

ABUSE OF WOMEN'S EMPOWERMENT LAWS

Introduction

India has witnessed the phenomenon of domestic violence. This phenomenon is neither unique, nor alien to India. It can be said that it is prevalent all over the globe, but the quantum of the same may vary from country to country. In India, from 1978, the incidence of this phenomenon was rising. This rise was not totally independent of factors. In some cases, the same was linked with demands for dowry.¹

Before the very first woman empowerment amendment of the Indian Penal Code, 1860, the situation was as aforesaid. Therefore, to combat the same, the Criminal Law (Second Amendment) Act, 1983, was passed which brought into the IPC the section 498A, which deals with cruelty to the woman by her husband or any other relative of her husband. To provide it with the claws, the offences under this section were made cognizable, meaning that the person(s) against whom complaint was made could be arrested without a warrant; non-compoundable, meaning that the matter could not be compromised between the parties concerned; non-bailable, meaning that the person(s) arrested could not be released from police custody despite attaining a bail.

This could have been considered a necessary amendment, in context with the increasing incidences of domestic violence against women. Subsequent to this, other amendments were made to the IPC, for facilitation of protection of women in cases related to extraction of dowry. Recently, the Protection of Women from Domestic Violence Act, 2005, came into force in 2006. This piece of legislation specifically tackles the issue of domestic violence, and provides the (affected woman) with a variety of remedies.

Recently, a few voices in the great crowd have been claiming that these empowerment laws, which were meant to protect the rights of women, are now being used as weapons by the women, against their husbands and in-laws. This certainly is a serious accusation in the face of rising incidences of domestic violence being reported every year. These few voices are

¹ M. Kishwar, *Laws against Domestic Violence: Underused or Abused?*, MANUSHI, available at <http://www.indiatogether.org/manushi/issue120/domestic.htm> (Last visited on April 14, 2011)

men's rights organisations which have come across harassed individuals and their families. The investigation of the current situation is, therefore, necessary to determine if the said accusations are true.

Research Methodology

Aims and objectives

The primary aim of the paper is to study the prevailing situation in light of the accusations levelled by the men's rights organisations regarding the misuse and abuse of the empowerment laws made to protect women from cruelty and domestic violence. Its further aim is to study the effects upon the husbands and their families, if the abuse that is claimed is true.

Scope and Limitations

The scope of this paper is limited to the study of abuses of only a couple of empowerment provisions, these being section 498A of the Indian Penal Code, and the Protection of Women from Domestic Violence Act, 2005.

Hypothesis

That the laws made to protect women are being abused by them, and that the laws might be failing in their purpose by causing more harm than good.

Structure

The paper observes a structure as given below:

- Introduction
- Research methodology

- Harried married men committing suicides – this section deals with incidences of suicides committed by married men, either due to fear of harassment, or post harassment.
- Enduring humiliation and suffering – this section deals with the husbands and their families who have suffered as a result of false complaints against them.
- The incidence of Domestic Violence in India – in this section, a report prepared by a USAID program is used to show the incidence of domestic violence, along with data from the NCRB, which shows the reported incidences of domestic violence.
- Abuse of the empowerment laws – this section highlights the fact that the empowerment laws meant to protect the women are being abused by them.
- Maintenance: Tax-free monetary benefits? – this section deals with how maintenance may be a motive for abusing the laws.
- Results of the interviews – this section presents a summary of interviews conducted by the researcher. The respondents of the interview are Mr. Rajesh Vakharia, President of the Central India chapter of Save Indian Family Foundation, Mrs. Neena Dhulia – President of the All India Mothers-in-law Protection Forum, Mr. Santosh Patil – President of the Belgaum chapter of Save Indian Family Foundation, and Mr. P. Suresh – President of Nest of Family Harmony.
- Conclusion

Sources of data

The researcher has referred to primary sources, these being two legislations passed by the Parliament, and High Court Cases, and a report of a committee set up by the Government; secondary sources used include reports from independent as well as international agencies, various newspaper articles, and journal articles.

Mode of Citation

A standard form of citation has been followed throughout the paper.

