

	Haryana		Tamil Nadu		Total	
	Cou nt	%	Cou nt	%	Cou nt	%
None	13	11.4	29	17.1	42	14.8
Upto 24000 Per Year	26	22.8	75	44.1	101	35.6
Above 24000 and Upto 120000	54	47.4	52	30.6	106	37.3
Above 120000 per year and upto 600000	13	11.4	14	8.2	27	9.5
Above 600000 per year	8	7.0			8	2.8
Total	114	100.0	170	100.0	284	100.0

As most respondents are currently living with their natal families, it is important to look at the earning capacity of their parents. Total 14.8 % of the respondents have claimed that their parents have no source of regular income. In Tamil Nadu 17.1 % of the parents of respondents make no money while in Haryana 11.4 % of the parents of respondents do not earn anything. Total 35.6 % of the respondents' parents earn Rs 24,000 per year. In Tamil Nadu 44.1 % of the parents fall into this income bracket. In Haryana, 22.8 % of the parents of respondents earn upto Rs 24,000 annually. Total 37.3 % of the parents earn between Rs 24,000 to Rs 1,20,000. In Tamil Nadu 30.6 % and in Haryana 47.4 % of the parents of respondents fall in this category. This points out that most

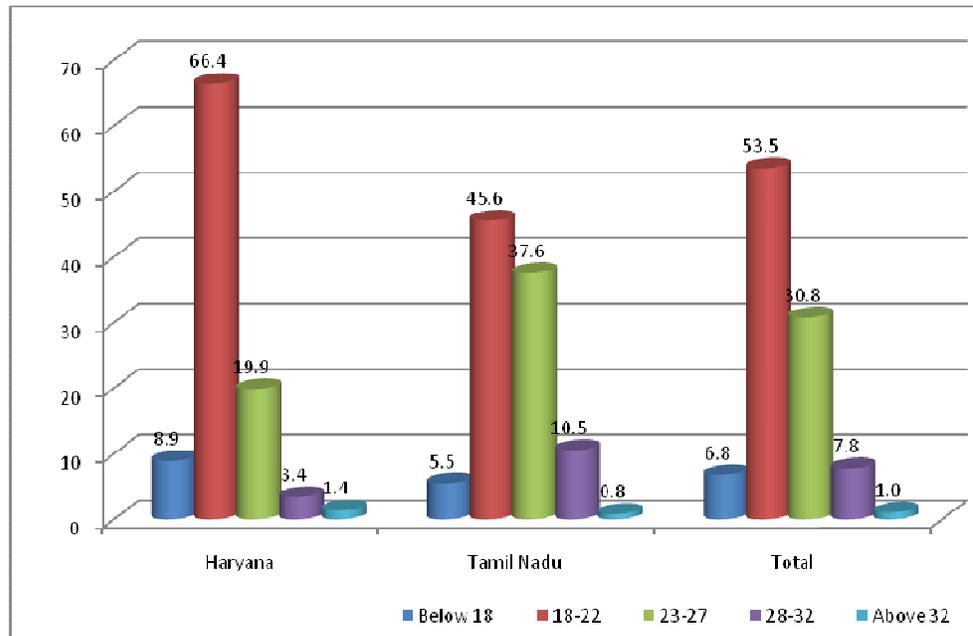
of the parents of the respondents are actually earning less than Rs 10,000 per month. While we know that most of the women victims of marital cruelty are forced to go live with their parents once the violence at the matrimonial house becomes unbearable, it can be understood how difficult it is for these women to financially depend on their parents for not just sustenance but also for carrying forward the legal proceedings. Total 9.6 % of the parents of respondents earn between Rs 1,20,000 to Rs 6,00,000. While 8.2 % of the parents of respondents from Tamil Nadu fall in this category, 11.4 % of them from Haryana fall in this bracket. Only 2.8 % of the respondents have reported that their parents earn more than Rs 6,00,000 annually. All of these respondents are from Haryana.

CHAPTER 4

Facts Related to Marriage

Age of Respondents at Marriage:

Figure 15: Distribution of the Respondents by the Age at Marriage



According to NFHS III, around 27 % of the Indian women between the age group of 20 to 49 years got married before the age of 15 years. 58 % got married before the legal minimum marriage age of 18 years and 74 % got married before reaching the age of 20 years. The average (median) age of marriage in the age group of 20 to 49 is 16.5 years to 18.3 years for women³⁷.

More than half of the women (53.5 %) interviewed during our survey were married between the age group of 18 to 22 years. According to the trends shown by our study in Figure 16, most women from Haryana are getting

³⁷ Chapter 6, Other Proximate Determinants of Fertility, National Family Health Survey-3, 2005-06, Table 6.2 (Age at first marriage) p-163, Ministry of Health and Family Welfare

married at an earlier age than the respondents in Tamil Nadu. In Haryana 66.4 % of the respondents got married between the age group of 18 to 22 years while in Tamil Nadu 45.6 % of the respondents got married in this age bracket. It should be noted that total 6.8 % of the respondents got married when they were less than 18 years old. This percentage is even higher for Haryana at 8.9 % and 5.5 % for Tamil Nadu. Another set of 30.8 % of the respondents got married between the age group of 23 to 27 years. In this age group there are more women from Tamil Nadu than Haryana. 37.6 % of the respondents got married in this age group in Tamil Nadu and 19.9 % of the the respondents from Haryana got married in this age bracket. Total 7.8 % of the respondents got married between the age of 28 to 32 years. While in Tamil Nadu 10.5 % of the respondents fall in this bracket, only 3.4 % of the respondents from Haryana were married in this age group. Only one % of the respondents were married after the age of 32 years. Two respondents each from Tamil Nadu and Haryana were married after they turned 32 years old. The percentage for this is 1.4 % for Haryana and 0.8 % for Tamil Nadu.

Figure 16: Age at Marriage by Caste Categories

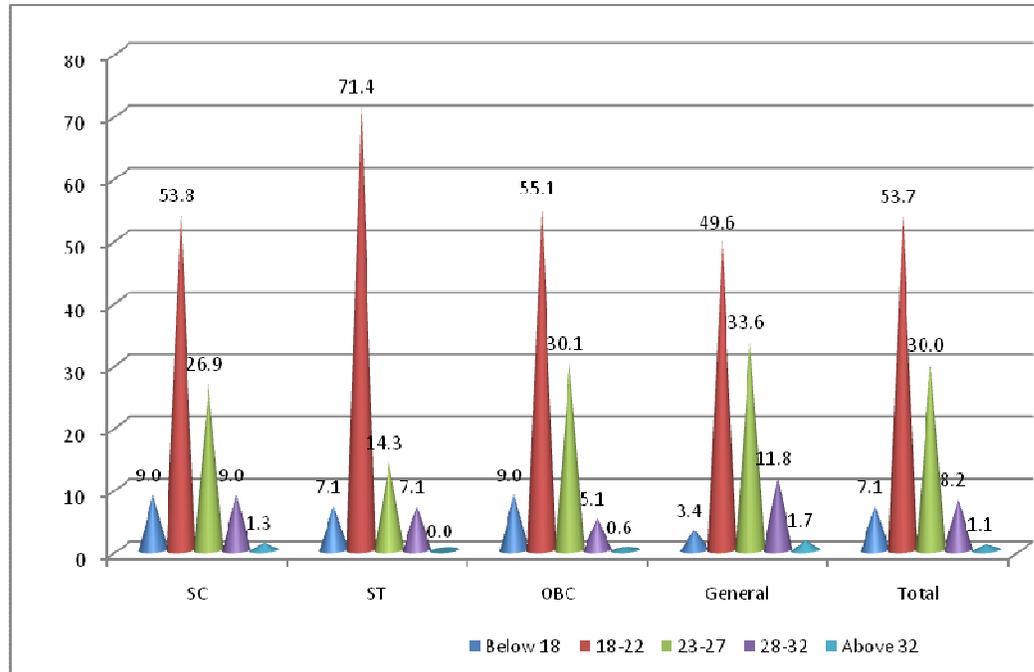
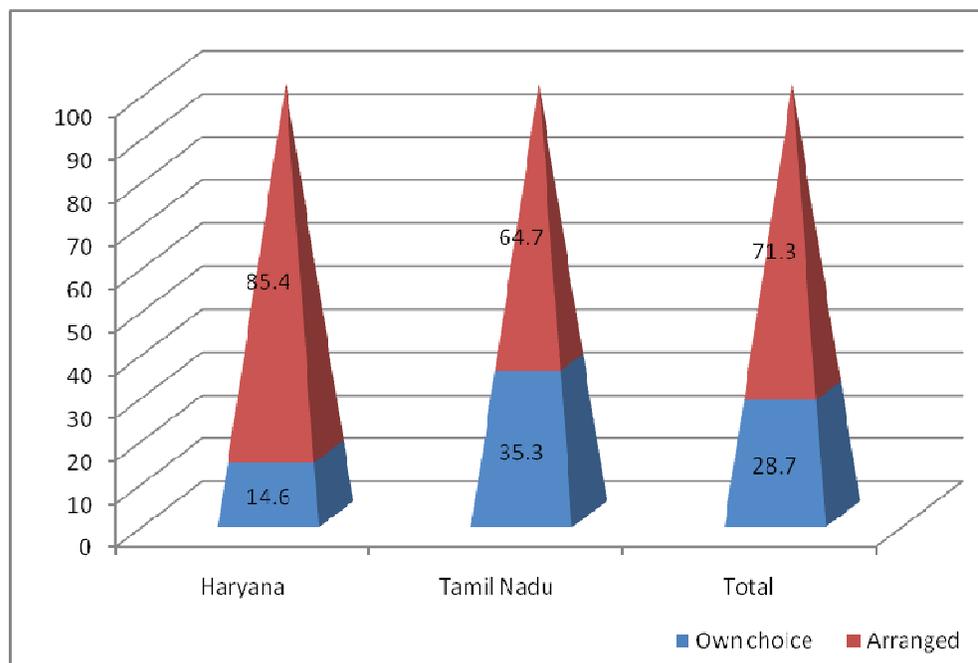


Figure 16 clearly shows that women from SC, ST and OBC categories are getting married at much younger age than women from General categories. This is in conformity with the data mentioned in Chapter 3 on the Age of Respondents. Though it is clear that the average age of marriage for all caste groups is 18 to 22 years, the percentage of respondents getting married in that age group is lowest for General category at 49.6 %. Maximum percentage of respondents who got married in this age group belongs to ST category at 71.4 %. The graph also shows that more respondents from general category are getting married at a later age with 33.6 % getting married between 23 to 27 years of age and 11.8 % getting married even between 28 to 32 years of age. Though very few respondents got married after the age of 32 years, their percentage is slightly higher for General category. It is to be noted that in SC, ST and OBC categories there are quite a few respondents (9 %, 7.1 % and 9 %

respectively) who got married even before the age of 18 years.

Type of marriage:

Figure 17 : Distribution of Respondents by Type of Marriage



The fact that most of the respondents were married at an early age also suggests that their marriages were most likely arranged by the families. This means that the families kept caste, community, economic status etc in mind while choosing the groom for their daughters. Total 71.3 % of the women interviewed had arranged marriages. This percentage is even higher for Haryana at 85.4 %. This could be because Haryana is one of the states where there are strict norms which are followed while marriages are fixed. Hence choice marriages are not accepted by the community and are sometimes even nullified by the self-styled

Caste Panchayats. In Tamil Nadu in fact the number of respondents who had arranged marriages is much lower than Haryana at 64.7 %. This point has also been proved by lawyer Kirti Singh's study where it has been noted that highest percentage of arranged marriages had taken place in North India³⁸.

Total 28.7 % of the respondents had a marriage of their own choice, which means that they chose their own partners. These marriages are also commonly called love marriage in India. In Tamil Nadu 35.3 % of the marriages were choice marriages and in Haryana 14.6 % of the marriages were choice marriages.

³⁸ Singh, Kirti, Separated and Divorced Women in India (Sage Law) 2013, Chapter 3 General Information about the Surveyees (Type of Marriage), p-61.

Economic Status of Marital Home:

Figure 18: Assets owned by matrimonial families of respondents

	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
House	140	96.6	198	.4	338	94.7
Land	87	60.0	131	.8	218	61.1
Cattle	55	37.9	44	.8	99	27.7
Commercial Properties/Shop	38	26.2	33	.6	71	19.9
Business/Industry	23	15.9	14	6.	37	10.4
Total Responses	145	236.6	212	19.8	357	213.7

Total is not hundred due to multiple responses

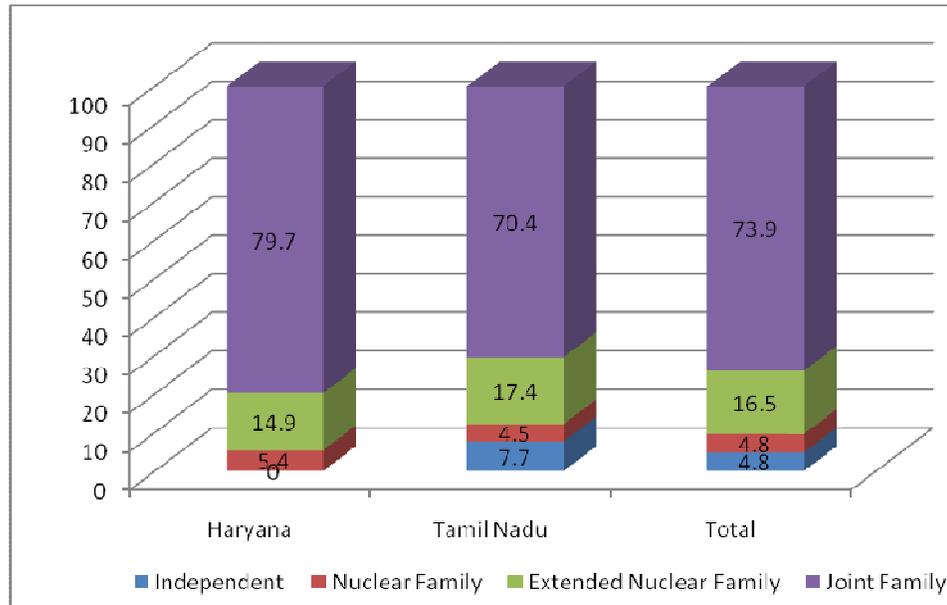
Many of the lawyers and activists working with the cases of violence against women have observed that the victims are never given a share in husbands property and to avoid doing so, in many cases the husbands put their property in their parents' name. What makes them even more vulnerable is that they are not given any rights even in their paternal property. So while most victims do

live with their parents in their natal homes, they feel more like a liability on their parents. Our assessment of the property owned by the matrimonial families of the respondents prove that in 94.7 % of the cases, they own a house. This percentage is 96.6 % for Haryana and 93.4 % for Tamil Nadu. It is quite clear that most of the respondents had to leave their matrimonial houses after the cruelty as most of them have reported that they were living with their natal families presently. This also indicates that legally these wives did not have any rights on the houses owned by their husbands and their families.

Total 61.1 % of the matrimonial families of the respondents own some kind of landholdings. This percentage is 61.8 % for Tamil Nadu and 60 % for Haryana. Total 27.7 % of the matrimonial families of the respondents own cattle. In Tamil Nadu 20.8 % of the families own cattle while in Haryana 37.9 % of the respondents own some kind of cattle. Total 19.9 % of the matrimonial families own commercial properties such as shops etc. While in Tamil Nadu this percentage is 15.6 %, in Haryana 26.2 % of the families own commercial property. Total 10.4 % of the families own some kind of business or industry. In Tamil Nadu 6.6 % of the families own businesses and in Haryana 15.9 % of the matrimonial families own businesses or industries. The percentage of these replies is not 100 because of multiple types of responses.

Size of marital homes:

Figure 19: Distribution of Respondents by Type of Marital Family



An overwhelming percentage of the respondents were living in joint family set-ups after their marriages. India has been witnessing a reverse trend as far as joint families are concerned. The Census 2011 has clearly shown that the number of couples living in joint families have increased since the last the data. The number of two couples living in the same household has increased. This could also be due to the fact that renting or buying a separate place is increasingly becoming more expensive and hence new couples are moving in with the husbands' families. The share of two married couples living in same household increased both in rural as well as urban areas, but much more so in urban areas - from 10.8 % to 12.6 % between 2001 and 2011. Share of three married couples in a household dipped from 4 % to 3.4 % in rural areas but

increased from 2.7 % to 2.9 % in urban areas³⁹.

The same has been proved by our study in Figure 19. 73.9 % of the respondents lived in joint family set ups after their marriage. While 70.4 % of the respondents lived in joint families in Tamil Nadu, 79.7 % of the respondents in lived in joint families in Haryana. Another 16.5 % of the respondents lived in extended joint families after marriages. This percentage is 17.4 % for Tamil Nadu and 14.9 % for Haryana. Only 4.8 % of the respondents lived in nuclear families after marriage. In Tamil Nadu 4.5 % of the respondents lived in nuclear set ups and in Haryana 5.4 % of the respondents lived in nuclear families. Only 4.8 % of the respondents lived independently even after marriage. All of these respondents are from Tamil Nadu.

