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"Violence against women: a statistical overview, challenges and gaps in data collection and methodology and approaches for overcoming them"

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**Violence against women: a statistical overview, and challenges and  
gaps in data collection and methodology and approaches for  
overcoming them  
Needs of users of data collection**

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**Importance of Statistics in a court of law**  
Statistics shou

The uniqueness of this provision lies in the fact that it recognizes injury that is not only physical but also mental in nature .It uses the criteria of impact and health as an indicator of the existence of violence. This aspect makes this provision one of its kind in the world today. In Civil law, “cruelty” forms a ground of divorce. Unlike criminal Law revision mentioned above, wherein only a woman in a matrimonial relationship can file a complaint, this ground is available to any person seeking the divorce be it male or female. In many cases and in many reported judicial pronouncements, divorces have been granted on the grounds of mental cruelty.

The difference between criminal law and civil law lies in the nature of proof that one has to dispel to succeed in a claim, while proof has to be beyond reasonable doubt in criminal law, a test of balance of probabilities is applied in civil law.

In our practice we have found that while physical injuries are easy to prove in court, simply because they are visible, the same is not true in cases of mental injury. While it is clear in many cases that a woman has sustained emotional and psychological injury, there are no objective criteria or standard test that can be applied to determine the extent of the injuries sustained or even arrive at a finding of the causal relationship between mental health impact and the violent behaviour of the aggressor.

Aspects of mental cruelty and mental injury are therefore, determined by the individual judge before whom the case is filed. Courts in India have defined cruelty as necessarily involving a subjective element. This implies that the judge takes into account the facts of the situation and the surrounding circumstances to arrive at a finding of mental cruelty- i.e. - whether a woman is justified in alleging cruelty in the particular circumstances. This would require an assessment of the following:

1. Surrounding circumstances- educational, economic and cultural backgrounds of the woman.
2. The physical or mental condition and susceptibilities of the innocent person
3. The intention of the offending person .
4. The knowledge of the actual probable effect of his conduct on the others health.

A perusal of the judgments in this regard shows that instead of basing judgments on the perception of the woman while deciding the case the judge applies his own perceptions. This leads to the introduction of bias, often a male chauvinistic nature of the decision. The need, therefore, is to do empirical studies based on medico legal scale that will establish a link between the mental, psychological and emotional impact on a woman’s health due to abusive and violent behaviour. These studies can be used to convince the court that for example a woman’s depression is evidence of the fact that she was exposed to

2. The circumstances that lead to incidence of violence- support structures in existence, the options that are available to women seeking redress.
3. Evidence of the cycle of violence that is repeated efforts to go back to a violent Relationship in the hope that the abuser will change.
4. Re enters the cycle of violence.
5. Support structures e.g.: the natal family of the woman and others who support her.

Data on these points will serve a twofold purpose- that of preventing violence and of providing adequate support to women facing violence. In the legal context such data is crucial for determining the rate of compensation to be given in a case.

### **Medico Legal Scale methodological suggestions**

The following scales may be administered to ascertain the existence of Mental Health impact of violence.

- a. Hamilton rating scale for depression – this is a 24 item scale which gives information about the severity of depression
- b. Beck’s hopelessness scale – This is a 20 item scale which gives information on the extent to which the respondent experiences hopelessness
- c. Scale for suicide ideation – This is a 19 item scale which qualifies and assesses suicidal intention.<sup>2</sup>

Thus in order to study the link between the mental consequence and violence the following interviews should be conducted.

- a. The attribution interviews – This a semi structured interview where the research assistant will interview the victim on the factors that she attributes as the cause of her mental condition.
- b. The domestic Violence questionnaire recording prevalence of violence wdi p

## **Reform of the Judiciary**

A lot of instances reveal that there exists a bias amongst judges in concluding whether a woman is believed as far as the existence of violence is concerned. The only way to eliminate such biases is through demolition of myths that women lie about violence and that they tend to misuse the law

On the of 2003, Justice J.D.Kapoor of the High Court of Delhi delivered a judgement in Savitri versus Ramesh Chandra and Others<sup>3</sup>. It reflects a trend in legal thought that gender specific laws are being misused by women, that therefore offences such as section 498A of the Indian Penal Code should be made bailable and non cognizable of better still, be removed from the statute book.

" — "

*He starts off by saying "Marriage, an institution of God . "*

In his chapter "Challenges to marriage" he presents the following angst

### *"(c) Female Intellectuality*

*Women of superior intelligence are generally torn between their femininity and their intellectuality. They are obsessed with the development of their career to such an extent that they are forever absorbed with the self. It is mostly women who hold managerial or professional jobs who suffer from this syndrome, as they tend to lack the willingness to compromise. For them, even rearing children or raising a family is not a social obligation.*

*A situation in which a woman considers herself intellectually superior is sometimes fraught with danger as there is always a likelihood of such a woman being fascinated by a person who is more capable than h*

*“The very concept of marriage as a sacrament makes the marriage permanent, irrespective of whether it is a bed of sorrows”*<sup>5</sup>

#### On relations within marriage

*“Pickford has found that happy husbands are less domineering and less concerned with masculinity than those who are not happy. Their wives are extraordinarily friendly. Such partners are flexible and can exchange roles with relative ease”*<sup>6</sup>