Harried married men committing suicides

In 2008, a married man committed suicide in Nagpur.² A year ago, a 27 year old married man committed suicide in Pune.³ Very recently, another case came to light, again in Pune, where a family of four committed suicide. The members of the family, which were the unfortunate victims of the suicide, were a husband, a wife, their younger, unmarried son, and his 35 year old married elder brother.⁴ One might wonder the purpose of mentioning these independent incidences of suicide. If one takes a close look, one shall find that in all the cases, there are young married men involved in the acts of committing suicides.

Late in 2009, in Amravati, a married Police Sub Inspector committed suicide, with his own service revolver.⁵

All these suicides reported above are due to one reason, being the abuse of women's empowerment laws, by the women themselves. The suicides mentioned earlier, however, differ from the suicides mentioned earlier, in the respect that in those mentioned earlier, the married men were harassed by their wives and in-laws, where they threatened of filing cases against the husband's family, if their demands were not met with. In the suicide mentioned subsequently, the married man had already been harassed by his wife and in-laws, by the abuse of the empowerment amendments mentioned above.

² *Cops book wife for man's suicide*, THE TIMES OF INDIA (November 6, 2008), available at http://articles.timesofindia.indiatimes.com/2008-11-06/nagpur/27889313_1_suicide-note-offences-police-station (Last visited on April 14, 2011)

³ A. Bende, *Harassed by in-law man hangs himself*, PUNE MIRROR (April 11, 2010), available at <http://www.punemirror.in/index.aspx?page=article§id=2&contentid=2010041120100411005041254fa712fc6§xslt> (Last visited on April 14, 2011)

⁴ S. Urunkar and K. Gurjar, *Woman abetted in-laws' suicide*, MID DAY (March 25, 2011), available at <http://www.mid-day.com/news/2011/mar/250311-news-pune-Woman-abetted-suicide-daughter-in-law-dowry-case.htm> (Last visited on April 14, 2010)

⁵ V. More, *PSI shoots himself dead with service revolver*, THE TIMES OF INDIA (November 20, 2009), available at http://articles.timesofindia.indiatimes.com/2009-11-20/nagpur/28062731_1_service-revolver-complaint-offences (Last visited on April 14, 2011)

One might think that these might be random and rare cases, where the husband, being unable to handle the pressure, commits suicide. Had these been cases of more than a decade ago, it might have been right to say that these were random and rare cases. However, considering the situation today, this would not be the right choice of words.

Enduring humiliation and suffering

Suicide might be considered as a means to escape the suffering, as there might not be suffering post the death of the individual. Those who live on, despite the suffering, have to endure the same, for an unknown period, which could extend to several years.

There have been cases where based upon the false complaint of the wife, the innocent husband and his family members have been arrested, for no fault of their own. There have been absurd incidences of the police arresting family members who could not have possibly done anything wrong; yet despite their sheer incapability, a 92 year old woman⁶ and a 2 month old baby have been arrested as they were named in complaints of violence meted out to women. There has been a recent case of a 46 year old rural woman being gang-raped by policemen, because along with the other members of her family, she had been taken into custody due to a false complaint lodged by her daughter-in-law against her family.⁷ Even the health condition failed to prevent an arrest under this section, as a woman undergoing a dialysis treatment was also arrested.⁸

The incidence of Domestic Violence in India

In June 2004, a report was released by MEASURE *DHS+*, a program funded by the US Agency for International Development, better known as USAID. One of the objectives of the

⁶ *Police drag 92-yr-old to court, rapped*, THE TIMES OF INDIA (January 7, 2008), available at http://articles.timesofindia.indiatimes.com/2008-01-07/india/27747491_1_police-drag-police-action-dowry-harassment-case (Last visited on April 14, 2011)

⁷ A. Mishra, *MP: Dalit woman raped in Betul*, INDIA TODAY (January 12, 2010), available at <http://indiatoday.intoday.in/site/story/MP:+Dalit+woman+raped+in+Betul/1/78866.html> (Last visited on April 14, 2011)

⁸ R. Samervel, *When bad bahu harasses saas*, The Times of India, available at <http://www1.lite.epaper.timesofindia.com/mobile.aspx?article=yes&pageid=3&edlabel=TOIM&mydateHid=08-03-2010&pubname=&edname=&articleid=Ar00300&format=&publabel=TOI&max=true> (Last visited on April 14, 2011)