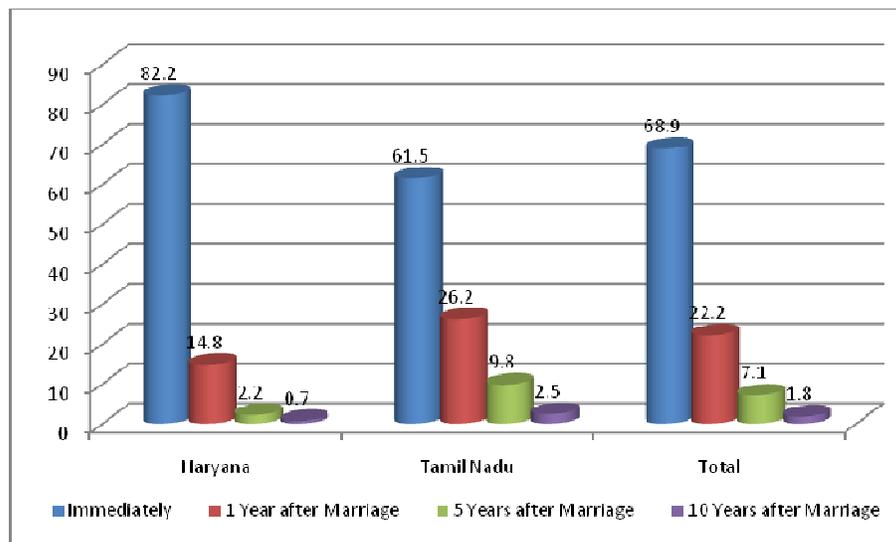
Other members who lived in matrimonial households with the couple were in 93.6 % of the cases were mother-in-laws. In Tamil Nadu 92.6 % of the respondents had their mother-in-laws living with them after marriages, while in Haryana 95.1 % of the respondents had their mother-in-laws living with them after marriage. In 74.9 % of the cases father-in-laws were living with the couple after marriage. In Tamil Nadu 74.7 % of the respondents reported that their father-in-laws lived with them after marriage and in Haryana 75.4 % of the respondents reported the same. Total 59.9 % of the respondents had their brother-in-laws living in the same house. In Tamil Nadu 58.5 % of the respondents lived in the same house as their brother-in-laws and in Haryana 62 % of the respondents lived with their brother-in-laws in the same house. Total 51.8 % of the respondents had their sister-in-laws living in the same house with them. This percentage is 52.5 % for Tamil Nadu and 50.7 % for Haryana. In total 14.5 % of the cases there were other relatives of the husband who lived

³⁹ “Cities Buck the Trend, Joint Families are Back”, Times of India, April 8, 2012

with the couple. Most of these other relatives include grandmother-in-laws, husband's brother's wife and in some cases the children of sister-in-law. Total percentage is not 100 here due to multiple responses.

Time of cruelty:

Figure 20: Distribution of Respondents by Onset of Cruelty



The study shows that in most cases of marital cruelty, the violence started immediately after the marriage. This fact has also been proven by the National Family Health Survey III (NFHS). Spousal violence, if it occurs, starts early in marriage: 62 % of ever married women who reported having experienced physical, emotional or sexual violence started experiencing such violence within two years of marriage⁴⁰.

⁴⁰ Chapter 15, Domestic Violence, Summary of Findings, National Family Health Survey-3, 2005-06, Ministry of Health and Family Welfare

A study conducted by EKTA on cases which were filed under Section 498 A in Tamil Nadu also proves that higher number of complaints have been made by women within the first one or two years of marriage⁴¹.

Figure 20 shows that total 68.9 % of the respondents reported that the cruelty started immediately after the marriage, which is less than even one year of marriage. In Haryana 82.2 % of the respondents reported that the cruelty started immediately after the marriage. This percentage is considerably higher in Haryana than in Tamil Nadu. In Tamil Nadu in 61.5 % of the cases, the cruelty started immediately after marriage. Total 22.2 % of the respondents have reported that the cruelty started after one year of the marriage. In Tamil Nadu 26.2 % of the respondents have reported that the cruelty had started after the first year of marriage only. In Haryana in 14.8 % of the cases the cruelty started after one year. In only 7.1 % of cases, the cruelty started after 5 years of marriage. While in Tamil Nadu 9.8 respondents have reported that marital cruelty started after 5 years of marriage, in Haryana 2.2 % of the respondents reported the same. Only 1.8 % of the respondents have reported that there was an incident of cruelty after even 10 years of marriage. In Tamil Nadu 2.5 % (6 respondents) of the respondents have reported cruelty after 10 years of marriage and in Haryana 0.7 % (1 respondent) have reported cruelty after even 10 years of marriage.

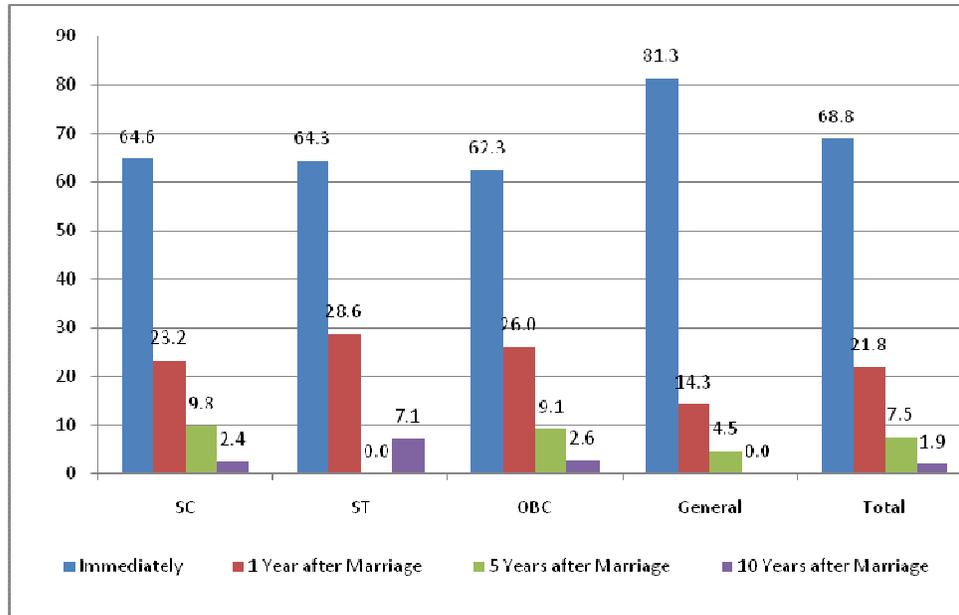
⁴¹ EKTA Resource Centre for Women, March 2001, Study of Section 498 A in Tamil Nadu, p-41

Kancheepuram District, Tamil Nadu

In this case the complainant belongs to Hindu Schedule Caste category. The complainant got married on July 14, 2008. Her husband is an employee in the electricity board and comes from an economically better background than as of the complainant. Within a month of marriage the in-laws started harassing the complainant for more dowry. At the time of marriage, the complainant's family gave 40 grams of gold jewellery and Rs 50,000 cash to the accused.

As part of the torture, the accused husband forced the complainant to drink his urine. She was also sexually harassed. The complainant approached police station and filed complaint on 28th Oct 2008. An FIR was registered on 13th Nov 2008. After the complaint was registered, the husband was detained for 24 days. While the case is in court at present, the complainant has not been informed of any other development in the case. The complainant is not aware of the charge sheet, but has appeared in the District Court 24 times. Presently, the complainant lives with her parents in Chengalpattu and works as an agriculture labourer due to extreme financial distress.

Figure 21: Onset of Cruelty by Caste Category

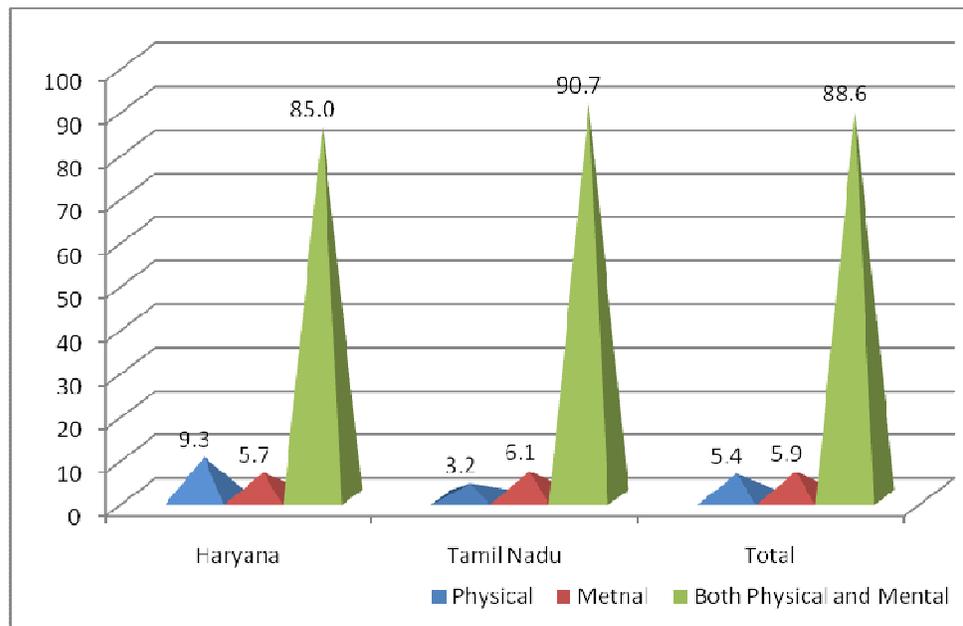


It can be seen clearly in Figure 21 that in the general category maximum respondents faced cruelty immediately after they got married. 81.3 % of respondents belonging to General category have faced violence within the first year of marriage. This is followed by the percentage of SC and ST respondents at 64.6 % and 64.3 % respectively. The percentage of OBC respondents who have faced violence within the first year of their marriage is 62.3 %. However, the percentage of respondents from General category who are facing violence 1 year after the marriage is comparatively lowest at 14.3 %. The percentage of respondents who have faced violence after one years of marriage is highest in ST category at 28.6 %. This is closely followed by OBC and SC categories at 26 % and 23.2 % respectively. Though the number of respondents who have faced violence after five years of marriage is quite small, it is in SC and OBC sections that it has been recorded as slightly higher at 9.8 % and 9.1 % respectively. 4.5 % of respondents from General category have faced violence after five years of their marriage. It should be noted that in SC, ST and OBC

categories the violence is taking place till as later as 10 years after marriage with 2.4, 7.1 and 2.6 % of respondents respectively reporting the same.

Nature of abuse:

Figure 22: Distribution of Respondents by Nature of Abuse



Regarding the nature of abuse, the study reveals that most women are facing both mental and physical cruelty together. According to the NFHS III total 37 % of the ever married women have experienced spousal physical or sexual violence and 16 % have experienced spousal emotional violence. Though the NFHS does not talk about both physical and mental violence, it does try to define what kind of physical violence is taking place within marriages. It says that slapping is the most common form of physical violence experienced by ever married women at the hands of their husbands. Out of the ever married women who reported ever experiencing physical or sexual violence, 36 %

report cuts, bruises or aches, 9 % report eye injuries, sprains, dislocation or burns, 7 % report deep wounds, broken bones, broken teeth, or other serious injury, and 2 % report severe burns⁴².

In our study 88.6 % of the respondents have reported having faced both physical and mental cruelty at the same time. This percentage is especially higher for respondents from Tamil Nadu where 90.7 % of the respondents have reported both physical and mental cruelty. In Haryana 85 % of the respondents have reported both kinds of cruelty. Total 5.9 % of the respondents have reported mental cruelty only. In Tamil Nadu 6.1 % of the respondents have reported only mental cruelty and in Haryana 5.7 % of the respondents have reported only mental cruelty. Total 5.4 % of the respondents have faced only physical cruelty. This percentage is only 3.2 % for Tamil Nadu and 9.3 % for Haryana.

Aiyalur District, Tamil Nadu

The complainant got married in 1978 at the age of 28 years.

Her husband's income is more than 6 lacks per annum. The in-laws own a house, land and cattle. Within a year of getting married the joint family started harassing her both physically and mentally demanding more dowry. She waited till 1993 when violence became unbearable and the family members tried to kill her by poisoning her, she finally went to the police. The police did not register any FIR but the accused was detained for 15 days on the pretext of enquiry.

After 15 days he was released and the complainant had to file a writ in the

⁴² Chapter 15, Domestic Violence, Summary of Findings, National Family Health Survey-3, 2005-06, Ministry of Health and Family Welfare

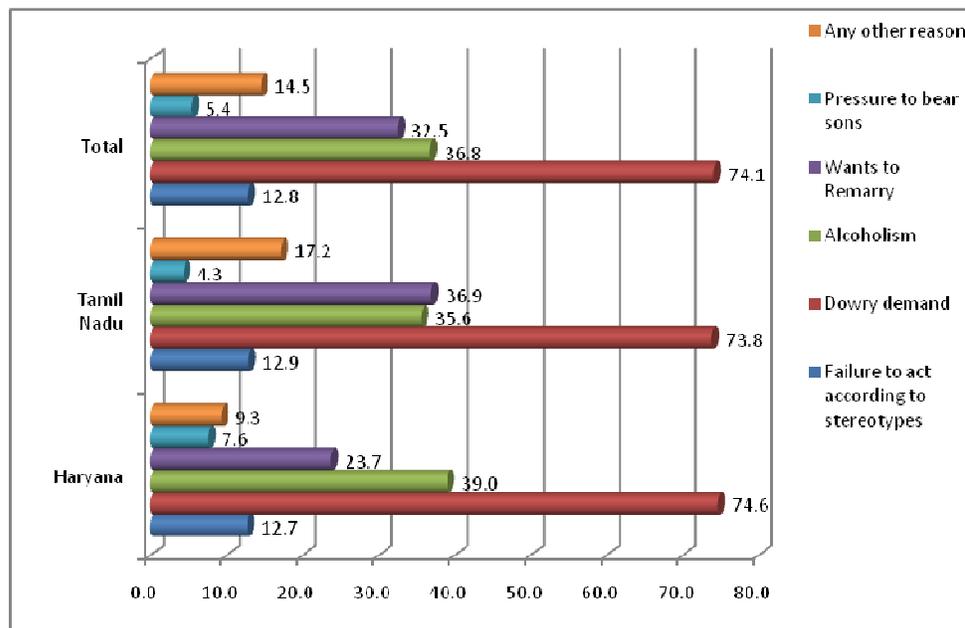
Jayankondam Sessions Court. The court awarded a judgement favorable to the complainant asking the accused to pay a maintenance of Rs 500 per month, but the husband refused to pay even that much. The accused was imprisonment of 1 year for contempt of court. However, after finishing the imprisonment he came out and got remarried without a divorce.

The complainant has now filed another complaint in the court. Its been 10 years and the case is still pending while she has not received any compensation in the form of money or property. The complainant lives with her brother.

The complainant suggests that financial assistance should be provided to the victim as soon as possible after she files a case for harassment. The complainant has also attached a letter to NCW with the survey form asking for intervention.

Reasons for abuse:

Figure 24: Percentage Distribution of Reasons for Abuse



The total is not 100 % due to multiple responses

While conducting the survey about marital cruelty, it was felt important to try to see the reasons why women were facing violence in the matrimonial homes. Though many respondents gave multiple reasons for abuse, most of the women have given dowry as one of the reasons or only reason for cruelty. Total 74.1 % of the respondents have reported that one of the main reasons for abuse is the demand for dowry. In both the states, dowry has been equally important as a reason for abuse. In Tamil Nadu 73.8 % of the respondents were being harassed due to dowry demand from the husband and his family. In Haryana 74.6 % of the respondents gave demand for dowry as one of the main reasons for cruelty. Another widespread cause of harassment of women in their marital homes is alcoholism. Total 36.8 % of the respondents claimed that one of the main reasons for cruelty is alcoholism of the husband. In Tamil Nadu 35.6 % of the respondents have given alcoholism as one of the reasons for abuse and in Haryana 39 % of the respondents have given alcoholism as one of the reasons. One of the other main causes for abuse has been reported as the husband's desire to remarry. Total 32.5 % of the respondents have claimed that their husbands wanted to remarry and that was the reason why they were harassed. In Tamil Nadu 36.9 % of the respondents reported this as one of the reasons and in Haryana 23.7 % of the respondents gave this as one of the reasons. Total 12.8 % of the respondents have given failure to act according to stereotypes as one of the reasons for abuse. In Tamil Nadu 12.9 % of the respondents have given this as one of the reasons and in Haryana 12.7 % of the respondents have given this as one of the reasons. Surprisingly, only 5.4 % of the respondents have reported that pressure to bear son was one of the reasons for marital cruelty. The percentage for this is slightly higher for respondents in Haryana than in Tamil Nadu at 7.6 % and 4.3 % respectively. Total 14.5 % of the respondents

have cited any other reason for the abuse. Some of the other reasons given for abuse are dark skin colour, involvement of other in-laws, drug addiction etc. The total is not 100 % due to multiple responses.