#### On sexual relations within marriage

*“In short “being a wife” itself means “going for intercourse”  
“But refusal of a spouse to have ordinary marriage relations with the other spouse strikes at the basic obligation springing from the marriage” Quoted from Av A 43 2D 25 (27 A CJS.96,97)*<sup>7</sup>

#### On challenges to marriage and procreation

##### Repugnance to early marriage

*Though it is said that motherhood is an urge for which a woman will suffer any humiliation, some women in modern society are possessed by the notion that early birth of children cuts short their youth and spoils their figures  
According to Vincey, the indefinite continuation of life would be so marvellous a thing as the production of life and it is of temporary endurance. Neither spouse should deprive the other of parenthood. In addition, if a woman resists the idea of becoming a mother in the early years of marriage sometimes for the sake of retaining her youthful looks, she may be plunging herself into a sea of sorrows. The following is an instance.*

*A wife decided unilaterally to undergo an abortion, ignoring the pleas of her husband who was pining for a child. She did this merely to prolong the marital sexual bliss a to continue to look young, little realizing that her action would prove to be fateful. She could not achieve most significant objects of marriage, as her wish to become mother later could not be fulfilled due to medical reasons.*

*Couples who think that the birth of child is the death of the parents are oblivious to the fact that one of the major ends of marriage is the procreation of children and raising a family. It is not only a social task, but is also a mater of social expediency.”*<sup>8</sup>

#### On Mental Cruelty within Marriage

*“However, the relaxed concept of cruelty had certain drawbacks as well. The bulk of marriages was and is being dissolved by the ever-growing Frankenstein termed “cruelty”. If the conservative concept of cruelty dissolved just 10% of the marriages in question, the modern concept dissolves more than 60%. For example, a wife was granted divorce because her husband, while sick, was indecent to her, choked her, struck her once and called her a whore. The divorce was allowed on the grounds of the husband’s single act of striking his wife in the face.”*<sup>9</sup>

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<sup>5</sup> Id at pg 5-6.

<sup>6</sup> Justice J.D Kapoor , *Laws and Flaws in Marriage – How to stay happily married* , Konark Publishers Pvt Ltd , Delhi , 2002 , p.7

<sup>7</sup> Ibid , p.12.

<sup>8</sup> Ibid , p.19-20.

<sup>9</sup> Justice J.D Kapoor , *Laws and Flaws in Marriage – How to stay happily married* , Konark Publishers Pvt Ltd , Delhi , 2002 p. 70.

Interpretation is the heart of judicial decision making process, the creative element of decision making. Judges have been given power to interpret and make their interpretation binding on all of us. Thus the responsibility now falls on them to take the “Correct” view while deciding any case. Studies which demolish these biases and myths will help improve the environment for women.

## **Other forms of Violence**

### **1. Sex Pre Selection**

Recent statistics have revealed that there has been a great decrease in the female sex<sup>a</sup>





contesting parliamentary and Assembly elections. Issuance of notice on the petition assumes significance as the Centre is proposing to drop the two-child norm from action plan for control of population saying coercive methods would not be fruitful in achieving the goal.

This is a clear violation of the reproductive rights of the woman.

### Statistics on 498A , 304 B,376 and 509 of the Indian Penal Code.

According to statistics published by the National Crime Records Bureau (NCRB) in 2002 a total of 147,678 crimes against women were reported in 2002 compared with 143,795 during 2001. This represents an increase of 2.7% over the previous year and shows an increase of 12.3% over 1998. These NCRB figures record crimes specifically categorised as "Crimes Against Women", although women may additionally be the victims of other crimes, robbery, murder etc. The proportion of IPC crimes committed against women towards total IPC crimes increased continually during past years from 6.7 per cent in 1998 to 7.4 per cent during 2001 and 2002.<sup>12</sup>

#### *Crime Head-wise Incidents of Crime Against Women during 1998-2002 and Percentage variation*

*in 2002 over 2001*

Sl.No.	Crime Head	Year					Percentage variation in 2002 over 2001
		1998	1999	2000	2001	2002	
1.	Rape						
2.	Kidnapping &						
3.	Abduction	15151	15468	16496	16075	16373	1.8
4.	Dowry Death	16351	15962	15023	14645	14506	-0.9
5.	Torture	6975	6699	6995	6851	6822	-0.4
6.	Molestation	41376	43823	45778	49170	49237	0.1
7.	Sexual Harassment	30959	32311	32940	34124	33943	-0.5
8.	Importation of Girls	8054	8858	11024	9746	10155	4.2
9.	Sati Prevention Act	146	1	64	114	76	-33.3
10.	Immoral Traffic (P)	0	0	0	0	0	-
11.	Act	8695	9363	9515	8796	11242	27.8
	Indecent Rep. of	190	222	662	1052	2508	138.4
	Women (P) Act	3578	3064	2876	3222	2816	-12.6
	Dowry Prohibition Act						

  

Sl.No	T6 Year	Total IPC Crimes	4Crime Against women (IPC cases)	Percentage to total IPC crimes
1	1998	17,78,815	1,19,012	6.7
2	1999	17,64,629	1,23,122	7.0
3	2000	17,71,084	1,28,320	7.2
4	2001	17,69,308	1,30,725	7.4
5	2002	17,80,330	1,31,112	7.4

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<sup>12</sup> NCRB Crime Report 2002.

<sup>13</sup> NCRB Crime Report , 2002.