MEASURE DHS+ program is “to provide decisionmakers in survey countries with information useful for informed policy choices”.⁹ The report released studied prevalence of domestic violence using data collected from nine countries, which included India. According to one Indian news agency, called Express India, this report has brought to the fore a very disturbing situation. “As many as 70 per cent of married women in India between the age of 15 and 49 are victims of beating, rape or coerced sex, the United Nation Population Fund report said.”¹⁰ Something similar was reported by the Ms. magazine, a feminist magazine from the US. The report said that the Protection of Women from Domestic Violence Act, 2005 was a big step for Indian women, as “the United Nations Population Fund (UNFPA) found that an astonishing 70 percent of women who are married are beaten and sexually abused”.¹¹

The United Nations Population Fund (UNFP) report spoken of here, it is possible that it could be the same report produced by MEASURE DHS+, as data from the MEASURE DHS+ report is used to depict the incidence of domestic violence.¹² There is, however, a problem with the Indian news agency, and the American magazine. They conveniently choose to overlook the context of the 70 percent of the Indian women being abused. The UNFP webpage that hosts this data has two graphical representations of bar diagrams, based on the data derived from the report. According to the first diagram, violence against women in India by their own spouses is a plain 19 percent. The same is confirmed by the report, and it further says that the question asked regarding violence (done) was that if the woman had “been beaten or mistreated physically since age 15”,¹³ and the 19 percent related to the women who had been beaten by their spouse or partner, while the percentage of women beaten by anyone else was 21 percent.¹⁴ Additionally, the report states that a single-question threshold approach was used in India. In this approach, if the woman responded positively to the first question regarding violence, only then more questions regarding the violence would be asked. If she

⁹ S. Kishor and K. Johnson, *Profiling Domestic Violence – A Multi-Country Study*, (2004) available at <http://www.measuredhs.com/pubs/pdf/OD31/OD31.pdf> (Last visited on April 14, 2010).

¹⁰ *Two-third married Indian women victims of domestic violence: UN*, EXPRESS INDIA (October 13, 2005), available at <http://www.expressindia.com/news/fullstory.php?newsid=56501> (Last visited on April 14, 2011)

¹¹ *New Law Attempts to Fight Domestic Violence in India*, MS. (October 31, 2006) available at <http://www.msmagazine.com/news/uswirestory.asp?ID=9970> (Last visited on April 14, 2011)

¹² United Nations Population Fund, *Violence Against Women Fact Sheet*, (2005), available at http://www.unfpa.org/swp/2005/presskit/factsheets/facts_vaw.htm (Last visited on April 14, 2011)

¹³ Kishor, *supra* note 9, at 12.

¹⁴ Kishor, *supra* note 9, at 12.

denied it at the outset, no further questions would be asked.¹⁵ Further, the report also states that in India, questions regarding sexual violence were not asked.¹⁶

The second diagram on the UNFP website, which deals with the figure of 70 percent actually says that this is the percentage of women who somehow justify the violence done to them by their spouse or partner, and the same is confirmed by the report.¹⁷ For the issue to be dealt with now, it shall be pertinent to bring to the notice the fact that the data for the report was collected in 1998-1999.¹⁸

Using the above as a platform, the complaints lodged under the section 498A are to be analysed presently.

Years	No of cases registered under 498A	Percentage change
2000	45778	
2001	49170	7.4
2002	49237	0.1
2003	50703	2.9
2004	58121	14.6
2005	58,319	0.3
2006	63,128	8.2
2007	75,930	20.2
2008	81,344	7.1
2009	89,546	10.0

From the table shown above,¹⁹ it is seen that there is an upward trend in the number of cases reported under section 498A. One thing should still be kept in mind that the years prior to 2000, the data collected showed that only 19 percent of the women were subjected to domestic violence. Observing the data carefully shows that there has been a 96 percent rise in the incidences of domestic violence reported, through the decade. This then, among others, gives us two things that should be considered. Either it is the case that the actual rate of

¹⁵ Kishor, *supra* note 9, at 5.