Rohtak district, Haryana

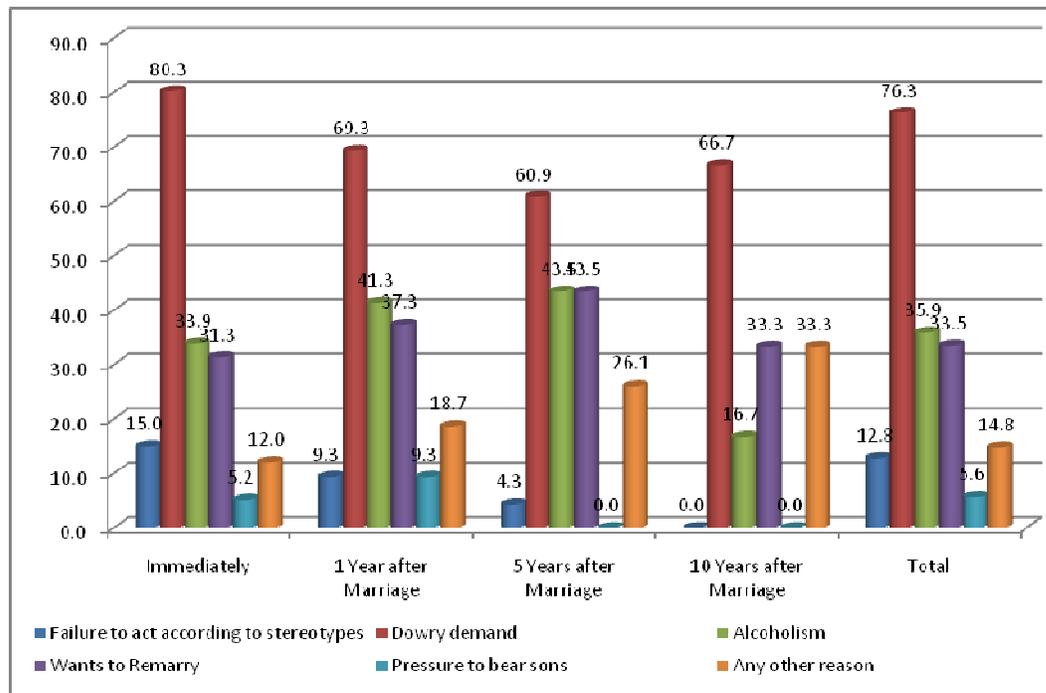
The complainant and the accused were married in the year 1987. The accused had allegedly developed illicit relations with another woman after seven years of marriage.

The complainant and her sons had been facing continuous violence in the hands of the accused ever since. The accused would beat up the complainant with sticks in the presence of the second woman.

At present the complainant is living with her brothers as she was allegedly thrown out of the matrimonial home by the accused. In addition to this, the husband has the tendency to get extremely violent. During one of these rage the accused fired a shot at his brother-in-law and is right now undergoing an imprisonment for the alleged crime.

The complainant had approached the Deputy Commissioner, Rohtak in 2011 in order to seek monthly maintenance allowance from the accused for her and the children. However, no FIR has been registered against the accused till date.

Figure 24: Reasons of Abuse by Onset of Cruelty



Reason for abuse by onset of cruelty:

It can be seen from Figure 24 that the main reason for marital cruelty in most cases is demand for dowry. It is clear that harassment of respondents for dowry started immediately after their marriage in 80.3 % of the cases. Though the demand for dowry remains one of the primary reasons for marital cruelty, the second most reported reason is alcoholism. 33.9 % of the respondents have reported that they were subjected to violence within the first years of their marriage due to the reason that their husbands were alcoholics. This percentage goes on to increase after one year of marriage to 41.3 % and we can see further increase in the percentage five years after the marriage. However, for women who faced violence after 10 years of marriage, alcoholism wasn't such a big concern. Only 16.7 % of the respondents have reported that there was violence

because of alcoholism. Main reason for this category is that the husbands had intent of getting remarried in 33.3 % of the cases. Even in the cases of respondents who reported violence immediately after marriage, 31.3 % of the respondents have reported that their husbands wanted to remarry. This percentage increases with time at 37.3 % for respondents who reported violence after one year of marriage and 43.5 % for respondents who reported violence after 5 years of marriage. Failure to act according to stereotypes is also one of the main reasons for violence in the first year of marriage as reported by 15 % of women. This eventually decreased for women who reported violence in the subsequent years. It should be noted that the pressure to bear son started from the first year of marriage and became a reason or abuse in 5.2 % of the cases. More percentage—9.3 %-- of respondents have reported this when violence started after one year of violence.

Kanyakumari, Tamil Nadu

The victim belonged to Christian OBC Community and was educated till tenth class. She was married on January 22, 2007. The husband was Tasmac (Liquor shop run by Tamil Nadu Government) employee. Problem started at the time of marriage when the girl's family could not arrange the total amount of dowry. The in-laws along with the husband started harassing the woman from the first day of marriage. She was being constantly asked to go to her parental house and bring the money. Every time the complainant family would try to send their daughter back by saying that their son, who worked abroad, would send the money.

On August 2, 2011 victim's mother took her daughter to the matrimonial house and left her there by 3 pm. However, at around 9 pm the same night her son-in-law told

her on phone that that her daughter had committed suicide by hanging herself. On August 3, 2011 an FIR was registered by police against the in-laws in a case of murder. The FIR was registered only after the women's organisation had to demonstrate in front of the Iraniyal police station along with the deceased's mother. The husband, mother-in-law and father-in-law of the victim were arrested on the same day. They were imprisoned for two months after which they got out on bail. Presently, the case is in court.

The deceased had two children one boy (3 year old) and one girl (one year old). The children are in the custody of deceased's mother.

Who did the respondents discuss the violence with:

Figure 25: Distribution of respondents with who they discussed the violence with

	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
Husband	32	22.4	54	23.6	86	23.1
Parents	131	91.6	163	71.2	294	79.0
In-laws	39	27.3	71	31.0	110	29.6
Friends	10	7.0	39	17.0	49	13.2
		148.		142.		
Total	143	3	229	8	372	144.9

Total is not 100 due to the multiplicity of responses

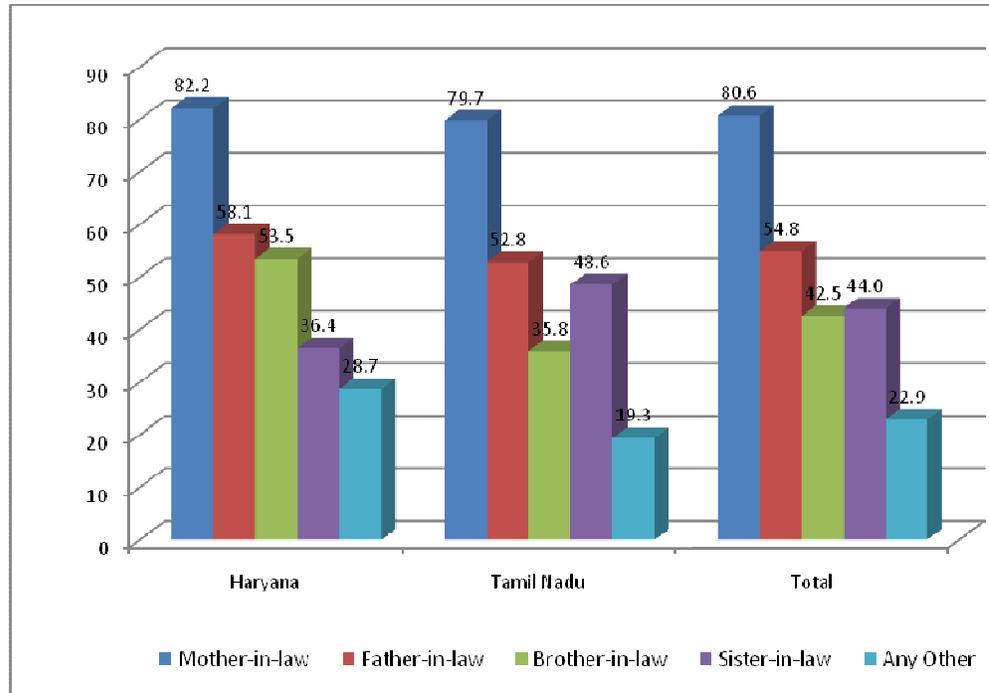
Most of the abused women seek help from their own families in trying to put an end to the violence. Even the NFHS proves this point. According to the NFHS III, one in four abused women have ever sought help to end the violence they have experienced. It also goes on to say that a large majority of women who have experienced sexual violence, but not physical violence, have never told anyone about the violence (85 %), and only 8 % have ever sought help. Regarding the people who they go to for help after repeated violence, the NFHS says that abused women most often seek help from their own families⁴³

This study also points out in Figure 25 that 79 % of the respondents discussed the violence with their own parents. In Tamil Nadu 71.2 % of the respondents discussed it with their parents. In Haryana though 91.6 % of the respondents talked to their own parents first. Total 29.6 % of the respondents have reported that they discussed the problem with their in-laws. In Tamil Nadu 31 % of the respondents discussed the violence with their in-laws and in Haryana 27.3 % of the respondents discussed it with the in-laws. Total 23.1 % of the women reported that they tried to discuss the issue first with their husbands. In Tamil Nadu 23.6 % of the respondents discussed the violence first with their husbands and in Haryana 22.4 % of the respondents tried to discuss it with their husbands. Total 13.2 % of the respondents reported that they discussed the matter with their friends. In Tamil Nadu 17 % of the respondents discussed the violence with their friends and in Haryana 7 % of the respondents discussed it with friends. The total is not 100 % due to multiple responses.

⁴³ Chapter 15, Domestic Violence, Summary of Findings, National Family Health Survey-3, 2005-06, Ministry of Health and Family Welfare

Complicity of relatives:

Figure 26: Distribution of Complicity of Relatives



Total is not 100 due to multiple responses.

Many activists dealing with cases of marital cruelty have reported that in many cases of marital cruelty the families of the husbands are also involved in violence. However, there is always an attempt to establish that the in-laws had no role to play in the violence and were only being dragged with a feeling of vengeance.

Figure 26 shows that most of the respondents—80.6 %--reported that their mother-in-laws were complicit in the violence. In Tamil Nadu 79.7 % of the respondents claimed that their mother-in-laws were involved while in Haryana

82.2 % of the respondents said that mother-in-law was involved. More than half of the respondents have claimed that their father-in-laws were also involved in inflicting violence upon the respondent. In Tamil Nadu 52.8 % of the father-in-laws were involved and in Haryana 58.1 % of them were involved. Total 44 % of the respondents have reported that their sister-in-laws were complicit in the cruelty. In Tamil Nadu 48.6 % of the respondents claimed that the sister-in-laws were involved and in Haryana 36.4 % of the respondents said the sister-in-laws were part of inflicting cruelty. Total 22.9 % of the respondents have reported that there were other relatives involved in the violence. Some of the other relatives involved include sister-in-law's husband, uncle and aunts of the husband and husband's brother's wife. Total is not 100 due to multiple responses.

Rohtak district, Haryana

In this case the respondent was sexually abused at her marital home. The complainant and her husband were married in the year 1991. She was sexually abused by the relatives (brother-in-law and father in-law) of her husband. While the husband did not try to put an end to the violence, the in-laws would exploit the complainant sexually for e.g. inserting a stick in her private parts and raping her repeatedly.

The husband, on the other hand, was a womanizer and visited brothels on a regular basis. The complainant has two sons. No attention has ever been paid to the children by their father.

In addition to this, the complainant was subjected to excessive beatings by the husband and his relatives including the nephews of the husband.

A criminal complaint against the husband and his relatives was filed on August 16,

2012.

At present, the case is at counselling stage at the Women's cell.

Means of support:

Figure 27: Distribution of respondents to means of support available to them

	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
Self	15	10.7	29	13.2	44	12.2
Husband	12	8.6	1	0.5	13	3.6
Parents	113	80.7	186	84.5	299	83.1
In-laws			4	1.8	4	1.1
Total	140	100.0	220	100.0	360	100.0

Consistent with the findings of the survey in earlier chapter where it was seen that most of the respondents were presently living with their parents, Figure 27 also shows that most respondents have reported that their parents were providing for the means of support. In 83.1 % of the cases, it was the parents of the respondents who were supporting them. In Tamil Nadu 84.5 % of the respondents have reported that their parents were providing means of support and in Haryana 80.7 % of the respondents reported the same. Total 12.2 % of

the respondents were looking after themselves and were independent. While 13.2 % of the respondents in Tamil Nadu have claimed that they were self-sustained, 10.7 % of the respondents in Haryana were providing for themselves. Only in 3.6 % of the cases that the husbands of the respondents were providing them with some kind of means of support. In Tamil Nadu there is only 0.5% (one respondent) of the respondents have reported that their husbands were providing them the means of support and in Haryana 8.6 % (12 respondents) of the respondents were being supported by their husbands. Total 1.1 % (four respondents from Tamil Nadu) of the respondents have reported that their in-laws were providing them means of support.

Figure 28: Distribution of Respondents by Earning or Other Economic Support

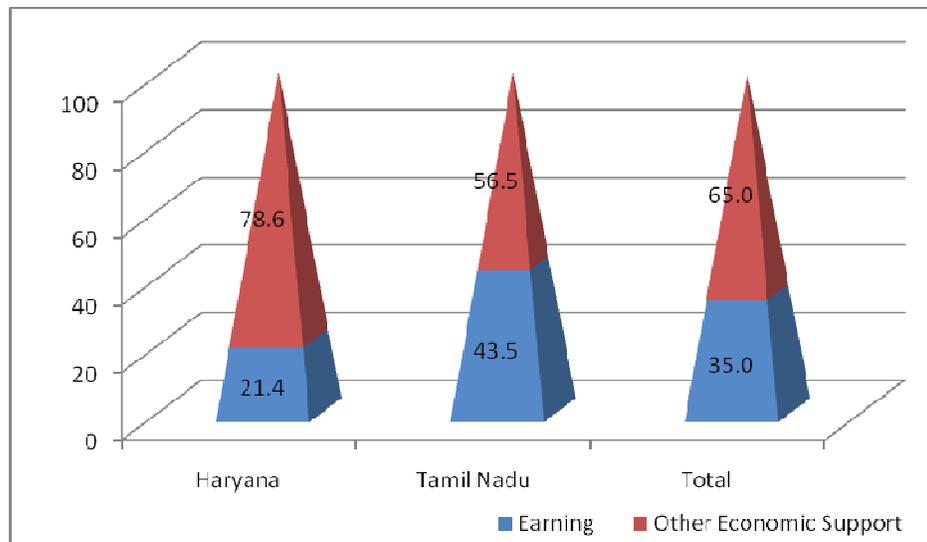


Figure 28 shows that after the violence has happened, 35 % of the respondents have claimed that they were earning presently. Again we realize here that more women are earning in Tamil Nadu than in Haryana. While 43.5 % of the respondents from Tamil Nadu are earning, only 21.4 % of the respondents from

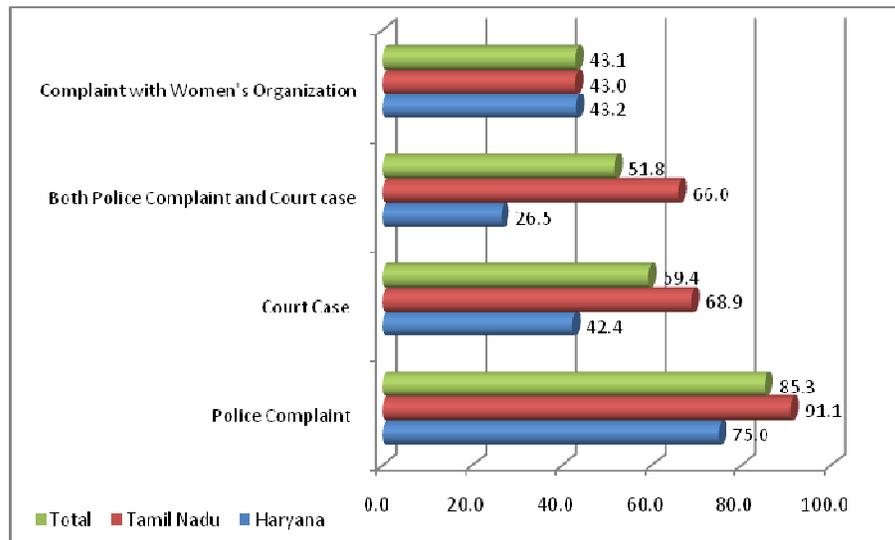
Haryana are working for money. Total 65 % of the respondents have reported that they have other economic support.