¹⁶ Kishor, *supra* note 9, at 7.

¹⁷ Kishor, *supra* note 9, at 87; http://www.unfpa.org/swp/2005/presskit/images/fig5_low.jpg (Last visited on April 14, 2011)

¹⁸ Kishor, *supra* note 9, at xv.

¹⁹ National Crime Records Bureau (2004), *Crime Head-wise Incidents of Crime Against Women during 2000-2004 and Percentage variation in 2004 over 2003* (table) available at <http://ncrb.nic.in/cii-previous/data/cd-CII2004/cii-2004/CHAP5.pdf> (Last visited on April 14, 2011); National Crime Records Bureau (2009), *Crime Head-wise Incidents of Crime Against Women during 2005 - 2009 and Percentage variation in 2009 over 2008* (table) available at <http://ncrb.nic.in/CII-2009-NEW/cii-2009/Chapter%205.pdf> (Last visited on April 14, 2011)

domestic violence may have stayed the same, or even reduced, but the number of cases reported have increased because the women would no longer tolerate being subjected to domestic violence; or, it could be that the abuse of the laws are increasing. The latter proposition can be adequately supported by the fact that in the past few years, the membership of men's rights organisations, which deal with false cases being filed against the innocent husbands and their families, by their notorious wives.

In the beginning, in 2005, Save Indian Family Foundation, a men's rights organisation which deals with the false cases against men, started as a blog. It received a response of around 40 people in a matter of fifteen days. In 2006, it had chapters in about six to seven cities of India, with each chapter having a membership of approximately 600-700 men, and by the end of the same year, the membership increased to about 8000-10000 men. In 2007, there was an increase in the membership with the total members being approximately 30,000 men. 2008 saw an increase of 15,000 more members. In 2011, the membership can be estimated to be around 1,00,000.

Abuse of the empowerment laws

In May 2007, a few months after the Protection of Women from Domestic Violence Act, 2005, came into force, a research organisation called the Centre for Media Studies conducted a study "*to gauge general public knowledge and awareness about the PWDVA among the people of Delhi and some districts of Punjab*".²⁰ The results of the study caused the researchers to conclude that Delhiites had misconceptions about the law, because, of the 513 people interviewed, about 60 percent believed that there would be an intentional misuse of the Act.²¹

The respondents were not wrong on their part. "*This Act appears to move on the presumption that all women are innocent, accommodating by nature and carry an amiable disposition. On the other hand vices and ill-behaviour are solely the forte of men.*"²² The provisions of this Act are drafted in such a way that they can be very easily abused. Section 3, which defines the term domestic violence, (unreasonably) widens the scope of violence by including terms

²⁰ P. Anima, *Focus on Protection of Women from Violence Act*, THE HINDU (May 12, 2007), available at <http://www.hindu.com/2007/05/12/stories/2007051219930300.htm> (Last visited on April 14, 2011)

²¹ *Id.*

²² S.M. Mukherjee, *Protection of Women from Domestic Violence Act 2005 – Need for Amendment*, 33(1&2) Criminal Law Journal 207 (2008)

like name calling and ridicule, which may be highly subjective. Section 18 lays down the protection orders which a woman can avail of, which do include prohibition upon the respondent from committing any further acts of violence upon the aggrieved, but then go on to prohibit the respondent from even operating the joint account that he holds together with the aggrieved. The Act also provides for residence orders (under section 19), custody orders (under section 21) with respect to the child, and compensation orders (under section 22). Section 23 confers upon the Magistrate powers to grant ex parte orders. Further, section 31 provides for sanctions for breach of protection order granted to the aggrieved, and according to section 32(2) the proof for the same is the sole testimony of the aggrieved wife. Additionally, it even makes the offence of breach of protection order a cognizable and non-bailable offence. As shown earlier, women are believed to be innocent and carrying an amiable disposition, which is why probably the Act does not provide for sanctions upon the misuse of the Act.