Did the respondent contact a women's organisation:

It has been reported by women's activists often that far from the claims that women are misusing Section 498 A, women victims of marital cruelty do not even approach the formal mechanisms of getting justice till the time violence becomes unbearable. Time and again they have pointed out that women go to the police as their last resort and try to exhaust all other options available in front of them before approaching the more formal systems. The field reporters in Haryana reported that a number of women have even approached the community panchayats in an attempt to get some intervention and resolve the differences with the in-laws. It is only after repeated attempts of resolving things on social levels that these women go to the police stations. More than half of the women who have been interviewed--58 %-- have contacted women's organisations for help as their first point of contact. In Haryana 67.3 % of the respondents contacted women's organisation and in Tamil Nadu 52.8 % of the respondents came in touch with the women's organisation. Total 27.6 % of the respondents approached AIDWA's case cell for intervention and another 9.8 % of the respondents have reported that they got in touch with Janwadi Mahila Samiti (State AIDWA) for help. The rest of the respondents have reported that they contacted women's cells and Protections Officers etc.

Where was the Complaint Filed:

Figure 29: Where was the Complaint Filed?



It can be seen in Figure 29 that most respondents have reported the matter to the police officials. Total 85.3 % of the respondents went to the police to register their complaints. This percentage is higher for respondents from Tamil Nadu at 91.1 % than Haryana at 75 %. This could be due to the existence of all women police stations in Tamil Nadu. This figure also proves that women generally have faith in the police and do expect that they would get justice through the formal justice delivery systems. This has been established by the Centre for Women's and Development Studies' (CWDS) report on domestic violence and Section 498 A where it states that while 78 % of the respondents viewed the role of police as significant, only 28 % respondents found them helpful. 78 % of the respondents reported that police did not respond efficiently to their complaints⁴⁴. Total 59.4 % of the cases went to the court. In Tamil

⁴⁴ Centre for Women Development Studies, 2005, Shalu Nigam, Understanding Justice Delivery System from the Perspective of Women Litigants as Victims of Domestic Violence in India (*Specifically in context of*

Nadu 68.9 % of the cases went to the court and in Haryana only 42.4 % of the cases went to the court. Total 51.8 % of the cases went to the court after going to the police. It can be concluded from the graph that the percentage of cases that went to the court after being registered at the police station is much higher for Tamil Nadu at 66 % than of Haryana at only 26.5 %. Around 43 % of the cases were reported with the women's organisation primarily. This percentage is almost the same at 43 % for both the states.

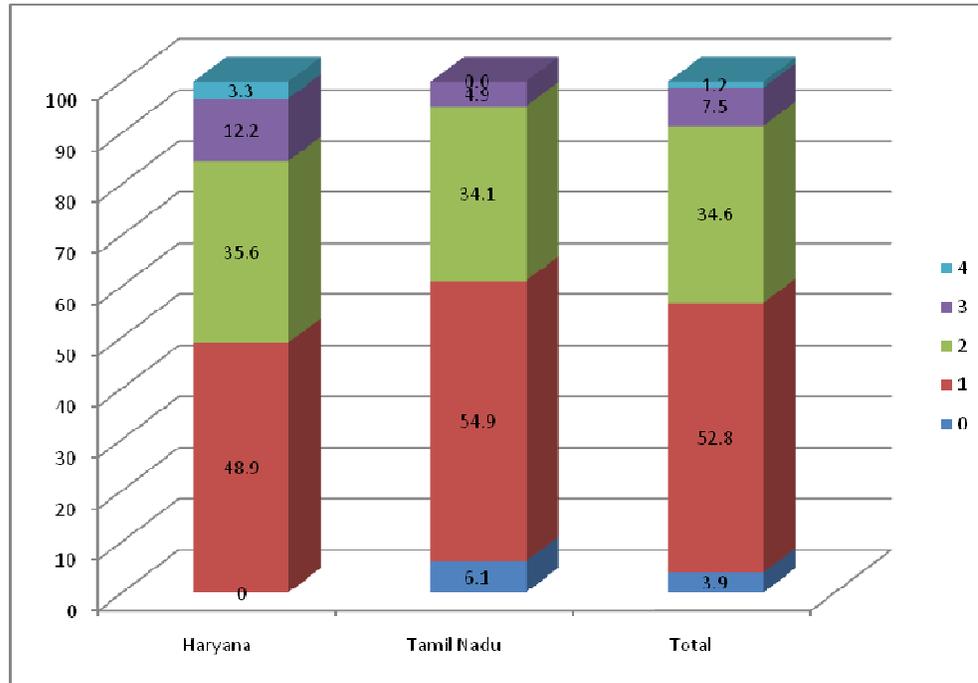
In this regard an interesting revelation has been made in a study conducted by EKTA Resource Center for Women on Section 498 A in Tamil Nadu that the economically well-off women rarely approach the police stations and instead prefer to take their cases directly to courts⁴⁵.

Section 498 A IPC), Is Seeking Police Intervention Helpful, p-34.

⁴⁵ EKTA Resource Centre for Women, March 2001, Study of Section 498 A in Tamil Nadu, p-41

Status of children of respondents:

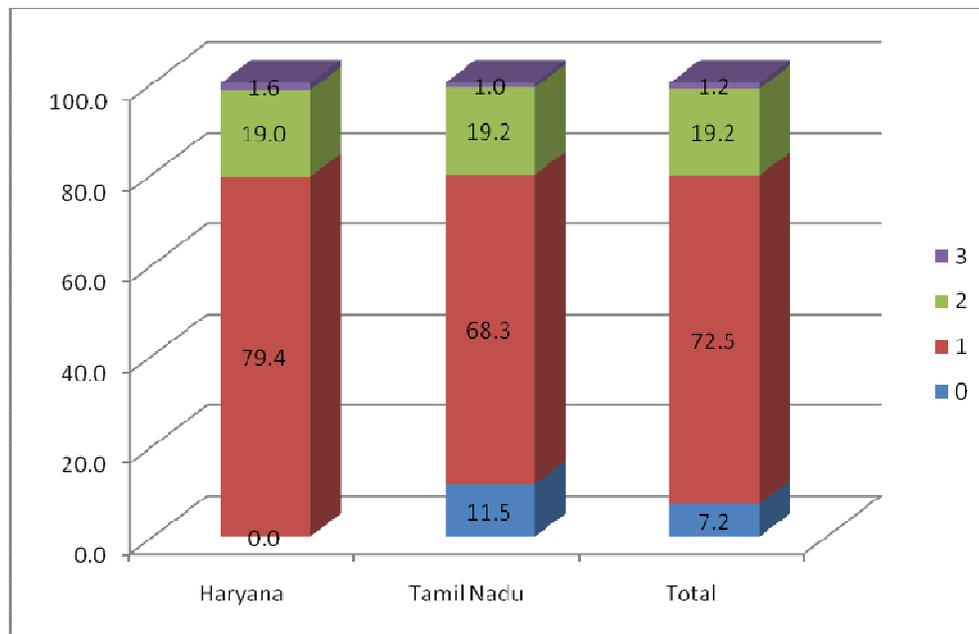
Figure 30: Distribution of Respondents by their Number of Children



The filed investigators have pointed out that women victims of marital violence go through very difficult times after they decide to walk out on their marriage. The fact that most of the respondents in our study belong to poor or lower middle class families it put added burden on them to raise their children. As has been established in the previous chapter, most of these women are staying with their parents, who are either retired or earning very meagre salaries, children come as an added responsibility. The data clearly shows that most of the women in conventional Indian homes are expected to bear children within one or two years of marriage. Our study shows that only 3.9 % of the respondents do not have any children. This percentage is 6.1 % for Tamil Nadu, but in Haryana none of the respondents have reported that they did not have children. Total 52.8 % of the respondents have one child. This percentage is 54.9 % for

Tamil Nadu and 48.9 % for Haryana. Another 34.6 % of the respondents have two children. In Tamil Nadu this percentage is 34.1 % and in Haryana 35.6 % respondents have two children. Only 7.5 % of the total respondents have three children. In Tamil Nadu 4.9 % of the respondents have three children and in Haryana 12.2 % of the respondents have three children. It can be seen in the graph that only 1.2 % of the respondents have four children. In Tamil Nadu none of the respondents have four children while in Haryana 3.3 % of the respondents have four children. This could be either due to family planning or the fact that most of these women have walked out on their marriages in early years.

Figure 31: Distribution of the Respondents with Number of Sons



It is shocking that only 7.2 % respondents have reported that do not have any

sons. It is to be noted in Figure 31 that in Haryana none of the respondents have reported no sons. This could be due to the reason that the respondents who had left the section missing have been taken out when final calculations were made. Another reason for this could be that parents do not stop trying till they have atleast one son. Even though the data looks shocking, it should be noted here that the child sex ratio of Haryana is worst in the latest Census 2011. According to Census 2011 Haryana has recorded a child sex ratio of 830 female children on 1000 male children⁴⁶. In Tamil Nadu, though 11.5 % of the respondents have reported that they do not have any sons. Total 72.5 % of the respondents have one son. This percentage is 68.3 % for Tamil Nadu and 79.4 % for Haryana. Total 19.2 % of the respondents have reported that they have two sons. This percentage is almost the same at 19 % for both the states. Total 1.2 % respondents have three sons. In Tamil Nadu 1 % respondents have three sons and in Haryana 1.6 % respondents have three sons.

⁴⁶ Preliminary figures of Census 2011

Figure 32: Percentage Respondents with Number of Children by Onset of Violence

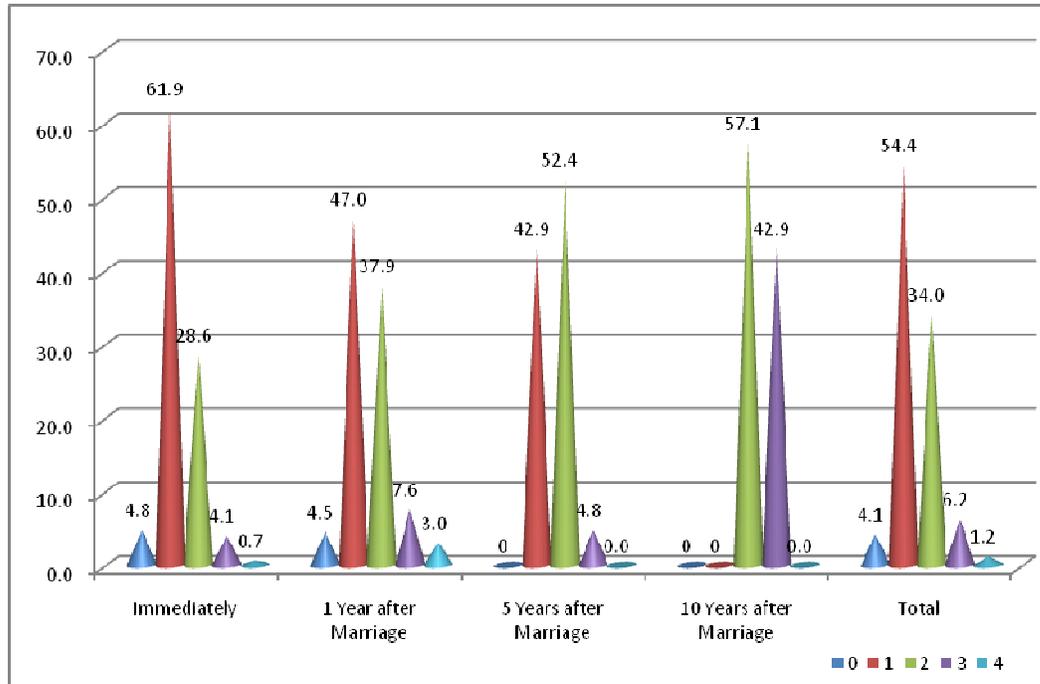
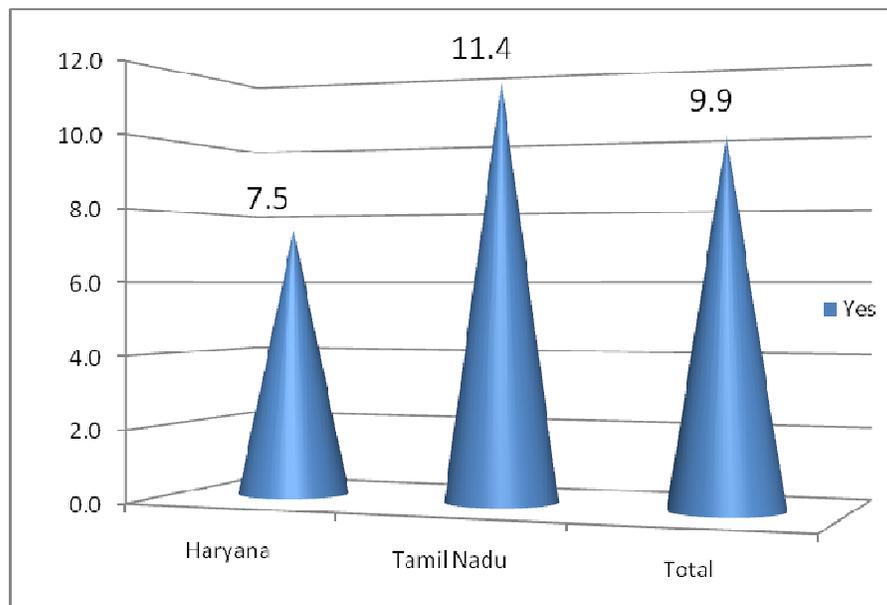


Figure 32 clearly shows that even though the violence starts even before one years of marriage, the wife is expected to bear children. As has been reported by the filed investigators and women's activists, women victims of violence keep going back to their husbands till the extent that the violence becomes unbearable. Here it can be seen that even in the cases where violence continued from immediately after the marriage, most respondents had more than one or more children during that time. Total 61.9 % of the women who were abused within one years of marriage have one child. Another 28.6 % of the women who have reported immediate violence have two children. There are around 4 % respondents who have two and three children in this category. There are 0.7 % respondents who even have four children. Only 4.8 % respondents have no children. In cases where violence started after one year of marriage 47 % of the

respondents have one child and 37.9 % have two children. Here, 7.6 % of the respondents have three children and 3 % have found children. Again there are 4.5 % of the respondents who do not have any children. In cases where violence was reported after five years of marriage there are more respondents with two children at 52.4 %. 42.9 % of the respondents have one child and 4.8 % have three children. In cases where violence started 10 years after marriage 57.1 % of the respondents have two children and 42.9 % have three children. The data indicates that most couples are going for two to three children. However this might depend on the gender of the child.

Maintenance:

Figure 33: Distribution of the Respondents Receiving Maintenance/Support from Husband



Our study conforms to the findings of several other studies which have been

conducted on marital cruelty or separated women in suggesting that the burden of women facing violence becomes double as they also have to look after their children and generate extra funds to support their upbringing. The fact that most victims of marital cruelty are forced to live with their parents at their natal homes and depend on them for sustenance makes it even more difficult for them to raise their children. Very few of these women can afford to live on their own as they are not provided any maintenance for even basic survival.

Total 90.1 % of the respondents have reported that they do not get any maintenance from their husbands. This number is even higher for Haryana as 92.5 % of the respondents are not getting any maintenance for themselves. In Tamil Nadu 88.6 % of the respondents do not get any maintenance. Only 9.9 % of the respondents have reported that they are getting some kind of maintenance. In Haryana 7.5 % and in Tamil Nadu 11.5 % of the respondents are getting maintenance.

Rohtak district, Haryana

This is a typical case of mental, physical and emotional abuse by the husband and his relatives. The complainant and her husband got married in the year 2000. The complainant was made to undergo an abortion for the simple reason that her sister-in-law could not bear a child. It was the contention of the in-laws that giving birth to a child would lead to further embarrassment of her sister-in-law.

In addition to this, repeated demands for bringing more dowry were made by the husband and his relatives.

The complainant was forced to hide her pregnancy from her in-laws, so that she was not made to abort the child once again. A son was born to her who is at present 10

years old.

In 2001 the accused filed a petition in the court seeking divorce from the complainant. The latter had to pay Rs. 3 lakh to the accused for the purposes of dropping the petition.

In 2003, the mother-in-law approached the women cell to lodge a complaint against the respondent. The intention was to force the respondent to leave the matrimonial home.

On July 3, 2012, the husband brought 15 men along with him to beat up the complainant while she was asleep during the night. The husband remained a silent spectator while the complainant was being beaten up mercilessly by her assailants. The complainant then filed a complaint with the police against the husband.