Similar is the case with 498A. Some lawyers handling the cases under 498A say that 90 percent of the cases filed are either false, or are based upon questionable grounds. “A lawyer, who handles the cases of Sabla Sangh, told me that in Punjab, on any random day, 75 per cent of the cases listed for hearing in criminal courts are registered under section 498A, and of these more than 90 per cent are malafide.”²³

The Malimath Committee was probably aware of the situation. In their report, they state that the Indian women are tolerant, and may not try to break the sacred bond of marriage; and that making the offence non-bailable and non-compoundable shall make reconciliation almost impossible. They also state that less tolerant women may, in the heat of the moment, lodge a complaint even when the act is trivial. “The result is that the husband and his family may be immediately arrested and there may be a suspension or loss of job. The offence alleged being non-bailable, innocent persons languish in custody.”²⁴ Again, even in this case, reconciliation cannot be sought due to the aforesaid reasons. Therefore, after having formed an opinion that the law helps neither the wife nor the husband, they put forth a suggestion to make the offence compoundable and bailable.²⁵

As a response to this, Centre for Social Research came out with a research study where it said that nearly five crore women had to face domestic violence in India, and that only 0.1 percent

²³ Kishwar, supra note 1.

²⁴ Report of the Committee on Reforms of Criminal Justice System, Vol. 1, 191 (2003)

²⁵ *Id.*

of the cases violence were being reported under section 498A. It also claimed that the conviction rate was very low when only 498A was used, and that if the complaint was filed under more than one section, only then would be the conviction rate be high. It concludes saying that 498A needs to be strengthened.²⁶ The report, however, neglects the aspect of what the husband and his family have to go through once a complaint is lodged against them.

In a recent report made for World Health Organisation by HelpAge India, which dealt with the issue of elder abuse in India, it was found that there was “*use of crime as a weapon for elder abuse*”.²⁷ The empowerment laws made to protect the women from dowry harassment and domestic abuse were being grossly misused by the young daughters-in-law against their aged parents-in-law.²⁸

Recently, the chairperson of State Commission for Women (SCW), Orissa, said that the atrocities committed by women against their husbands were increasing. The SCW has received about 567 such cases, out of which a great number of cases have been resolved. The chairperson maintains that the number of such cases is showing an upward trend. “*Contrary to popular belief, torture of men does not take place in urban areas only. It is rampant in villages also.*”²⁹

Maintenance: Tax-free monetary benefits?

The picture becomes even grimmer when issues relating to divorces and the results of the same are taken a look at. One aspect of the fact that false complaints are registered against the husband and his family under section 498A may be the alimony and maintenance. In fact, a lawyer admitted that these provisions were being grossly misused because they would

²⁶ Centre for Social Research, *A Research study on the use and misuse of Section 498A of the Indian Penal Code*, (2005), available at www.csrindia.org/attachments/Research%20-%20498A.pdf (Last visited on April 14, 2011)

²⁷ HelpAge India, *Elder Abuse in India*, available at www.who.int/ageing/projects/elder_abuse/alc_ea_ind.pdf (Last visited on April 14, 2011)

²⁸ *Id.*

²⁹ M. Singha, *Men are being harassed, says women's panel*, THE TIMES OF INDIA (September 19, 2007), available at

<http://epaper.timesofindia.com/Repository/ml.asp?Ref=Q0FQLzIwMDcvMDkvMTkjQXIwMDEwNA==&Mode=HTML&Locale=english-skin-custom> (Last visited on April 14, 2011)

provide the complainant with huge amounts of tax-free money. Another lawyer said that these provisions are used during the divorce for gaining higher alimony.³⁰

There are also cases where the alimony demanded is so high that it becomes difficult for the husband to pay the same. In one case, after two and a half months of marriage, a woman wanted her separated husband to pay her alimony of Rs. 2.5 lakhs per month, so that she could pursue her education in the US. Significant issues here are that the salary of the husband, as stated by him, was only Rs. 73,620, and that he had already been paying an interim maintenance of Rs. 12,000 to his separated wife, who was a Pune based dentist. Fortunately, the court refused to enhance the alimony to that extent due to the extremely short duration of marriage.³¹ In yet another case, *Amit Khanna v. Priyanka Khanna*,³² the appellant had to pay alimony of Rs. 45,000 per month, despite his monthly earning of only Rs. 41,000 per month. This was so not only because the wife claimed that the husband was a man of reputation and owned several movables and immovables, but the assumption that even in the Income Tax returns, the parties conceal their real incomes, and show only false, lower figures. The High Court reduced the amount of alimony payable saying that when such orders are passed, the earnings of the man assume pertinence, not the earnings and properties of other members of his family.

However, even these two cases cannot be as bad as the case to be discussed presently. In order to be able to pay the alimony of Rs. 8,000, a man in Punjab approached a court so that he could get permission to sell his kidney, as it was not possible for him pay the alimony with his salary of Rs. 3,600.³³

These are only a few instances; yet they cannot be dismissed as being isolated and rare, because there definitely an upward trend in the incidence of these cases.

Recently, the National Commission for Women (NCW) was considering a few amendments to be made to section 125 of the Code of Criminal Procedure, which relates to making orders

³⁰ P. Ghosh, *New use of alimony; cheating the taxman*, HINDUSTAN TIMES (December 16, 2007), available at <http://www.hindustantimes.com/News-Feed/india/New-use-of-alimony-cheating-the-taxman/Article1-263432.aspx> (Last visited on April 14, 2011)

³¹ M. Janwalkar, *Short marriage, small alimony*, DNA (January 19, 2010), available at http://www.dnaindia.com/mumbai/report_short-marriage-small-alimony_1336414 (Last visited on April 14, 2011)

³² 2010 (119) DRJ 182

³³ *Man puts kidney on sale to pay alimony*, DNA (September 10, 2009), available at http://www.dnaindia.com/india/report_man-puts-kidney-on-sale-to-pay-alimony_1288906 (Last visited on April 14, 2011)

for maintenance. In this, the NCW sought to add that the maintenance shall also be payable to the stepparents and stepchildren of the wife; it sought to remove the provision which would make the payment of maintenance unnecessary in case adultery was proved, because it said that adultery is a frequently used excuse taken by men to deny maintenance to the wives; and, it further said that irrespective of the means of the man, he shall have to maintain his family, while the section talks about men having sufficient means yet refuse or neglect to maintain.³⁴ It is difficult to understand why men should be burdened so much.

Results of the interviews³⁵

The abuse of the law is not restricted to either of urban or rural areas. It happens wherever the husband and his family have even an iota of wealth. Similarly, it does not depend upon the level of education of the wife. Though there may be cases where urban, educated women are abusing the law, mere knowledge that the laws can be abused for their ulterior motives is enough. These wives who abuse the laws are plain intolerant.

Conflicts arise between a couple because of clash of expectations. In cases where the wife earns, she does not want to share the household expenses. Taking the case of Bangalore, there are many wives who marry software engineers expecting a luxurious life. However, the husband realising the instable nature of his job which gets drastically affected due to recessions, tries to make provisions for the future by saving; or he might save for unforeseen contingencies. Thus, even if his earnings are high, he may not be able to provide a luxurious life.

The wife not only finds it difficult to mingle with the family of the husband, she also deliberately tries to stay aloof from the family members. She considers the parents and relatives of the husband as a burden upon her family, which is why she wants to get rid of them. She may also take to antics where she tries to show the husband how good a wife and daughter-in-law she is, and out in the neighbourhood and the society, she may just plainly defame the whole family.

³⁴ V. Pandey, *NCW wants maintenance even for adulterous wives*, DNA (October 14, 2009), available at http://www.dnaindia.com/india/report_ncw-wants-maintenance-even-for-adulterous-wives_1298734 (Last visited on April 14, 2011)

³⁵ Interview with R. Vakharia, President, Central India chapter of Save Indian Family Foundation (Bangalore, March 28, 2011); Interview with S. Patil – President, Belgaum chapter of Save Indian Family Foundation (Bangalore, April 8, 2011); Interview with N. Dhulia, President, AIMP (Bangalore, April 8, 2011); Interview with P. Suresh, President, Nest of Family Harmony (Bangalore, April 9, 2011).

For a start, the wife goes to the police station not to lodge a complaint, but with the intention that the police officer in-charge shall call her husband and reprimand him. This she primarily might do to keep the husband in her control. When this trick stops working, she might just go ahead and lodge the false complaint. There are also other reasons why the wife may do so, with these being:

- Marriage happening against, or without the consent of the wife;
- The extramarital relationship of the wife;
- Selfish motives, like demands for a luxurious life which is beyond the reach of the husband;
- Inability to adjust in the marital home.