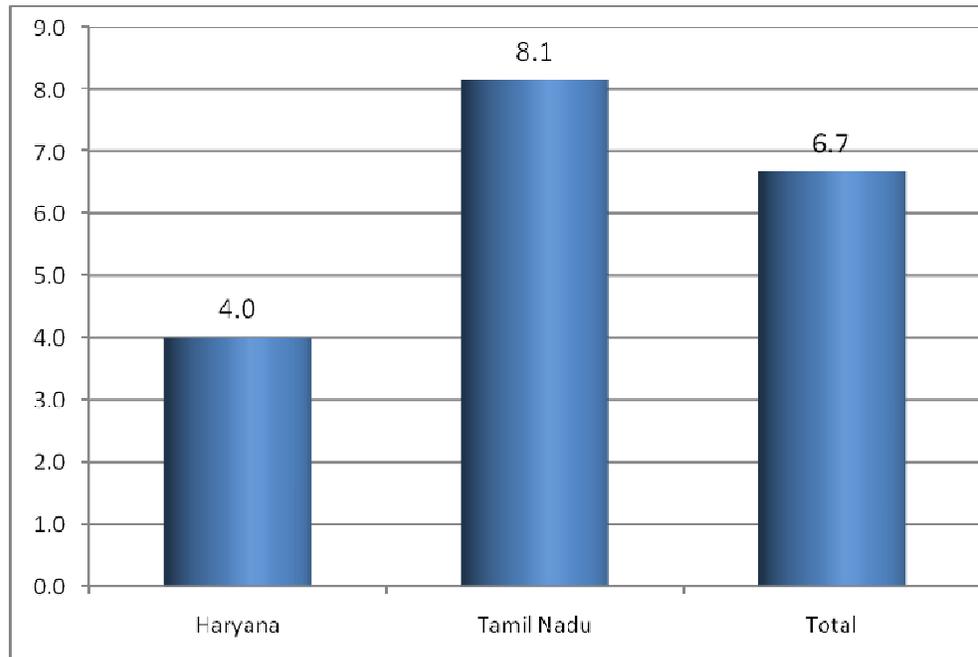
First complaint was filed in 2004 in the women cell against the husband and his relatives for alleged cruelty.

In July 2010, an FIR was lodged against the husband on accounts of assault, robbery (jewels and laptop) and attempt to rape.

The complainant sought maintenance in 2004 from her husband through a suit under section 125 Cr. PC. The High Court had ordered the husband to pay Rs. 15,000 as maintenance to the complainant and her child. Since the husband could not seek a divorce from the complainant, he refused to comply by the High Court order and pays only Rs. 1800 as maintenance to the child.

The complainant reported that police did not play an active role towards bringing the accused to justice. However, the complainant made efforts on her own to acquire a residential space in her matrimonial home. She is at present living at her matrimonial home while the accused are absconding evading arrest.

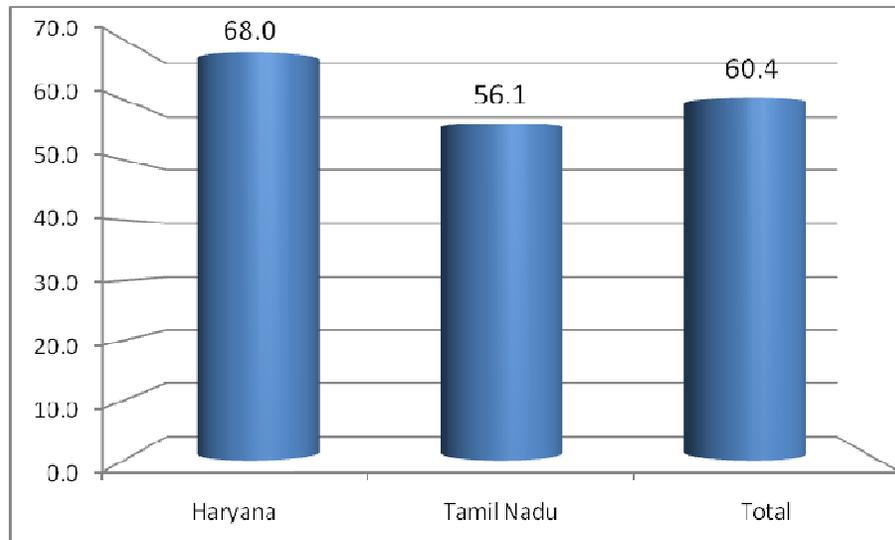
Figure 34: Husband Providing Maintenance/Support for Children



There is a further decline in the number of respondents who are receiving some kind of maintenance for their children. Only 6.7 % of the respondents have reported that they are receiving maintenance or support for the upbringing of their children. While 8.1 % of the respondents have reported receiving this assistance in Tamil Nadu, only 4 % of the respondents in Haryana have reported that they are getting maintenance for their children. Total 93.3 % of the respondents are not receiving any assistance. In Tamil Nadu 91.9 % of the respondents do not receive any maintenance for their children and in Haryana 96 % of the respondents have reported that they do not get anything.

Case filed by husband:

Figure 35: Percentage of Husband Filing Cases on Respondents



During interviews many respondents reported that the fact that their husbands had also filed cases against them made it even more difficult for them to carry on with their legal struggle. This added to the number of trips they had to take to the courts and also the number of lawyers who they dealt with. However, it seems more like a pattern in cases of marital cruelty. In most of the cases the husbands have filed cases against the respondents. Total 60.4 % of the respondents have reported that their husbands have registered cases. While in Tamil Nadu 56.1 % of the husbands of respondents have filed cases, in Haryana 68 % of the respondents reported that their husbands have filed cases. Some of the cases which were registered against the respondents were of divorce and restitution of conjugal rights.

It almost seems like a trend that once the victims of marital violence register

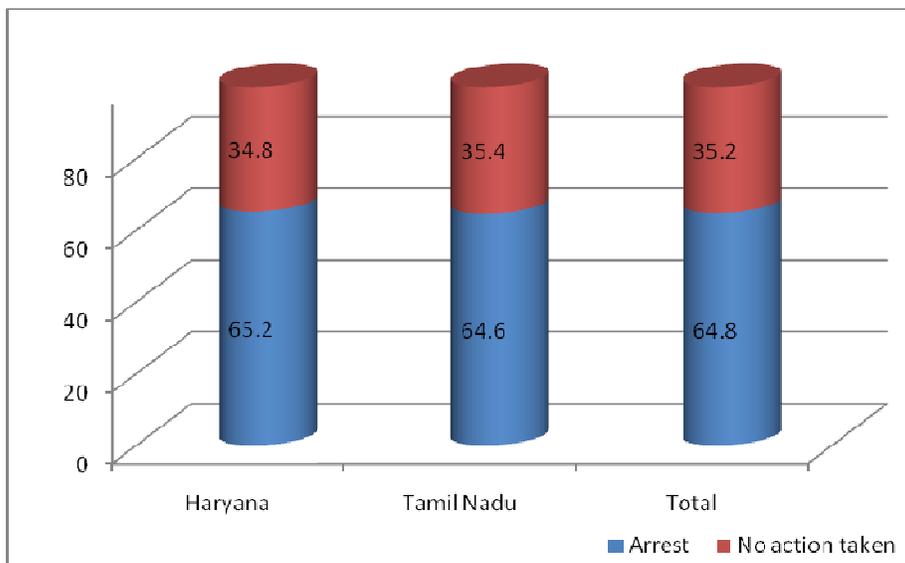
complaints against the husbands and in-laws, the husbands file for divorce. Total 67.7 % of the respondents have reported that their husbands have filed for divorce. In Tamil Nadu 84.4 % of the respondents have reported that divorce cases were filed after they registered their cases against marital violence. In Haryana 50 % of the respondents reported this. Total 18.5 % of the respondents have reported that their husbands filed for restitution of conjugal rights. While this percentage is 31.7 % for Haryana, its 6.3 % for Tamil Nadu. Total 13.7 % of the respondents have claimed that their husbands have filed cases under some other sections.

CHAPTER 5

Details of Case

Action taken on FIR:

Figure 36: Action Taken by Police



Interestingly, the data shows that in more than half of the cases of marital violence, the accused have been arrested. The field investigators have also reported that while getting an FIR registered is difficult but once the complaint is there the police officials make immediate arrests. In most of the cases this is done to put pressure on the accused to come to the table and negotiate the terms of settlement. In many cases, its only after the arrest that bribes are paid to the police officials. In total 64.8 % of the cases, the arrests were made after the registration of FIR. This percentage is almost similar in both the states with Tamil Nadu at 64.6 % and Haryana at 65.2 %. In the rest of 35.2 % cases, no

action was taken by the police even after the FIR was registered. This percentage is 35.4 % for Tamil Nadu and 34.8 % for Haryana.

Duration of arrest: The duration of arrest was however short in most cases. In total 23.5 % of accused were arrested for only one day. In Tamil Nadu and Haryana this percentage is 22.1 % and 26.3 %. Almost 25.2 % of the accused were kept under arrest for 2 to 7 days. Total 22.6 % of the accused were arrested for 10 to 20 days.

Coimbatore, Tamil Nadu

In this case where the harassment started immediately after the marriage, the complainant is a Dentist from Muslim community, who got married on October 17, 2010 at the age of 24 years. The marriage was arranged with a civil engineer, who owns a house among other commercial land and property. The couple lived in a joint family after marriage with mother-in-law, father-in-law, brother-in-law and sister-in-law. Problems started immediately after marriage as the complainant was being physically and mentally harassed for additional dowry of Rs 40 lacks.

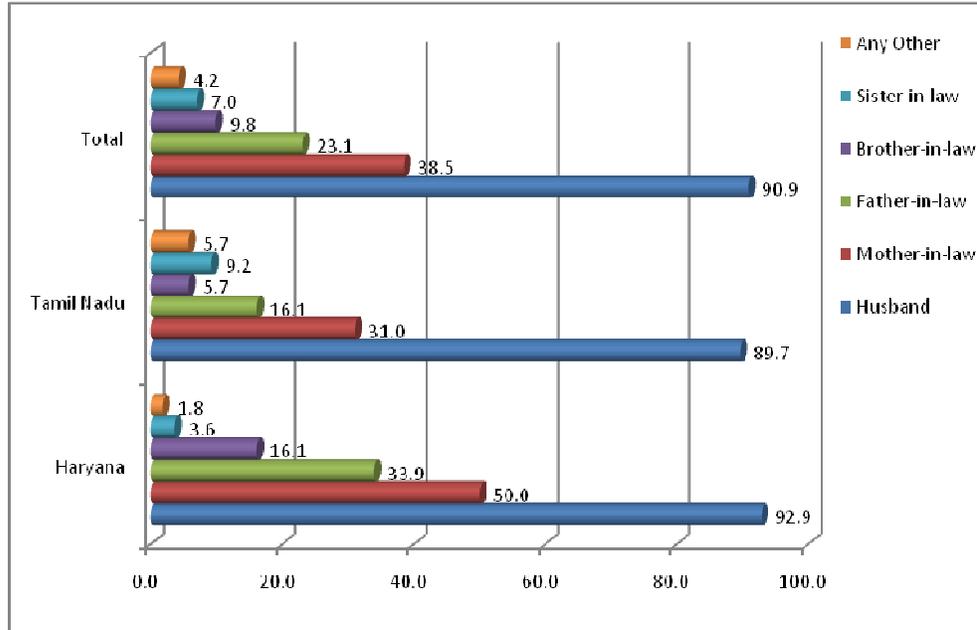
When the complainant was two months pregnant she was sent back to her parents' house after the in-laws took away her jewelry and other things. She filed a complaint on November 8, 2011 with the DC of police.

In this case the role of police officials has been very negative as the officials at women cell tried to convince her twice to withdraw the complaint. She was made to sit in the ACPs room from 11 am to 11.30 pm with her 6 months old son, while he tried to pressurize her to go back to her husband. When the complainant refused to do so, an FIR was finally registered on June 11, 2012 after the intervention of the

Police Commissioner. Even after the registration of formal complaint, no action has been taken by the police. She has not been provided with any details on the charge sheet. The complainant has filed the case under 498 A with 406 and Dowry Prohibition Act. Presently, the complainant is living at her parents' house with her child.

Persons arrested:

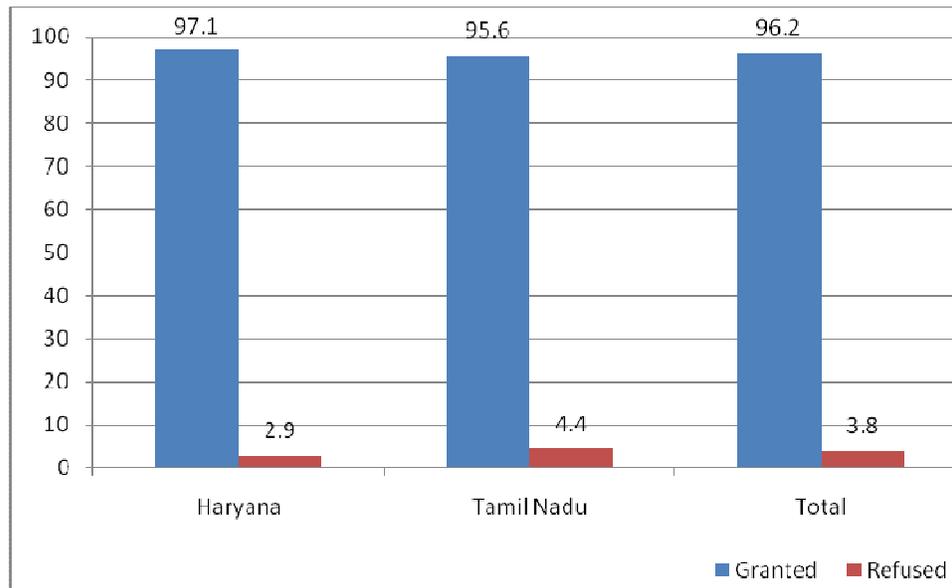
Figure 37: Persons Arrested in Two States



In most cases the husbands who were primarily accused were arrested. Some of the other in-laws who were arrested included mother-in-law, father-in-law and brother-in-law. In total 90.9 % of the cases, the husbands were arrested. In Tamil Nadu this percentage is 89.7 % and in Haryana it is 92.9 %. The figures suggest that it is generally the husband who is arrested and only in few cases the other in-laws are put behind bars. In 38.5 % of the cases mother-in-laws were arrested. This percentage is further less in Tamil Nadu at 31 %. However,

in Haryana in almost 50 % of the cases the mother-in-laws were arrested. There is a further drop in percentage of cases where father-in-laws were arrested. In 23.1 % of the cases, the father-in-laws were arrested. While in 16.1 % of the cases in Tamil Nadu the father-in-laws were arrested, in Haryana the percentage is 33.9 %. There are few cases where brother-in-laws were also arrested. In total 9.8 % of the cases the brother-in-laws were arrested. This percentage is 5.7 % for Tamil Nadu and 16.1 % for Haryana. Total 7 % of the respondents have reported that their sister-in-laws were also arrested. In Tamil Nadu in 9.2 % of the cases the sister-in-laws were arrested and in Haryana in 3.6 % of the cases the sister-in-laws were arrested.

Figure 38: Bail Status by Bail Petition filed

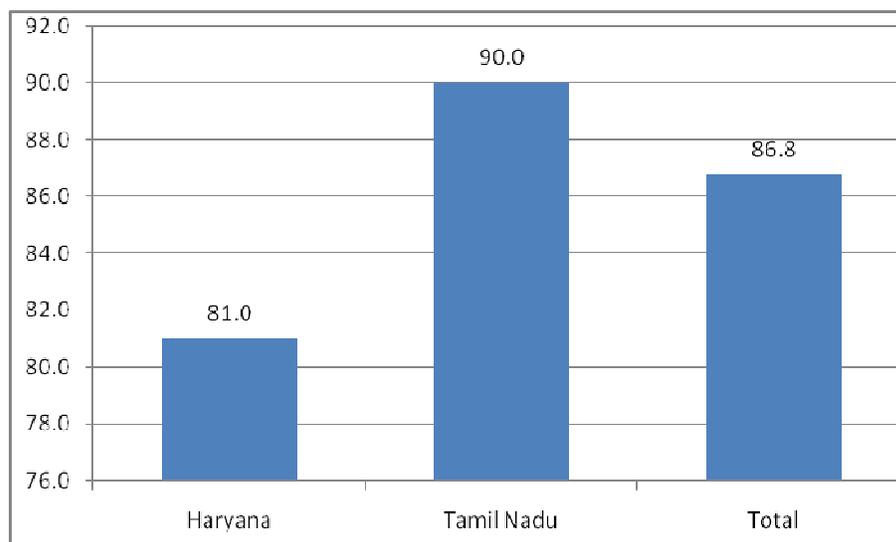


In most of these cases, bail was filed by the other party. Total 93 % of the accused filed for bail. This percentage is slightly higher for Tamil Nadu 95.1 %. In Haryana 89.6 % of the accused filed for bail. Only 7 % of the accused did not file for any bail. This percentage is 4.9 % for Tamil Nadu and 10.4 % for Haryana.

The study shows clearly that the courts are very lenient in granting bail in such cases. In total 96.2 % of the cases, bail has been granted to the accused. For Tamil Nadu this percentage is 95.6 % and for Haryana it is 97.1 %. It is only in total 3.8 % cases that the bail petition have been refused. While in Tamil Nadu only 4.4 % of the cases were refused for bail, in Haryana only 2.9 % of the accused were refused bail.