These are just some of the many reasons. It might also be possible that the reasons may differ from case to case. Also, there is an element of extortion of money by the wife from the husband and his family.

The parents of the wife are just as equally responsible for the break in the marriage, as is the wife. The parents want the daughter to be in control in her marital relationship, which is why she is instigated to threaten her husband. When the threatening fails, she is advised to take a concrete step by filing the complaint. There may also be the case that if the marriage isn't working out, the parents of the wife may advise her to make a false complaint so that the husband can be blamed for the failure of the marriage. The parents of the wife may also want to extort benefits from the son-in-law.

A study of the family courts of Bangalore revealed that 65 percent of the divorce cases were initiated by the husband. However, most of the divorces were initiated because the wives had filed complaints under section 498A. Therefore, if the larger picture is looked at, it becomes clear that most of the divorces are actually caused by the complaint of the wife.

The immediate effect of the complaints is that the family is shattered. Many parents get heart attacks and die instantly, while many families contemplate upon the option of suicide. The effects that follow are of a similar nature. Earlier, the husband either was suspended from his job, or lost the job. There are also cases where the wife would come to the office premises and create a ruckus, alleging that violence has been used against her. This would then also reduce or eliminate the job prospect. The situation with respect to jobs has now changed, as there is awareness among the people that most of the complaints are false, and that this is an

issue which should not come in the way of the employment of the person. There are even people in the Human Resources departments of various companies facing such cases.

This is, however, not the case with social relations and acceptance. Once a complaint has been lodged against the family, that family gets labelled as a family of wife-beaters, and is shunned by the society. People fail to understand that the complaints are false, because they lack an understanding that such a thing can happen.

“The concept of women empowerment has affected the society so adversely that nobody wants to listen to a man or a mother-in-law. They have a bent of mind that the daughters-in-law are harassed by their husbands and mothers-in-law, and the mothers-in-law and the husband are the main targets. So this trend of society needs to be changed. There have been so many cases before us where the mother-in-law has suffered inhuman pain in the four walls of the home, but she cannot go out in the society to tell this, because nobody is there to listen to her.”³⁶

A majority of the cases are filed due to misguidance due to the lawyers of the wives. Since a lot of cases are filed under these empowerment laws, they readily misguide their clients in order to get more cases. They only give false confidence to their clients. They also try to convince both the parties, taking turns, to make them change their mind and go for a settlement instead.

If ever the wife of the person ditches him for a person of repute, he is viewed as if he were the culprit. He is viewed as the nuisance to the lives of respectable people.

Conclusion

True, there might be violence in marital relationships. On the basis of this, married couples can be divided into two broad categories, one, where the husband harasses the wife, and the other, where the wife harasses the husband. In the latter case of the abusive wife, she might make use of the empowerment laws, in case she feels that the husband is slipping out of her control, and in the former case of the abusive husband, no matter what he might do to the wife, the wife may not want the society to gain knowledge of the same, and even the presence

³⁶ Interview with N. Dhulia, President, AIMPF (Bangalore, April 8, 2011)

of empowerment laws may not change her position. The laws, thus, even if brought in for a good purpose, might fail miserably. And on the basis of what has been discussed in this paper, it can be said that the laws have indeed failed, because they have done more harm than remedying the situation.

It has been rightly said by Justice Arijit Pasayat in *Sushil Kumar Sharma v. Union of India*³⁷ that the misuse of the empowerment provisions is capable of unleashing a legal terrorism; and the same has been observed by the men's rights organisations, which struggle against this form of terrorism.

It is therefore necessary to keep resolution of disputes outside the ambit of legislation. With changing circumstances, education of women, and other similar factors, it is possible that actual incidences of domestic violence might get reduced. Besides, marriage is an institution of a delicate nature where mutual respect and care is at the core. Therefore, mutual differences need to be sorted out in consultation with families of both sides. If at all there is to be a law for the same, it should be drafted in such a manner that it does not lend itself to abuse.

³⁷ JT 2005 (6) SC 266

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