Court case:

Figure 39: Percentage Respondents reporting that their Case has gone to the Court



Out of the total respondents whose FIRs were registered by the police, 86.8 % of the cases went to the court. In Tamil Nadu 90 % of the respondents reported that their cases went till the courts. In Haryana 81 % of the cases went to the court. Only 13.2 % of the cases got resolved before they reached the courts. There is also a possibility that these cases might have been settled with police

mediation before reaching the courts. This percentage is 10 % for Tamil Nadu and 19 % for Haryana.

Courts the cases have gone to:

Figure 40: Distribution of cases that have gone to different courts

	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
Session court	28	46.7	66	46.2	94	46.3
District Court	29	48.3	66	46.2	95	46.8
High Court	3	5.0	11	7.7	14	6.9
Total	60	100.0	143	100.0	203	100.0

Out of the cases that reached court 46.3 % went to the Sessions Court. For both Tamil Nadu and Haryana, the percentage of cases that reached the Session Courts is around 46 % for each state. Total 46.8 % of the cases went to the District Court. In Tamil Nadu, 46.2 % of the cases went to District Court and in Haryana 48.3 % of the cases went to District Court. Another 6.9 % of the cases reached the High Court. In Tamil Nadu 7.7 % of the cases went to High Court and in Haryana 5 % of the cases went to the High Court.

Nature of case:*Figure 41: Distribution of respondents by the nature of case reported*

	Haryana		Tamil Nadu		Total	
	Cou nt	%	Cou nt	%	Cou nt	%
Cruelty	33	29.5	87	47.5	120	40.7
Dowry related Cruelty	79	70.5	96	52.5	175	59.3
Total	112	100.0	183	100.0	295	100.0

Most of the respondents have reported that their cases are of dowry related cruelty. Total 59.3 % of the respondents have reported that the cruelty was due to dowry demands. It should be noted here that in Haryana the cases of dowry related cruelty are 70.5 %, which is much higher than the average of the two states and is also higher than that of Tamil Nadu at 52.5 %. Total 40.7 % of the respondents have reported that their cases are of cruelty due to other reasons.

Section under which the case has been filed:

Figure 42: Distribution of respondents to the Sections under which their cases have been filed

	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
498A (simplicitor only)	41	35.7	99	53.5	140	46.7
498A with dowry death/murder/abetment to suicide	15	13.0	33	17.8	48	16.0
498A with 406 & Dowry Prohibit on Act	57	49.6	61	33.0	118	39.3
Any Other (Specify)	57	49.6	53	28.6	110	36.7
Total	115	147.8	185	133.0	300	138.7

The total is more than 100 because of multiple responses

Total 46.7 % of the cases have been registered under Section 498 A (simplicitor only). While 53.5 % of these cases from Tamil Nadu were registered under this section, 35.7 % cases were registered under this section in Haryana. Another 39.3 % of the cases have been filed under Section 498 A with 406 and Dowry Prohibition Act. 33 % of the cases were filed under these sections in Tamil Nadu and 49.6 % were filed in Haryana. Total 16 % of the cases have been filed under 498 A dowry death/murder/abetment to suicide. 17.8 % of these cases were filed in Tamil Nadu under these Sections and 13 % were filed under these Sections in Haryana. Total 36.7 % of the cases have been filed under other sections and laws. In Tamil Nadu 28.6% of the cases were filed under other sections, while in Haryana 49.6 % of the cases were filed under other sections. The total is more than 100 because of multiple responses.

Account of things given:

The general customs which are practiced at the time of marriage in India have been such that the girl's family has to give material goods, which are mostly beyond their means, to the grooms family. It is also an added responsibility for

the girls family to organise the wedding ceremony and host the groom's party, which puts financial pressure on the girl's family.

Figure 43: Distribution of respondents to the account of things given at the time of marriage:

	Haryana		Tamil Nadu		Total	
	Cou nt	%	Cou nt	%	Cou nt	%
Yes	84	81.6	85	49.4	169	61.5
No	19	18.4	87	50.6	106	38.5
Total	103	100.0	172	100.	275	100.0

Total 61.5 % of the respondents have reported that they have kept a record of things which were given at the time of marriage. This percentage is considerably high for Haryana at 81.6 %. This could also be because in North Indian states, the things are put on a display in front of the relatives before being given to the boy's side. In Tamil Nadu 49.4 % of the families of respondents kept an account of things given at the time of marriage. Total 38.5 % of the respondents did not keep any account.

Figure 44: Distribution of respondents to how they have kept an account of streedhan

	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
As bills	5	6.1	10	14.5	15	9.9
As list	74	90.2	59	85.5	133	88.1
Both	3	3.7			3	2.0
Total	82	100.0	69	100.0	151	100.0

It can be seen clearly from the data that very few families keep the bills of things which are given at the time of marriage. Only 9.9 % of the respondents have reported that they kept bills of things which were given by their families during the marriage. In Tamil Nadu though this percentage is a bit higher at 14.5 %, while in Haryana only 6.1 % of the families of respondents have kept record of things given in form of bills. Most of the families, who did keep a record of things, have kept in form of lists. Total 88.1 % of the families have kept lists of things given. In Tamil Nadu 85.5 % of the respondents have reported that their families kept lists and in Haryana 90.2 % of the families kept lists. Very few families have actually kept both lists and bills. Total 2 % (3 respondents from Haryana) have both lists and bills.

Figure 45: Have you kept Account of things given at the Time of Marriage? If Yes, how?

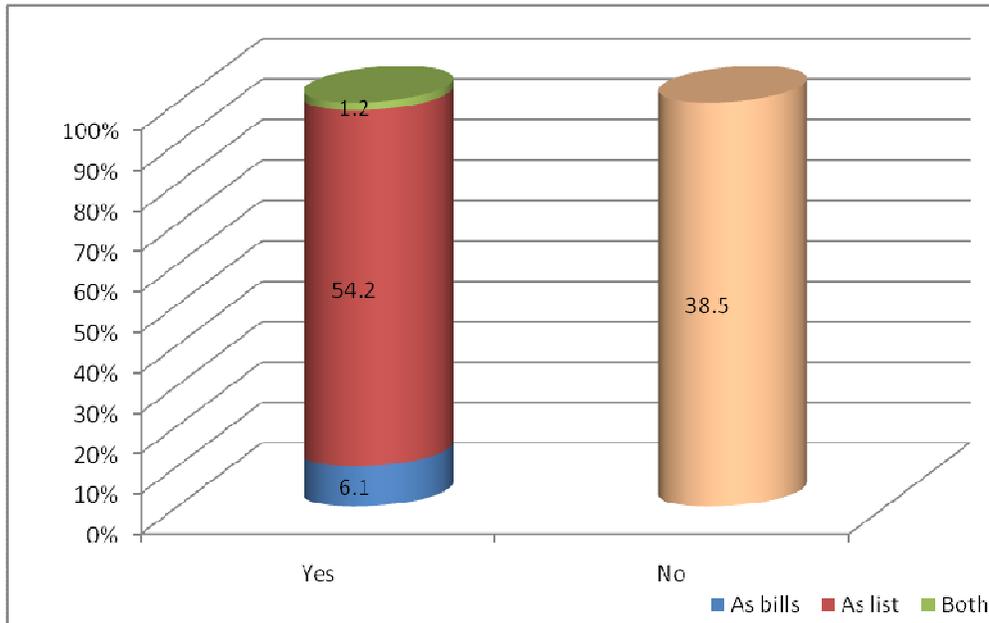


Figure 45 shows the percentage of respondents who have kept an account of things in lists and bills out of the total number of respondents who have kept an account. Out of the respondents who have kept an account of things, 6.1 % have kept the bills and 54.2 % have kept it as list. Only 1.2 % of the families of respondents have both lists and bills.

Legal aid:*Figure 46: Distribution of respondents by legal aid received*

	Haryana		Tamil Nadu		Total	
	Cou nt	%	Cou nt	%	Cou nt	%
Yes	76	54.3	92	43.8	168	48.0
No	64	45.7	118	56.2	182	52.0
Tot al	140	100.0	210	100.0	350	100.0

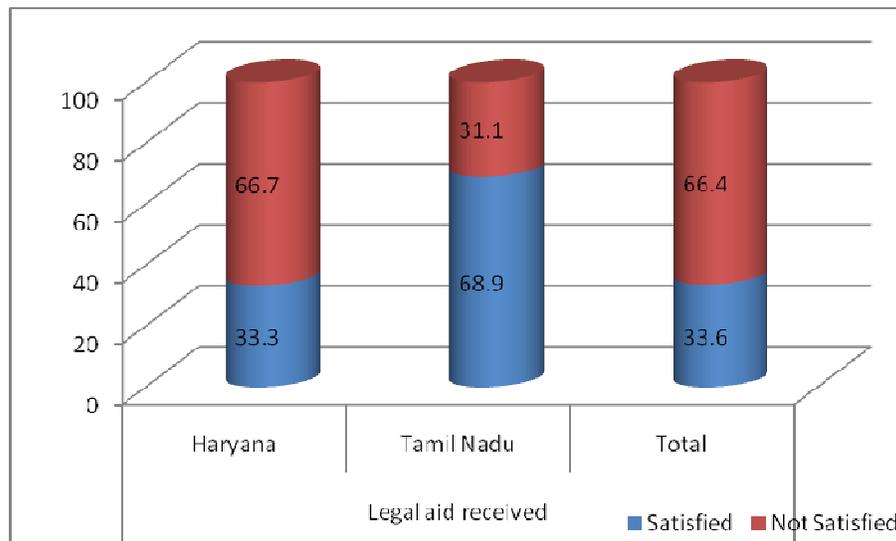
Figure 46 shows that more than half of the respondents did not receive any legal aid to address their cases. Total 52 % of the respondents have reported that they were not provided with any kind of legal aid. In Tamil Nadu 56.2 % of the respondents did not receive legal aid and in Haryana 45.7 % of the respondents did not receive legal aid. Total 48 % of the respondents received some kind of legal help. In Tamil Nadu 43.8 % of the respondents received legal aid and in Haryana 54.3 % of the respondents received legal aid.

Figure 47: Distribution of respondents to nature of aid received

	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
Professional	27	46.6	27	51.9	54	49.1
Support	31	53.4	25	48.1	56	50.9
Total	58	100.0	52	100.0	110	100.0

Total 49.1 % of the respondents have reported that they received professional legal aid. There is slightly higher percentage of respondents who received professional aid in Tamil Nadu with 51.9 % of the respondents while in Haryana 46.6 % of the respondents received professional help. Total 50.9 % of the respondents have reported that they only received some kind of support as part of free legal aid. In Tamil Nadu 48.1 % of the respondents received support and in Haryana 53.4 % of the respondents received support.

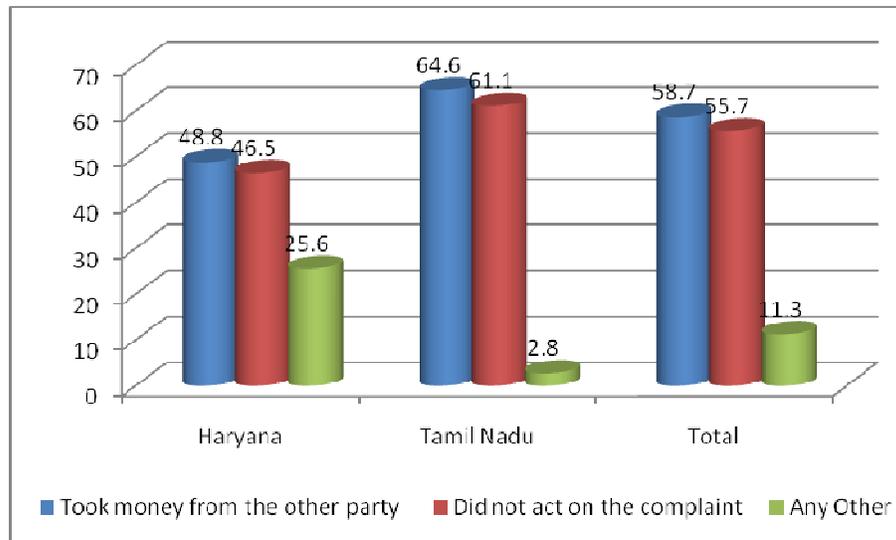
Figure 48: Satisfaction of the Respondents by Legal Aid Received



Interestingly, only 32.8 % of the respondents have reported that they are satisfied with the aid that they received. In Tamil Nadu the percentage of respondents who are satisfied with the aid is much higher at 47.7 %, while in Haryana only 19 % of the respondents are satisfied. Total 67.2 % of the respondents have reported that they were not satisfied with the aid. While in Tamil Nadu 52.3 % of the respondents are not satisfied in Haryana 81 % of the respondents are not satisfied.

Experience with the police:

Figure 49: Experience with the Police



The field investigators have substantiated what the women's organisations and lawyers dealing in family law have been reporting that the fact that women victims of violence go to the police only as the last resort. While there is lack of faith in the formal justice system, there is also considerable amount of fear that women have reported in approaching the police and the courts. There is also social stigma attached with going to the police stations and courts. During the survey women widely reported misbehavior at the part of the police officials as well as rampant corruption wherein police officials were reportedly openly asking for bribes. As most of the respondents come from poor and lower middle class backgrounds, the police officials in most cases approached the husbands for money. In more than half the cases, respondents have reported that the police took money from the other party. Earlier studies conducted on the subject have also noted this point. In CWDS study on Domestic Violence and

Section 498 A Shalu Nigam has reported that the findings of her study indicate that in an encounter with state apparatus the victims get re-victimized. Even though the law is protective of women's interest the process of its operation is complex which ends up working against the interest of these women. The study further states that several barriers of procedural aspects of law, social attitudes and perception about marriage and family act as barriers in women's access to justice⁴⁷.

In our study total 58.7 % of the respondents have reported that the police officials took money from the other party. It is interesting that instead of having big number of all women police stations to deal with such complaints, in Tamil Nadu the percentage of respondents who have claimed that the police took money from the other party is substantially higher than Haryana. In Tamil Nadu 64.6 % of the respondents have reported this, while in Haryana 48.8 % of the respondents said that the police took money from the other party.

Many respondents have also reported inaction at the level of the police. Total 55.7 % of the respondents have reported that the police did not take any action when approached. This percentage is also much higher for Tamil Nadu at 61.1 % than Haryana at 46.5 %. Total 11.3 % respondents have reported other experiences with the police which are mainly negative. The total exceeds 100 due to multiple responses.

Again the results of our study conform to the CWDS study which shows that while 78 % of the respondents viewed the role of police as significant, only 28 % respondents found them helpful. 78 % of the respondents reported that police

⁴⁷ Centre for Women Development Studies, 2005, Shalu Nigam, Understanding Justice Delivery System from the Perspective of Women Litigants as Victims of Domestic Violence in India (*Specifically in context of Section 498 A IPC*), p-22.

did not respond efficiently to their complaints⁴⁸.

Experience in the court:

Most of the respondents have complained that going to court is extremely traumatic as they constantly find themselves in the middle of the people from other party. They feel that the court premises are a hostile territory for them. While the men can pay off people in the court and sometimes give alcohol bottles to many employees, these people refuse to cooperate with the complainants. Some respondents have also claimed that their lawyers are not presenting the cases properly in the court. Few of them claimed that there were many allegations made against their character in the court which scared them from appearing in the court again. Another problem faced by the respondents is that the cases go on for too long and get adjourned often this was reported by more than 22.5 % of the respondents. This creates added stress and tension of coming back to the court more times than they expected. Overall, most of the respondents have called their experience in the court extremely stressful and frustrating, while at the same time it is financially beyond their means to keep the cases going on for years. Some respondents have also complained that the stress of both court and police officials is on pushing both the parties to compromise. Only 4 % of the respondents have reported that their experience in the court has been satisfactory and they are expecting favourable judgement.

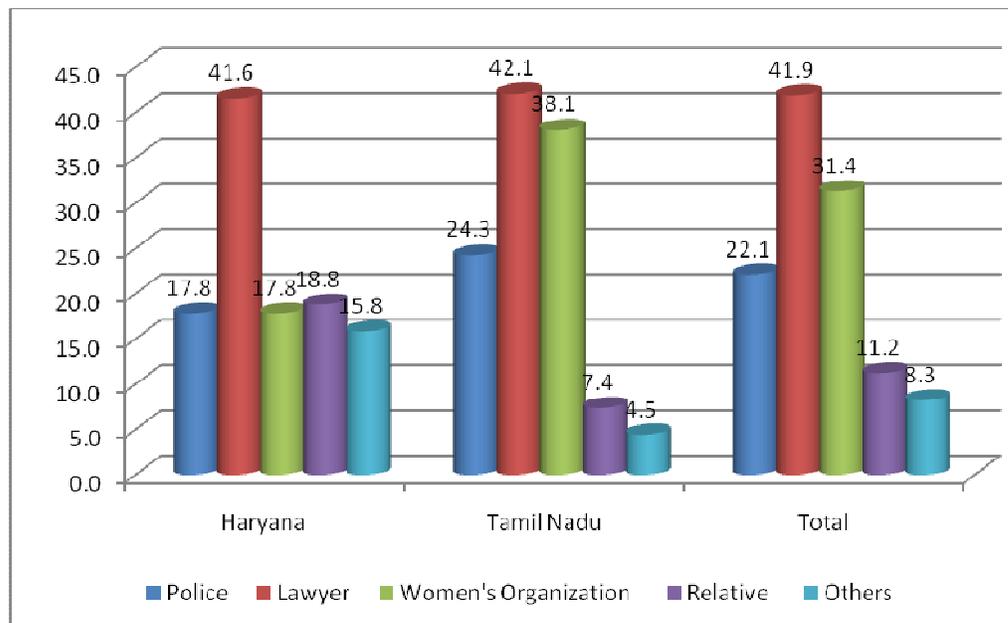
Decision to file under Section 498 A:

Some respondents have reported that they filed under Section 498 A because

⁴⁸ Centre for Women Development Studies, 2005, Shalu Nigam, Understanding Justice Delivery System from the Perspective of Women Litigants as Victims of Domestic Violence in India (*Specifically in context of Section 498 A IPC*), Is Seeking Police Intervention Helpful, p-34.

the police advised them to do so. Some have also reported that their lawyers filed compliant under 498 A. Some respondents have reported that they filed under the section as it deals with dowry harassment. Respondents have also said that it was the only Section in the law that deals with mental and physical cruelty strictly. For some the motivation was that the Section provides for an immediate non-bailable arrest of the accused. Few respondents have said they have been suffering for very long time before they went to the police. So they wanted some kind of immediate action to be taken against the accused. This prompted them to file a case under Section 498 A. Interestingly, there are some women who do not think that they could live away from their husbands permanently and through Section 498 A they expect that once the in-laws would be punished they would take them back and it would put a check on the violence. At the same time there is also a feeling within some respondents to take the case to its conclusion and not leave any scope for settlement.

Figure 50: Who Advised to File Case under Section 498A

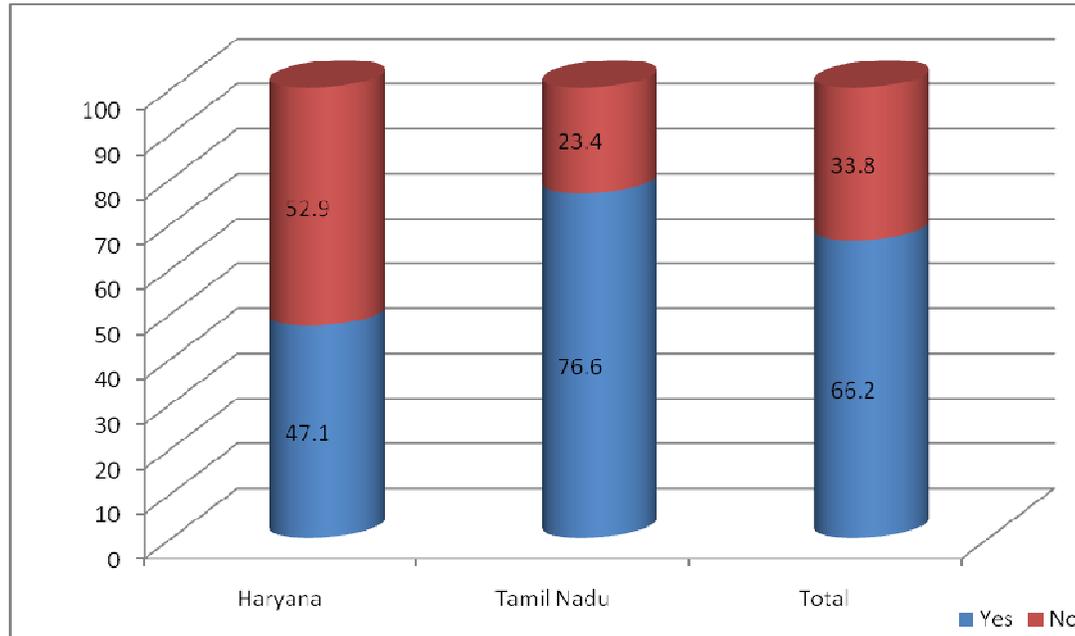


Total is not 100 because of multiple responses.

Total 22.11 % of the respondents were advised to file a complaint under Section 498 A by the police officials. In Tamil Nadu 24.25 % of the respondents were advised by the police, while in Haryana 17.82 % of the respondents were advised by the police. Around 41.9 % of the respondents reported that their lawyers advised them to file under Section 498 A. In Tamil Nadu almost 42 % of the respondents have reported this and in Haryana 41.5 % of the respondents have said that they filed under 498 A on the advise of their lawyers. Total 31.3 % of the respondents were suggested to use Section 498 A by women's organisations. In Tamil Nadu 38.1 % of the respondents have reported this and in Haryana 17.8 % of the respondents have reported this. In 11.2 % of the cases, it was the relatives of the respondents who advised them to file under Section 498 A. In Tamil Nadu 7.4 % of the respondents were advised by their relatives and in Haryana 18.8 % of the respondents reported this. Total is not 100 because of multiple responses.

Provision/implication explained:

Figure 51: Percentage of Respondents who did not know about the implications



Most women have reported that the provisions and implications of filing under Section 498 A were explained to them beforehand. Total 66.2 % of the respondents have reported that the implications were explained. In Tamil Nadu 76.6 % of the respondents have said that the provisions were explained and in Haryana 47.1 % of the respondents have reported this. Total 33.8 % of the respondents said that they were not briefed about the implications. The data clearly shows that the respondents in Tamil Nadu knew the law better than their counterparts in Haryana. While only 23.4 % of the respondents in Tamil Nadu have reported that they were not told about the implications, in Haryana 52.9 % respondents reported this. More than half of the respondents who were informed reported that they were told about the section by their lawyer. Total 55.4 % of the respondents have reported that their lawyers informed them about

the implications of the section. In Tamil Nadu 52.8 % of the respondents were briefed by their lawyers and in Haryana 60.8 % of the women reported this. Total 42.1 % of the respondents reported that they got to know about the implications of the section from women's organisation. In Tamil Nadu 45.3 % and in Haryana 35.1 % of the respondents were informed by the women's organisations. Only 17.2 % of the respondents have reported that they were told about the implications by the police. In Tamil Nadu 18.2 % of the respondents have reported this and in Haryana 14.9 % respondents were told by the police.

Awareness about other laws:

The women's activists and other organisations have been advocating for better awareness amongst women regarding the women friendly laws. However, even after years of implementation of some of the most important acts and laws, women on the ground have very less information about their legal rights. The information thrown by our study conform with another study conducted by Shalu Nigam on Domestic Violence and Section 498 A where it has been established that there is major lack of legal literacy and awareness among women. In her study 76 % of the respondents claimed that they were not aware of their right to file complaint against their husband⁴⁹.

⁴⁹ Centre for Women Development Studies, 2005, Shalu Nigam, Understanding Justice Delivery System from the Perspective of Women Litigants as Victims of Domestic Violence in India (*Specifically in context of Section 498 A IPC*), Resources: Availability, Accessibility and Utilization, p-25.

Figure 52: Distribution of respondents by those who know about DPO

	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
Yes	22	17.6	62	30.5	84	25.6
No	103	82.4	141	69.5	244	74.4
Total	125	100.0	203	100.0	328	100.0

Only 25.6 % of the respondents reported that they knew of the role of Dowry Prohibition Officer. In Haryana the percentage of respondents who knew about the DPO is only 17.6 %. In Tamil Nadu though more women knew about the DPO as 30.5 % respondents reported that they knew about the role of a DPO. Total 74.4 % of the respondents did not know about the DPO.

Figure 53: Distribution of respondents by those who know about PWDVA 2005

	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
Yes	40	38.8	78	38.0	118	38.3
No	63	61.2	127	62.0	190	61.7
Total	103	100.0	205	100.0	308	100.0

Similarly, only 38.3 % of the respondents knew about the PWDVA. The percentage of respondents who knew about PWDVA is around 38 % for both Tamil Nadu and Haryana. Total 61.7 % of the respondents have reported that they did not know about the PWDVA.

Court Order:

Figure 54: Distribution of cases that have been disposed off

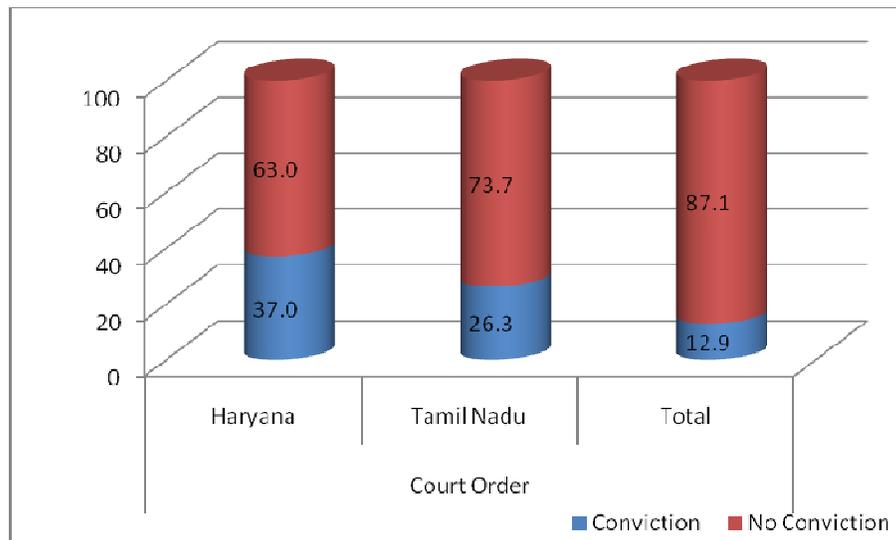
	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
Yes	35	31.3	48	25.5	83	27.7
No	77	68.8	140	74.5	217	72.3
Total	112	100.0	188	100.0	300	100.0

Only 27.7 % of the respondents have reported that there have been some court orders in their cases. In Tamil Nadu 25.5 % of the respondents have reported that there are some court orders in their cases. In Haryana 31.3 % of the cases have received court orders. However, total 72.3 % of the cases are still pending and have not received any orders yet. In Tamil Nadu this percentage is 74.5 % and in Haryana it is 68.8 %. It should be noted that the total respondents who answered this question is 300 out of which the percentages have been derived.

The disposal rate of the cases tallies with the findings of EKTA's study on Section 498 A in Tamil Nadu where it has been recorded that the average disposal rate of cases under 498 A in the Trial Courts is 23.5 %. This study also reports that the Trial Courts take approximately four years for a case to be complete the trail and pronounce the judgement in cases registered under

Section 498 A⁵⁰. The study also recorded that this percentage decreases when we go to the higher courts as the average conviction rate after the charges being tried in the appellate courts, in selected districts was 3.2 %.

Figure 55: Status of Conviction by Court Order



Out of the total cases that have been disposed, convictions have been given in only 12.9 % of the cases. In Tamil Nadu 26.3 % of the accused have been convicted and in Haryana 37 % of the accused were convicted. In total 87.1 % of the cases, there is no conviction. The data clearly points out that the rate of convictions in cases of marital violence is very less. This also substantiates the argument of the women's organisations that the police officials are not carrying out proper investigations in cases of violence against women. Due to this, the rate of conviction is very low. Some lawyers and activists have also pointed out that the police officials add many false allegations on the opposite party to make strong cases under Section 498 A. In most cases the police officials add

⁵⁰ EKTA Resource Centre for Women, March 2001, Study of Section 498 A in Tamil Nadu, p-45

dowry charges without that being one of the reasons. The lawyers and complainants can rarely substantiate these in the courts and hence the convictions can only be achieved in only a few cases.

These findings also conform with another study conducted by EKTA on Section 498 A in Tamil Nadu which noted that the average conviction rate of offences under Section 498 A for six years in Trial Courts was 20 %, which was much less than the average conviction rate of 27.3 % in dowry death cases⁵¹.

Execution of court order:

Figure 56: Distribution of cases to the execution of court orders

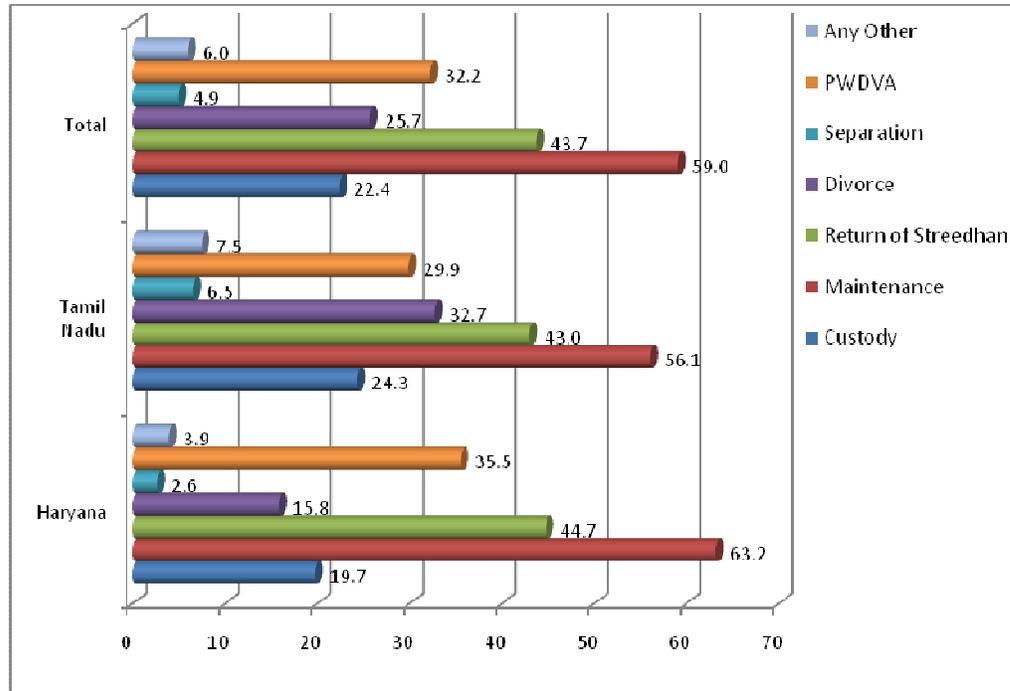
	Haryana		Tamil Nadu		Total	
	Count	%	Count	%	Count	%
Yes	6	10.2	17	20.2	23	16.1
No	53	89.8	67	79.8	120	83.9
Total	59	100.0	84	100.0	143	100.0

Only 16.1 % of the respondents have reported that the court orders were executed. In Tamil Nadu the percentage of cases where execution of court orders has happened is 20.2 %, while in Haryana its almost the half at 10.2 %. It should be noted here that total 143 respondents have answered this question while according to the earlier question, Court Orders have been received in only 83 cases. It is possible that some respondents who have not received any orders yet have also answered this question in negative.

⁵¹ EKTA Resource Centre for Women, March 2001, Study of Section 498 A in Tamil Nadu, p-45

Any other cases pending:

Figure 57: Other Pending Cases



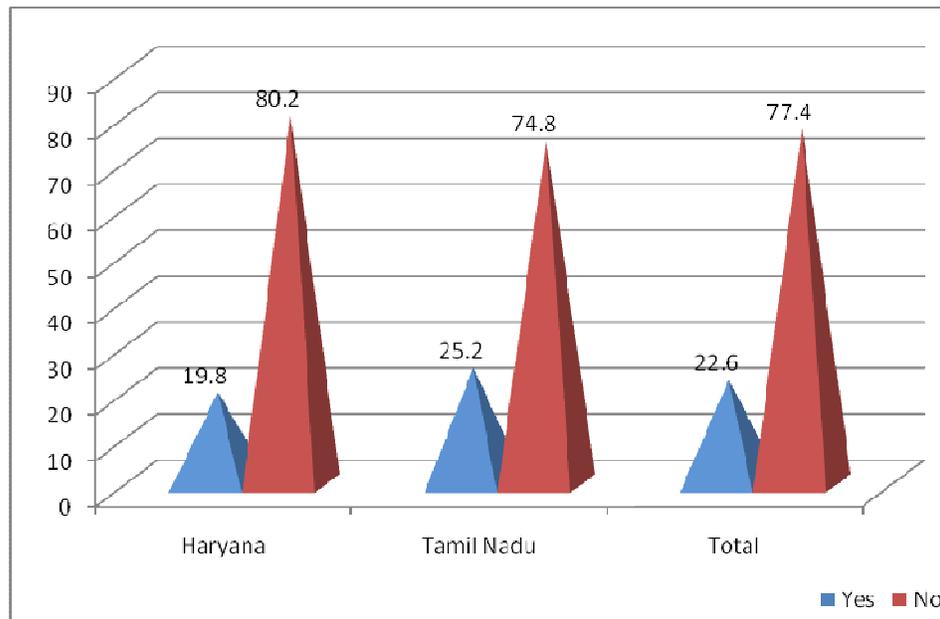
The total is not 100 because of multiple responses.

Total 59 % of the cases of maintenance are still pending in the court. In Tamil Nadu 56.1 % of the cases of maintenance are pending and in Haryana 63.2 % of the cases of maintenance are pending. Total 43.7 % of the cases pending are of “Return of Streedhan”. In Tamil Nadu there are 43 % of the cases of streedhan that are pending and in Haryana 44.7 percent of the cases of streedhan are pending. Total 32.2 % of the respondents have cases of PWDVA pending in the court. In Tamil Nadu 29.9 % of the cases and in Haryana 35.5 % of the cases of PWDVA are pending. Total 22.4 % of the cases that are pending are of custody. In Tamil Nadu 24.3 % of the cases of custody are pending and in Haryana 19.7

% of the cases of custody are pending. Total 25.7 % of the cases that are pending are of divorce. In Tamil Nadu 32.7 % and in Haryana 15.8 % of the cases of divorce are pending. Total 4.9 % of the cases are pending for separation. In Tamil Nadu 6.5 % of the cases of separation are pending and in Haryana 2.6 % of the cases of separation are pending. Total 6 % of the cases that are pending are some other sections and acts. The total is not 100 because of multiple responses.

Settlement:

Figure 58: Has the Case been Settled/Compromised?



The field investigators have reported that at all stages of the case, there is considerable amount of pressure on the woman to “settle” her case. Initially when the violence starts there is an attempt to resolve the matter within the family. When it does not stop there, social pressure is used to reach some kind

of settlement. It is only after the social pressure does not work that the victim approaches the police station. In most cases it has been reported that the police try to avoid registering FIR and put pressure on the victim to compromise. Some respondents have even pointed out that in the courts also there was pressure on them to arrive at some kind of settlement. However, by the time the case reaches the court, the victims have faced extreme violence and there is a feeling to try to take the case to its logical conclusion. This point has been further proved by Shalu Nigam's study on Domestic Violence and 498 A where she pointed out that courts, lawyers, police, the social relations all compel women to either compromise or settle the case. Out of the 50 cases that were studied by Nigam 7 women claimed that they would be compounding their cases⁵². Out of the respondents interviewed 22.6 % of the respondents compromised the case. In Tamil Nadu 25.2 % of the respondents settled their cases and in Haryana 19.8 % of the respondents compromised. Total 77.4 % of the respondents did not compromise. In Tamil Nadu 74.8 % and in Haryana 80.2 % of the respondents did not compromise. Only 22.2 % of the respondents have reported that they are satisfied with the settlement. Total 77.8 % of the respondents have reported that they are not satisfied with the settlement. In Tamil Nadu none of the respondents are satisfied and in Haryana 71.4 % are not satisfied.

⁵² Centre for Women Development Studies, 2005, Shalu Nigam, Understanding Justice Delivery System from the Perspective of Women Litigants as Victims of Domestic Violence in India (*Specifically in context of Section 498 A IPC*), Compounding of Offence or Reconciliation: Is it a voluntary decision or compulsion?, p-42

Should the offenders be punished:

Figure 59: Distribution of respondents to those who feel that offenders should be punished

	Haryana		Tamil Nadu		Total	
	Cou nt	%	Cou nt	%	Cou nt	%
Yes	120	92.3	198	98.0	318	95.8
No	10	7.7	4	2.0	14	4.2
Total	130	100.0	202	100.0	332	100.0

We have seen in the previous sections that even after repeated violence is inflicted on the women victims, they still want to go back to their marital homes and live with their husbands. However, most of them also feel that people who have perpetrated the violence on them should be punished. Total 95.8 % of the respondents feel that the offenders should be punished. In Tamil Nadu 98 % of the respondents feel that the offenders should be punished and in Haryana 92.3 % of the respondents feel that their husbands should be punished.

Chapter 6

Responses from Police and Judiciary

It has been widely reported that even after facing repeated assaults of violence from the matrimonial family, when a woman decides to put an end to the violence, she does not approach the formal mechanisms of justice delivery. In fact there is considerable amount hesitance that is seen in women towards approaching the police and courts. While police and courts are the key agents of providing justice to any victim, this study aimed at looking into what exactly are the reason why women do not feel confident in assessing these agencies. For this purpose some interviews were also conducted with the police officials and lawyers in both the states.

Police

Most of the respondents have reported that they were not satisfied with the conduct of police. While in earlier section it has been established that respondents widely reported that police officials take money from the other party and start counseling them towards taking the complaint back and going back to their marital homes. In the interviews, the police officials have clearly mentioned that there is an effort to arrive at compromise in almost all the cases and maximum cases are compromised. Reporting their experience with the police some respondents said that the police needed to be sensitized towards women's issues. Most police officials themselves seem to believe that women lie about the abuse and file false complaints against their husbands. Similar mindset could be seen within the officials of women's cell in Haryana. As part of the interviews conducted with the police officials, the officials have reported that women put in dowry harassment to make the case stronger. The mindset

with which police officials deal with these cases is clear from the fact that out of six police officials who were interviewed three have said that Section 498 A is being misused. While making a comment regarding the Section, one police official said that almost 90 % of the cases reported are false and the problems arise in the early years of marriage due to the immaturity of the couple. Another study conducted on Section 498 A in Tamil Nadu has proved that the police officials approach the woman with a prejudiced mindset. The study noted that a small percentage of SHOs who were interviewed opined that educated and employed young married women are becoming “self-centered” due to their economic self-reliance. “They are too sensitive and highly emotional as they don't share the ethos and values imbibed by the members of the matrimonial family”⁵³. This shows that when the abused woman approaches the police officials with her complaint, they respond to her with their already prejudiced mindset. As they believe that marital problems are there due to immaturity, they try to “resolve” the issues by “compromise”. During the survey many respondents complained that they found the process of counseling extremely frustrating because mostly the woman is made to concede to the demands of her husband.

Judiciary:

At the level of courts also the respondents have reported that they did not feel comfortable with the legal processes. Most of the respondents have reported that court cases go on for long time and they did not have either time or money for carrying on with the cases for years. Out of the respondents whose cases have reached the courts and are yet not been disposed, 40 respondents have reported that they have been going to the court since sometime in 2012. 22 respondents have reported that their cases have been going on from 2011 and

⁵³ EKTA Resource Centre for Women, March 2001, Study of Section 498 A in Tamil Nadu, p-42

another 12 respondents have been visiting courts since 2010. There are 11 respondents whose cases have been in the courts since 2009. It should be noted that 15 respondents have reported that their cases have been in the courts since before 2008. Total 117 respondents have been to the court for less than or around 10 times. 28 respondents reported that they have visited the court between 10 to 20 times already. There are 17 respondents who have been to the courts between 20 to 50 times. 14 respondents reported that they went to the courts more than even 50 times.

Respondents have reported that their cases have been going on for years. Their parents have to miss their daily work to accompany women to the courts. Many respondents have reported that during the court case mental tension builds up over time and is in the end doubly harassing. In many cases the victims are living with their parents in far off places and the cases are going on in their matrimonial place. It becomes difficult for the the victim to come all the way to attend the court every time. One respondent reported that she felt threatened in the court premises surrounded by the same people who victimized her. Even the lawyers do not provide much help to these women.

During the interviews conducted with the layers, it became clear that even lawyers approach the cases of marital cruelty with prejudiced mindsets. While talking about the role of police officials in cases of 498 A, one of the lawyers interviewed in Tamil Nadu reported that the all women police stations function like kangaroo courts and register “unnecessary” strict cases against the husbands and his relatives. Other lawyers have observed that police officials take bribes from the “rich husbands” and make the wives compromise. If the wives are from economically marginalized she is mostly made to go back with her husband. The lawyers have also reported that the police officials stress on

arriving at a compromise and do not conduct the investigation properly. While responding to the time that cases of marital cruelty take in the court, the lawyers have also reported what the respondents were claiming that the cases take long time which could even extend till 10 years in some. The reasons for this, they claim, are frequent adjournments, lack of proper investigation by the police, cases being transferred to other courts, absence of accused etc. One lawyer from Haryana has clearly stated that in many cases adjournments are intentionally achieved as the accused party tries to linger the case. It has also been reported that even judges are not serious about disposing off the cases of “matrimonial disputes”.

Chapter 7

Conclusion and Recommendations

The study has recorded the experiences of hundreds of women who have faced gross domestic violence. After years of struggle most of these women have been forced to move out of their marital homes where they faced violence. While some are still trying to “resolve” the issues on an informal social level, many have approached the formal mechanisms of justice delivery.

The study clearly shows that most women try to cope with and bear the violence in the initial stages and only tell their parents of their daily suffering when they cannot tolerate the violence anymore. Women bear the violence silently because of the social stigma that they face as separated women and because they have been made to feel that they are somehow responsible for making the marriage a success. A primary reason is also that these women feel that they cannot go back to their natal families and will be a burden on them. In many cases women have been forced to go back to their marital home under pressure from their natal families. Most of the respondents in the study started experiencing violence within the first year of their marriage, but even when it reached sizable proportions they kept on looking for solutions by seeking intervention from panchayats or reporting the matter to a women's organisation. Many of these women kept going back to their husbands hoping against hope that the situation will become better. It was only after failed repeated attempts that the victims approached the police and the judiciary.

It has been observed from the study that once the victim decides to walk out on their marriage, there are many social issues they have to face. Women who

walk out on a marriage are seen as a threat by the society. Instead of treating the man who is inflicting violence on his wife as the culprit, the society tends to accuse the wife for somehow deserving the violence. During the study many women had claimed that they were victimized due to their inability to conform to the stereotypes. As part of the wifely duties a woman is also expected to tolerate violence and keep silent about what goes on in the house.

While these women are ostracized by the society, their parents also face problems in keeping them at their natal homes. Women who return from their marital homes are invariably stigmatized. Under this kind of social pressure, the parents of the victim also try to send her back. In one case from Kaithal, Haryana, the parents of the victim have regretted that they sent their daughter back to her marital home, which resulted in her being killed. In another case from Haryana the respondent has one brother and five sisters and she has to live at her parents' place which makes her feel like an additional burden on her parents. Shelter has come out as one of biggest concerns faced by women victims of violence as they have no place to live in after they leave the marital home. It is clear from the data that while most of the marital families own houses, very few of the respondents could stay in those houses. Most of the victims were forced to move to their parental homes after the violence. But even in the parental property they do not have any right, as the victims' brothers and their families might see them as a threat. While making their comments many of the respondents reported that they felt like a burden on their parents.

Some of the victims have also reported that their work and education suffered due to the marital discord. The data indicates that most of the respondents were depending financially on their parents after the separation. This is another big

issue as very few respondents have reported that they receive maintenance. While making their suggestions, many respondents have asked for additional financial provisions in the law that could provide them with immediate support after they walk out of their marital homes. This situation becomes even more difficult when they have to look after their children also. The data points out that there are very few respondents who do not have children. Since most of them are dependent on their parents for survival their children are an added concern.

Further the entire discussion around 498 A and other women friendly laws as being “misused” by some educated and “westernized” women will only add in further demotivating these women from accessing the law and reporting the violence. The fact that most respondents have no knowledge of law and its implications only proves that far from misusing it, the law is in fact under-utilized. Social, economic and legal constraints are obstacles which hinder women from accessing the law. However, it appears that the government agencies are busy diverting their resources in proving that 498 A is being misused instead of working towards ensuring the effective use of the Section.

While many allege that the low conviction rate shows that cases that are filed under this section are false, the real reason for this is that women are forced to settle many of these cases for various socio economic reasons. The study shows that there was immense pressure on respondents to compromise or settle the case at every stage. At every level the society, police and legal machinery are putting pressure on the woman complainant to settle the case. The respondents have reported that even at the level of the courts, there were attempts to convince the respondent to quash the case. This has been reported by many respondents during our study. Even during the interviews, the police officials

have themselves mentioned that their emphasis is generally on settling the case. However, instead of looking at some of these reasons, the government agencies and certain pro men organisations are trying to stress that women are making exaggerated claims in such cases. It has been observed throughout the study that once the respondents went to the police, the case was hardly in their hands anymore. The police and legal agencies take over the matter. It should also be noted that there are several kinds of violence that a woman faces within the marriage that she cannot even report due to a certain social conditioning and stigma attached to them, for example sexual abuse within the marriage. Many respondents have also reported that they found the court premises hostile and unfriendly. There were also questions raised about the character of the woman. In that kind of environment, far from making exaggerated claims, most women cannot even state the intricate facts of the violence.

These are some of the reason why women find it difficult to approach formal mechanisms of the justice delivery system. The study shows that most of the respondents were not satisfied with the police. The respondents have widely reported that police officials take money from the other party and start counseling them towards taking the complaint back and going back to their marital homes. While it takes a lot of courage and strength on the part of women to go to a police station and register their complaint, the police officials also receive them with the same attitude and mindset that they have been struggling against before going to the police. Respondents have reported that male police officials lack sensitivity to deal with such cases and have suggested that there should be more all women police stations.

At the level of courts also women are not comfortable with the legal processes. They find themselves in completely unfamiliar territory and feel that their

opponents who are men have more of a bargaining capacity in the court premises. As most respondents did not know anything about the law, they felt helpless in presenting their cases properly. The delay in the courts gives enough time to the other party to put pressure on women to compromise. It has been reported by many respondents that during the court case mental tension builds up over time which is doubly harassing and frustrating as well as taxing on their meagre resources. In many cases the victims are living with their parents in far off places and the cases are going on in their matrimonial place. It becomes difficult for the victim to come all the way to attend the court every time.

The study thus underscores the many obstacles that women face in the legal system and outside it while dealing with domestic violence. It highlights how domestic violence is one of the worst forms of violence that women face within the four corners of their homes. It further highlights that the Indian legal system has still not evolved an effective response to this form of violence. While Section 498 A was framed to address dowry related harassment and gross forms of violence, it has failed to do so largely because of the non-implementation of the law at the level of the police. This underscores the importance of not only training the police to deal with crimes against women but also the importance of in-house gender sensitization which should start from the initial recruitment stage.

Further, the study shows that the police have not even begun to think of domestic violence as a serious offence and gender sensitization may take time. It is therefore necessary that certain guidelines are put in place, which the police should be bound to follow in cases of marital violence. For instance, the police should be directed to immediately respond to and register cases of violence and if there is any danger to the woman they should be told to provide

adequate protection by removing the violent husband. If any police person does not act according to the directions he should be punished and taken to task. This is the only way in which the police can be made accountable.

There is also a need to completely reform the judicial processes. One of the requirements of selecting judges should be their sensitivity to issues concerning women and other marginalized communities. Gender sensitization of the higher and lower judiciary at regular and repeated intervals is again a must. Judges have to be educated to think of women as equal human beings who have the same rights as men and cannot be subjected to any form of violence. It has become imperative that not only should courts be accessible, but also that they should decide cases of violence against women within a short time limit.

The government also needs to provide shelter homes for these women in each district so that an immediate place for taking refuge is available for some time. These shelter homes can also be places where women are provided with medical assistance, counselling and legal help.

Recommendations

This study shows that most women who are facing violence do not have any knowledge of this law and its implications. Most women use the Section only as a last resort. Far from being misused, the law is in fact being under-utilized. Many women do not choose to go to the police even after facing repeated incidents of violence. While there are allegations of a low conviction rate under the Section, the real reasons for that are not being stated. One of the reasons also is that the Police do not collect all the necessary evidence and present a shabby case in court, which is not likely to result in a conviction. Many of the

cases also end with a compromise as the women are unable to fight a lengthy court battle without any results. There is also a tremendous pressure on the women complainants by the criminal justice system to compromise or settle the case at every stage. At every level the society, police and legal machinery put pressure on the woman to settle the case. It is important that the legal procedures work faster in such cases as additional time only makes it easier for the accused to put pressure on women. It is difficult for women to go back to living a normal life till their cases are pending in the courts.

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*.
3. If there has been any physical injury, the victim should be taken for a

medical examination; in cases of burning and serious injury, the victim's statement should be recorded by a Magistrate within 24 hours; in cases of death, post-mortems should be carried out within a short period of time.

4. The women's police stations and Crime Against Women cells (wherever they exist) should only register FIRs and investigate. They should not engage in a conciliation process or any kind of counselling of the victim, since they are not qualified counsellors, and often bring their own mindsets and prejudices to the table. They should, in fact, inform the victim of her legal rights and remedies under the Dowry Prohibition Act, Section 498A, IPC, and the Protection of Women from Domestic Violence Act. Counselling, if any, should only be provided to the victims if she wants to settle the case, through the Legal Aid clinics and other counselling centres, if any.
5. The trial in the courts should be conducted on a day-to-day basis and no adjournments should be granted except in extraordinary circumstances, to be recorded in writing. Even under these extraordinary circumstances, the adjournments should not be granted for more than a week. The trial must be completed within a period of two months from the date of commencement of the examination of the witnesses.
6. The respective High Courts should closely monitor the courts who do not conduct a trial within the stipulated period of time and put in place an accountability procedure, which takes errant judges to task.

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 498 A 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 emphasised 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.